

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
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).	<p>Retention of relevant information related to employment is an accepted responsibility of employers. Employers are best placed to retain this information as they are already required to set up data management systems and have been doing so. It is acknowledged in the Discussion Paper that retention of records is consistent with established best practice and can be used by employers as evidence of compliance with their WHS obligations. If there is a dispute as to (non-)compliance, this could lead to costly legal proceedings to establish facts (for example, multiple witnesses' evidence). These two considerations are significant justifications for retaining this requirement.</p> <p>Data can be very important for monitoring, evaluation and innovation. Without appropriate records, it is almost impossible to adequately analyse WHS performance and possible patterns in incidents that can be investigated and subsequently rectified. It could even lead to more incidents occurring if there is no "corporate memory" regarding previous incidents.</p> <p>With rapid advances in technology, digital recordkeeping and data management systems are increasingly more efficient, effective and relatively low cost. There seems to be little cost savings in removing this requirement, and no reason to do so when the benefits for all stakeholders are so high. There is merit in reviewing the appropriate time period for which records should be kept by employers.</p> <p>Support and echo UnionsWA's comments regarding this matter, as per their submission.</p>

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
2:	Remove the requirement for training records to be retained after employment has ceased.	445(3)(b); 461(1)(b)	<p>Retention of relevant information related to employment is an accepted responsibility of employers. Employers are best placed to retain this information as they are already required to set up data management systems and have been doing so. It is acknowledged in the Discussion Paper that retention of records is consistent with established best practice and can be used by employers as evidence of compliance with their WHS obligations. If there is a dispute as to (non-)compliance, this could lead to costly legal proceedings to establish facts (for example, multiple witnesses' evidence). These two considerations are significant justifications for retaining this requirement.</p> <p>Data can be very important for monitoring, evaluation and innovation. Without appropriate records, it is almost impossible to adequately analyse WHS performance and possible patterns in incidents that can be investigated and subsequently rectified. It could even lead to more incidents occurring if there is no "corporate memory" regarding previous incidents.</p> <p>With rapid advances in technology, digital recordkeeping and data management systems are increasingly more efficient, effective and relatively low cost. There seems to be little cost savings in removing this requirement, and no reason to do so when the benefits for all stakeholders are so high. There is merit in reviewing the appropriate time period for which records should be kept by employers.</p> <p>Support and echo UnionsWA's comments regarding this matter, as per their submission.</p>

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
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).	<p>As above. It should not be the sole responsibility of the worker, upon cessation of employment, to retain these records. Copies should be provided in addition to, not instead of, employer's recordkeeping responsibilities. There is merit in reviewing the appropriate time period for which records should be kept by employers.</p> <p>Support and echo UnionsWA's comments regarding this matter, as per their submission.</p>
4:	Require that results of monitoring for airborne contaminants are provided to the worker as soon as they are available.	50.	<p>As above. It should not be the sole responsibility of the worker, upon cessation of employment, to retain these records. Copies should be provided in addition to, not instead of, employer's recordkeeping responsibilities. There is merit in reviewing the appropriate time period for which records should be kept by employers.</p> <p>Support and echo UnionsWA's comments regarding this matter, as per their submission.</p>
5:	Remove the requirement for a record related to plant with presence sensing equipment to be retained for five years.	226(2)(a).	Nil.
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.	<p>Support and echo UnionsWA's comments regarding this matter, as per their submission.</p> <p>This is a minimal cost to employers. Access to safety information is an important aspect of promoting and improving safety standards.</p>

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
7:	Replace the placeholder phrase 'external review body' with the defined term <i>the Tribunal</i> .	105(5)(b), 519(5)(b) and 683(1) and 683(2)(b).	Support.
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).	Nil.
9:	Refer to the <i>Environmental Protection Act 1986</i> .	419(3)(e); 492(f)(iii), 500(b).	Support.
10:	Remove the regulator from the definition of <i>accredited assessor</i> .	Definition of <i>accredited assessor</i> .	Nil.
11:	Remove the exception permitted if the <i>accredited assessor</i> is the regulator.	114(5).	Nil.

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
12:	Replace the defined term electricity supply authority with the defined term network operator from regulation 4 of the Electricity (Network Safety) Regulations 2015.	Definition of electricity supply authority	Nil.
13:	Replace the definitions of electrical equipment , electrical installation and electrical work in the model WHS to incorporate or reference the definitions provided in the Electricity (Licensing) Regulations 1991.	144; 145; 146.	Nil.
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).	Nil.

