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Commercial Property Guide

Asbestos: Are You a Duty Holder?



Asbestos: Are You a Duty Holder?

Regulation 4 of the Control of Asbestos Regulations 2012 contains information about the duty to manage asbestos.

It is often thought that the duty holder is always the owner of the property but this is not necessarily the case.

A tenant of a property who has a lease will inherit the liability in respect of asbestos whether or not the asbestos was already present prior to the lease commencement date. In such circumstances, the Landlord will only remain liable for common parts of the building which are not subject to the lease.

The obligations as a duty holder can be summarised as follows:

1. To take steps to establish if the property includes any materials containing asbestos;
2. To keep accurate records;
3. To assess the potential risks;
4. To prepare the appropriate plans to manage such risks;
5. To prepare a time table to review the plan; and

6. To advise anybody who is likely to disturb or work on the asbestos containing materials of the appropriate risk.

Not all asbestos containing materials is dangerous and therefore each matter needs to be considered on a case by case basis. Some asbestos containing materials will be low risk providing it is not disturbed.

Any purchaser or prospective tenant of a property should take steps to ascertain whether the building contains asbestos and, if so, how the asbestos should be managed. In certain cases, the asbestos should be removed by a licensed asbestos remover.

At Band Hatton Button we will be able to advise you as to the regulations.

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