



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: Energy Skills Australia

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.

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.

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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?

No – the definition is too broad and ambiguous. There is an understanding that operatives require skills and knowledge to operate safely and competently, but the training needs to be identified and defined in the form of national accredited VET course or tertiary training for a person to be competent.

Implying that skills and experience with no formal qualification is enough to deem a person competent isn't appropriate and should be re- worded or removed.

It is also worth noting that the current definitions / requirements in the consultation paper would also fail to comply with the requirements outlined by the Regulations outlined below:

WORK HEALTH AND SAFETY REGULATIONS 2011 - REG 39

Provision of information, training and instruction.

- (1) This regulation applies for section 19 of the Act to a person conducting a business or undertaking.
- (2) The person must ensure that information, training and instruction provided to a worker is suitable and adequate having regard to:
 - (a) the nature of the work carried out by the worker; and
 - (b) the nature of the risks associated with the work at the time the information, training or instruction is provided; and
 - (c) the control measures implemented.

WORK HEALTH AND SAFETY REGULATIONS 2011 - REG 445

Duty to train workers about asbestos

- (1) In addition to the training required by Division 1 of Part 3.2, a person conducting a business or undertaking must ensure that workers engaged by the person, whom the person reasonably believes may be involved in asbestos removal work or in the carrying out of asbestos-related work, are trained in the identification and safe handling of, and suitable control measures for, asbestos and ACM

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.

Yes, we believe there are benefits to aligning the training qualification and experience requirements for those listed in question 2 to nationally accredited training.

Nationally accredited training is preferred as this ensures consistency, portability, and recognition of units/qualifications across the country.

Nationally accredited training is also regulated and subject to industry consultation, validation and moderation. Nationally accredited training delivery and assessment can be customised to address any local or jurisdictional differences whilst still meeting the requirements of the unit/s.

Energy Skills Australia has established two nationally accredited asbestos courses namely; Working Safely with Asbestos Containing Materials (10852NAT) which is mandated in the ACT, and more recently; Recognise and Respond to Asbestos Containing Materials in the Utilities Sector (11100NAT).

Both these courses be restricted to RTOs who are licensed to deliver the course and subject to ongoing audit and moderation activities of their facilities, trainers and training materials.

A nationally accredited prerequisite course (or Unit of Competency) in asbestos awareness

should be mandatory in all states and territories as an entry requirement to all qualifications that are likely to encounter Asbestos containing materials.

This nationally recognised unit should sit outside of trade qualifications but be a mandatory WHS requirement.

It is important that it sits outside of the trade qualification to ensure quality of delivery. There is a risk to the quality of delivery if the mandatory unit is included in the qualification as it is then available to all RTOs with the qualification on scope.

All other forms of training and assessment are not regulated and may not meet industry or regulatory needs and could potentially put PCBU's at risk of not meeting their WHS obligations.

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.

In relation to the removal of 10 square metres or less related task. It is our view that regardless of the size of the area all asbestos removal work should be carried out by a licenced asbestos removalist as there is no safe quantity.