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
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 primary emergency service organisation .	Definition of primary emergency service organisation .	Support.
16:	Replace the term strata title body corporate with the term strata company , and change the reference to, or replicate the definition of, strata company in section 3(1) of the <i>Strata Titles Act 1985</i> .	7	Support.
17:	Incorporate the approach to working near overhead power lines from the OSH regulations, including specification of safe distances and control measures.	166	Nil.

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
18:	To insert a period of 7 days as the timeframe to make an application for an external review of a decision	701	7 days is often insufficient time to make an application for external review, particularly where documents, details of the decision and relevant facts and possibly additional facts and evidence need to be gathered, assessed and organised as part of the request for review. This timeframe is even more inadequate where the affected party needs to obtain advice from a third party, which is common. Given this, a change to 14 or 21 days is recommended.
19:	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.	Agree.
20:	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).	Strongly support and echo UnionsWA's comments regarding this matter, as per their submission.

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
21:	Remove Part 2.4 (Workplace Entry by WHS Entry Permit Holders).	Part 2.4.	<p>The CPSU/CSA objects to removal of this significant part of the model WHS regulations. Insufficient information and rationale has been provided regarding the change and the crossover with the relevant sections of the <i>Industrial Relations Act 1979 (WA)</i> to justify its removal entirely.</p> <p>Right of entry provisions provide workers the benefit of receiving representation and advice regarding OSH issues. Appropriate and timely advice and representation can help resolve or dissolve OSH concerns and reduce disputation, which reduces cost and loss of productivity for employers.</p> <p>Alleged incorrect or improper use of right of entry provisions can be dealt with by appropriate legislation and act as a deterrent for misuse.</p>
22:	Use the general definition of competent person provided in clause (g) as the default for all competent persons.	Definition of competent person .	<p>This recommendation is confusing because it does not appear to provide anything different to the existing definition. Clause (g) provides a default for any other cases where a particular person/profession is not specified.</p> <p>Recommend clarity is provided on the substantial difference/s between the model WHS regulations and the proposed recommendation.</p>

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
23:	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 <i>competent person</i> .	Support.
24:	Add the competency requirements for testing and tagging for the purpose of regulation 163.	Definition of <i>competent person</i> .	Nil.

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
25:	Replace the requirement for a professional engineer to conduct major inspections of cranes and amusement devices with a <i>competent person</i> .	235(4) and 235(5); 241(5) and 241(6).	<p>Removing specific reference to “professional engineer” for the purposes of inspections would arguably have ramifications for the quality control and safety of those inspections.</p> <p>Where the likelihood and/or severity of harm is moderate-high, it is incredibly important to have a suitably qualified person to assess the hazard.</p> <p>The question of who is considered suitably qualified should be worked out with reference to industry standards and what profession/s are generally considered suitable to assess the hazard and then this should be contained within the Regulations. This clarity reduces ambiguity for employers and allows them to focus on the substance of the hazard rather than having to consider whether the person engaged fits within the definition of competent person.</p>

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
26:	Require a <i>competent person</i> instead of specifying a geotechnical engineer to ensure the sides of a trench are safe from collapse.	306(4)	<p>Removing specific reference to “geotechnical engineer” would arguably have ramifications for the quality control and safety of those inspections.</p> <p>Where the likelihood and/or severity of harm is moderate-high, it is incredibly important to have a suitably qualified person to assess to the hazard.</p> <p>The question of who is considered suitably qualified should be worked out with reference to industry standards and what profession/s are generally considered suitable to assess the hazard and then this should be contained within the Regulations. This clarity reduces ambiguity for employers and allows them to focus on the substance of the hazard – that is, ensuring the sides of a trench are safe from collapse, rather than having to consider whether the person engaged fits within the definition of competent person.</p>

