



Submission Template | Asbestos Safety Training Options for Workers Entering Trades

Submission from: Western Australia Department of Mines, Industry Regulation and Safety –
WorkSafe Directorate (WorkSafe)

Contact details: [REDACTED]

Whilst you can structure your submission in any form that you choose, you may like to use the questions below to frame your thoughts and ideas. Please write as much as you like.

The final question – question 9 – is open ended and asks for any feedback or experience you may like to give.

Information about submissions:

Please send your submission (or any questions) to engage@asbestossafety.gov.au

Consultation closes on **17 December 2021**. We will acknowledge receipt of all submissions received.

Please note that your submission may be published on our website. If you would like your submission to be excluded from publishing, or to be published anonymously, please indicate this below:

- do not publish submission
- publish submission anonymously
- other, please advise – WorkSafe WA - Department of Mines, Industry Regulation and Safety response can be published.

Responses to questions posed:

1. Do you agree that asbestos awareness training is required *before* apprentices are at any risk of asbestos exposure? If so, what training do apprentices need?

WorkSafe agrees that asbestos awareness training should be required for all apprentices that may encounter Asbestos Containing Materials (ACM) in the course of their work.

The *Work Health and Safety Act 2020* (WHS Act) and the *Occupational Safety and Health Act 1984* (OSH Act) place a general duty on persons conducting a business or undertaking (PCBUs) and employers to provide training to protect the health and safety of workers. These Acts place the duty on the PCBU to determine the appropriate training.



To meet the above requirements training should consider health risks; types of asbestos that may be encountered (including visual aids); role-specific requirements - such as what to do if ACM is discovered; safe systems of work to prevent exposure and decontamination of themselves and their tools/equipment if ACM is disturbed.

2. While all WHS laws impose duties on PCBUs (or equivalents) to provide training, they are not prescriptive about what training needs to be undertaken or who can provide that training, apart from the ACT. Do these laws provide adequate protection to workers at risk of being exposed to asbestos? If not, how could they be improved?

The general duty of care principle that underpins WHS legislation requires PCBUs to provide sufficient training and information to workers. Breaches of principle duties confirms that further work needs to be done to facilitate compliance, in respect of asbestos training.

In principle, the WHSAct prescriptive approach may assist PCBUs to determine what training course is required. However, it is worthwhile noting that the ACT courses are threshold qualifications, they do not necessarily equate to compliance. The courses may be sufficient to permit work of a specified type being conducted, however there may be a need for additional workplace specific training as well.

PCBUs and employers still have a duty to ensure that any fit-for-purpose training meets the worker's requirements.

WHS Regulators considering prescribing asbestos courses should be a matter for tripartite discussion through Safe Work Australia (SWA), to ensure proper consultation is undertaken.

3. In your state or territory do the current asbestos training provisions in WHS regulations and codes provide enough information to determine what 'suitable and adequate' training means for asbestos related jobs?

Western Australia will be implementing its WHS laws in March 2022.

Model WHS Regulation 39 includes the requirement that training and instruction is '*suitable and adequate having regard for nature of the work, nature of the risks and control measures*'. The duty is on the PCBU to decide on the appropriate training.

WorkSafe currently takes regular enforcement action in relation to a lack of asbestos awareness training. This is usually a result of exposure investigations when ACM has been disturbed and where there is a lack of knowledge or training.

4. If further prescription about training is desirable, are there particular occupations which should be targeted (see for example the list at Appendix 1 setting out the occupations listed under the ACT legislative scheme).



The ACT list of occupations is extensive and not limited to apprentices.

It is acknowledged that some members of the occupations listed may be expected to encounter asbestos at workplaces. Arguably, not all members of the occupations listed are likely to encounter asbestos at workplaces.

5. Is nationally recognised training generally preferable to non-accredited courses to meet PCBU duties for workers entering trades who may be exposed to asbestos? Why?

Yes. The training on the national VET Register at 'training.gov.au' has the benefit of national recognition, systems and standards and enforcement by the VET regulators. WorkSafe is not a training organisation and does not have these resources or expertise. Nationally standardised, accredited and audited courses have content that is subject to regular review and delivery is checked on an ongoing basis by the VET regulator to ensure that there is consistency and quality. The VET courses are recognised across all jurisdictions.

6. Do some PCBUs find choosing asbestos training difficult given the range of choice and the need to ensure training meets duties under WHS laws? Why? Do small businesses face any particular challenges in this regard?

Presumably, yes. However, the WHS and OSH Acts place that duty on the PCBU and employer to determine the appropriate training. Regulators prescribing a limited range of courses risk some of those courses not meeting the needs of the PCBU.

Concerns about some PCBUs finding it difficult to determine courses are not unusual. It is not uncommon for WorkSafe to be asked "tells us what to do" or "tell us the course". Ultimately, it is the PCBU that has the duty to determine the training requirements and how to meet that duty.

As outlined in the discussion paper, there are too many training options. There needs to be clear direction on the training requirements. The training sector should consider merging units to reduce the amount of course options, to provide clearer direction to PCBUs as to which courses are required for their specific industry.

Small business face cost and time challenges with respect to training. Accessibility to businesses in regional areas also needs some consideration.

7. Which of the options at 6.1 – 6.5, if any, do you support or not support and why? (You may wish to rank the options in order of preference).

The Discussion paper makes mention about WHS regulators, Ministers and regulations. Amendments to the Work Health and Safety laws are matters for consultation and consideration with Safe Work Australia and Heads of Workplace Safety Authority Members.

6.1 Maintain the status quo is not a preferred option.

6. 4 and 6.5 would be preferred and ensuring a national consistent approach noting the mobility of workers and PCBU's including licence holders



In relation to option 6.5, the Discussion Paper states *“The advantages of this option is that it would create a level playing field nationally and would ensure that every worker entering a trade who may be exposed to asbestos will have the training necessary to keep them safe, overseen by WHS regulators. It provides certainty to PCBUs about how to discharge their asbestos training duties. It ensures that the obligation to provide training occurs from the time a worker commences work.”*

However:

- The proposal refers to all occupations listed in Appendix 1, it is assumed the proposed training is also for apprentices detailed on the list in Schedule 1.
- The ACT courses are VET sector accredited and oversight/compliance is with the VET regulators not WHS regulators.
- The prescribed training is threshold training and there is likely to be further training duties for PCBUs for various work being undertaken.
- The ACT courses are introductory courses and training may not be adequate once a worker has commenced more technical work.

As mentioned previously, WorkSafe advocates for a tripartite discussion through SWA rather than endorsing any particular option singularly.

8. Are there other levers which could be used to ensure all workers entering trades who may be exposed to asbestos receive adequate asbestos safety training?

Introducing a safety unit including the asbestos hazard into general pathways for high school students wishing to undertake a trade or (pre) apprenticeship may help young workers to have additional information to protect themselves.

9. Are there any other issues you would like to comment on regarding the adequacy of asbestos safety training especially for workers entering trades where they may be exposed to asbestos?

The vast majority of exposure investigations undertaken by WorkSafe WA demonstrates issues with insufficient training and knowledge, with respect to ACM. This has been found to be the major contributing factor resulting ACM being disturbed and an exposure occurs.

WorkSafe has received feedback from external stakeholders on the varying quality of the nationally accredited ACM training courses available in Australia. This indicates that improved checks and auditing need to occur to ensure that consistent, quality training is delivered. In these instances WorkSafe has encouraged those providing the advice to advise the VET regulator.