

Australian Industry Group

Work Health and Safety Regulations  
for Western Australia  
Discussion Paper

**Submission to**  
WorkSafe Western Australia

**AUGUST 2016**

**Ai**  
GROUP

# **WORK HEALTH AND SAFETY REGULATIONS FOR WESTERN AUSTRALIA**

## **SUBMISSION WORKSAFE WESTERN AUSTRALIA**

### **Introduction**

The Australian Industry Group (Ai Group) is a peak industry association and has been acting for business for more than 140 years. Along with our affiliates, we represent the interests of more than 60,000 businesses employing more than 1 million staff. Our longstanding involvement with diverse industry sectors including manufacturing, construction, transport, labour hire, mining services, defence, airlines and ICT means we are genuinely representative of Australian industry.

Ai Group is a member of Safe Work Australia (SWA) and its sub-group Strategic Issues Group – Work Health and Safety (SIG-WHS), which had oversight of the development of the Model Work Health and Safety Laws. We are also actively involved in consultative forums with state and territory regulators in relation to the application of safety and workers' compensation legislation.

We have ongoing contact and engagement with employers in all Australian jurisdictions on workplace safety issues, including informing them of regulatory changes, discussing proposed regulatory change, discussing industry practices as well as providing consulting and training services. We promote the importance of providing high standards of health and safety at work, and we hear from them about their success, issues and concerns related to workplace health and safety.

We are pleased to see that Western Australia is progressing towards the adoption of the Model WHS Laws, although we would generally like to see the regulations adopted consistently across the country.

## Ai Group response to Proposals

Key to Ai Group response:

Support: Actively agree to the recommendation

Accept: No strong views in either direction and understand the reasoning for the change.

Do not Support: A strong view against the proposal, and our rationale has been explained

Recommendations		Provisions affected	Ai Group response to proposal
<i>Amend the WHS regulations to:</i>			
1:	Remove the requirement for a record to be retained after the completion of the work or notifiable incident.	77(2); 85(4); 162; 303(2); 304(6)(a).	Support.
2:	Remove the requirement for training records to be retained after employment has ceased.	445(3)(b); 461(1)(b)	Support.
3:	Require that health monitoring records for lead, asbestos and hazardous chemicals are provided to the worker on cessation of employment.	378(1)(b); 388(3); 418(1)(b); 444(1)(b).	Do not support. The employer is required to give the health monitoring report to the worker as soon as practicable after the employer obtains it (R375 for hazardous chemicals; R412 for lead; 441 for asbestos). Requiring the employer to then provide the reports again on cessation of employment is an unjustifiable regulatory burden.

Recommendations		Provisions affected	Ai Group response to proposal
<i>Amend the WHS regulations to:</i>			
4:	Require that results of monitoring for airborne contaminants are provided to the worker as soon as they are available.	50.	Do not support. R50(3) currently requires the results to be accessible to persons at the workplace that may be exposed. Air monitoring results can be difficult to interpret and may create unnecessary concern to workers. In addition, they are generally incorporated in a report which provides results for multiple work areas and multiple work exposures. Requiring that an employer disaggregates the data, or pays for a hygienist to do so, could be a significant financial burden. Ai Group supports the adoption of R50(3) which allows the employer to explain the results to the workers.
5:	Remove the requirement for a record related to plant with presence sensing equipment to be retained for five years.	226(2)(a).	Support.
6:	Delete the requirement for persons to keep specified documentation available for inspection.	94; 124; 226(3); 230; 237(4); 262; 303(4); 304(5); 313(4); 445(4); 465(3)(b); 505.	Support.
7:	Replace the placeholder phrase 'external review body' with the defined term <b><i>the Tribunal</i></b> .	105(5)(b), 519(5)(b) and 683(1) and 683(2)(b).	Accept.