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
27:	Remove all references to specific courses in the definition of <i>specified VET course</i> with the exception of those for HRWLs.	Definition of <i>specified VET course</i> .	<p>Replacing “specified VET course” with “approved training course” may lead to a lesser standard of accreditation being acceptable. The rationale for this recommendation due to change/s of the title of a specified course can be more simply resolved by including in the definition a sentence identical to that already found in the definition of specified VET course under (a): ‘or corresponding subsequent VET accredited course’.</p> <p>The recommendations do not address how the current prescription of required contents of courses will be included in the new Regulations.</p>
28:	Include a new definition of <i>approved training course</i> as a course approved by the regulator.	Definition of <i>approved training course</i> .	<p>Replacing “specified VET course” with “approved training course” may lead to a lesser standard of accreditation being acceptable. The rationale for this recommendation due to change/s of the title of a specified course can be more simply resolved by including in the definition a sentence identical to that already found in the definition of specified VET course under (a): ‘or corresponding subsequent VET accredited course’.</p> <p>The recommendations do not address how the current prescription of required contents of courses will be included in the new Regulations.</p>

Recommendations <i>Amend the WHS regulations to:</i>	Provisions affected	Comments (including costs and benefits)
29: Replace the requirement for a <i>specified VET course</i> for all purposes other than HRWL with a requirement to complete the <i>approved training course</i> .	460; 494; 498(a)(ii)(A); 499(b)i); 518.	<p>Replacing “specified VET course” with “approved training course” may lead to a lesser standard of accreditation being acceptable. The rationale for this recommendation due to change/s of the title of a specified course can be more simply resolved by including in the definition a sentence identical to that already found in the definition of specified VET course under (a): ‘or corresponding subsequent VET accredited course’.</p> <p>The recommendations do not address how the current prescription of required contents of courses will be included in the new Regulations.</p>

Recommendations <i>Amend the WHS regulations to:</i>	Provisions affected	Comments (including costs and benefits)
30: Remove generic requirements for information, training and instruction in relation to general workplace management and confined spaces.	39; 76.	<p>It is essential that this recommendation is abandoned and the proposed model WHS regulations maintained. Reasonable steps must be taken to ensure safety information is provided to workers in an appropriate and understandable form. This may require taking additional steps for vulnerable workers such as young, migrant or ESL workers. Data shows that these workers are more vulnerable to injury with proportionately higher incident rates. The consequences can be severe (including death). Recent media confirms this is an emerging issue requiring urgent attention of WHS regulators in Australia (see for example: http://www.smh.com.au/business/workplace-relations/sharp-rise-in-migrant-workers-killed-maimed-in-industrial-accidents-20160825-gr117u.html).</p> <p>This represents a relatively small cost to employers, particularly when compared with the significant protection and safety benefits achieved when adequate information and training is provided to workers. Preventing harm creates several cost savings for employers (as compared to holistic costs of injured workers – time away from workplace; increased workers' compensation premiums; cost of recruiting and training relief staff; etc.).</p> <p>While these provisions relate to requirements under the primary duty of care, it is generally beneficial that the Regulations provide more detail: stating the specific hazard and identifying what is needed. This can help employers better navigate their WHS obligations.</p> <p>As this is required as per the primary duty, there is no additional cost.</p>

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
31:	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.	Nil.
32:	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.	Strongly support and echo UnionsWA’s comments regarding this matter, as per their submission.
33:	Correct the definition of rigging work by replacing the phrase ‘load using’ with the phrase ‘load including’.	Definition of <i>rigging work</i> .	Nil.
34:	Limit the requirement for an HRWL for concrete placing booms to mobile concrete placing booms.	Schedule 3 Item 22; Schedule 4 Items 22.	Nil.
35:	Exclude boilers of 500kw output or less from the definition of <i>boiler</i> .	Definition of <i>boiler</i> .	Nil.

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
36:	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.	Nil.
37:	Transition existing holders of the HRWL class for advance pressure equipment operation to advanced boiler operation.	Transitional provisions.	Nil.
38:	Remove the separate HRWL class for <i>reach stackers</i> .	Schedule 3 item 23; Schedule 4 item 23.	Nil.
39:	Permit the holder of an HRWL to operate a non-slewing mobile crane to operate a reach stacker.	Schedule 3 item 14.	Nil.
40:	Require the provision of a 'recently issued' <i>certification</i> for a high risk work licence.	87(2)(f)(ii).	Nil.

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
41:	Incorporate the power for the regulator provided in regulation 6.17(1) of the OSH regulations in relation to reassessment of competency.	95.	Nil.
42:	Clarify that an applicant for an HRWL can be asked for a reassessment of competency.	95	Nil.
43:	Include compliance with amended regulation 95 as a matter to be taken into account when granting an HRWL.	90.	Nil.
44:	Permit an HRWL to be cancelled or suspended if a licence holder does not comply with a request made under regulation 95.	106.	Nil.
45:	Include an English language requirement as part of the requirements for the conduct of a competency assessment.	114(2).	Nil.

