

Ontario's New Asbestos Legislation (at a glance)

Sections	What's changed	What this means
Section 1 - Definitions	"asbestos-containing material" means material that contains 0.5 per cent or more asbestos by dry weight.	Clarifies what material will actually be caught under the legislation. This has been the current Ontario practice, but never formalized until now. This includes friable as well as non-friable asbestos.
	"building" means any structure, vault, chamber or tunnel including, without limitation, the electrical, plumbing, heating and air handling equipment (including rigid duct work) of the structure, vault, chamber or tunnel;	Clarifies what qualifies as a building. Now includes any vault, chamber or tunnel.
	"competent worker", in relation to specific work, means a worker who, (a) is qualified because of knowledge, training and experience to perform the work, (b) is familiar with the Act and with the provisions of the regulations that apply to the work, and (c) has knowledge of all potential or actual danger to health or safety in the work;	This definition was missing from the previous legislation.
	"occupier" has the same meaning as in the Occupiers' Liability Act; Occupiers' Liability Act: "occupier" includes, (a) a person who is in physical possession of premises, or (b) a person who has responsibility for and control over the condition of premises or the activities there carried on, or control over persons allowed to enter the premises,	Added definition of Occupier (same meaning as in the Occupiers' Liability Act)
Section 2 - Application		minor amendments to section to replace friable asbestos with any asbestos-containing material (which now includes both friable and non-friable)
Section 3 Adoption of Standard	<p>3. (1) For the purposes of this Regulation, the method and procedures for establishing whether material is asbestos-containing material and for establishing its asbestos content and the type of asbestos shall be in accordance with the following standard:</p> <p>1. U.S. Environmental Protection Agency. Test Method EPA/600/R-93/116: Method for the Determination of Asbestos in Bulk Building Materials. June 1993. O. Reg. 278/05, s. 3 (1).</p> <p>(2) The procedures required by subsection (1) shall be carried out on bulk material samples that are randomly collected by a competent worker and are representative of each area of homogeneous material. O. Reg. 278/05, s. 3 (2).</p> <p>(3) The minimum number of bulk material samples to be collected from an area of homogeneous material is set out in Table 1. O. Reg. 278/05, s. 3 (3).</p> <p>(4) If analysis establishes that a bulk material sample contains 0.5 per cent or more asbestos by dry weight, (a) it is not necessary to analyze other bulk material samples taken from the same area of homogeneous material; and (b) the entire area of homogeneous material from which the bulk material sample was taken is deemed to be asbestos-containing material. O. Reg. 278/05, s. 3 (4).</p>	This is a new section and describes the number of samples needed when performing site surveys. The number of samples required under this section will increase the time it takes to perform a site survey and the costs associated with performing sampling. One sample of any homogeneous material which shows a level of 0.5 percent or higher of asbestos by dry weight will deem that entire area of homogeneous material to be asbestos-containing.
Section 4 - Restrictions re sprayed material, insulation, sealants		The only change here is that now any material that is sprayed must contain less than 0.1 percent asbestos. The old standard was 1 percent.
Section 5 - Information for Workers	<p>5. (1) This section applies whenever a worker is to do work that, (a) involves material that, (i) is asbestos-containing material, (ii) is being treated as if it were asbestos-containing material, (iii) is the subject of advice under section 9 or a notice under subsection 10 (8); or (b) is to be carried on in close proximity to material described in clause (a) and may disturb it. O. Reg. 278/05, s. 5 (1).</p> <p>(2) The constructor or employer shall advise the worker and provide him or her with the following information: 1. The location of all material described in clause (1) (a). 2. For each location, whether the material is friable or non-friable. 3. In the case of sprayed-on friable material, for each location, i. if the material is known to be asbestos-containing material, the type of asbestos, if known, or ii. in any other case, a statement that the material will be treated as though it contained a type of asbestos other than chrysotile. O. Reg. 278/05, s. 5 (2).</p>	This section expands and ensures that all workers who may work on/near or disturb any asbestos-containing materials are properly given notice. This applies to all asbestos-containing materials (friable and non-friable).

