



# SAFETY INSTITUTE OF AUSTRALIA LIMITED

ACN 151 339 329

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Mr Alex Marsden  
Marsden Jacob Associates  
Level 1, 220 St Georges Tce  
Perth WA 6000

Via email: [whs@marsdenjacob.com.au](mailto:whs@marsdenjacob.com.au)

12 October 2012

Dear Mr Marsden,

## **Work Health & Safety Model Regulations and Codes of Practice Consultation Regulation Impact Statement Information and Issues Feedback**

Reference is made to the release by Worksafe WA of the changes in requirements in the model WHS Regulations and the comparison table of the existing WA Regulations supplied.

The Safety Institute of Australia (SIA Ltd.) welcomes the opportunity to provide feedback and strongly commends the approach taken to harmonise workplace safety and health laws across Australia.

The SIA Ltd. is keen to work collaboratively with Worksafe WA and the Western Australian Government to facilitate implementation of nationally consistent WHS laws, regulations and processes, which support the highest level of workplace risk controls possible.

Differences across jurisdictions currently impose substantial costs to businesses operating in multiple WHS environments. The Safety Institute of Australia supports targeted, cost effective reform that reduces the regulatory burden on businesses through simplification of the WHS law and regulations processes that provide;

- A high level of safety standards for business operating in Western Australia and in other states and;
- Opportunities to apply saved resources on enhancing companywide culture of preventing injury and illness.

The Safety Institute of Australia (WA Branch) has sought member's input into its submission to ensure that it best reflects the issues and concerns of its members.

This submission was consolidated and prepared by committee members of the WA Branch and other key stakeholders to identify the matters which should be modified and/or included in the review of the Draft Work Health & Safety Model Regulations and Codes of Practice.

The SIA Ltd. members that developed this submission included Alan Meagher, Tony Mitchell, Michael Walsh, Adam Parsons, Bob Mulligan, Nathan Winters & Greg Stagbouer.

If you have any questions in respect to the Safety Institute of Australia's response, please do not hesitate to contact our office.

Kind regards,

Keith Brown  
Chief Executive Officer  
Safety Institute of Australia Ltd

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SIA National Office

PO Box 2078, Gladstone Park, VIC 3043

Telephone: (03) 8336 1995 Facsimile: (03) 8336 1179

Email: [natadmin@sia.org.au](mailto:natadmin@sia.org.au)



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	<b>10 October 2012</b>
<b>Area of Regulation: Asbestos:- Air Monitoring and Clearance</b>	
	<p>Comment:</p> <ul style="list-style-type: none"> <li>SIA recommend that the PCBU must ensure air monitoring is undertaken by the licensed asbestos assessor; however it is not clear whether there is a requirement for the PCBU to obtain or retain the results. SIA recommend the retention period needs to be clearly stipulated along with how the data is to be collected.</li> </ul>
<b>Area of Regulation: Asbestos:- Analysis of Samples</b>	
	<p>Comment:</p> <ul style="list-style-type: none"> <li>SIA recommend that the PCBU or person with control of the workplace must use a NATA accredited laboratory only.</li> </ul>
<b>Area of Regulation: Asbestos:- Certified Safety Management Systems</b>	
	<p>Comment:</p> <ul style="list-style-type: none"> <li>No comment on this change.</li> </ul>
<b>Area of Regulation: Asbestos:- Naturally Occurring Asbestos</b>	
	<p>Comment:</p> <ul style="list-style-type: none"> <li>No comment on this change.</li> </ul>
<b>Area of Regulation: Asbestos:- Register</b>	
	<p>Comment:</p> <ul style="list-style-type: none"> <li>SIA note that the requirement to have an Asbestos Register at the workplace has changed to include buildings constructed prior to 2003 (currently 1990). The obligation rests with the person with management or control of a workplace; however it is not clear whom this rests with when there are more than one person with that management or control (as identified in previous point). This requirement requires further clarification of exactly whom the duty rests with and suggests that in buildings that have multiple tenants this shall be the owner of the building.</li> </ul>
<b>Area of Regulation: Asbestos:- Removal Notifications</b>	
	<p>Comment:</p> <ul style="list-style-type: none"> <li>SIA generally supports this change, however further review is required regarding this notice period, as this seems in many operations not to be a reasonably practicable timeframe.</li> </ul>
<b>Area of Regulation: Asbestos:- Training</b>	
	<p>Comment:</p> <ul style="list-style-type: none"> <li>SIA recommend that CPCCBC4051A be combined with CPCCBC5014A.</li> <li>SIA note that there is a lack of an existing WA course for Class A Licences. SIA strongly urges that this is addressed at the earliest time prior to the enactment of the new laws to enable Asbestos Removal PCBUs to have their workers and others trained in time to meet their new obligations.</li> </ul>