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
46:	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).	Nil.
47:	Include a condition of accreditation for HRWL assessors to cooperate with audits of their activities.	112(2).	Support.

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
48:	Permit the regulator to consider all accreditations where an assessor has been convicted of an offence related to authorisations.	134(1); 135(2).	Support.
49:	Remove the exception provided for the requirement of direct supervision of a worker carrying out work in the course of HRWL training.	84(2).	Nil.
50:	Implement the grace period provided in regulation 6.9(1) of the OSH regulations for renewal of an HRWL.	101(4); 102; 103.	Nil.
51:	Include the requirements of regulation 6.32 of the OSH regulations requiring RTOs to retain records.	New provision.	Support.

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
52:	Replace the residential requirement for high risk work licences with the requirement that the applicant was assessed in Western Australia.	89(2)(c)	Nil.
53:	Remove the residential requirement for registration of plant design and asbestos removal licences.	256(2)(d); 497(2)(c); 497(2)(d).	Nil.
54:	Facilitate online lodgement of authorisations.	Various.	Nil.
55:	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).	Object. Strongly support and echo UnionsWA's comments regarding this matter, as per their submission.
56:	Remove the requirement for an asbestos management control plan to be reviewed at the request of an HSR.	430(1)(d); 430(2).	Object. Strongly support and echo UnionsWA's comments regarding this matter, as per their submission.

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
57:	Remove the power of inspectors to immediately suspend an authorisation.	110; 138; 524.	Object. It is appropriate that Inspectors should have the power to take necessary steps to protect safety and prevent harm where there is an imminent serious risk to health or safety of a person/s. The qualification of imminent serious risk limits this power to appropriate situations. This action could prevent significant harm, which has serious costs for stakeholders.
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).	It is preferred that clear timeframes are provided for in the Regulations as many stakeholders will not refer to the <i>Interpretation Act 1984</i> . Specified timeframes allow all parties to know when to expect a response and encourage timely action. There could be appropriate amendments made to deal with the concerns raised regarding adequacy of the proposed 14 days, authorisation and consequences.
59:	Remove the provision for a different start date for residual current devices in hostile operating environments.	2	Support.

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
60:	Remove the term 'flyings' from the definition of <i>combustible dust</i> .	Definition of <i>combustible dust</i> .	Nil.
61:	Remove the definition of <i>combustible liquid</i> .	Definition of <i>combustible liquid</i> .	Nil.
62:	Replace the definition of <i>excavation</i> with the phrase '...means an open face, hole, or cavity created as a result of using tools, machinery or explosives...'	Definition of <i>excavation</i> .	Nil.
63:	Remove the reference to 'mines' in the exceptions to the definition of <i>excavation</i> .	Definition of <i>excavation</i> .	Nil.
64:	Insert the <i>Water Services Act 2012</i> in reference to a bore in the exceptions to the definition of <i>excavation</i> .	Definition of <i>excavation</i> .	Nil.

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
65:	Remove the redundant clarification that risk assessments may be applied to a class of hazards, tasks, circumstances or things.	12.	Nil.
66:	Remove the matters prescribed for the determination of work groups.	16; 17.	Object. Removal of the non-exhaustive list of matters prescribed for the determination of work groups may lead to inefficacy and confusion regarding the important role of those workgroups. It is arguably not sufficient to contain this list of matters elsewhere (for example, in a Guidance Note) as it is the role of the regulations to prescribe these sorts of matters. It is often easier for employers to work with one document, than have to refer to several others – this saves time and reduces the burden of compliance. This is especially so where it is unclear what Guidance Note applies.
67:	Remove the minimal procedural requirements for the election of health and safety representatives.	18.	Valid criticism of the lack of prescription of minimum requirements for election of health and safety representatives should not lead to a conclusion that the minimum requirements provisions be removed altogether. Rather, appropriate amendments should be made to set out clearly what those minimum requirements are.

