

## **NEW ASBESTOS REGULATIONS**

A new duty to manage asbestos has been introduced by Regulation 4 of the Control of Asbestos at Work Regulations. All non-domestic properties are to be compliant by 21<sup>st</sup> May 2004. If you have not already taken steps to comply, urgent action should be taken now to avoid criminal prosecution.

If you own, occupy, manage or have responsibilities for non domestic premises that may contain asbestos you will either have:

- A legal duty to manage the risk from this material or
- A duty to co-operate with whoever manages that risk

Those with maintenance and repair responsibilities are required to manage the risk by:

- Finding out if asbestos is present, and if so, the amount and condition of it.
- Presuming materials do contain asbestos in the absence of strong evidence to the contrary.
- Recording the location and condition of the asbestos on a plan or drawing.
- Preparing a Risk Assessment which will consider whether the asbestos is in poor condition or likely to be disturbed.
- Forming a detailed Plan setting out how the risk is to be managed.
- Putting the Plan into action. Asbestos in poor condition or likely to be disturbed should be removed. Asbestos in good condition should generally be left in place and managed.
- Reviewing and monitoring the Plan and arrangements to put it in place.
- Providing Information on the location and condition of the material to anyone who may work on, or disturb asbestos.

### **Health and Safety Policies**

Even where Tenancy Agreements purport to pass on all responsibility for health and safety to Tenants, Landlords and all Employers will remain liable under the Health and Safety at Work Act 1974 and must take steps to ensure that premises are reasonably safe for those using them. Failure to do so can result in criminal prosecution, including fines or prison sentences for senior executives and those with the day to day management of the premises. If you do not have a Health and Safety Policy in place, urgent steps should be taken to introduce one. All such policies should take into account the new Asbestos Regulations, and should include steps to ensure that these are being complied with.

**This Newsflash is issued by the Property Management Group. Should you have any queries arising from the new changes please contact  
Julia Elson, Derek Williams, Carmela Inguanta  
email: [juliae@sghlaw.com](mailto:juliae@sghlaw.com)  
or your usual contact at SGH on 0207 544 5555.**

**This newsflash summarises complex case law and should not be relied upon in any way as a definitive statement of the law.**