Recommendations		Provisions affected	Ai Group response to proposal
<i>Amend the WHS regulations to:</i>			
8:	Clarify that spent convictions are not required to be declared.	87(2)(h) 90(a), 107(2)(a), 116(2)(f), 119(a), 135(2)(a), 492(2)(f)(i) and 492(2)(f)(iii) 500(1)(a) and 500(1)(b), 521(2)(a).	Accept.
9:	Refer to the <i>Environmental Protection Act 1986</i> .	419(3)(e); 492(f)(iii), 500(b).	Accept.
10:	Remove the regulator from the definition of <b>accredited assessor</b> .	Definition of <b>accredited assessor</b> .	Accept.
11:	Remove the exception permitted if the <b>accredited assessor</b> is the regulator.	114(5).	Accept.
12:	Replace the defined term <b>electricity supply authority</b> with the defined term <b>network operator</b> from regulation 4 of the Electricity (Network Safety) Regulations 2015.	Definition of <b>electricity supply authority</b>	Accept.
13:	Replace the definitions of <b>electrical equipment</b> , <b>electrical installation</b> and <b>electrical work</b> in the model WHS to incorporate or reference the definitions provided in the Electricity (Licensing) Regulations 1991.	144; 145; 146.	Accept.

Recommendations		Provisions affected	Ai Group response to proposal
<i>Amend the WHS regulations to:</i>			
14:	Alter the exclusion provided in the definition of pressure piping so that it applies to a pipeline to which any other written law applies.	Definition of pressure piping clause (c)(ii).	Accept.
15:	Insert 'the department of the Public Service principally assisting in the administration of the <i>Fire and Emergency Services Act 1998</i> ' as the definition of <b>primary emergency service organisation</b> .	Definition of <b>primary emergency service organisation</b> .	Accept.
16:	Replace the term <b>strata title body corporate</b> with the term <b>strata company</b> , and change the reference to, or replicate the definition of, <b>strata company</b> in section 3(1) of the <i>Strata Titles Act 1985</i> .	7	Accept.
17:	Incorporate the approach to working near overhead power lines from the OSH regulations, including specification of safe distances and control measures.	166	Support, with qualifications. Throughout the process of harmonisation, Ai Group has argued that the distances should be consistent across all jurisdictions, and be included in the Regulations. Unfortunately, agreement was not reached about appropriate distances, which is why they are not included in the Model WHS Regulations. Including the distances in the regulations assists PCBUs to easily understand the requirements.

Recommendations		Provisions affected	Ai Group response to proposal
<i>Amend the WHS regulations to:</i>			
<b>18:</b>	To insert a period of 7 days as the timeframe to make an application for an external review of a decision	701	Do not support. It is Ai Group's view that 7 days is insufficient time to lodge an application for an external review. At least 14 days should be allowed. In addition, the stay must remain in place for that period of time as well.
<b>19:</b>	Include a list of laws prescribed for the purpose of section 271(3)(c)(ii) of the WHS Bill 2014 for the purpose of providing information that is necessary or convenient for the administration or enforcement of another Act.	702.	Accept.
<b>20:</b>	Remove references to enforceable undertakings from the model WHS regulations.	87(2)(j), 87(2)(k), 90(c), 107(2)(c), 116(2)(h), 116(2)(i), 119(b), 135(2)(b), 492(2)(f)(v), 492(2)(f)(vi) 500(1)(c), 521(2)(b).	Accept. Enforceable undertakings that are part of the Model WHS Laws have not been included as an option in the draft Act. However, Ai Group repeats that we support the concept of enforceable undertakings as an alternative to fines and/or prosecutions.
<b>21:</b>	Remove Part 2.4 (Workplace Entry by WHS Entry Permit Holders).	Part 2.4.	Accept. Union right of entry provisions that are part of the Model WHS Laws have not been included in the draft Act.
<b>22:</b>	Use the general definition of <b>competent person</b> provided in clause (g) as the default for all competent persons.	Definition of <b>competent person</b> .	Accept, subject to relevant guidance being provided in supporting documents.

Recommendations		Provisions affected	Ai Group response to proposal
<i>Amend the WHS regulations to:</i>			
<b>23:</b>	Add the requirement that a competent person for work on energised electrical installations must be authorised to carry out electrical work under the Electricity (Licensing) Regulations 1991.	Definition of <b>competent person</b> .	Accept.
<b>24:</b>	Add the competency requirements for testing and tagging for the purpose of regulation 163.	Definition of <b>competent person</b> .	Accept. The discussion paper advises this is the current approach in WA.
<b>25:</b>	Replace the requirement for a professional engineer to conduct major inspections of cranes and amusement devices with a <b>competent person</b> .	235(4) and 235(5); 241(5) and 241(6).	Accept.
<b>26:</b>	Require a <b>competent person</b> instead of specifying a geotechnical engineer to ensure the sides of a trench are safe from collapse.	306(4)	Accept.
<b>27:</b>	Remove all references to specific courses in the definition of <b>specified VET course</b> with the exception of those for HRWLs.	Definition of <b>specified VET course</b> .	Accept.
<b>28:</b>	Include a new definition of <b>approved training course</b> as a course approved by the regulator.	Definition of <b>approved training course</b> .	Accept.
<b>29:</b>	Replace the requirement for a <b>specified VET course</b> for all purposes other than HRWL with a requirement to complete the <b>approved training course</b> .	460; 494; 498(a)(ii)(A); 499(b)i); 518.	Accept.