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Section 6 - Demolition	<p>6. (1) The demolition of all or part of machinery, equipment, a building, aircraft, locomotive, railway car, vehicle or ship shall be carried out or continued only when any asbestos-containing material that may be disturbed during the work has been removed to the extent practicable. O. Reg. 278/05, s. 6 (1).</p> <p>(2) Subsection (1) does not apply so as to prevent work necessary to gain access to the asbestos-containing material that is to be removed, if the workers doing the work are protected from the hazard. O. Reg. 278/05, s. 6 (2).</p>	<p>This section requires that any asbestos-containing material (both friable and non-friable) be removed prior to any general demolition activities.</p>
Section 7 - Ongoing asbestos management in buildings, two-year transitional period	<p>Subsections Relays the requirements for owners their responsibilities in regards to having site surveys, tenant notification, worker information and training:</p> <p>(3) If this subsection applies, the owner shall,</p> <ul style="list-style-type: none"> (a) prepare and keep on the premises a record containing the information set out in subsection (4); (b) give any other person who is an occupier of the building written notice of any information in the record that relates to the area occupied by the person; (c) give any employer with whom the owner arranges or contracts for work that is not described in clause 10 (1) (a) written notice of the information in the record, if the work, <ul style="list-style-type: none"> (i) may involve material mentioned in the record, or (ii) may be carried on in close proximity to such material and may disturb it; (d) advise the workers employed by the owner who work in the building of the information in the record, if the workers may do work that, <ul style="list-style-type: none"> (i) involves material mentioned in the record, or (ii) is to be carried on in close proximity to such material and may disturb it; (e) establish and maintain, for the training and instruction of every worker employed by the owner who works in the building and may do work described in clause (d), a program dealing with, <ul style="list-style-type: none"> (i) the hazards of asbestos exposure, (ii) the use, care and disposal of protective equipment and clothing to be used and worn when doing the work, (iii) personal hygiene to be observed when doing the work, and (iv) the measures and procedures prescribed by this Regulation; and <p>(4) The record shall contain the following information:</p> <ol style="list-style-type: none"> 1. The location of all material described in clauses (2) (a), (b), (c), (d) and (e). 2. In the case of sprayed-on material, for each location, <ol style="list-style-type: none"> i. if the material is known to be asbestos-containing material, the type of asbestos, if known, or ii. in any other case, a statement that the material will be treated as though it contained a type of asbestos other than chrysotile. O. Reg. 278/05, s. 7 (4). <p>(5) The owner shall update the record described in clause (3) (a),</p> <ul style="list-style-type: none"> (a) at least once in each 12-month period; and (b) whenever the owner becomes aware of new information relating to the matters the record deals with. O. Reg. 278/05, s. 7 (5). <p>(6) If updating under subsection (5) results in any change to the record, clauses (3) (b), (c) and (d) apply with necessary modifications. O. Reg. 278/05, s. 7 (6).</p>	<p>This transitional section applies from Nov. 1, 2005 until Nov. 1, 2007, at which time the more stringent section 8 becomes applicable. This section deals specifically with the requirements of the management plan and what information needs to be in the asbestos record. One area that owners need to be aware of is that they can be responsible for asbestos exposure by its workers and tenants even if they "ought to have known" that asbestos was present in the building.</p> <p>Subsection 3 (a) requires the owner to prepare an asbestos record, and maintain on site, of all asbestos related information for the premises. Subsection 3(b) requires that the owner inform any person who occupies any areas affected by asbestos (or potentially affected). *Please note that under the transitional section this only applies to friable asbestos.</p> <p>Subsection 3(d) requires the owner to provide the information contained in the asbestos records to all employees who may work with, or in proximity to, any asbestos containing material.</p> <p>Subsection 4 specifically sets out the requirements that need to be in the asbestos record.</p> <p>Subsection 5 states the need to update the asbestos records on a yearly basis to ensure it is current and contains any potential changes in the condition of asbestos that may pose health hazards. This update can be performed by any competent person (please see definition above). this can include the owner (or qualified employee) or an outside consultant.</p>
