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## OHSWA(WA) Comments

### Discussion Paper – Work Health and Safety Regulations

The Occupational Health Society of Australia (WA) is concerned that the approach taken in the Discussion Paper – Work Health and Safety Regulations for Western Australia does not meet the object of the Work Health and Safety Bill 2014, which is "... to provide for a balanced and nationally consistent framework to secure the health and safety of workers and workplace."

**The focus of the recommendations has been to minimise prescription and keep the burden of compliance at an acceptable level (Discussion Paper P1).**

The document erodes the health and safety rights of workers and diminish the responsibilities of employers under the guise of minimised prescription.

The 'burden of compliance' referred to has never been established in Australia, while there is national and international evidence over the past 20 years that rejects that notion:

- ILO 2000
- Comcare (Aust) 2007
- UK Health and Safety Executive 2013
- British Safety Council 2014
- Safework Australia (Macquarie University) 2015
- European Union – OSHA 2016

A number of the draft recommendations, if endorsed, would dilute the health and safety responsibilities of PCBUs and transfer those responsibilities to workers.

Particular concerns of the Society relate to:

- Record keeping for training, hazardous substance exposures, airborne contaminants, health monitoring
- Noise exposure and audiometric testing
- First aid training and facilities
- Safety signage
- Health monitoring
- Management of asbestos exposures

Should the draft regulatory package proceed, the work health and safety laws in Western Australia will be at variance with the stated objects of the Work Health and Safety Bill 2014 **to provide a balanced and nationally consistent framework** to secure the health and safety of workers and workplaces.

By contrast, the regulatory changes under consideration in Victoria, when implemented, will strengthen the health and safety status of workers in that state.

**The Occupational Health Society of Australia (WA) strongly opposes any reduction in the standards of occupational health and safety in Western Australia and encourages the implementation of a nationally consistent framework to secure the health and safety of workers and workplaces to the level enjoyed in other jurisdictions of Australia.**

### Comments on Specific Recommendations

	<b>Record Keeping</b>
	<b>Retention of Records – General</b>
<b>Recommendation 1</b>	<b>Remove the requirement for a record to be retained after the completion of the work or notifiable incident.</b>
OHS(WA) Response	The retention of records of risk assessments conducted, evidence of high risk work and training records are essential in the event of future health or injury claims and for epidemiological purposes. These records can be stored on a computer disc and as data for reducing the risk of future incidents.  The recommendation is not supported.
<b>Recommendation 2</b>	<b>Remove the requirement for training records related to asbestos or health monitoring/surveillance to be retained after employment has ceased.</b>
OHS(WA) Response	The recommendation is not supported. See Recommendation 1.
	<b>Health Monitoring Records</b>
<b>Recommendation 3</b>	<b>Require that health monitoring records for lead, asbestos and hazardous chemicals are provided to the worker on cessation of employment.</b>
OHS(WA) Response	Health monitoring records are required to be retained for specific periods in all jurisdictions and should also be held by the PCBU, or in the event of a PCBU's cessation or winding up, transferred to a designated third party, if necessary by the PCBU administrator or liquidator.  This recommendation is contrary to the objects of the Act and is not supported.
<b>Recommendation 4</b>	<b>Require that results of monitoring for airborne contaminants are provided to the worker as soon as they are available.</b>
OHS(WA) Response	The value of records for epidemiological and also for legal purposes is well recognised and maintaining records on a computer disc can be achieved at minimum cost.

	<p>The records should also be held by the PCBU.</p> <p>This recommendation is contrary to the objects of the Act and is not supported.</p>
	<b>Enforceable Undertakings</b>
<b>Recommendation 20</b>	<b>Remove references to enforceable undertakings from the Model WHS regulations.</b>
OHSA(WA) Response	<p>No justification has been provided for the deletion of this option which operates effectively in other jurisdictions.</p> <p>Enforceable undertakings are in some cases a more sensible and positive approach in contrast to penalties.</p> <p>The recommendation is not supported.</p>
	<b>Training and Competency</b>
	<b>Specified Training Courses</b>
<b>Recs 27, 28, 29</b>	<b>Remove references to specified VET courses and replace with courses approved by the regulator.</b>
OHSA(WA) Response	<p>The recommendation that a nationally consistent approach to training be disregarded needs to be reconsidered by all concerned parties.</p> <p>The ability of employees to move freely between jurisdictions with mutually acceptable qualifications is important to the national economy, to those trained and to PCBUs.</p>
	<b>Generic Training Requirements</b>
<b>Recommendation 30</b>	<b>Remove generic requirements for information, training and instruction in relation to general workplace management and confined spaces.</b>
OHSA(WA) Response	<p>The provision of information, training and instruction in relation to the management of safety and health in the workplace can only be beneficial to employees and adds a further positive contribution to overall safety performance. In particular WHS inductions should be mandated.</p> <p>The recommendation is not supported.</p>
	<b>Construction Induction</b>
<b>Recommendation 31</b>	<b>Implement the approach to construction induction training in the OSH regulations, while retaining mutual recognition of CIT cards.</b>
OHSA(WA) Response	<p>With the decision to adopt the Model Regulations the Society believes that it is time to reconsider the current arrangements for inductions in the construction industry in the interests of national consistency. This consideration should involve all relevant parties.</p>

