



## 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: ASEA and AHCA

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
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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?

**Please refer to attached submission**

**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.

Please refer to submission

**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.

Please refer to submission

## **Joint submission from the Asbestos Safety and Eradication Agency and the Asbestos and Hazardous Material Consultants Association on the requirements for competent persons in relation to asbestos-related tasks**

Thank you for the opportunity to provide comments to this consultation.

The Asbestos Safety and Eradication Agency (ASEA) coordinates national actions to eliminate asbestos-related disease in Australia. ASEA works with all levels of government and non-government groups to improve the effective and safe management, removal and disposal of asbestos.

The Asbestos and Hazardous Materials Consultants Association (AHCA) represents industry professionals within the asbestos and hazardous materials community. AHCA's aim is to drive and encourage best practice through consultation and knowledge sharing.

ASEA and AHCA have provided joint comments below.

### **Background: What is the issue?**

The Information Paper *Consultation on the requirements for competent persons in relation to asbestos-related tasks* (the Information Paper) notes the feedback from the [2018 Review of the model WHS laws](#) that the definition of a competent person is too broad, making it unclear as to who should or must perform certain asbestos-related tasks, and exactly what type of training, qualification or experience a competent person should have.

The issue was based largely on ASEA's [submission](#) to the 2018 review which indicated that the current definition of a competent person (for the purposes of carrying out a range of asbestos-related tasks under the WHS Regulations) should offer more detail to provide clarity around who meets this definition. The problem relates to asbestos-related tasks where the 'competent person' definition does not mention a specific course or set of competencies but is only defined as: 'a person who has acquired through training, qualification or experience, the knowledge and skills to carry out the task'.

This effectively puts the responsibility for assessing competence on the duty holder (e.g. person conducting the business or undertaking) who will often have very little knowledge of the necessary qualifications and/or training required.

ASEA has also identified that persons who may be considered as 'competent' under the broad definition may not have the technical knowledge and skills needed to carry out the specified tasks effectively.

For example:

- Part 2.2 of the Safe Work Australia (SWA) Code of Practice: *How to manage and control asbestos in the workplace* (July 2020) discusses who can be a competent person in relation to identifying if asbestos or asbestos containing material (ACM) is at the workplace and cites occupational hygienists with experience in asbestos and licensed asbestos assessors (LAAs) as examples. However, not all occupational

hygienists or LAAs have the competency to conduct asbestos surveys, and there is currently no existing Australian course for the identification and assessment of ACMs. The Vocational Education and Training (VET) course for asbestos assessor work<sup>1</sup> is focussed on air monitoring for asbestos removal work and not on identification of in-situ ACMs. Furthermore, a LAA licence only covers friable asbestos removal air monitoring, clearance inspections and clearance certificates and is not a level of competency for any other asbestos related technical disciplines.

- Part 2 of the SWA Code of Practice: *How to safely remove asbestos* (July 2020) cites ‘an asbestos awareness course’ as ‘appropriate training’ for unlicensed asbestos removal work (p.14). However, even undertaking the nationally accredited asbestos awareness course<sup>2</sup> does not provide the skills needed to safely remove asbestos, as it only covers ‘identify and report’ issues.
- The option that a competent person holds ‘a tertiary qualification in occupational health and safety, occupational hygiene, science, building, construction or environmental health’ for conducting clearance inspections or air monitoring for asbestos removal work is also too broad and does not provide sufficient clarity on which qualifications cover the competencies needed.

### How can competency be determined?

It is the opinion of ASEA and AHCA that competency in relation to asbestos-related tasks should consider the following elements:

- **Qualifications** (formal training) – specify the relevant course(s) that provide the knowledge needed to undertake the task.
- **On-the-job/practical experience** – a level of practical experience under the supervision of an already competent person to support the formal training.
- **Accreditation/licensing/verification of competence.**

In the absence of licensing, key industry bodies<sup>3</sup> could provide verification of competency through their accreditation schemes, which generally include requirements to follow specific standards, auditing practices and ongoing professional development. For example, NATA’s Specific Accreditation Criteria for Asbestos Sampling and Testing provides clear guidance on the need for metrological traceability when conducting air monitoring and prohibits the false reporting of airborne fibre concentrations, however, the document is only applicable to NATA accredited facilities, therefore NATA has no governance over unaccredited facilities which issue asbestos results.