Section 7 (subsections 8-11)	<p>(8) If it is readily apparent that friable material used in a building as fireproofing or acoustical or thermal insulation has fallen and is being disturbed so that exposure to the material is likely to occur,</p> <ul style="list-style-type: none"> (a) the owner shall cause the material to be examined to establish whether it is asbestos-containing material; and (b) until it has been established whether the material is asbestos-containing material, no further work involving the material shall be done. O. Reg. 278/05, s. 7 (8). <p>(9) Subsection (8) does not apply if the work is carried out in accordance with this Regulation as though the material were asbestos-containing material and, in the case of sprayed-on material, as though it contained a type of asbestos other than chrysotile. O. Reg. 278/05, s. 7 (9).</p>	<p>There is a need to clean up any fallen friable asbestos material and only repair, seal, remove or enclose if it is apparent that material will continue to fall. Only if the asbestos material is confined above a closed false ceiling or not part of a return air plenum does the cleaning requirement not apply. However, there is still a requirement to test the material in these situations. Buildings with drop-down (lay-in) ceilings or where asbestos is found in a return air plenum, will still have to ensure the fallen asbestos is cleaned up</p>

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	<p>(10) If the examination mentioned in subsection (8) establishes that the material is asbestos-containing material, or if the material is treated as though it were asbestos-containing material as described in subsection (9),</p> <p style="padding-left: 20px;">(a) the owner shall cause the fallen material to be cleaned up and removed; and</p> <p style="padding-left: 20px;">(b) if it is readily apparent that material will continue to fall because of the deterioration of the fireproofing or insulation, the owner shall repair, seal, remove or permanently enclose the fireproofing or insulation. O. Reg. 278/05, s. 7 (10).</p> <p>(11) Subsection (10) does not apply if the fallen material is confined to an area that is,</p> <p style="padding-left: 20px;">(a) above a closed false ceiling; and</p> <p style="padding-left: 20px;">(b) not part of a return air plenum. O. Reg. 278/05, s. 7 (11).</p>	
Section 8 - Ongoing asbestos management in buildings after transitional period	Detailed outline of the asbestos management plan.	<p>This section applies after Nov. 1, 2007. It replaces section 7 and adds the need for non-friable and ceiling tiles to be tested and included on the management plan. As there will be a requirement to include all asbestos-containing material in the management plan as of this date that means all current site survey's will have to be updated over the next two years to include non-friable asbestos sources.</p> <p>In addition the need to inform occupiers, under subsection 3(b), of any asbestos-containing material in the area they may occupy now includes areas with non-friable asbestos.</p>
Section 9 - Responsibility of employer other than owner	9. An employer whose workers work in a building of which the employer is not the owner shall advise the owner if the workers discover material that may be asbestos-containing material in the building. O. Reg. 278/05, s. 9.	Clarifies the need to ensure that the line of communication is kept open between employees, workers and owners about asbestos materials in a building.
Section 10 - Owner's responsibilities before requesting tender or arranging work		This section specifically sets out that the owner of any building will require a report prepared, either stating that the building has or does not have asbestos-containing material before any work is performed. As long as any sort of demolition, alteration, or repair work is required some sort of report (that describe the location and type of asbestos, including drawings, plans and specifications) will be required to be prepared by the owner.
Sections 11 - 23	Procedures during Type 1, 2 and 3 operations	These sections deal with the new more stringent procedures required when removing or repairing asbestos. Sections 11 to 23 discuss abatement procedures for asbestos, the type of personal protective equipment that must be worn (i.e. respirators), training requirements and work notification. These are very specific procedures that must be followed to ensure worker safety. Because of this, it is important that any contractors hired to perform work with asbestos have been trained and meet the qualifications necessary to perform any of this work.