	<b>Review of Control Measures and Asbestos Management Control Plan</b>
<b>Recommendation 55</b>	<b>Remove the requirement for a control measure to be reviewed at the request of an HSR.</b>
OHSA(WA) Response	The Society considers that this requirement is an additional safeguard provided the HSR has undergone appropriate training. The recommendation is not supported.
<b>Recommendation 56</b>	<b>Remove the requirement for an asbestos management control plan to be reviewed at the request of an HSR.</b>
OHSA(WA) Response	The Society considers that this requirement is an additional safeguard provided the HSR has undergone appropriate training. The recommendation is not supported.
	<b>General Risk and Workplace Management</b>
	<b>First Aid</b>
<b>Recommendation 68</b>	<b>Require that a PCBU provides facilities and training to ensure effective first aid so far as reasonably practicable.</b>
OHSA(WA) Response	The provision of a first aid facilities and the completion of a short course in first aid are in the best interests of both employer and employees. It is a basic right and should remain an absolute requirement. The recommendation is not supported.
	<b>Protection from Tobacco Smoke</b>
<b>Recommendation 74</b>	<b>Include the OSH regulations for protection from tobacco smoke <u>with the exception of the requirement for signs</u>, the defence for smoking in a private vehicle or residence and the power for an inspector to require a tobacco product be extinguished.</b>
OHSA(WA) Response	The Society is opposed to the deletion of the requirement for signs given the multi-racial composition of the population and the resultant cultural differences. The signage is also still relevant for the population in general.
	<b>Chapter Four – Hazardous Work</b>
	<b>Noise Exposure Standard</b>
<b>Recommendation 75</b>	<b>Modify the requirement to ensure the noise exposure standard is not exceeded so far as is reasonably practicable.</b>
OHSA(WA) Response	The current requirements have been in place for a lengthy period and are well known and understood. Damage to hearing is permanent and results in significant personal and social disadvantage. The recommendation re the criterion of so far as reasonably practicable is not supported.

	<b>Noise – Audiometric Testing</b>
<b>Recommendation 76</b>	<b>Remove the requirements for audiometric testing (and rely on a Code of Practice).</b>
OHS(WA) Response	<p>Codes of Practice are practical guides for achieving the standards of health, safety and welfare required under the WHS act – they are not regulations.</p> <p>It is likely that audiometric testing of many employees who meet the risk criteria would not occur.</p> <p>The recommendation is not supported.</p>
	<b>Chapter Seven – Hazardous Chemicals</b>
	<b>Specific Control Measures</b>
<b>Recommendation 103</b>	<b>Remove the requirement for the provision of safety signs in relation to hazardous chemicals.</b>
OHS(WA) Response	<p>The accumulating evidence of the health consequences of hazardous chemicals exposure justifies increased regulation and in particular the use of warning signs.</p> <p>Further, placarding in particular serves the essential purpose of informing emergency services.</p> <p>This recommendation is not supported.</p>
<b>Recommendation 104</b>	<b>Remove the redundant provisions for hazardous chemicals in relation to the requirements for emergency and safety equipment.</b>
OHS(WA) Response	<p>The accumulating evidence of the health consequences of hazardous chemicals exposure warrants specific regulations for the safe use, handling and storing of hazardous substances.</p> <p>The recommendation is not supported.</p>
	<b>Supervision</b>
<b>Recommendation 105</b>	<b>Remove the duplicated requirement for supervision in relation to hazardous chemicals.</b>
OHS(WA) Response	<p>The additional requirement is justified given the health consequences of exposure to hazardous chemicals.</p> <p>The recommendation is not supported.</p>
	<b>Health Monitoring</b>
<b>Recommendation 107</b>	<b>Change the trigger for health monitoring when there is a risk of exposure to a hazardous chemical/asbestos to also require a significant risk to health.</b>
OHS(WA) Response	<p>Adding another requirement to trigger health monitoring in addition to the risk of exposure to a hazardous chemical/asbestos will only result in delaying the commencement of health monitoring.</p> <p>If it is hazardous, there may be a significant risk to health which may only</p>

	be detected by monitoring. The recommendation is not supported.
<b>Recommendation 109</b>	<b>Change the duty holder for the provision of the health monitoring report to the regulator from the PCBU to the medical practitioner.</b>
OHSA(WA) Response	The PCBU is responsible for health monitoring and for the retention of records. The recommendation is not supported.
<b>Recommendation 110</b>	<b>Remove the ability of PCBUs to provide a health monitoring report to PCBUs with a corresponding duty.</b>
OHSA(WA) Response	This ability exists in other jurisdictions and 'privacy' has not been a concern. The recommendation is not supported.
<b>Recommendation 111</b>	<b>Remove the specified requirement to commence health monitoring prior to a worker commencing asbestos removal work.</b>
OHSA(WA) Response	The Society considers that specification is necessary given the known risk to health from working with asbestos and can serve as protection for later PCBUs not just for workers.
	<b>Chapter Eight – Asbestos</b>
	<b>Certified Management System</b>
<b>Recommendation 115</b>	<b>Remove the definition of Certified Safety Management System.</b>
<b>Recommendation 116</b>	<b>Replace references to a certified safety management system with reference to an asbestos removal work procedures manual.</b>
OHSA(WA) Response	The range of issues addressed in recommendations concerning asbestos warrant a fresh approach to achieving national consensus on its management in public and in the workplace. Recommendations in the Discussion Paper do not encourage this approach and in some cases encourage disparity between Australian jurisdictions.