<b>Recommendations</b>		<b>Provisions affected</b>	<b>Ai Group response to proposal</b>
<i>Amend the WHS regulations to:</i>			
<b>30:</b>	Remove generic requirements for information, training and instruction in relation to general workplace management and confined spaces.	39; 76.	Accept.
<b>31:</b>	Implement the approach to construction induction training in Division 11 of Part 3 of the OSH regulations, while retaining mutual recognition of CIT cards.	Part 6.5 and related definitions.	Accept, as long as mutual recognition can still be achieved.
<b>32:</b>	Replace the requirements for HSR training with the equivalent of regulation 2.2 of the OSH regulations, but remove the phrase “..during the first year of holding office...”.	21.	Accept.
<b>33:</b>	Correct the definition of rigging work by replacing the phrase ‘load using’ with the phrase ‘load including’.	Definition of <b><i>rigging work</i></b> .	Accept. It is addressing a technical error.
<b>34:</b>	Limit the requirement for an HRWL for concrete placing booms to mobile concrete placing booms.	Schedule 3 Item 22; Schedule 4 Items 22.	Accept. Status quo in WA.
<b>35:</b>	Exclude boilers of 500kw output or less from the definition of <b><i>boiler</i></b> .	Definition of <b><i>boiler</i></b> .	Accept. Status quo in WA.
<b>36:</b>	Permit the current holders of HRWLs for the basic and intermediate pressure equipment operation to be able to renew their HRWLs under the WHS regulations.	Schedule 3 new items.	Support.

Recommendations		Provisions affected	Ai Group response to proposal
<i>Amend the WHS regulations to:</i>			
<b>37:</b>	Transition existing holders of the HRWL class for advance pressure equipment operation to advanced boiler operation.	Transitional provisions.	Support.
<b>38:</b>	Remove the separate HRWL class for <b>reach stackers</b> .	Schedule 3 item 23; Schedule 4 item 23.	Accept. There has been controversy over this as a new licensing class; other jurisdictions have extended implementation phases to address those who have non-slewing licenses.
<b>39:</b>	Permit the holder of an HRWL to operate a non-slewing mobile crane to operate a reach stacker.	Schedule 3 item 14.	Accept. There has been controversy over this as a new licensing class; other jurisdictions have extended implementation phases to address those who have non-slewing licenses.
<b>40:</b>	Require the provision of a 'recently issued' <b>certification</b> for a high risk work licence.	87(2)(f)(ii).	Accept.
<b>41:</b>	Incorporate the power for the regulator provided in regulation 6.17(1) of the OSH regulations in relation to reassessment of competency.	95.	Support.
<b>42:</b>	Clarify that an applicant for an HRWL can be asked for a reassessment of competency.	95	Support.
<b>43:</b>	Include compliance with amended regulation 95 as a matter to be taken into account when granting an HRWL.	90.	Support.

<b>Recommendations</b>		<b>Provisions affected</b>	<b>Ai Group response to proposal</b>
<i>Amend the WHS regulations to:</i>			
<b>44:</b>	Permit an HRWL to be cancelled or suspended if a licence holder does not comply with a request made under regulation 95.	106.	Support.
<b>45:</b>	Include an English language requirement as part of the requirements for the conduct of a competency assessment.	114(2).	Support, if this can be achieved without concerns about discrimination.
<b>46:</b>	Replace the requirement that an accredited assessor is qualified to conduct an assessment if their skills, knowledge and experience are in accordance with the <i>Standards for NVR Registered Training Organisations 2011</i> , with a requirement the person has acquired, through training and work experience, the skills necessary to assess a person's competency to do high risk work of that class.	118(6)(a).	Accept.
<b>47:</b>	Include a condition of accreditation for HRWL assessors to cooperate with audits of their activities.	112(2).	Accept.
<b>48:</b>	Permit the regulator to consider all accreditations where an assessor has been convicted of an offence related to authorisations.	134(1); 135(2).	Accept.

