



Government of **Western Australia**  
Department of **Mines, Industry Regulation and Safety**

# Submission templates - Work Health and Safety Regulations for Western Australia

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# WHS Regulations submission coversheet

## Section 1: Submission details

Full name

Organisation and position (if applicable)

Environmental Health Directorate, Department of Health

Email

Telephone

Employment status (if applicable)

- |                                                |                                               |
|------------------------------------------------|-----------------------------------------------|
| <input type="checkbox"/> Worker                | <input type="checkbox"/> Principal contractor |
| <input checked="" type="checkbox"/> Employer   | <input type="checkbox"/> Contractor           |
| <input type="checkbox"/> Self-employed         | <input type="checkbox"/> OSH professional     |
| <input type="checkbox"/> Other (enter details) |                                               |

Size of workplace

- Small (0-9)     Medium (20-199)     Large (200+)

Please indicate in what capacity you are making this submission (select one of the following categories)

- |                                                 |                                                               |
|-------------------------------------------------|---------------------------------------------------------------|
| <input type="checkbox"/> Individual             | <input type="checkbox"/> Industry representative              |
| <input type="checkbox"/> Business               | <input type="checkbox"/> Academic                             |
| <input type="checkbox"/> Community organisation | <input checked="" type="checkbox"/> Government representative |
| <input type="checkbox"/> Employer organisation  | <input type="checkbox"/> Professional                         |
| <input type="checkbox"/> Other (enter details)  |                                                               |

Which industry sector do you operate in?

Health

Your type of job or business (if applicable)

## Section 1: Permission details

### Internet publication

Public submissions may be published in full on the website, including any personal information of authors and/or other third parties **contained in the submission**.

Please tick this box if you wish for your input to remain confidential (that is, you **do not consent** to having your input published on the internet) **Please do not publish email and contact details**

### Anonymity

Please tick this box if you wish for your input to be treated as anonymous (that is, you **do not consent** to having your name, or the name of your organisation, published on the internet with your input)

### Third party personal information

Please tick this box **if your input contains personal information of third party individuals**, and strike out the statement that is not applicable in the following sentence:

The third party **consents / does not consent** to the publication of their information.

## WHS Regulations submission comments

Enter your comments on specific regulations in the table below. You may add new rows at the end of the table if you wish to include comments on other aspects of the national model WHS regulations.

When making your submission, please consider providing specific responses to the following issue:

1. What is the benefit to workplace participants of a proposal?
2. What is the likely cost for you, your business and the Regulator to implement a specific proposal?
3. Is a specific recommendation likely to be effective in achieving healthier and safer workplaces?
4. Are there any unintended consequences of adopting individual regulations in the model WHS regulations?
5. If a new requirement is proposed by the model WHS regulations, what are the costs and benefits?

This template can be used for providing your views concerning:

- National Model Work Health and Safety Regulations
- Demolition licensing under the OSH regulations
- Commercial driver fatigue under the OSH regulations
- Protection from tobacco smoke under the OSH regulations
- Proposed deletions in Western Australia to remove overlap with the *Dangerous Goods Safety Act 2004*

## Section 2: Feedback

### Track-changed document submission

- Which consultation document(s) are you providing feedback on?
- Differences between the national model WHS regulations and the OSH regulations 1996
  - Consultation document WHS (Mines) Regulations for WA
  - Consultation document WHS (Petroleum and Geothermal Energy Operations) Regulations for WA
  - Proposed deletions in WA to remove overlap with the Dangerous Goods Safety Act 2004*
  - Commercial vehicle drivers: Hours of work – Work Health and Safety Regulations for WA
  - Protection from tobacco smoke – Work Health and Safety Regulations for WA
  - Demolition work: Licence – Work Health and Safety Regulations for WA

Number of pages in  
your submission

Does this submission contain a **track-changed version** of the  
draft proposal?

Yes

No

*If yes, submit as a Microsoft Word compatible document (\*.docx)*

#### General comments

##### Department of Health Role

The Department of Health of Western Australia (WA Health) has a number of responsibilities in regard to protecting the public from risk including by being administrator of the *Health (Asbestos) Regulations 1992* (HAR), which primarily apply in the residential private sector and public areas.

WA Health is also the primary advisor to the Department of Water and Environmental Regulation in regard to public health risks and contaminated sites. In this capacity it has published Guidelines on asbestos-contaminated soil which have been gazetted under the *Contaminated Sites Act 2003*.

Both the HAR and the Guidelines are in the process of being revised, and WA Health is working closely with other departments, including WorkSafe, in an Across Agency Asbestos Group (AAAG) to ensure harmonized and effective asbestos risk management for the whole WA community.

Consequently, WA Health has considerable interest, expertise and legal responsibilities in relation to asbestos risk management.

##### Scope of Comments

WA Health will restrict its comments to the asbestos elements of the consideration of the adoption of the Model Health and Safety Regulations into WA OHS legislation. In practice this means discussion of Chapter 8 – Asbestos in the “Differences between the national model WHS regulations and the OSH regulations 1996” document, plus asbestos definitions as per Part 1.1 of the MWHS Regulations.