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
68:	Require that a PCBU provides facilities and training to ensure effective first aid so far as is reasonably practicable.	42.	Use of term “so far as is reasonably practicable” provides an unacceptable avenue for employers to evade their responsibilities to provide first aid facilities and training. It also creates ambiguity and potential for disputation. It is preferable that the Regulations state the requirements rather than stakeholders having to rely on/refer to an uncertain code of practice.
69:	Require PCBUs to prepare procedures to effectively respond to an emergency.	43.	Removing prescriptive procedures for emergencies may adversely affect safety in an emergency.
70:	Remove the duplicated duty for the provision of PPE to other persons at the workplace.	45.	Nil.
71:	Remove the regulations for hazardous atmospheres and ignition sources.	51; 52.	Object. Justified criticism of flaws in the model regulations does not justify removing the regulations altogether. The Regulations should provide detail on how to effectively manage this specific hazard. Do not agree that general duty of care and hazardous chemical regulations will be more effectively enforceable.

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
72:	Remove the regulations in relation to flammable and combustible materials.	53.	Similar to above comments at 71: regulation of flammable and combustible materials should not be subsumed into the general duty of care as these are specific and foreseeable hazards that require a specific regulatory response.

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
73:	Remove the regulations providing control measures in relation to falling objects.	54; 55.	<p>Similar to above comments at 71 and 72: regulation of falling objects should not be subsumed into the general duty of care as these are specific and foreseeable hazards that require a specific regulatory response.</p> <p>“Being hit by falling objects remains the prevalent mechanism of incident associated with work-related traumatic injury fatalities in Western Australia; accounting for 22% of total fatalities notified to WorkSafe during the nine-year period from 2006-2007 to 2014-2015.” (Page 14 of WorkSafe’s State of the Work Environment: Work-related traumatic injury fatalities, Western Australia 2006-2007 to 2014-2015, dated October 2015: https://www.commerce.wa.gov.au/sites/default/files/atoms/files/sowe_fatalities_2014_15.pdf).</p> <p>This represents a significant, severe area of harm for workers and more must be done to protect workers from death.</p> <p>The model WHS regulations provide clear controls which should be maintained. Proposed amendments can add further protection by adding additional requirements.</p>

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
74:	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.	Nil.
75:	Modify the requirement to ensure the noise exposure standard is not exceeded so far as is reasonably practicable.	57.	<p>Object. Strongly support and echo UnionsWA's comments regarding this matter, as per their submission.</p> <p>The noise exposure standard is recognised as important to minimise risk of harm. The qualification of "so far as is reasonably practicable" increases ambiguity, which could lead to disputes as to what is considered practicable, rather than focusing on the provision of safe work. This provision could be used to avoid implementing the standard.</p> <p>Noise hazards are an emerging WHS issue and WA's legislative framework needs to adapt to respond and provide sufficient protection.</p>

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
76:	Remove the requirements for audiometric testing.	58.	<p>Object. Strongly support and echo UnionsWA's comments regarding this matter, as per their submission.</p> <p>Audiometric testing requirements are needed so that hazards can be identified and appropriately managed.</p> <p>Noise hazards are an emerging WHS issue and WA's legislative framework needs to adapt to respond and provide sufficient protection. The lack of prescription in the current OSH regulations is a weak argument for removing the requirements in the model WHS regulations.</p>
77:	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.	Nil.
78:	Remove the regulations for confined spaces relating to connected plant and services, emergency procedures and PPE.	70.	Nil.

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
79:	Include the demolition licensing requirements of the OSH regulations.	New provision.	Nil.
80:	Add demolition licensing to the definition of class .	Definition of class .	Nil.
81:	Remove the requirement for the regulator to be notified prior to the commencement of demolition work.	142.	This decreases current safety standards. Notifying WorkSafe is a minimal cost and helps WorkSafe to take proactive measures if necessary to protect safety as well assist with monitoring, data gathering and enforcement.
82:	Clarify that a Class 1 demolition licence may be issued for one or more of the types of work to be conducted.	New provision.	Nil.
83:	Not include OSH regulations that refer to <i>Australian Standard AS 2601 – Demolition of Structures</i> for licensed demolition work.	New provision.	Specificity is preferred over general references as this provides clarity and certainty for employers and workers. References to the standard are preferred over a reliance on the general duty of care and a currently unknown/uncertain Code of Practice.

