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Decree no. 2017-1442 of 3 October 2017 on the prevention of risks related to asbestos on vessels

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ELI: <https://www.legifrance.gouv.fr/eli/decret/2017/10/3/TRAT1623587D/jo/texte>

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Those concerned: shipowners referred to in [article L. 5511-1 of the French Transport Code](#), people on board vessels who are likely to be exposed to asbestos or to inhalation of asbestos fibres on board vessels flying the French flag, people involved in carrying out the detection and measurements of asbestos fibre particles in the air and analysing materials and products on these vessels.

Purpose: the protection of people on board the vessel against risks associated with asbestos exposure on board commercial, pleasure, and fishing vessels.

Entry into force: the decree will be effective on 1 July 2018, except for fishing vessels under 12 metres and pleasure vessels for personal use with at least one seafarer on board during 2018, for which the effective date of the decree is delayed until 1st January 2019.

Provisions relating to the accreditation conditions referred to in article 3 and the detection report and templates referred to in article 4 will be effective on the date of the decree's publication.

Note: the decree's purpose is to protect people on board vessels against health risks associated with asbestos exposure on these vessels. It obliges shipowners within its scope to have an initial investigation carried out for asbestos on all materials and products that could contain asbestos, and to implement, if necessary, safety procedures or a follow-up on the condition of the materials and products in place. Criminal sanctions will be imposed if the provisions of this decree are breached.

On 1 July 2018 the decree will abrogate [decree no. 98-332 of 29 April 1998](#) on the prevention of asbestos-related risks on board vessels, except for fishing vessels under 12 metres and pleasure vessels for personal use with at least one seafarer on board during 2018, for which the abrogation is delayed until 1 January 2019.

References: the decree is available on the Légifrance website (<http://www.legifrance.gouv.fr>).

Prime Minister,

Based on the report of the Ministre d'Etat, Minister for an Ecological and Solidary Transition,
In accordance with the 1974 International Convention for the Safety of Life at Sea (SOLAS),

made in London on 1st November 1974, as amended;

In accordance with the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships (entire schedule) ratified in Hong Kong on 15th May, 2009;

In accordance with Commission Directive 1999/77/EC of 26 July 1999 adapting to technical progress for the sixth time Annex I to Council Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations (asbestos);

In accordance with Directive 2009/148/EC of the European Parliament and of the Council of 30 November 2009 on the protection of workers from the risks related to exposure to asbestos at work;

In accordance with Regulation (EU) no. 1257/2013 of 20 November 2013 on ship recycling and amending Regulation (EC) No 1013/2006 and Directive 2009/16/EC;

In accordance with the [French Penal Code](#);

In accordance with the [French Public Health Code](#);

In accordance with the [French Transport Code](#), in particular article L. 5545-9;

In accordance with the [French Labour Code](#), in particular article L. 4412-1;

In accordance with [decree no. 84-810 of 30 August 1984](#) on the protection of human life, vessel habitability, and the prevention of pollution, as amended by [decree no. 96-859 of 26 September 1996](#);

In accordance with [decree no. 98-332 of 29 April 1998](#) on the prevention of asbestos related risks on board vessels;

In accordance with the advisory council's assessment regarding working conditions, dated 3 November 2016;

In accordance with the assessment of trade union organisations representing seafarers, and organisations representing their employers, dated 21 November 2016;

The Council of State (*section sociale*), after having heard the deposition, Stipulates:

Chapter I: Scope

Article 1 [More about this article...](#)

I. - The provisions of this decree apply to vessels flying the French flag as defined in [I of article L. 5000-2 of the French Transport Code](#), wherever they may be, with the exception of pleasure craft for personal use as defined in 3.1 of [article 1 of the decree of 30 August 1984 referred to above](#), given that there are no seafarers on board.

II. - The following are exempt from this decree's obligations:

1. Vessels constructed and having undergone maintenance or repair in a shipyard located

exclusively:

a) In mainland France, Guadeloupe, French Guiana, Martinique, Réunion, Saint Barthélemy, Saint Martin or Saint Pierre and Miquelon after 1 January 1997;

b) In New Caledonia after 1 March 2007;

c) Or in French Polynesia after 1 January 2009;

2. Vessels constructed and having undergone maintenance or repair in a shipyard located exclusively in the territory of another EU member state after 1 January 2005.