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<b>Area of Regulation: Asbestos:- Removal Licences</b>	
	Comment: <ul style="list-style-type: none"><li>As identified above, the appropriate training courses must be made available in order to enable the relevant prescribed Asbestos Supervisor's to be certified in time to meet the new obligations.</li><li>The licensed Asbestos Removal PCBU/person will need to establish appropriate training records that can be retained for a 5-year period.</li></ul>
<b>Area of Regulation: Construction Projects:- Appointment of a Principal Contractor</b>	
	Comment: <ul style="list-style-type: none"><li>SIA recommends that the \$250,000 project cost calculation that determines a "Construction Project" needs to be specifically defined as to how this will be calculated within the regulations.</li><li>SIA recommend that there will need to be further training available at the earliest possible time prior to enactment of the new laws to enable PCBU's to have their workers and others appropriately trained in time to meet their new obligations.</li></ul>
<b>Area of Regulation: Diving Work</b>	
	Comment: <ul style="list-style-type: none"><li>No comment to the change.</li></ul>
<b>Area of Regulation: Fall Prevention</b>	
	Comment: <ul style="list-style-type: none"><li>SIA notes this will be a major challenge for PCBU's who are currently struggling to understand this risk exposure. Further clarification of the height criterion is recommended.</li></ul>
<b>Area of Regulation: Hazardous Chemicals: – classification, labels, MSDS and controls</b>	
	Comment: <ul style="list-style-type: none"><li>It is understood that the chemical manufacturing industry has until 2017 to comply with the provisions for GHS Classification and Labelling. SIA urges a review over the transitional timeframe.</li></ul>



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<b>Area of Regulation: Hazardous Chemicals:- Import</b>	
	Comment: <ul style="list-style-type: none"> <li>SIA recommend that should the PCBU also be a supplier then they must comply, however if the PCBU is the end user only, then the onus should be on the importer.</li> </ul>
<b>Area of Regulation: Hazardous Chemicals:- “Restricted Hazardous Chemicals” – crystalline silica; silica dioxide</b>	
	Comment: <ul style="list-style-type: none"> <li>No comment to the change</li> </ul>
<b>Area of Regulation: Hazardous Chemicals:- Risk Assessment and Record Keeping</b>	
	Comment: <ul style="list-style-type: none"> <li>SIA supports the maintaining of a risk assessment approach.</li> </ul>
<b>Area of Regulation: Hazardous Chemicals:- Therapeutic Goods and Agricultural Veterinary (AGVET) Chemicals</b>	
	Comment: <ul style="list-style-type: none"> <li>No comment to the change</li> </ul>
<b>Area of Regulation: Health Monitoring:- Reports to the Regulator</b>	
	Comment: <ul style="list-style-type: none"> <li>The requirement for a PCBU to provide health monitoring reports to the Regulator rather than a medical practitioner (who currently provides such reports direct to the Regulator) will create a risk of unnecessary delay on the data reaching the regulator. SIA supports a dual reporting approach from the medical practitioner (copy to PCBU and copy provided to regulator) rather than being a specific PCBU responsibility.</li> </ul>
<b>Area of Regulation: High Risk Work Licences (HRWL):- Dogging and “Slinging Techniques”</b>	
	Comment: <ul style="list-style-type: none"> <li>No comment to the change</li> </ul>
<b>Area of Regulation: High Risk Work Licences (HRWL):- Exemptions</b>	
	Comment: <ul style="list-style-type: none"> <li>No comment on this change.</li> </ul>
<b>Area of Regulation: High Risk Work Licences (HRWL):- Boilers (Pressure Equipment)</b>	
	Comment: <ul style="list-style-type: none"> <li>This regulatory change exposes some concerns about the changes to High Risk Work Licences (HRWLs) where the criterion has changed thereby posing the risk that an operator may not be able to continue to operate where there has been a workplace failure to identify change requirements to their HRWL and to send affected workers to training.</li> <li>It is understood that there may be a lack of available training courses in WA to enable operators to attend required training in time to meet their HRWL amended requirements.</li> </ul>

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	<ul style="list-style-type: none"><li>• Reasonable grace period of transition or as licences expire.</li></ul>
<b>Area of Regulation: High Risk Work Licences (HRWL):- Concrete Placing Boom</b>	
	Comment: <ul style="list-style-type: none"><li>• The licensing process for existing operators of concrete placing booms other than vehicle-mounted types is still to be determined in accordance with Schedule 3. This is a Regulator issue that requires addressing in plenty of time for affected operators to gain the required certification and licensing.</li><li>• A prompt Transitional time frame. From the regulator is recommended.</li></ul>
<b>Area of Regulation: High Risk Work Licences (HRWL):- Reach Stacker</b>	
	Comment: <ul style="list-style-type: none"><li>• The new class of reach stacker licensing requires the Regulator to implement a transition period to enable migration of existing operators to the newly established HRWL class. This must be actioned with priority to enable existing operator licence upgrades to transition with minimal effect on the business or undertaking.</li></ul>
<b>Area of Regulation: Incident Notification:- Prescribed Serious Illness</b>	
	Comment: <ul style="list-style-type: none"><li>• SIA recommend further clarity of what is meant by a “serious illness”, as definition is lacking and will require further guidance from the Regulator to be developed.</li></ul>
<b>Area of Regulation: Lead Risk Work</b>	
	Comment: <ul style="list-style-type: none"><li>• No comment on this requirement.</li></ul>