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
84:	Include a new provision setting out the minimum experience and training requirements for supervisors of demolition work.	New provision.	Generally support but cannot provide further comment until details of proposed provision are provided.
85:	Remove the redundant requirement for unsafe electrical equipment to be disconnected or isolated.	149.	Specificity is preferred over general references as this provides clarity and certainty for employers and workers. As this is required as per the general duty, there is no additional cost.
86:	Remove the requirements of regulations 161 and 162 in relation to control measures and record keeping for work on energised electrical equipment.	161; 162.	Encourage reduction of unnecessary duplicity. However, specificity is preferred over general references to ensure clarity and certainty for employers and workers.
87:	Remove the requirement for records to be kept in relation to the testing of electrical equipment.	150(3); 150(4).	Object. Strongly support and echo UnionsWA's comments regarding this matter, as per their submission.

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
88:	Ensure the tag attached when testing and tagging electrical equipment includes the electrical worker's licence or permit number.	163.	Nil.
89:	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.	Nil.
90:	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.	Generally support but cannot provide further comment until details of proposed provision are provided.
91:	Include a provision requiring the main switch is de-energised before a worker enters a roof space.	New provision.	Generally support but cannot provide further comment until details of proposed provision are provided.

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
92:	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.	Nil.
93:	Include a new part that replicates the requirements of Division 10 of Part 3 of the OSH Regulations – Driving commercial vehicles.	New provisions.	Unable to comment until details of proposed provisions are provided.
94:	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.	Nil.
95:	Remove the exception permitting tree loppers to be suspended from a crane (not in a workbox).	221.	Nil.

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
96:	Remove the duplicate requirement for storage of amusement devices in regulation 239.	239.	Specificity is preferred over general references as this provides clarity and certainty for employers and workers.
97:	Replace the monetary threshold for a construction project with the 5 person threshold provided in regulation 3.142 of the OSH regulations.	292.	Object. The proposed monetary threshold is no better for determining risk and complexity than the 5 person threshold. Any proposed threshold should be regularly assessed and updated if required.
98:	Remove the duplicate requirement to prevent unauthorised access to an area where a trench is to be dug.	306(1) and 306(2).	Nil.
99:	Incorporate the competency requirements for tilt-up construction work from the OSH regulations.	New provision.	Nil.
100:	Modify the incorporated requirements in relation to training for supervisors for panels manufactured at workplaces other than a construction site.	New provision.	Nil.

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
101:	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.	Nil.
102:	Remove references to divisions that have been removed by other amendments.	314.	Nil.
103:	Remove the requirement for the provision of safety signs in relation to hazardous chemicals.	353.	Object. Safety signs are easy to implement and relatively cheap. They will improve safety standards and help reduce the risk of exposure of workers to hazardous chemicals. The cost to the worker, employer and community is far higher if harm occurs.
104:	Remove the redundant provisions for hazardous chemicals in relation to the requirements for emergency and safety equipment.	360; 362.	Specificity is preferred over general references as this provides clarity and certainty for employers and workers.
105:	Remove the duplicated requirement for supervision in relation to hazardous chemicals.	379.	Specificity is preferred over general references as this provides clarity and certainty for employers and workers.

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
106:	Modify the requirement to provide changing and washing facilities to minimise lead contamination by practicability.	399(1).	<p>Strongly object. This change erodes the safety protections of the model Regulations and could have very serious implications for workers' health and safety.</p> <p>These facilities are recognised as important to minimise the risk of serious harm. With this qualification, the required standard to protect workers may be in doubt or avoided because it is not practicable to provide. Practicability is a term that increases ambiguity and may distract from ensuring safe work.</p>
107:	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).	<p>Strongly object. Exposure to these hazards has already been identified as possibly causing significant risk to health. Health monitoring is essential where there is risk of exposure as it encourages any risk to health to be detected early, thereby reducing the negative effects (harm to health/costs of time off work/medical expenses/additional workers experiencing harm) for the worker, others at risk of exposure and the employer.</p> <p>Raising the threshold from risk to significant risk would erode protections and ultimately lead to an increase in costs.</p>
108:	Provide duty holders with an alternative approach to assess the biological exposure standard for hazardous chemicals.	368(b)(ii).	Insufficient detail provided for this recommendation. More information is needed.

