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Legislative Proposal for New Dutch Asbestos Regulations

On Feb. 3, 2017, the Dutch government sent a legislative proposal to amend the Dutch Environmental Management Act (*Wet milieubeheer*) regarding asbestos to the Dutch House of Representatives.¹ If this legislative proposal becomes law, new and more far-reaching obligations to remove asbestos will be introduced for the owners of Dutch real estate.

The Required Removal of Asbestos Roofs and Other Far-Reaching Requirements

The legislative proposal provides for a statutory basis for further governmental decrees on the removal of asbestos roofs. Previously, on the March 3, 2015, a draft decree to amend the Asbestos Removal Decree 2005 was sent to the chairmen of the Dutch Senate and of the Dutch House of Representatives. This draft decree anticipates the statutory prohibition of asbestos roofs as of 2024.

With this ban, owners of roofs containing asbestos exposed to the outside air will have to remove the asbestos roof by Jan. 1, 2024, even if the roof was built lawfully. The Netherlands currently has about 120 million square meters of asbestos roofs. The total removal costs are estimated at EUR 882 million.²

Moreover, the legislative proposal introduces a statutory basis for other more far-reaching asbestos remediation obligations. Most notably, a general obligation for land owners to remediate asbestos waste that was dumped on his/her land may be introduced.³

¹ This proposal amends article 9.2.2.1 of the Dutch Environmental Management Act and introduces article 9.2.2.1a.

² This is mentioned in the advice (W14.16.0313/IV) on the legislative proposal by the Dutch Council of State, page 2.

³ This is mentioned in the advice (W14.16.0313/IV) on the legislative proposal by the Dutch Council of State, page 5.

Consequences

The prohibition on asbestos roofs and other possible new obligations are financially paramount for the owners of Dutch real estate. The government will allow for compensation of the removal costs. However, in practice, this compensation will probably be awarded only in exceptional cases.⁴

If you own or are considering buying Dutch real estate, consider inspecting roofs for the presence of asbestos and keeping an eye out for any potential future additional remediation obligations.

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⁴ This is also the conclusion of the Dutch Council of State in their advice (W14.16.0313/IV) on the legislative proposal.

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