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<b>Area of Regulation: Noise:- Audiometric Testing</b>	
	<p>Comment:</p> <ul style="list-style-type: none"> <li>• There is a lack of clarity as to the definition of “frequently required” to use personal protective equipment for hearing protection, needs further detail.</li> <li>• The requirement is for the PCBU towards a “worker”; which could be interpreted to mean any worker (not necessarily only the worker of that PCBU) would be captured under this requirement e.g. a Contractor or sub-contractor; labour hires etc.</li> </ul>
<b>Area of Regulation: Noise:- Managing Risks</b>	
	<p>Comment:</p> <ul style="list-style-type: none"> <li>• SIA WA note that the primary duty of care of the PCBU would also apply in this section.</li> </ul>
<b>Area of Regulation: Personal Protective Clothing and Equipment (PPE)</b>	
	<p>Comment:</p> <ul style="list-style-type: none"> <li>• SIA strongly advises that the removal of any reference to a standard for Personal Protective Equipment is fraught with risk of sub-standard equipment being provided to workers. The unintended consequence of this could see workers ineffectively protected against the hazards they are exposed to that would otherwise have been managed within a known safety standard and framework. To this extent, Government should consider a means for addressing this very important level of protection for workers.</li> </ul>
<b>Area of Regulation: Plant:- Amusement Devices</b>	
	<p>Comment:</p> <ul style="list-style-type: none"> <li>• No comment on this requirement.</li> </ul>
<b>Area of Regulation: Plant:- Design Registration – Concrete Placement Units with Delivery Booms</b>	
	<p>Comment:</p> <ul style="list-style-type: none"> <li>• No comment on this new requirement.</li> </ul>
<b>Area of Regulation: Plant:- Design Verification – Pressure Vessels</b>	
	<p>Comment:</p> <ul style="list-style-type: none"> <li>• No comment on this new requirement</li> </ul>
<b>Area of Regulation: Plant:- Design Verification - Cranes</b>	
	<p>Comment:</p> <ul style="list-style-type: none"> <li>• Whilst subtle in its definition of a competent person, there is significant implication for those currently deemed competent under existing OSH legislation due to the fact that the current definition cites training, qualification <b>or</b> experience, or a combination of these as deeming the person competent. Conversely, the WHS regulation cites that a competent person is defined as a person “who has the skills, qualification, competence <b>and</b> experience” to not only verify the design but to also design the plant.</li> </ul>

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	<ul style="list-style-type: none"> <li></li> </ul>
<b>Area of Regulation: Plant:- Import</b>	
	Comment: <ul style="list-style-type: none"> <li>No comment on this requirement.</li> </ul>
<b>Area of Regulation: Plant:- Item of Plant Registration</b>	
	Comment: <ul style="list-style-type: none"> <li>As with the definition of a competent person for the design verification of cranes, there are significant new requirements around the definition of a competent person for the purposes of the inspection of plant as part of the registration process.</li> </ul>
<b>Area of Regulation: Plant:- Item of Plant Registration - Renewals</b>	
	Comment: <ul style="list-style-type: none"> <li>Plant registration renewals must be underpinned by a fair regime that takes into consideration existing registered items of plant so as to minimise the immediate cost impact on businesses and undertakings to meet the changed requirements.</li> <li>SIAWA urges that the transitional requirements need to be determined by the regulator.</li> </ul>
<b>Area of Regulation: Plant:- Mobile and Tower Cranes</b>	
	Comment: <ul style="list-style-type: none"> <li>No comment on this requirement.</li> </ul>
<b>Area of Regulation: Plant:- Registration – Prefabricated Formwork and Boom Type Concrete Placement Units</b>	
	Comment: <ul style="list-style-type: none"> <li>No comment on this requirement.</li> </ul>
<b>Area of Regulation: Tilt-up Construction, Spraypainting, Welding, Abrasive Blasting, Isocyanates and Styrene</b>	
	Comment: <ul style="list-style-type: none"> <li>These areas of non-prescription are high-risk activities that should continue to be regulated for safety as well as environmental reasons. SIA WA strongly suggest therefore that consideration be made to the adoption of existing OSH regulation in these areas as non-core WHS regulations in order to continue to provide for the safety and health of WA workers.</li> </ul>
<b>Area of Regulation: Thermal Comfort</b>	
	Comment: <ul style="list-style-type: none"> <li>Although no prescriptive requirement has been made in relation to thermal comfort, the unique and harsh WA environment (particularly in the northern areas of the State) provides sufficient justification to provide for some regulation in this regard.</li> </ul>