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
109:	Change the duty holder for provision of the health monitoring report to the regulator from the PCBU to the medical practitioner.	376; 413; 442.	Nil.
110:	Remove the ability of PCBUs to provide a health monitoring report to PCBUs with a corresponding duty.	377; 414; 443.	Nil.
111:	Remove the specified requirement to commence health monitoring prior to a worker commencing asbestos removal work.	435(2).	<p>Object to this change.</p> <p>Relevant medical information and an assessment of the worker's current state of health prior to commencing asbestos removal work is essential to provide a fully informed assessment of any differences in their health following this work and may be pertinent evidence if a worker subsequently suffers harm.</p> <p>Rationale for the recommendation is insufficient and does not demonstrate that the proposed prescription is unnecessary.</p>
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.	Appropriate analysis needs to be undertaken to ensure that the provisions under the <i>Dangerous Goods Safety Act 2004</i> provide at least equivalent standards as those proposed under the model WHS Regulations.

Recommendations <i>Amend the WHS regulations to:</i>	Provisions affected	Comments (including costs and benefits)
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.	<p>Inadequate rationale has been provided to justify maintaining the current licensing system over the one proposed by the model Regulations.</p> <p>Asbestos exposure in WA is currently a significant safety concern for WA workers and businesses. Several recent cases of workers exposed to asbestos demonstrate that buildings newer than 1990 and even new buildings can have ACM.</p> <p>Many workers are now facing substantial harm to their long-term health because of this. This has large costs for the employer, the worker and the WA health system. Protection from asbestos is clearly not under control and a better legislative framework is required to provide greater protection for workers to prevent exposure in future.</p> <p>Late 2015, nearly 140 workers were potentially exposed to asbestos while working on a Water Corporation project. The employer was aware asbestos was present at the site, but failed to inform workers and take appropriate steps to protect workers from the risk of harm. Gaps in the Water Corporation's management of asbestos were found after investigations of the incident: http://www.abc.net.au/news/2016-01-29/water-corporation-asbestos-exposure-risk-corporation-failed/7125804.</p>

Recommendations <i>Amend the WHS regulations to:</i>	Provisions affected	Comments (including costs and benefits)
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.	<p>Inadequate rationale has been provided to justify maintaining the current licensing system over the one proposed by the model Regulations.</p> <p>Asbestos exposure in WA is currently a significant safety concern for WA workers and businesses. Several recent cases of workers exposed to asbestos demonstrate that buildings newer than 1990 and even new buildings can have ACM.</p> <p>Many workers are now facing substantial harm to their long-term health because of this. This has large costs for the employer, the worker and the WA health system. Protection from asbestos is clearly not under control and a better legislative framework is required to provide greater protection for workers to prevent exposure in future.</p> <p>Late 2015, nearly 140 workers were potentially exposed to asbestos while working on a Water Corporation project. The employer was aware asbestos was present at the site, but failed to inform workers and take appropriate steps to protect workers from the risk of harm. Gaps in the Water Corporation's management of asbestos were found after investigations of the incident: http://www.abc.net.au/news/2016-01-29/water-corporation-asbestos-exposure-risk-corporation-failed/7125804.</p>
115: Remove the definition of <i>certified safety management system</i> .	Definition of <i>certified safety management system</i> ; 6.	<p>Object to this change as sufficient rationale to justify the change of references and the removal of the definition of a "certified safety management system" has not been provided.</p>

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
116:	Replace references to a <i>certified safety management system</i> with reference to an asbestos removal work procedures manual.	493(1)(e), 498(b), 520(1)(e).	Object to this change as sufficient rationale to justify the change of references and the removal of the definition of a “certified safety management system” has not been provided.

Recommendations <i>Amend the WHS regulations to:</i>	Provisions affected	Comments (including costs and benefits)
117: To replace the requirement for a licenced asbestos assessor to conduct clearances with a <i>competent person</i> .	<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>	<p>Removing specific reference to a “licenced asbestos assessor” would arguably have ramifications for the quality control and safety of clearances conducted.</p> <p>Where the likelihood and/or severity of harm is moderate-high as it is with asbestos, it is incredibly important to have a suitably qualified person to assess to the hazard/s.</p> <p>Requiring a “licenced asbestos assessor” sets the standard for what competencies are required to perform this task safely.</p> <p>This clarity also reduces ambiguity for employers and allows them to focus on the substance of the hazard/s rather than having to consider whether the person engaged fits within the definition of competent person.</p>

