



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	The Australian and New Zealand Society of Occupational Medicine Western Australian Branch (ANZSOM WA)		
Organisation and position (if applicable)	ANZSOM WA Branch AFOEM ANZSOM, The Australian and New Zealand Society of Occupational Medicine		
Email	[REDACTED]		
Telephone	[REDACTED]		
Employment status (if applicable)	<input type="checkbox"/> Worker <input type="checkbox"/> Employer <input type="checkbox"/> Self-employed <input type="checkbox"/> Other (enter details)	<input type="checkbox"/> Principal contractor <input type="checkbox"/> Contractor <input checked="" type="checkbox"/> OSH professional	
Size of workplace	<input type="checkbox"/> Small (0-9)	<input type="checkbox"/> Medium (20-199)	<input checked="" type="checkbox"/> 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"/> Business <input type="checkbox"/> Community organisation <input type="checkbox"/> Employer organisation	<input type="checkbox"/> Industry representative <input type="checkbox"/> Academic <input type="checkbox"/> Government representative <input type="checkbox"/> Professional	<input checked="" type="checkbox"/> Other (enter details) Committee, WA branch ANZSOM
Which industry sector do you operate in?	Occupational and Environmental Medicine. Scientific Society. Non-government organisation. Professional Advocacy.		
Your type of job or business (if applicable)	Occupational Health Medicine, Occupational Health and safety.		

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)

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

Documents reviewed

- The WHS reform consultation package. <https://www.commerce.wa.gov.au/worksafe/review-process-summary-develop-work-health-and-safety-regulations-western-australia>
- Review of the final report, Marie Boland. December 2018
https://www.safeworkaustralia.gov.au/system/files/documents/1902/review_of_the_model_whs_laws_final_report_0.pdf

Key issues

Questions

1. *Confined space definition (r. 5). The definition in the model WHS regulations excludes “a mine shaft or the workings of a mine” from the definition of confined space. Stakeholder comment is requested as to whether it is appropriate to limit the exclusion to “underground mines”.*

In our professional opinion we do not think that underground mines should be exempt, as it would still be an environment at risk irrelevant of ventilation and controls in place.

2. *In relation to tree lopping, r. 221 of the model WHS regulations provides an exception for a person in a harness to be placed in a tree. This procedure is not currently permitted under r. 4.53(2) of the OSH regulations. Should r. 221 of the model WHS regulations be adopted in Western Australia?*

This task increases significant risk, while holding sharp and dangerous equipment it is easy to have a catastrophic injury, there was a decapitation in the UK and have been multiple chain saw deaths. The task can be adequately performed in cherry pickers.
<https://www.thesun.co.uk/news/2871440/tree-surgeon-killed-horror-accident/>

3. *R. 244(3) of the model WHS regulations exempts tower and gantry cranes from design registration if the cranes are moved to a new location. R. 4.2 of the OSH regulations currently requires the registration of the cranes and their supporting structure if moved to a new location. Should r. 4.2 of the OSH regulations be adopted?*

No Comment

4. *R. 376 of the model WHS regulations places a duty on the PCBU to provide a copy of the health monitoring report to the regulator. Under, r. 5.24 of the OSH regulations, the duty to provide the health monitoring report to the WorkSafe Western Australia Commission is on the appointed medical practitioner who prepared the report, if the results indicate exposure. Should r. 5.24 of the OSH regulations be adopted?*

The OHS regulation stating it is the AMP responsibility to report results of exposure, is appropriate. It places the importance of the Doctor understanding, not only the risk of exposure, the exposure levels and that the tests have been taken at appropriate times etc. It is our understanding that Work Safe require to be alerted if there is a clinical history of exposure, irrelevant of biological monitoring result. ANZSOM WA supports the adoption of the AMP reporting to regulators rather than the PCBU, for the above reasons. This also reduced any conflict of interest where a PCBU may be intimated to self-report.