<b>Recommendations</b>		<b>Provisions affected</b>	<b>Ai Group response to proposal</b>
<i>Amend the WHS regulations to:</i>			
<b>49:</b>	Remove the exception provided for the requirement of direct supervision of a worker carrying out work in the course of HRWL training.	84(2).	Do not support. There are times, especially as training progresses and the person's skill levels have increased, where direct supervision will be unnecessary.
<b>50:</b>	Implement the grace period provided in regulation 6.9(1) of the OSH regulations for renewal of an HRWL.	101(4); 102; 103.	Accept.
<b>51:</b>	Include the requirements of regulation 6.32 of the OSH regulations requiring RTOs to retain records.	New provision.	Accept.
<b>52:</b>	Replace the residential requirement for high risk work licences with the requirement that the applicant was assessed in Western Australia.	89(2)(c)	The approach seems reasonable. However, the justification in the discussion paper implies that WA is uncomfortable with issuing licenses if the assessment is done in another state. It is not clear how this coexists with a mutual recognition position which involves accepting licenses from other jurisdictions.
<b>53:</b>	Remove the residential requirement for registration of plant design and asbestos removal licences.	256(2)(d); 497(2)(c); 497(2)(d).	Accept.
<b>54:</b>	Facilitate online lodgement of authorisations.	Various.	Support.
<b>55:</b>	Remove the requirement for a control measure to be reviewed at the request of an HSR.	38(2)(e); 38(4); 401(1)(g); 401(3).	Support.

Recommendations		Provisions affected	Ai Group response to proposal
<i>Amend the WHS regulations to:</i>			
56:	Remove the requirement for an asbestos management control plan to be reviewed at the request of an HSR.	430(1)(d); 430(2).	Support.
57:	Remove the power of inspectors to immediately suspend an authorisation.	110; 138; 524.	Accept. Issuing of a prohibition notice as an alternative is appropriate.
58:	Remove the requirement for the regulator to advise of a decision within 14 days and rely on section 63 of the <i>Interpretation Act 1984</i> .	89(4), 91(2)(c), 98(6), 109(1), 112, 118(4), 120(2)(c), 127(6), 137(1), 140, 256(4), 257(2)(c), 283(3)(c), 284(3)(c), 286, 288(6), 288C(2)(c), 393(3), 407(4), 497(4), 501(2)(c), 508(3)(c), 509(3)(c), 511, 513(6), 523(1), 526; 680(1); 681; 694; 696(1); 698(1).	Accept.
59:	Remove the provision for a different start date for residual current devices in hostile operating environments.	2	Accept. The requirement already exists in WA.
60:	Remove the term 'flyings' from the definition of <b>combustible dust</b> .	Definition of <b>combustible dust</b> .	Accept.
61:	Remove the definition of <b>combustible liquid</b> .	Definition of <b>combustible liquid</b> .	Accept.

Recommendations		Provisions affected	Ai Group response to proposal
<i>Amend the WHS regulations to:</i>			
<b>62:</b>	Replace the definition of <b>excavation</b> with the phrase ‘...means an open face, hole, or cavity created as a result of using tools, machinery or explosives...’	Definition of <b>excavation</b> .	Do not support. In the WHS laws, the definition of excavation is a trench, tunnel or shaft. Trench is defined taking into account its width and depth. Ai Group is concerned that this broad definition may encompass more “spaces” than intended to be captured.
<b>63:</b>	Remove the reference to ‘mines’ in the exceptions to the definition of <b>excavation</b> .	Definition of <b>excavation</b> .	Accept. Mines are regulated via different legislation.
<b>64:</b>	Insert the <i>Water Services Act 2012</i> in reference to a bore in the exceptions to the definition of <b>excavation</b> .	Definition of <b>excavation</b> .	Accept.
<b>65:</b>	Remove the redundant clarification that risk assessments may be applied to a class of hazards, tasks, circumstances or things.	12	Accept.
<b>66:</b>	Remove the matters prescribed for the determination of work groups.	16; 17.	Accept.
<b>67:</b>	Remove the minimal procedural requirements for the election of health and safety representatives.	18.	Do not support. These provisions are important to ensure that elections run by unions are carried out in a way that ensures both the PCBU and all workers are aware of the election and able to participate appropriately.