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
118:	Remove the reference to 'equivalent' licence.	488.	Nil.
119:	Replace the specified date of 31 December 2003 with 31 December 1990.	425(6)(a); 447.	Strongly disagree. Asbestos exposure in WA is currently a significant safety concern for WA workers and businesses. Several recent cases of workers exposed to asbestos demonstrate that buildings newer than 1990 and even new buildings can have ACM. Many workers are now facing substantial risks to their long-term health because of this. This has large costs for the employer, the worker and the WA health system. It is clearly not under control and a better legislative framework is required to provide greater protection for workers to prevent exposure in future.
120:	Require that access to the asbestos register is provided to the PCBU carrying out demolition or refurbishment work.	449; 450.	Support. Also support approach outlined in Union WA's submissions regarding this matter.
121:	Modify the requirement for decontamination facilities by practicability.	471; 483.	Proper decontamination is very important and should not be avoided because of practicability. Use of this term creates potential ambiguity and may practically decrease safety standards and risk exposure to persons.

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
122:	Remove the exception for the prohibition on asbestos work for soil containing trace amounts of visible friable asbestos.	419(5)(a)(ii).	Nil.
123:	Require a National Association of Testing Authorities accredited laboratory to test samples for asbestos.	423; 479(2)(b); 479(2)(c).	Nil.
124:	Remove the generic training duties in relation to naturally occurring asbestos.	434.	Specific provisions for particular hazards often provide greater clarity and certainty for employers, rather than employers having to refer to the general duty and question what does and does not fall within its requirements. As the information and training is required as per the general duty, there is no cost to maintaining this specific provision.
125:	Include clarification that a separate asbestos removal control plan is not required if there is a compliant safe work method statement.	464.	Object. Asbestos removal control plan should be prepared in addition to a safe work method statement. The importance of protecting people from asbestos-related disease should be paramount.

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
126:	Require notification to the regulator 7 days prior to the commencement of Unrestricted asbestos removal work.	466(1).	Nil.
127:	Require the notice is provided in the manner and form approved by the regulator	466(1).	Nil.
128:	Change the threshold to notify the regulator if specified respirable asbestos fibre levels exceed 0.05fibres/mL.	476(b)(ii).	Nil.
129:	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).	Nil.

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
130:	Remove the requirement to notify persons occupying premises in the immediate vicinity (that are not PCBU's).	468(3)(b).	<p>Strongly object to this. Immediate vicinity can be defined if required and is also referred to in 468(3)(a) for PCBU's.</p> <p>Sufficient rationale has not been provided to justify why the requirement has been removed for persons occupying premises but not for PCBU's.</p> <p>The importance of protecting people from asbestos-related disease should be paramount and appropriate notification is a significant benefit that allows persons to take appropriate steps to ensure protection of their health and safety.</p> <p>Notifying persons as well as PCBU's is likely to have minimal costs, which is outweighed by the possibly significant costs to people and the health system if exposure to asbestos occurs.</p>
131:	Clarify that an Inspector cannot be prevented from entering a workplace where licensed asbestos removal work is being conducted.	470(3).	Nil.
132:	Require that containers with asbestos waste are labelled in accordance with schedule 9 (hazardous chemicals).	472; 484.	Nil.

Recommendations <i>Amend the WHS regulations to:</i>	Provisions affected	Comments (including costs and benefits)
133: Remove Chapter 9, Major Hazard Facilities, and all associated definitions and schedules.	Major hazard facilities to be regulated by the DMP. Regulations 530 to 608 inclusive. Regulations 688 and 698 (in relation to exemptions). Schedule 15 Schedule 16 Schedule 17 Schedule 18 Related definitions: <ul style="list-style-type: none"> • <i>determined major hazard facility</i> • <i>facility</i> • <i>licensed major hazard facility</i> • <i>local community</i> • <i>local authority</i> • <i>local community</i> • <i>major hazard facility</i> • <i>major hazard facility licence</i> • <i>major incident</i> • <i>major incident hazard</i> • <i>modification</i> • <i>proposed facility</i> 	Nil.

Recommendations <i>Amend the WHS regulations to:</i>		Provisions affected	Comments (including costs and benefits)
134:	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.	Nil.
135:	Remove items in the table at regulation 676 that refer to regulations that have been deleted.	676.	Nil.
136:	Remove the RTO as a valid applicant for review of a decision related to an accredited assessor.	676 - Items 8 to 16.	Nil.
137:	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.	Nil.
138:	Remove the requirement for class exemptions to be published in the Government Gazette.	695(2).	Legislation should specify that WorkSafe WA publishes class exemptions in a timely and reasonable manner. WorkSafe WA can then determine the appropriate method/s of publication.