



## 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: [REDACTED]

Organisation name, if applicable: The Department of Mines, Industry Regulation and Safety, WorkSafe Group (WA)

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:

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(your organisation or individual name will be identified along with your submission)
- ☐ Do not publish my submission online
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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?**

WorkSafe Western Australia (WorkSafe WA) submits that the requisite experience of a competent person could be further be clarified. A Licenced Asbestos Assessor (LAA), for example, may be competent with asbestos surveys and registers but may have had no experience with friable asbestos materials in soils or fire damaged asbestos.

WorkSafe WA has encountered a scenario where an individual working in demolition with over 20 years' experience did not identify asbestos-containing paper-backed vinyl flooring in a demolition survey because they had never previously seen it. In addition, they held a Class B licence and a demolition licence. However, they were not aware of the potential for flooring to contain asbestos.

While paper-backed vinyl flooring is deemed friable, the person conducting the survey in the example mentioned above, had no experience in this and therefore missed this important detail and could have potentially contaminated the entire demolition load and soil. Fortunately, it was identified by a WorkSafe WA inspector who requested it to be tested while on site before the works started. WorkSafe have encountered facts similar to this on more than one occasion.

WorkSafe WA submits that there may not be enough specificity in the experience criteria for competent persons, as the range of different work can be quite varied and complex. In light of this complexity with 'experience', the framework may need to specify further detail beyond simply whether there is 'experience' or not.

That the level and type of relevant experience with regards to asbestos removals is not specified leaves the definition open for interpretation and can lead to under-trained persons being assigned too complex inspection works.

A person may have a number of years' experience as a removalist or as an environmental health officer and not be experienced in other complex work such as air monitoring or soil contamination. Technically, the same person can do a pre-demolition survey on a building and have never seen ACM in a built environment.

For survey works, which requires a competent person, there is no formal training requirement. This can lead to individuals completing work while demonstrating significant gaps in the knowledge required for the task. WorkSafe WA has encountered cases of ACMs not being identified because the individual had never seen the particular ACM before.

Some consultants and ICPs (including those with an ISO 17020 accreditation) have a phased shadowing inspection approach for Class A and B clearance inspections of varying complexities, in preparation for authorising a consultant or ICP to conduct inspections unsupervised. This approach does not rely on a degree or VET certificate alone.

Consultancies tend to have a supervisor that relevant reports have to go through before being signed off. This ensures both consistency and that the person has all the knowledge and experience necessary e.g. the extent of survey works and the potential for ACM in built environments.

An organised PCBU employing consultants should ensure there is a shadowing mechanism in place in order that the person conducting the surveys has a phased training and authorising pathway to conduct surveys without supervision.

WorkSafe WA submits that the complexity within necessary 'experience' could be better specified or communicated within the WHS framework such that relevant, context-specific experience is assured for individuals carrying out competent person roles in relation to ACMs.

The current definition of 'competent' in regulation 5(g)(ii) of the WHS General Regulations for clearance inspections states "a tertiary qualification in occupational health and safety, occupational hygiene, science, building, construction or environmental health".

An individual may have a masters or doctorate in science which, at face value, satisfies the requirements of a competent person. However, such a tertiary science qualification may be in a discipline such as physics or applied mathematics. This may demonstrate a measure of intellect and the ability to apply scientific method for inspections, monitoring and research on health risks.

However, it does not indicate that the individual has skills or experience with asbestos containing materials (ACM), their applications, appearance, locations and the potential for poor previous ACM removal work. WorkSafe WA submits that in relation to LAAs and ICPs, tertiary qualifications should be specified as being relevant.

WorkSafe WA notes that the recently released SWA guide for asbestos registers contains the following for a competent person to conduct surveys for registers:

“a person working for an organisation accredited by the National Association of Testing Authorities (NATA) under AS/NZS ISO/IEC 17020:2013 Conformity assessment – Requirements for the operation of various types of bodies performing inspections”. This requirement is not listed anywhere else in the Codes of Practice or legislation for a competent person.

**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.**

WorkSafe WA submits that the experience requirement for a competent person in relation to asbestos clearances could be defined in the same way it is for removal supervisors in the work, health and safety (WHS) legislation.

Specifying a number of years' experience before an individual is deemed competent in the different types of clearances would give some reassurance that they know what they are looking for and have undergone some supervised inspections in the past with an experienced inspector. This would be documented and allow for scrutiny of trainers and their experience and knowledge to provide inspection training in the first place.

In example:

An LAA should have 3 years' experience with varied activities including surveys, scope of works for removal, assessments of ACM condition, clearances and air monitoring. This should include areas such as soil contamination, fire damaged, other potential friable scenarios such as low-density fibre board and weathering.

The ICP for Class B should have 12 months experience with surveys demolition/refurbishments and clearances. This would hopefully demonstrate that they are able to identify ACM.

**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.**

As soil assessment, identification, determining the presence of ACM and air monitoring are pushed together in the same category as assessable by an ICP, this increases the potential for confusion in determining that the individual is automatically deemed competent for all these categories if they are in fact only competent in one area.

For example, with soil contamination, a contamination consultant would be deemed competent, however, this individual may not know a great deal about the built environment. This may be the case in reverse however a consultant surveyor may be more likely to spot building products in soil etc. as they encounter more of these in their work.

There has been, in the past, nationally recognised awareness courses for asbestos and the guidance note from WA Department of Health does provide some visual examples of asbestos in soils for reference. If an awareness course with some detailed amendments was made mandatory, it may alleviate some of the issues outlined above where WorkSafe WA has encountered significant errors made by 'competent persons' in relation to not adequately identifying ACMs. Such a course could be delivered online as a pre-requisite for LAA, Class A and B and ICP VET courses.

Some examples of nationally accredited courses include:

- 11004NAT - Course in Identification and Awareness of Asbestos Containing Materials
- 11084NAT - Course in Asbestos Awareness

As stated above, a more specific list of relevant tertiary qualifications would be useful (not just a generalised science, building or other tertiary qualification).

A definition or statement as to whether or not the British Occupational Hygiene Society (BOHS) asbestos modules are of an equivalent level would be beneficial in this aspect as well.

An awareness course would also be of benefit to contaminated sites consultants who handle, sample and consult in asbestos in soils who may not meet the training requirement for workers potentially working with asbestos.

Sampling of potential ACM including in soils needs to be more clearly defined as asbestos-related work. This would ensure that persons tasked with this meet the competent person definition as amended but also ensure that a thorough and documented risk assessment for the works is conducted.