



Exemption 1 of 2024

GRANTING OF EXEMPTION FROM REQUIREMENT(S) OF THE WORK HEALTH AND SAFETY (GENERAL) REGULATIONS 2022 – USE OF INDEPENDENT COMPETENT PERSON TO CONDUCT CLEARANCE FOLLOWING ASBESTOS REMOVAL WORK

Pursuant to regulation 684 of the Work Health and Safety (General) Regulations 2022 (WHS Regulations), I have determined on my own initiative to grant an exemption from the requirement to use an independent competent person (ICP) to conduct a clearance after licensed non-friable asbestos removal, in the exceptional circumstances where an ICP is not available in the regional area of the removal.

In making this determination, I have considered the practicability of a licenced asbestos removalist or person commissioning non-friable asbestos removal work having access to an ICP in regional areas of Western Australia at the current time with the recent implementation of the WHS Regulations, and have had regard to the risks associated with clearance quality issues as well as the risks associated with unlawful asbestos removal work. I have also considered compliance information related to work undertaken under the previous similar exemption (Exemption 26 of 2022).

In accordance with the provisions of regulation 684(1) of the WHS Regulations, an exemption has been granted from the requirement to use an independent competent person to conduct a clearance following the removal of more than 10 square metres of non-friable asbestos containing material under **Regulation 473(2)**.

This exemption is applicable to the following classes of person:

- (a) The holder of an asbestos removal licence (Class A or Class B) or
- (b) A person who commissions non-friable asbestos removal work, other than where the removal work relates to a residential premises.

The exemption is subject to the following conditions:

1. The exemption only applies to the removal of non-friable asbestos containing material.
2. The exemption is only available in circumstances where the person has made reasonable efforts to identify an ICP and has not identified an ICP within a 200 kilometre radius of the removal site.

3. The clearance must be conducted by a licensed asbestos removalist, who may be the removalist who conducted the asbestos removal.
4. The person conducting the clearance must take photographs during the clearance to show that the asbestos containing materials have been removed and that no remaining asbestos containing material is visible.
5. The person conducting the clearance must produce a clearance certificate.
6. The clearance certificate must record the attempts to procure an ICP, and also record if the clearance inspection was accompanied by the person who commissioned the asbestos removal work.
7. The person who commissioned the asbestos removal work accompanies the asbestos removalist to inspect the removal area after the clearance, where practicable.
8. The clearance certificate and photographs must be retained by the person who conducted the clearance for two years after the conclusion of the removal work, for the purpose of licence compliance assessments conducted by WorkSafe.

The exemption is valid from 31 March 2024 until 30 March 2026.

Should you have any queries on this matter please contact WorkSafe on 1300 307 877.

Sally North

Acting WorkSafe Commissioner

19 February 2024