Chapter II: Detecting asbestos on board vessels

Article 2 [More about this article...](#)

I. - The shipowner is responsible for investigating the presence of asbestos on board any vessel.

This detection task consists of:

1. Identifying and locating materials and products on the vessel's plans and diagrams that contain asbestos;
2. Investigating the presence of any materials and products likely to contain asbestos on board vessels;
3. Evaluating the condition of the materials and products containing asbestos.

II. - Parts and components of the vessel that might contain asbestos that are the subject of this investigation are those defined in annex 17, paragraph 2.2.3.2 of the Hong Kong International Convention referred to above.

III. - If the vessel which was already constructed on the effective date of the decree subsequently undergoes maintenance work or operations outside of an EU member state, the investigation referred to in I of this article only applies to the vessel's modified materials, parts or components.

Article 3 [More about this article...](#)

I. - For the detection task defined in article 2, the shipowner will, no later than two months after any construction work, modifications or maintenance operations, call upon an organisation of their choice accredited by the Comité français d'accréditation (COFRAC) or any other accreditation body that has signed the multilateral recognition agreement established within the framework of coordinating European accreditation bodies.

An order by the Minister of the Sea and the Minister of Labour sets the accreditation conditions for the bodies in charge of the detection task, taking into account guarantees of competence and independence that the organisation presents to people or groups of people interested in the results of this task.

II. - The shipowner will provide all relevant information and documents available to them concerning the vessel to the accredited body in charge of the detection task, with the exclusive assistance of its own agents, enabling it to detect and locate materials containing asbestos.

In particular they will provide records of the vessel's former owners and the shipbuilder, as well as information relating to the construction of the vessel, certificates, manuals, plans and drawings of the vessel, technical specifications and, if necessary, relating to the realisation of any work relating to maintenance, alterations, and repairs to the structure and equipment of the vessel as defined in [II of article 55 of the decree of 30 August 1984 referred to above](#).

III. - The shipowner will provide the accredited body in charge of the detection task with free access to the parts and components of the vessel that constitute part of the investigation.

IV. - Checks defined in articles 2, 5, and 7 are the shipowner's responsibility.

Article 4 [More about this article...](#)

The accredited body responsible for the detection task will, when necessary, collect one or more samples of materials for analysis by an accredited laboratory according to the terms defined in [article R. 1334-24 of the French Public Health Code](#).

At the end of the detection task, the accredited body will draw up a detection report using an evaluation grid. In its annex, this report mentions all the information and documents to which the accredited body had access, as set out in II of article 3.

The format of the evaluation grid and the detection report are defined by order of the Minister of the Sea.

Article 5 [More about this article...](#)

If there is asbestos present on the vessel, depending on the nature of the materials and their condition, the detection report will recommend one of the following actions:

1. Measurements for particles in the air carried out under conditions defined in [article R. 1334-25 of the French Public Health Code](#), within three months of the detection report being sent to the shipowner, or of the results of the last assessment of the condition of materials containing asbestos; in this case article 7 applies after the measurements are taken, according to the results;

2. Periodic monitoring of the condition of materials and products containing asbestos, renewed within a maximum of three years from the date of the detection report results being sent to the shipowner by the expert;

3. Appropriate work undertaken within a maximum of twelve months of the detection report being sent to the shipowner.

- Chapter III Shipowner obligations following asbestos detection

Article 6 [More about this article...](#)

Given the findings of the detection report referred to in article 5 and its recommendations regarding actions to consider, and the deadline for their implementation, the shipowner will take all the necessary measures for the prevention of any risk associated with asbestos on board their vessel.

Article 7 [More about this article...](#)

I. - If the amount of particles found during the measurements in application of 1. of article 5 is less than or equal to the amount set out by [article R. 1334-28 of the French Public Health Code](#), the shipowner will carry out periodic checks of the condition of materials and products that are likely to release asbestos fibres.

Monitoring of these materials and products will be carried out according to the deadlines and terms defined in 2. of article 5.

II. - If the amount of particles found during the measurements in application of 1. of article 5 is more than the amount set out by [article R. 1334-28](#) mentioned above, the shipowner will have the works required by this article carried out within a maximum of twelve months.

During the period preceding these works, appropriate precautionary measures must be implemented so as to reduce the exposure of people on board and to maintain the amount of particles present at less than or equal to the amount set out in [article R. 1334-28](#) mentioned above.

- Chapter IV: Information and communication

Article 8 [More about this article...](#)

I. - The conclusions of the detection report as well as the list of actions implemented following the report will be immediately communicated by the shipowner to the seafarers' doctor and to the seafarer section of the hygiene, safety, and working conditions committee, or to personnel delegates or on-board delegates. They will have access to the full report if they request it.