##### WA Health Comments

WA Health generally supports all of the elements of asbestos management as outlined in the MWHS regulations, except where indicated otherwise. In addition it supports some of the MWHS regulations more strongly, as outlined under “Detailed comments” below.

One aspect about the MWHS regulations it has reservations about is the extensive inclusion of operational procedural detail that are already largely in supporting Codes of Practice e.g. safe removal. These include provisions relating to site security, site clearance, asbestos removal control plans, and waste disposal. However, this is not a major concern.

WA Health also requests that the MWHS Regulations definitions in relation to asbestos are not adopted automatically, and not without consultation with the AAAG, as mentioned above. This group has both WorkSafe and Department of Mines representatives, and the asbestos definitions it is agreeing to, including of “asbestos containing material”, differ slightly from those in the MWHS Regulations, but not to an extent that would compromise them.

## Detailed comments

If commenting on specific content, you may wish to use the table below.

Reference to specific model WHS / OSH reg no.	Comment
<p><b><u>Chapter 8 – Asbestos</u></b></p> <p><b>71. Work involving asbestos or ACM – changes</b></p> <p><b>72. Asbestos Removal Work</b></p> <p><b>73. Work involving asbestos or ACM – Training courses</b></p> <p><b>75. Licensed asbestos assessors</b></p> <p><b>76. Asbestos registers - threshold date</b></p>	<p>The differences highlighted but not discussed here are primarily specifically addressed in subsequent points.</p> <p>WA Health through Local Government and DWER has had extensive experience of poor asbestos removal practice associated with licensed asbestos removalists. We consider that this area is inadequately regulated resulting in a number of risk situations including neighbour exposure, site contamination and contamination of the recycle stream. WA Health’s concerns primarily relate to the restricted license holders.</p> <p>Consequently, we strongly support improved regulations in this regard, some of which are discussed further in succeeding sections. This would include having an independent competent person conducting a clearance inspection and certificate in regard to residential premises.</p> <p>Please also note that the Revised Health (Asbestos) Regulations require that a licensed asbestos removalist be used for any removal above 10m2, and that this cannot be done by an owner or friend unless licensed. So there will be an increased demand of licensed asbestos removals and WA Health does not want this to generate more risk rather than less.</p> <p>WA Health does not support continuing with the current licensing training requirement since based on its experience the training is inadequate needs to be replaced with something much stronger such as the VET system.</p> <p>A WA Health officer who undertook a WorkSafe approved asbestos removal training course a few years ago found it quite deficient, which we provided feedback about at the time. We are aware that there have been some improvement since then but a half day course is still inadequate.</p> <p>So WA Health supports the stronger MWHS regulations, e.g. VET-related training, in this regard and in the context of removal workers, supervisors, and asbestos assessors.</p> <p>WA health would prefer the introduction of the category of licensed asbestos assessor but is aware that in a very large state such as WA that this may be less practical. Also DOH believes the greatest problems with removals lies with the removalists with restricted licenses rather than unrestricted licenses who are the subject of the clearance arrangements.</p> <p>WA Health supports the use of 1990 as the threshold date for an asbestos register, in keeping with current OSH regulations, rather than the 2003 date proposed under the MWHS Regulations.</p>

<p><b>79. Exception for trace amounts of asbestos</b></p>	<p>Great care needs to be taken in regard to this provision to ensure that it is not inconsistent with WA environmental and public health legislation. As it stands it is an over-simplification of what can be a very complex area that other legislation has comprehensively addressed, including under the Contaminated Sites Act 2003. In keeping with the request under General Comments, WA Health asks that this issue be part of a consultative process with the AAAG.</p>
<p><b>81. Asbestos removal control plan</b></p>	<p>WA Health is strongly of the view that an asbestos removal control plan should be required because it will be more comprehensive, site-specific and can be more readily enforceable. WA Health will include such a requirement in its related-asbestos legislation so as to complement its use in the workplace situation.</p> <p>Once a removalist starts using such control plans in many cases they will only require minor adjustment from that used on a previous site.</p> <p>The use of an asbestos removal control plan has been a national requirement since at least the 2005 Code of Practice for the safe removal of asbestos and it would be highly undesirable for WA to continue to be so far behind the national and other State and Territory standards.</p> <p>Safe Work Method Statement is a very simple tool of limited flexibility.</p>
<p><b>84. Informing persons in the immediate vicinity</b></p>	<p>WA Health considers it is important to adopt the new notification provision and intends to incorporate it in its own asbestos-related legislation. Lack of awareness by neighbours of removals is one of the greatest areas of complaint that WA Health and LG EHO's receive. Notification gives a neighbour the opportunity to avoid the activity if they wish, take some precautionary measures such as not putting washing out, and also to monitor the activity in case poor practices are being adopted.</p>
<p><b>MWHS Part 8.6</b></p>	<p>WA strongly support the provisions relating to identification and removal of any asbestos associated with the demolition or refurbishment of residential premises i.e. regulations 453, 455 and 457.</p>