



## 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](mailto: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 1<sup>st</sup> October 2023**.

#### 1. Your details

*(Please leave blank if you wish to remain anonymous)*

Title, First Name, Surname: WorkSafe ACT

Organisation name, if applicable: WorkSafe ACT

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: WHS Regulator

### 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.

**Note:** by selecting "publish my submission online" or "publish my submission online anonymously", you accept Safe Work Australia:

- 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](#).

### Terms and conditions

- ☒ I have read and understand the Engage [terms and conditions](https://engage.swa.gov.au/terms) (<https://engage.swa.gov.au/terms>) for making this submission.
- ☒ I have read and understand the below Privacy Collection Notice and other terms listed below.

### Privacy Collection Notice

Safe Work Australia collects, uses and discloses your personal information when you respond to our consultation on the requirements for competent persons in relation to asbestos-related tasks, in accordance with the *Privacy Act 1988* (Cth). We collect this

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.

For more detailed information about how Safe Work Australia collects, uses and discloses your personal information in relation to your consultation response, please refer to our [Privacy Collection Notice](#).

## **Confidential material**

Where a submission includes both confidential and non-confidential material, the confidential material should be provided under a separate cover sheet and clearly marked 'IN CONFIDENCE'. Material marked 'in confidence' will not be placed on the website.

## **Disclosure of submissions**

Any submission, regardless of whether it is published, must be released if requested under the *Freedom of Information Act* 1982 (Cth), unless an exemption applies. Your personal information may also be disclosed to third parties in accordance with our Privacy Policy, including where disclosure is authorised or required by law.

## **Copyright**

Copyright resides with the author(s), not with Safe Work Australia. Neither the Commonwealth of Australia nor Safe Work Australia takes responsibility for any breach of the copyright, or libellous or defamatory comments in submissions published by Safe Work Australia.

## **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?

The Australian Capital Territory (ACT) is required to comply with the Work Health and Safety Regulation 2011 Division 8.10.2 Asbestos assessors—requirement to be licensed, Section 489 - Requirement to hold asbestos assessor licence. In which, there is no definition of "competent person". Instead, all asbestos assessing work (i.e. air monitoring, clearances, identification and sampling) must be undertaken by a licensed asbestos assessor for friable and non-friable asbestos related activities and removal processes.

Competency is a mixture of qualifications, skills and experience. A common question is what is the level of training required for someone to be deemed a "competent person"? For example, is a worker who has completed all the relevant training and has 2 months experience in asbestos related works a competent person and how is their skill and experience measured?

There is also confusion among Persons Conducting Business or Undertakings (PCBUs) as to what circumstances a licensed asbestos assessor is required as opposed to a "competent person". The ACT WHS Regulation in which a Licensed Asbestos Assessor (LAA) is required, clarifies these requirements by providing a formalised way of recognising that an individual has achieved the competence necessary to provide services through the licensing scheme.

When considering that the LAA role is the to be the 'sign off' between an environment contaminated with asbestos and an environment ready for reoccupation, it becomes clear that formal qualifications, a range of asbestos related skills and experience are necessary to ensure that workers and the general public are not being exposed to asbestos. Regulators and PCBUs would want to be assured that the areas cleared as "asbestos free" have been checked by someone with suitable competence.

These misunderstandings can be addressed by removing the definition of a "competent person" within the regulations and replacing it with "licensed asbestos assessor" or another asbestos licence holder in the model Work Health and Safety Regulations 2011.

**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.

There is a generally high level of compliance in the asbestos removal industry in the ACT. WorkSafe ACT believe that there is a clear benefit to aligning the core competency unit requirements for "competent persons" and licensed asbestos professionals.

The experience requirements for removalists should be separate to the assessor experience requirements due to the diversity of an assessor's role compared to removalists (detail on suggested assessor requirements provided below). Differing experience requirements for Class A and Class B removalists are also important due to the nature of complexity with friable removals in comparison to non-friable removals. Current legislation in ACT requires 3 years of experience for a Class A removal license and 1 year of experience for a Class B license (for individuals) or a nominated supervisor with 3 years or 1 year experience respectively.

There is no need for asbestos assessors to undertake removalist training. However, asbestos assessors would benefit from completing an expanded version of the CPCCBC5014A which incorporates the beginning sections of CPCCDE3014 including submitting a notification to the regulator prior to undertaking works, creating/reviewing an ARCP and SWMS, correct disposal of asbestos and general requirements for an area to pass a clearance inspection. At the current time, most of this information is left up to the assessor to read in the Codes of Practice. This would align the knowledge of

removalists and assessors to know what is expected of them during and following the removal process. Removalists and assessors require very different specific knowledge to perform their functions such as enclosure construction for Class A removalists and sampling techniques for assessors and therefore require very separate training for their roles.

When looking at aligning the training requirements, the 3 key requirements for a LAA should be:

- 1) Evidence of appropriate qualifications such as:
  - o Completion of relevant courses, for example: the 'Conduct asbestos assessment associated with removal' course (CPCCBC5014A); or
  - o at least a tertiary qualification in occupational health and safety, industrial hygiene or science, building construction or environmental health.
- 2) Demonstrated experience showing at least 3 years of experience in the asbestos industry. Evidence provided must not be older than 5 years from the application date. Evidence of experience can be provided by detailing jobs in which the applicant has performed a range of tasks such as:
  - o asbestos building audits
  - o registers prepared
  - o preparing asbestos removal control plans
  - o assisting in conducting air monitoring
  - o drafting enclosure integrity inspections
  - o drafting clearance inspections.
- 3) Written references from people who are familiar with your work in asbestos assessment or asbestos removal industry. The references should be from a person who has relevant asbestos industry knowledge, such as a licensed asbestos assessor, licensed asbestos removalist or an occupational or industrial hygienist.

**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.

Other issues with the use of the term "competent person" includes that a "competent person" can be perceived as a technical expert (as an LAA would be). This opens the possibility of misunderstandings by both the person and the PCBU as to the level of technical expertise that a competent person is providing when conducting clearance works. When the works being conducted involve ensuring that persons are not exposed to hazardous materials it is essential that a PCBU and the regulator can place trust the advice being provided.

Additionally, a LAA is not only responsible for the 'sign off' to decide an area can be reoccupied, but they are also responsible for ensuring that an asbestos removalist is following the relevant codes of practice and complying with the Work Health and Safety Legislation. This independent oversight from an LAA minimises the risk of exposure to airborne asbestos fibres. Without a suitably competent individual making these decisions, the potential for an asbestos removalist to do a poor job which exposes workers and the public to asbestos increases. This compounds with the lack of experience to properly assess an area, resulting in the increased potential for persons to

be exposed. The PCBU is then in a position of non-compliance if they have tried to engage the correct person for the job (i.e. a "competent person") but have been provided with an individual who does not have the experience necessary to correctly clear an area.