4. *R. 320 of the model WHS regulations prescribe the content of the general construction induction training (CIT) card. Should there be a requirement that photographic identification is required on the CIT card?*

No Comment

5. *R. 425 of the model WHS regulations requires a person with management or control of a workplace to ensure that an asbestos register is prepared and kept at the workplace. Should the WHS regulations for Western Australia prescribe that an asbestos register is created by a competent person?*

ANZSOM WA supports WA adopting a prescribed asbestos register. This would enable on going follow up of patients due to the lag time of mesothelioma. It would also assist in identifying disease early, as patients would be less likely to be lost to follow up.

7. *The model WHS regulations, Chapter 8 in particular, include requirements relating to the management of asbestos. Should the WHS regulations for Western Australia prescribe specific competencies for asbestos related tasks?*

ANZSOM WA agrees with specific competencies and they will assist in education and supporting working, so that they understand the task they are performing what the risks are and what the consequences could be.

Chapter 1 (legislative Framework)

- ANZSOM WA agrees with the importance of recognising psychological risk in the workplace. We would also agree that there is a definite acceptance of its importance in the WHS Act. We would agree that there is some area for us to develop greater acceptance of psychological risk within the 2nd and 3rd tiers regulations and codes respectively. The recommendation of control measure around this is very helpful, as it will provide some practical guidance for those putting this into their health and safety work place guidance and policy. It is not acceptable to state that employers already have a responsibility to ensure workers health and safety, and that this does not need to be extended. Evidence shows from the increased number of workers compensation claims for psychological injury that not enough is being done. This is not a criticism on the employers, Psychological risk of complex and multifactorial, and does require thought, planning and guidance.

At ANZSOM Annual Scientific Meeting conference 2019 held in Adelaide as speaker in the Kevin Sleigh memorial Presentation, Dr Bianca Chung, who was the awarded Ramazzini prize, she introduced work related mental health risk factors. She identified short duration risk factors and long claim risk factors. Within these risks was a section titled work factors or work pressure. These are the areas in that are modifiable and therefore can be controlled against. They included; backlogs, responsibilities, organisational restructure, conflicts, expectations dashed, and time pressure. https://www.racp.edu.au/docs/default-source/events/congress-2019-presentations/racp-mon-6-bianca--cheong.pdf?sfvrsn=cd90181a_2

Chapter 2 (Duties of care)

- ANZSOM WA agrees that having multiple PCBU could be problematic. It may create confusion over responsibility and liability.

Chapter 3 (Consultation, representation and participation)

- ANZSOM WA agrees that there could be some issues with the HSR's who by the WHS Act can request the assistance of "any person", requesting the assistance of a union member. It was mentioned that their entry depends on a permit from fair work Act. While it is recognised that the HSR's can help resolve issues with the PCBU, they may require the assistance of union members and having a time restraint for application to a permit could

create delay. It has been suggested that the WHS model Act returns to the original wording with regards to this.

Chapter 4 (Compliance and enforcement)

- ANZSOM WA agrees to improve compliance across the three different sections, the gaps need to be filled by sharing of information between regulators.

Chapter 5 (National Compliance and Enforcement Policy)

- ANZSOM WA agrees that consistency is required across all jurisdiction and agrees with methods to address this such as review of policy, education and support to those inspecting.

Chapter 6 (Prosecutions and legal proceedings)

- It is noted that ACT and Queensland have introduced industrial manslaughter, and it has been proposed by Marie Bolen to Harmonise the ACT. ANZSOM WA is uncertain of their position at this stage. Further information is required such as the issues raised with multiple PCBU. One question was with regards to psychological injury? Where would this legislation sit with suicide etc?

Chapter 7 (Model Work Health and Safety Regulations)

- This is a helpful chapter explaining that the work Health and safety ACT is to be followed and understood by all, those who are self employed, small businesses and large businesses. In order for it to be successful it has to be transparent and easily read and implemented in lay terms. Marie Bolen rightly emphasises that many small companies rely on standards and she states there is a requirement to highlight the ACT and suggests a document defining OBLIGATIONS, and ensuring PCBU understand standards are not mandatory unless specifically stated. This is sensible feedback.

Detailed comments

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

Reference to specific model WHS / OSH reg no.	Comment