<b>Recommendations</b>		<b>Provisions affected</b>	<b>Ai Group response to proposal</b>
<i>Amend the WHS regulations to:</i>			
<b>68:</b>	Require that a PCBU provides facilities and training to ensure effective first aid so far as is reasonably practicable.	42.	Support.
<b>69:</b>	Require PCBUs to prepare procedures to effectively respond to an emergency.	43.	Support.
<b>70:</b>	Remove the duplicated duty for the provision of PPE to other persons at the workplace.	45.	Accept.
<b>71:</b>	Remove the regulations for hazardous atmospheres and ignition sources.	51; 52.	Support.
<b>72:</b>	Remove the regulations in relation to flammable and combustible materials.	53.	Support.
<b>73:</b>	Remove the regulations providing control measures in relation to falling objects.	54; 55.	Support.
<b>74:</b>	Include the OSH regulations for protection from tobacco smoke with the exception of the power for an inspector to require a tobacco product be extinguished (3.44I), the requirement for signs (3.44D) and the defence for smoking in a private vehicle or residence (3.44G).	New division.	Accept. Currently covered in WA OSH laws, and not addressed elsewhere in WA laws; exclusion of this provision would create a legislative gap.
<b>75:</b>	Modify the requirement to ensure the noise exposure standard is not exceeded so far as is reasonably practicable.	57.	Accept.

Recommendations		Provisions affected	Ai Group response to proposal
<i>Amend the WHS regulations to:</i>			
<b>76:</b>	Remove the requirements for audiometric testing.	58.	Support.
<b>77:</b>	Remove the duplicate duties of designers, manufacturers, importers and suppliers of plant in regulations related to noise, manual tasks and confined space.	59; 61; 64.	Accept, as long as clarity is provided in Codes and guidance documents, to reinforce the obligations.
<b>78:</b>	Remove the regulations for confined spaces relating to connected plant and services, emergency procedures and PPE.	70.	Accept.
<b>79:</b>	Include the demolition licensing requirements of the OSH regulations.	New provision.	Accept.  When the Model WHS Laws were finalised, a separate national occupational licensing scheme, that would include demolition work, was envisaged. This did not eventuate. It is appropriate for existing provisions to be carried across to the WHS laws.
<b>80:</b>	Add demolition licensing to the definition of <b>class</b> .	Definition of <b>class</b> .	Accept.
<b>81:</b>	Remove the requirement for the regulator to be notified prior to the commencement of demolition work.	142.	Support.

<b>Recommendations</b>		<b>Provisions affected</b>	<b>Ai Group response to proposal</b>
<i>Amend the WHS regulations to:</i>			
<b>82:</b>	Clarify that a Class 1 demolition licence may be issued for one or more of the types of work to be conducted.	New provision.	Accept.
<b>83:</b>	Not include OSH regulations that refer to <i>Australian Standard AS 2601 – Demolition of Structures</i> for licensed demolition work.	New provision.	Support.
<b>84:</b>	Include a new provision setting out the minimum experience and training requirements for supervisors of demolition work.	New provision.	Do not support. It is unclear why this is necessary, especially as in other parts of the regulations it is proposed to remove specific requirements for competency, and rely on the general use of a “competent person”.
<b>85:</b>	Remove the redundant requirement for unsafe electrical equipment to be disconnected or isolated.	149.	Do not support. This provision was included in the Model WHS Regulations as a specific means of clarity, relevant due to the risks associated with unsafe electrical equipment.
<b>86:</b>	Remove the requirements of regulations 161 and 162 in relation to control measures and record keeping for work on energised electrical equipment.	161; 162.	Do not support. Work on electrical installations will not always be construction work. This could be addressed by using a similar approach to that for asbestos removal (as outlined in recommendation 125) which allows for a SWMS to substitute for other documentation.