### Where are more specific competencies needed?

Given the specialised knowledge and skills required, we consider that the following activities should define the training, qualification and experience a competent person should have rather than rely on the general competent person definition:

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<sup>1</sup> [CPCCE5001 - Conduct air monitoring and clearance inspections for asbestos removal work](#)

<sup>2</sup> [11084NAT - Course in Asbestos Awareness](#)

<sup>3</sup> For example: Australian Institute of Occupational Hygienists (AIOH), AHCA, Faculty of Asbestos Management of Australia and New Zealand (FAMANZ), National Association of Testing Authorities (NATA)

1. **Identifying** all asbestos or ACM at the workplace (*Regulation 422*).
2. **Determining the presence** of asbestos or ACM when demolition or refurbishment is to be carried out and there is no asbestos register (*Regulation 451*).
3. **Air monitoring when asbestos-related work is carried out** and when there is uncertainty as to whether the exposure standard is likely to be exceeded (*Regulation 482*).
4. **Soil assessment** for the presence of asbestos (*Regulation 419(5)*).
5. **Removal of 10 square metres or less** of non-friable asbestos or asbestos-contaminated dust or debris associated with the removal of that amount of non-friable asbestos, or removal of asbestos-contaminated dust or debris that is not associated with the removal of friable or non-friable asbestos and is only a minor contamination (*Regulation 458*).

Each of these activities is discussed below.

### Survey based activities (activities 1 & 2)

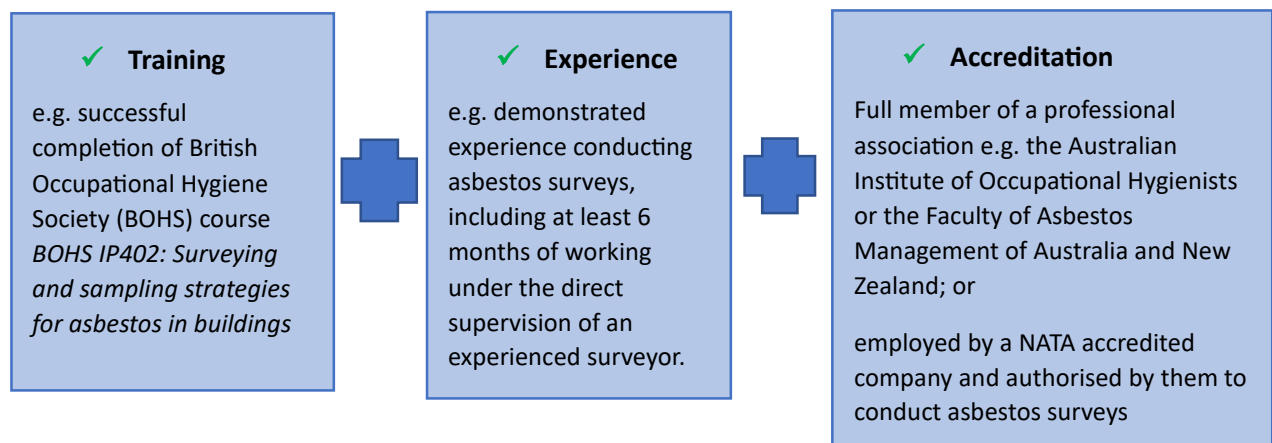
As part of developing the draft National Asbestos Survey Guide, ASEA identified that there is currently no recognised Australian training course for the competencies needed to identify and assess in-situ ACMs and that the British Occupational Hygiene Society (BOHS) course (P402) is commonly chosen by Australian surveyors.

Furthermore, duty holders (e.g. persons conducting a business or undertaking) may not be aware that not all occupational hygienists or LAAs have the competency to conduct asbestos surveys. This has an impact on the quality of asbestos registers and asbestos management plans.

The draft National Asbestos Survey Guide is being developed in consultation with a technical working group who have supported that competency for conducting asbestos surveys be determined as follows:

*A person can demonstrate that they are technically competent to undertake a survey through a combination of qualifications and practical experience. Industry accreditation can also provide additional confirmation of competency.*

*These three elements of competency are outlined below:*





We have specified the BOHS IP402 course in the draft National Asbestos Survey Guide as an interim measure until an equivalent Australian course is developed.

### **Air monitoring (activity 3)**

The VET course: *Conduct air monitoring and clearance inspections for asbestos removal work* ([CPCCD5001](#)) may be suitable for providing the competencies to perform air monitoring when asbestos-related work is carried out and when there is uncertainty as to whether the exposure standard is likely to be exceeded.