II. - The shipowner will keep a copy of the detection report as well as the list of actions implemented following the report for the monitoring officer of the labour inspectorate and the relevant vessel safety centre.

Article 9 [More about this article...](#)

I. - The shipowner will draw up, maintain, and update a technical file with all information relating to the detection task and the identification of materials and products that are the subject of this decree, as well as the assessment of their condition.

This file specifies the date, nature, location, and results of the periodic checks, the measurements for particles and, if applicable, work carried out in application of this decree.

II. - An up-to-date copy of this file is sent to the captain, who will keep it and make it available to crewmembers, the vessel safety centre, and the monitoring officer of the

relevant labour inspectorate.

III. - The shipowner will share this information with any person or company called upon to perform work on the vessel.

- Chapter V: Penal sanctions

Article 10 [More about this article...](#)

I. - The following acts are punishable by a fine for 5th tier offences:

1. The shipowner did not investigate the presence of asbestos on board the vessel, in breach of their obligations under article 2;

2. The shipowner did not call upon an accredited body mentioned in article 3, or called upon this body beyond the deadline mentioned in this article;

3. The shipowner did not implement actions of a quality equivalent to those recommended in the asbestos detection report mentioned in 2. or 3. of article 5 by the deadline, in breach of their obligations under article 6;

4. When the amount of particles found during the measurements in application of the recommended action in 1 of article 5 turned out to be inferior or equal to the amount set out by [article R. 1334-28 of the French Public Health Code](#), the shipowner did not carry out periodic checks of the condition of materials and products that are likely to release asbestos fibres during the three-year period mentioned in 2. of article 5, in breach of I of article 7;

5. When the amount of particles found during the measurements in application of the recommended action in 1 of article 5 turned out to be superior to the amount set out by article R. 1334-28 mentioned above, the shipowner did not have work done so as to comply with the maximum particle threshold during the twelve-month period mentioned in 3. of article 5, in violation of II of article 7;

6 ° The shipowner did not draw up, maintain, and update a technical file, as set out in article 9, in breach of these provisions.

II. - Repeat offences are punishable in accordance with articles [132-11](#) and [132-15](#) of the French penal code.

- Chapter VI: Transitional provisions

Article 11 [More about this article...](#)

This decree does not apply to vessels registered in Mayotte, Wallis and Futuna, and in the French Southern and Antarctic Lands.

Article 12 [More about this article...](#)

I. - With the exception of article 11, this decree enters into force on 1 July 2018, subject to the following provisions:

1. When the shipowner has a technical file for the vessel regarding asbestos inspection in conformity with article 6 of the decree of 29 April 1998 mentioned above, made prior to the date mentioned in I, the effective date of this decree is delayed until 1 January 2019 at the latest;

2. When the vessel in question is a fishing vessel under 12 metres or a pleasure vessel for personal use with one or several seafarers on board during 2018, the effective date of this decree is delayed until 1 January 2019 at the latest.

II. - Provisions relating to the accreditation conditions referred to in article 3 and the detection report and templates referred to in article 4 will be effective on the date of this decree's publication.

III. - The decree of 29 April 1998 referred to above will be abrogated on 1 July 2018, except for the vessels mentioned in 1. and 2. of I, for which the abrogation is delayed until 1 January 2019.

IV. - In 4. of article R. 4412-96 of the French Labour Code, [decree no. 98-332 of 29 April 1998](#) on the prevention of asbestos related risks on board vessels is replaced by [decree no. 2017-1442 of 3 October 2017](#) on the prevention of asbestos related risks on board vessels, under the conditions of entry into force provided by this decree".

Article 13 [More about this article...](#)

The Ministre d'Etat, Minister for an Ecological and Solidary Transition, the Minister of Justice, the Minister of Labour, and the Deputy Minister to the Ministre d'Etat, Minister for an Ecological and Solidary Transition, the Minister of Transport, are responsible, for their part, for the execution of this decree, which will be published in the Journal officiel de la République française.

3rd October 2017.

Edouard Philippe

By the Prime Minister:

The Deputy Minister to the Ministre d'Etat, Minister for an Ecological and Solidary Transition, the Minister of Transport,

Elisabeth Borne

The Ministre d'État, Minister for an Ecological and Solidary Transition,

Nicolas Hulot

The Minister of Justice,

Nicole Belloubet

The Minister of Labour,

Muriel Pénicaud