<b>Recommendations</b>		<b>Provisions affected</b>	<b>Ai Group response to proposal</b>
<i>Amend the WHS regulations to:</i>			
<b>87:</b>	Remove the requirement for records to be kept in relation to the testing of electrical equipment.	150(3); 150(4).	Do not support. As currently written, this obligation can be met by placing a tag on the electrical equipment. Without these provisions, there is no requirement for tagging once testing is completed. This does not seem to be consistent with recommendation 88 and 90. Can this be amended to state that a tag on a piece of tested equipment is sufficient to meet the documentation requirements?
<b>88:</b>	Ensure the tag attached when testing and tagging electrical equipment includes the electrical worker's licence or permit number.	163.	Accept.
<b>89:</b>	Include a requirement similar to regulation 3.62 of the OSH regulations specifying when electricity is to be connected to a construction site.	New provision.	Accept.
<b>90:</b>	Include a requirement similar to regulation 3.63 of the OSH regulations requiring a person bringing equipment onto a construction site to provide evidence it has been tested.	New provision.	Accept.

Recommendations		Provisions affected	Ai Group response to proposal
<i>Amend the WHS regulations to:</i>			
<b>91:</b>	Include a provision requiring the main switch is de-energised before a worker enters a roof space.	New provision.	Support, with qualification. Whilst increasing the specific requirements in the regulations, it is consistent with the general intent of the regulations in relation to working on energised plant. However, there needs to be a qualification (so far as is reasonably practicable) and requirements in place similar to other parts of the electricity chapter of the regulations.
<b>92:</b>	Require compliance with the <i>Australian New Zealand Standard AS/NZS 2299.1:2007 Occupational Diving Operations - Standard Operational Practice</i> for construction diving work, consistent with the approach in the OSH regulations.	Part 4.8.	Accept. In light of the current review of the diving regulations, this appears to be an appropriate approach.
<b>93:</b>	Include a new part that replicates the requirements of Division 10 of Part 3 of the OSH Regulations – Driving commercial vehicles.	New provisions.	Support, with recommendations for improvement. These regulations cover medical fitness and driver fatigue. As such, if WA is not intending to adopt the NHVR it would seem appropriate to maintain the regulations within the structure of the WHS laws. However, at the moment the structure and intent of the regulations is a bit difficult to follow – with the definition of <b>commercial vehicle driver</b> being linked to the amount of hours they work. It may be appropriate to take this opportunity to rewrite the regulation to make it clearer.

<b>Recommendations</b>		<b>Provisions affected</b>	<b>Ai Group response to proposal</b>
<i>Amend the WHS regulations to:</i>			
<b>94:</b>	Remove the requirement for individual items of plant to be registered with the regulator.	227; 246, 247, 264 to 281, 282(3), 288A(b); 288B.	Support.
<b>95:</b>	Remove the exception permitting tree loppers to be suspended from a crane (not in a workbox).	221.	Accept.
<b>96:</b>	Remove the duplicate requirement for storage of amusement devices in regulation 239.	239.	Accept.
<b>97:</b>	Replace the monetary threshold for a construction project with the 5 person threshold provided in regulation 3.142 of the OSH regulations.	<b>292.</b>	Accept, with reservations. This threshold, which relates to the number of persons who are likely to be on site at any one time, will be difficult to administer and enforce.
<b>98:</b>	Remove the duplicate requirement to prevent unauthorised access to an area where a trench is to be dug.	306(1) and 306(2).	Accept.
<b>99:</b>	Incorporate the competency requirements for tilt-up construction work from the OSH regulations.	New provision.	Do not support. This is not consistent with the general approach WA is taking elsewhere in the regulations, in relation to “competent person”. It is not clear why this is being treated differently.

<b>Recommendations</b>		<b>Provisions affected</b>	<b>Ai Group response to proposal</b>
<i>Amend the WHS regulations to:</i>			
<b>100:</b>	Modify the incorporated requirements in relation to training for supervisors for panels manufactured at workplaces other than a construction site.	New provision.	Do not support. This is not consistent with the general approach WA is taking elsewhere in the regulations in relation to “competent person”. It is not clear why this is being treated differently.
<b>101:</b>	Include the equivalent of regulation 2.10 of the OSH regulations requiring local government to notify the Commissioner of permits for construction work.	New provision.	Accept. It does not create any additional obligations for PCBUs, and other PCBU reporting requirements are being removed.
<b>102:</b>	Remove references to divisions that have been removed by other amendments.	314.	Accept.
<b>103:</b>	Remove the requirement for the provision of safety signs in relation to hazardous chemicals.	353.	Support.
<b>104:</b>	Remove the redundant provisions for hazardous chemicals in relation to the requirements for emergency and safety equipment.	360; 362.	Support.
<b>105:</b>	Remove the duplicated requirement for supervision in relation to hazardous chemicals.	379.	Support.
<b>106:</b>	Modify the requirement to provide changing and washing facilities to minimise lead contamination by practicability.	399(1).	Accept.