### **Soil Assessment (activity 4)**

There are currently no Australian courses that cover the specific skills needed to assess asbestos in soils. The BOHS course on *Identification and Quantification of Asbestos in Soils* (P408) does not align with Australian soils and conditions. It also does not reflect the requirements under the National Environmental Protection (Assessment of Site Contamination) Measure (ASC NEPM) for Asbestos Materials in Soils.

Some occupational hygienists and environmental consultants may have the appropriate experience to competently identify and assess asbestos in soils, and generally follow the Western Australian [Guidelines for the assessment, remediation and management of asbestos contaminated sites \(health.wa.gov.au\)](#).

AHCA are collaborating with the AIOH to develop an asbestos in soil training course.

### **Removal of 10m<sup>2</sup> or less (activity 5)**

The only course that would currently be suitable to cover the competency for removing 10m<sup>2</sup> or less of non-friable ACM is the Class B asbestos removal course.<sup>4</sup> This course could be specified as mandatory to carry out this work, but the license would not be required.

### **Other issues**

#### *Definition of 'licensed asbestos assessor'*

ASEA has identified a possible issue with the reg 5 definition of 'specified VET course' for LAAs.

Under reg 5 a 'licensed asbestos assessor' means 'a person who holds an asbestos assessor license'.

Under reg 491(2) only a person 'who holds the qualifications set out in reg 495 may apply for an asbestos assessor licence'. Reg 495(b) provides that an application for an LAA license must include either 'a copy of a certification held by the applicant in relation to the specified VET course for asbestos assessor work' (or evidence of specified tertiary qualifications).

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<sup>4</sup> [CPCCD3014A - Remove non-friable asbestos](#)

The reg 5 definition of the relevant 'specified vet course' in paragraph (f) of that definition is: 'in relation to asbestos assessor work – the VET course Conduct asbestos assessment associated with removal.'

However, the title of the VET course pertaining to LAAs has been changed as it has been superseded and renamed 'Conduct air monitoring and clearance inspections for asbestos removal work' so does not align with the relevant reg 5 definition.

ASEA notes that where the white card VET course is mentioned in para (a) of the 'specified VET course' definition in reg 5 of the model regs a 'corresponding subsequent VET accredited course' is specifically given as an alternative but this is not the case for the LAA course.

#### Definition of 'trace levels' of asbestos

Clause 419 (5) (a) (ii) states subregulation (1) does not apply to the following: if friable asbestos is visible—does not contain more than trace levels determined in accordance with AS 4964:2004.<sup>5</sup>

The term 'trace' in AS 4964:2004 has a different meaning to the intent of the Regulation. Trace asbestos in accordance with AS 4964:2004 indicates respirable asbestos fibres are present in the soil (or non-homogeneous sample). This type of sample has a higher risk level because those fibres are already in the respirable size range with the ability to become airborne with minimal disturbance (without any controls).

#### **Conclusion**

Competency should be defined in relation to a specific qualification that provides the knowledge necessary to carry out the asbestos-related task, supported by a period of practical experience under supervision. Licensing or accreditation can provide further assurance of competency but is not essential.

We have identified gaps in relation to formal training for survey-based activities and the identification and quantification of asbestos in soil. We recommend that national units of competency be developed suitable for the Australian environment.

If a course is to be prescribed under the Regulations it must be developed in consultation with industry, unions, WHS regulators and training providers to ensure it is fit for purpose, freely accessible and able to be incorporated into relevant training packages.

There may be an opportunity to fill these training gaps with the establishment of the new Jobs and Skills Council for Building Construction and Property (Buildskills Australia)<sup>6</sup> as part of its initial programme of work.

In making the above recommendations we are seeking an outcome where:

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<sup>5</sup> AS 4964:2004 is currently under revision with adoption of ISO 22262-1 under consideration, with modification

<sup>6</sup> [Jobs and Skills Councils delivering for businesses, workers and the economy | Ministers' Media Centre \(dewr.gov.au\)](https://www.dewr.gov.au/jobs-skills-councils-delivering-for-businesses-workers-and-the-economy-ministers-media-centre)

- the specified competency requirements will ensure that the activity will be proficiently performed and minimise the risk of exposure to asbestos fibres, and
- Duty holders will feel confident in being able to choose the right person to undertake each of the activities.

While the model WHS regulations could be amended to specify a particular VET course where a suitable course exists, further details about who is competent to carry out specific tasks such as asbestos identification and air-monitoring can be provided in the model codes of practice.