



The Work Health and Safety Regulations for WA - Discussion Paper

June 2016



What is happening to the model WHS Regulations?

- December 2015 –WorkSafe Western Australia Commissioner
- 1 June 2016 – released the *Work Health and Safety Regulations for Western Australia - Discussion Paper* – 138 recommendations
- The public consultation period end on 31 August 2016
- Information sessions
- Government’s requirements (used for the Green Bill):
 - Reduce unnecessary prescription
 - Minimise the compliance burden for WA workplace participants
- Alignment with the OSH Act and regulations
- Obtain views



The WHS Green Bill

Further modifications Western Australia's Work Health and Safety Bill as a Green Bill

- based on the model WHS Bill with modifications which serve the best interests of Western Australia;
- provides the overarching duties of workplace participants in relation to health and safety in the workplace; and
- is similar to those provided in the *Occupational Safety and Health Act 1984* (the OSH Act).



Format of Discussion Paper

- Summary
- Refer to the Model WHS Regulations
- Appendix A - Table of recommendations
- Appendix B – Submission template and coversheet
- Appendix C - Table of abbreviations
- Appendix D - Referenced publications
- Appendix E - Referenced legislation

Recommendations		Provisions affected
<i>Amend the WHS regulations to:</i>		
1:	Recommendation.	Amended regulations.

Consistency with current WA laws
Reduction in unnecessary prescription
Consistency with WHS Bill (WA Version)
Other



Regulatory Impact Assessment

- The Regulatory Impact Assessment (RIA)
 - apply to all regulatory proposals, including primary and subordinate legislation and quasi regulation,
 - determine the impact on business, consumers or the economy
 - designed to provide an assessment of the costs and benefits in order to justify such action
 - must be met in relation to a submission that proposes additional requirements to those already in the OSH regulations
- Discussion Paper provides recommendations for consistency with the OSH regulations.
 - minimises the changes for workplace participants in Western Australia,
 - reduces the commensurate transitional costs.
- If supporting the approach taken in the model WHS regulations- identify the cost and benefits (identifying sources or substantiating documents), compared to the OSH regulations.



Variations - OSH Regulations

- Protections from tobacco smoke (starting r.3.44A) in the workplace
- Driving commercial vehicles (starting 3.129) – fatigue and breaks
- Department of Mines and Petroleum
 - Dangerous goods (Part 7)
 - Major hazard facilities (Part 9)
 - Mines (Part 10)
- Plant Item Registration to be discontinued



Retention of Records

Recommendations		Provisions affected
<i>Amend the WHS regulations to:</i>		
1.	Remove the requirement for a record to be retained after the <u>completion of the work or notifiable incident</u> .	77(2); 85(4); 162; 303(2); 304(6)(a).
2.	Remove the requirement for <u>training records</u> to be retained <u>after employment has ceased</u> .	445(3)(b); 461(1)(b)
3.	Require that health monitoring records for lead, asbestos and hazardous chemicals are provided to the worker <u>on cessation of employment</u> .	378(1)(b); 388(3); 418(1)(b); 444(1)(b).
4.	Require that results of monitoring for airborne contaminants are <u>provided to the worker as soon as they are available</u> .	50.
5.	Remove the requirement for a record related to plant with <u>presence sensing equipment to be retained for five years</u> .	226(2)(a).
6.	Delete the requirement for persons to keep specified documentation <u>available for inspection</u> .	94; 124; 226(3); 230; 237(4); 262; 303(4); 304(5); 313(4); 445(4); 465(3)(b); 505.



HRWL Accreditation

Recommendations		Provisions affected
<i>Amend the WHS regulations to:</i>		
48.	Permit the regulator to consider <u>all accreditations</u> where an assessor has been convicted of an offence related to authorisations.	134(1); 135(2).
59.	Remove the exception provided for the requirement of <u>direct supervision</u> of a worker carrying out work in the course of HRWL training.	84(2).

Immediately Suspend an Authorisation

Recommendations		Provisions affected
<i>Amend the WHS regulations to:</i>		
57.	Remove the power of regulator to <u>immediately suspend an authorisation</u> .	110; 138; 524.



Demolition

Recommendations		Provisions affected
<i>Amend the WHS regulations to:</i>		
79.	Include the <u>demolition licensing requirements</u> of the OSH regulations.	New provision.

Construction

Recommendations		Provisions affected
<i>Amend the WHS regulations to:</i>		
97.	Replace the <u>monetary threshold for a construction project</u> with the 5 person threshold provided in regulation 3.142 of the OSH regulations.	292.
101.	Include the equivalent of regulation 2.10 of the OSH regulations requiring <u>local government to notify the Commissioner of permits for construction work.</u>	New provision.



Health Monitoring

Recommendations		Provisions affected
<i>Amend the WHS regulations to:</i>		
109.	Change the duty holder for provision of the health monitoring report to the regulator <u>from the PCBU to the medical practitioner.</u>	376; 413; 442.
110.	Remove the ability of PCBUs to provide a <u>health monitoring report to PCBUs with a corresponding duty.</u>	377; 414; 443.



Asbestos

Recommendations		Provisions affected
<i>Amend the WHS regulations to:</i>		
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.
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.
118.	Remove the reference to 'equivalent' licence.	488.
119.	Replace the specified date of 31 December 2003 with 31 December 1990.	425(6)(a); 447.



Reviews and Exemptions

Recommendations		Provisions affected
<i>Amend the WHS regulations to:</i>		
136.	Remove the RTO as a valid applicant for review of <u>a decision related to an accredited assessor</u> .	676 - Items 8 to 16.
137.	Remove the person with management or control of an item of plant as a valid applicant for review of a decision related to <u>design registration of plant</u> .	676 - Items 25 to 27A.
138.	Remove the requirement <u>for class exemptions to be published</u> in the Government Gazette.	695(2).



The Transition

- Transitional principles have been developed as part of the model WHS laws package.
- Generally, once the laws are in force, where there is a change there is an 'allowance' of time for workplaces to make the change.



Next steps.

- The WA consultation process : submit any comments on the WHS Regulations for WA Discussion Paper to:
WHSregulations@commerce.wa.gov.au
- Government to make a decision on the best workplace safety laws for this state.

(Minister Mischin – 23 October 2014)



More Information

WorkSafe WA – www.worksafe.wa.gov.au

- [Discussion paper - Work Health and Safety regulations](#) Word version
- [FAQ - Model Work Health and Safety regulations](#)
- Information sessions - Please [subscribe to our newsletters](#) to be advised when sessions are available to book
- [Model Work Health and Safety regulations](#)
- [Current Occupational Safety and Health Regulations 1996](#)
- Marden Jacobs Associates - [Regulation Impact Statement](#)
- [Media Statement June 2016](#)
- [Public consultation media statement](#)
- Subscribe to email alerts
- Submissions - WHSregulations@commerce.wa.gov.au
- Safe Work Australia www.safeworkaustralia.gov.au



Questions

THE END

(well ... not really ...)