<b>Recommendations</b>		<b>Provisions affected</b>	<b>Ai Group response to proposal</b>
<i>Amend the WHS regulations to:</i>			
<b>107:</b>	Change the trigger for health monitoring where there is risk of exposure to a hazardous chemical/asbestos to also require a significant risk to health.	368(b); 435(1)(b).	Support.
<b>108:</b>	Provide duty holders with an alternative approach to assess the biological exposure standard for hazardous chemicals.	368(b)(ii).	Support.
<b>109:</b>	Change the duty holder for provision of the health monitoring report to the regulator from the PCBU to the medical practitioner.	376; 413; 442.	Support.
<b>110:</b>	Remove the ability of PCBUs to provide a health monitoring report to PCBUs with a corresponding duty.	377; 414; 443.	Do not support. If this provision is not included then workers may be required to undertake multiple testing for no benefit, and PCBUs will have to incur more costs in both the testing and the time involved.
<b>111:</b>	Remove the specified requirement to commence health monitoring prior to a worker commencing asbestos removal work.	435(2).	Accept. However, it is not clear where this will be addressed more generally.

Recommendations		Provisions affected	Ai Group response to proposal
<i>Amend the WHS regulations to:</i>			
112:	Remove provisions that are more appropriately regulated under the <i>Dangerous Goods Safety Act 2004</i> .	334, 336, 347, 348, 349, 350, 354, 356, 358, 361, 363 to 367 and 389 to 391 and related definitions and schedules.	Accept.
113:	Replace the term Class A in relation to asbestos removal licences with the term unrestricted.	459, 473 Part 8.8 Part 8.10 Related definitions.	Do not support. It is not clear what benefit there is in maintaining a licensing system that is different to the Model WHS laws. It is also not clear how this differentiation will impact on mutual recognition of licenses.
114:	Replace the term Class B in relation to asbestos removal licences with the term restricted.	459, 473 Part 8.8 Part 8.10 Related definitions.	
115:	Remove the definition of <b>certified safety management system</b> .	Definition of <b>certified safety management system</b> ; 6.	Support. However it does mean that an asbestos removalist licensed in WA may not be able to operate in other jurisdictions. This needs to be made clear to those who are seeking to be licensed.
116:	Replace references to a <b>certified safety management system</b> with reference to an asbestos removal work procedures manual.	493(1)(e), 498(b), 520(1)(e).	

Recommendations		Provisions affected	Ai Group response to proposal
<i>Amend the WHS regulations to:</i>			
<b>117:</b>	To replace the requirement for a licenced asbestos assessor to conduct clearances with a <b>competent person</b> .	<p>For removal: 489, 490, 491(2), 492(2)(i), 495, 528</p> <p>For amendment: 492(1), 497(1), 502(1), 503, 504(1), 506(1), 508(1), 509(1), 511, 512, 513, 515, 516(1), 517(3), 517(4), 520(1), 522, 523(1).</p> <p>For amendment require a competent person or an independent competent person 466(4)(c), 473(2)(a), 474(2), 474(3), 474(4), 475(1), 475(2), 475(6), 477(1)(d), 477(1)(e), 477(4)(a), 477(6), and the note to 473.</p> <p>The table in Part 11.1 (Reviewable decisions)</p> <p>Related definitions</p>	Support.

<b>Recommendations</b>		<b>Provisions affected</b>	<b>Ai Group response to proposal</b>
<i>Amend the WHS regulations to:</i>			
<b>118:</b>	Remove the reference to 'equivalent' licence.	488.	Accept, subject to how it is ultimately drafted.
<b>119:</b>	Replace the specified date of 31 December 2003 with 31 December 1990.	425(6)(a); 447.	Support.
<b>120:</b>	Require that access to the asbestos register is provided to the PCBU carrying out demolition or refurbishment work.	449; 450.	Support.
<b>121:</b>	Modify the requirement for decontamination facilities by practicability.	471; 483.	Accept.
<b>122:</b>	Remove the exception for the prohibition on asbestos work for soil containing trace amounts of visible friable asbestos.	419(5)(a)(ii).	Ai Group does not have a view on this proposal.
<b>123:</b>	Require a National Association of Testing Authorities accredited laboratory to test samples for asbestos.	423; 479(2)(b); 479(2)(c).	Ai Group does not have a view on this proposal.
<b>124:</b>	Remove the generic training duties in relation to naturally occurring asbestos.	434.	Ai Group does not have a view on this proposal.
<b>125:</b>	Include clarification that a separate asbestos removal control plan is not required if there is a compliant safe work method statement.	464.	Support.
<b>126:</b>	Require notification to the regulator 7 days prior to the commencement of Unrestricted asbestos removal work.	466(1).	Accept.

