

Consultation on the requirements for competent persons in relation to asbestos-related tasks

Cover sheet and consultation questions for submissions provided by email or post

When making your submission by:

- email to occhygiene@swa.gov.au
- or post to

Consultation – Competent Persons for Asbestos-related Tasks
Safe Work Australia
GPO Box 641
Canberra ACT 2601

please complete the following form, answer the consultation questions, and include the form with your submission.

Submissions will be accepted until **11.59 pm (AEST) on Sunday 1st October 2023**.

1. Your details

(Please leave blank if you wish to remain anonymous)

Title, First Name, Surname: [REDACTED]

Organisation name, if applicable: CFMMEU (Construction and
General Division)

Email: [REDACTED]

Contact number, including area code: [REDACTED]

2. This submission is written on behalf of an:

☐ Individual ☒ Organisation

3. Which of the following categories best describes you? Choose more than one if applicable.

- ☐ Person conducting a business or undertaking/ employer
- ☐ Building trades

- ☐ Demolition businesses
- ☐ Asbestos removalists
- ☐ Asbestos assessors
- ☐ Workers
 - ☐ Building trades
 - ☐ Workers
 - ☐ Asbestos remediation / removal
- ☐ Persons with management or control of workplaces where asbestos has been identified
- ☐ Health and safety representative
- ☐ Industry representative
- ☐ Occupational hygienist
- ☐ Community organisation or member of a local community
- ☐ Professional or peak body representative
- ☐ Government agency representative
- ☒ Trade union representative
- ☐ Other – please specify: [Click here to enter text.](#)

4. Which jurisdiction is your workplace in? Choose more than one if applicable.

- ☒ Commonwealth
- ☒ Australian Capital Territory
- ☒ New South Wales
- ☒ Northern Territory
- ☒ Queensland
- ☒ South Australia
- ☒ Tasmania
- ☒ Victoria
- ☒ Western Australia
- ☐ Outside of Australia

5. What industry do you operate in? Choose more than one if applicable.

- ☐ Agriculture, Forestry and Fishing
- ☐ Mining
- ☒ Manufacturing
- ☐ Electricity, Gas, Water and Waste Services
- ☒ Construction
- ☐ Wholesale trade
- ☐ Retail trade
- ☐ Accommodation and Food Services

- ☐ Transport, Postal and Warehousing
- ☐ Information Media and Telecommunications
- ☐ Financial and Insurance Services
- ☐ Rental, Hiring and Real Estate Services
- ☐ Professional, Scientific and Technical Services
- ☐ Administrative and Support Services
- ☐ Public Administration and Safety
- ☐ Education and Training
- ☐ Health Care and Social Assistance
- ☐ Arts and Recreation Services
- ☐ Other Services - please specify: [Click here to enter text.](#)

Publication of submission

Select one:

- ☒ Publish my submission online
(your organisation or individual name will be identified along with your submission)
- ☐ Do not publish my submission online
- ☐ Publish my submission online anonymously.

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- has the right to decline to publish a submission online if does not meet Australian Government accessibility requirements, and
- may change or convert a submission to conform with [accessibility requirements](#).

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- ☒ I have read and understand the below Privacy Collection Notice and other terms listed below.

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information to help us perform one of Safe Work Australia's core functions in evaluating and, if necessary, revising the model WHS legislative framework and other WHS materials.

If you do not wish to disclose your personal information, you can choose not to include identifying information on the cover sheet and in your submission. However, if we are not able to collect your personal information, we will not be able to contact you for any further consultation if required. If you choose not to provide details about your occupation, this may limit our understanding of the implementation potential options across different workplaces and industries.

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Consultation questions

These consultation questions are aimed at understanding the nature and extent of any issues with the term "competent person" as it relates to asbestos-related tasks. There is no requirement to answer all the questions; and stakeholders are welcome to provide other feedback relevant to the requirements for competent persons for asbestos-related tasks. Wherever possible, please include reference to the relevant regulation number in the model WHS Regulations in your response.

Q.1 Do you have a clear understanding of the definitions of a competent person for asbestos-related tasks? How could any misunderstandings be addressed or clarified?

There are two definitions of competent person in relation to asbestos work in regulation 5 - Definitions, of the model regulations:

competent person means:

(f) for a clearance inspection under regulation 473—a person who has acquired through training or experience the knowledge and skills of relevant asbestos removal industry

practice and holds:

- (i) a certification in relation to the specified VET course for asbestos assessor work; or
- (ii) a tertiary qualification in occupational health and safety, occupational hygiene, science, building, construction or environmental health;

(g) for any other case—a person who has acquired through training, qualification or experience the knowledge and skills to carry out the task.

The term “competent person” in relation to asbestos can be found in the following model regulations:

- 419(5)(a) regarding the determination as to whether soil contains visible ACM or friable asbestos
- 422(1) and (2) regarding the identification of all asbestos or ACM at the workplace
- 451(3) and (4)(a) regarding the inspection and determination as to whether asbestos is fixed to or installed in a structure or plant
- 458(3) regarding a person who has been trained in accordance with regulation 445
- 466(4)(c) regarding carrying out a clearance inspection and issuing a clearance certificate for the work
- 473((2)(b) regarding a clearance inspection for asbestos removal work carried out other than by a holder of a Class A asbestos removal licence
- 474(2), (3), (4) and (5) regarding the issuing of a clearance certificate
- 482 regarding the carrying out of air monitoring
- 493(1)(a) regarding persons who have been engaged by an applicant for a Class A licence to supervise the asbestos removal work to be authorised by the licence
- 494(1)(a) regarding persons who have been engaged by an applicant for a Class B licence to supervise the asbestos removal work to be authorised by the licence
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The CFMMEU questions why there are two different definitions for a competent person in relation to asbestos work (one for persons performing a clearance inspection under regulation 473 and one for persons performing inspections and other functions under the other relevant regulations). It is our understanding that the training requirements for a competent person set by the regulators are identical irrespective of the relevant regulation. The only performance differences are that for removal work requiring a Class A asbestos removal licence the clearance inspection is to be carried out by an independent licensed asbestos assessor (who is an independent competent person who is licensed by the regulator).

The CFMMEU submits that to prevent any misunderstanding occurring it would be preferable to have the one definition of “competent person” for asbestos work using the definition in (f) but with the words “for a clearance inspection under regulation 473” deleted.

The CFMMEU would also suggest that a better way of preventing any confusion would be to require all inspection and clearance related work to be done by a licensed asbestos assessor (and removing the competent person reference).

Q.2 Do you see a benefit in aligning the training, qualification and experience requirements of competent persons, licensed asbestos assessors and asbestos removal supervisors for asbestos-related tasks? If so, what do you think the training, qualification and

experience requirements should be? Please provide information and reasons to support your response.

The CFMMEU sees a benefit in aligning the training, qualifications and experience requirements of competent persons and licensed asbestos assessors for the reasons identified in response to Q.1. The training requirements for asbestos removal supervisors however are different and include pre-requisites depending on the asbestos removal work to be supervised (i.e. non-friable or friable asbestos).

Q.3 Are there any other issues regarding the definition and requirements of competent persons for asbestos-related tasks that should be considered? Please provide information and reasons to support your response.

No response provided.