<b>Recommendations</b>		<b>Provisions affected</b>	<b>Ai Group response to proposal</b>
<i>Amend the WHS regulations to:</i>			
<b>127:</b>	Require the notice is provided in the manner and form approved by the regulator	466(1).	Accept.
<b>128:</b>	Change the threshold to notify the regulator if specified respirable asbestos fibre levels exceed 0.05fibres/mL.	476(b)(ii).	Support.
<b>129:</b>	Remove the requirement that work is not resumed until the recorded respirable fibre level drops below 0.01fibres/mL as it is made redundant by regulation 476(1).	476(2).	Accept. However, the detail being included in the regulation aids clarity and certainty.
<b>130:</b>	Remove the requirement to notify persons occupying premises in the immediate vicinity (that are not PCBUs).	468(3)(b).	Do not support. The discussion paper states that “immediate vicinity” is imprecise and that signs and barricades are sufficient to ensure those not directly affected are aware of the control measures that are in place. However, whilst this would reduce the regulatory burden, the presence of asbestos is a sensitive issue; as such adjoining workplaces should be advised of such work in advance so that they can inform their employees and deal with any apprehension.
<b>131:</b>	Clarify that an Inspector cannot be prevented from entering a workplace where licensed asbestos removal work is being conducted.	470(3).	Accept.

Recommendations		Provisions affected	Ai Group response to proposal
<i>Amend the WHS regulations to:</i>			
<b>132:</b>	Require that containers with asbestos waste are labelled in accordance with schedule 9 (hazardous chemicals).	472; 484.	Accept.
<b>133:</b>	Remove Chapter 9, Major Hazard Facilities, and all associated definitions and schedules.	<p>Major hazard facilities to be regulated by the DMP. Regulations 530 to 608 inclusive. Regulations 688 and 698 (in relation to exemptions). <b>Schedule 15</b> <b>Schedule 16</b> <b>Schedule 17</b> <b>Schedule 18</b></p> <p>Related definitions:</p> <ul style="list-style-type: none"> <li>• <i>determined major hazard facility</i></li> <li>• <i>facility</i></li> <li>• <i>licensed major hazard facility</i></li> <li>• <i>local community</i></li> <li>• <i>local authority</i></li> <li>• <i>local community</i></li> <li>• <i>major hazard facility</i></li> <li>• <i>major hazard facility licence</i></li> <li>• <i>major incident</i></li> <li>• <i>major incident hazard</i></li> <li>• <i>modification</i></li> <li>• <i>proposed facility</i></li> <li>• <i>proposed major hazard facility</i></li> <li>• <i>schedule 15 chemical</i></li> <li>• <i>surrounding area</i></li> <li>• <i>threshold quantity</i></li> </ul> <p>Items 46 to 62 inclusive in the table under regulation 676 (reviewable decisions). Related notes.</p>	Accept.

<b>Recommendations</b>		<b>Provisions affected</b>	<b>Ai Group response to proposal</b>
<i>Amend the WHS regulations to:</i>			
<b>134:</b>	Insert a note that mine safety is regulated under the <i>Mines Safety and Inspection Act 1994</i> and that regulations 609 to 705 are not required.	Chapter 10.	Accept.
<b>135:</b>	Remove items in the table at regulation 676 that refer to regulations that have been deleted.	676.	Accept.
<b>136:</b>	Remove the RTO as a valid applicant for review of a decision related to an accredited assessor.	676 - Items 8 to 16.	Accept.
<b>137:</b>	Remove the person with management or control of an item of plant as a valid applicant for review of a decision related to design registration of plant.	676 - Items 25 to 27A.	Accept.
<b>138:</b>	Remove the requirement for class exemptions to be published in the Government Gazette.	695(2).	Accept.