

**Public comment period**  
**Proposed amendments to Part 6 *Occupational Health and Safety (Safety Standards) Regulations 1994***

**Introduction**

On behalf of the Safety, Rehabilitation and Compensation Commission (the Commission), Comcare is seeking comments from employers, unions and other stakeholders on the proposed regulatory amendments to incorporate new provisions for asbestos removal into Part 6 of the *Occupational Health and Safety (Safety Standards) Regulations 1994* (the Regulations).

The proposed amendments have been developed to be consistent with the Occupational Health and Safety Act 1991 (the Act), the Commission's Principles of Regulation and other Australian Government regulatory policies. The amendments are based on the National Code of Practice for the Safe Removal of Asbestos [NOHSC:2002(2005)] and will require employers to comply with the National Code in all circumstances where asbestos is being removed. The proposed amendments will provide clarity for employers and other stakeholders in the Commonwealth jurisdiction in regard to employer duties concerning the removal of asbestos.

**Proposed Regulatory Amendments**

The proposed amendments will regulate:

- Employers when they engage an asbestos removalist (whether that removalist is covered by State or Territory laws or by the *Occupational Health and Safety Act 1991*); and
- Employers who perform asbestos removal work themselves.

In relation to the duties imposed, it is proposed to make a distinction between certain types of removal work based on the degree of risk involved. Specifically, it is proposed that asbestos removal work involving friable asbestos and removal of over 10m<sup>2</sup> of asbestos would involve closer scrutiny. This work is referred to as “authorised asbestos removal work” below.

Duties in relation to performing asbestos removal work

A – where the employer performs the work

- All asbestos removal work must be done in accordance with the National Code of Practice for the Safe Removal of Asbestos [NOHSC:2002(2005)] (the National Code).
- Employers will be required to apply to the Commission for a permit to undertake “authorised asbestos removal work”:
  - the application to the Commission will need to be in writing, on a form approved by the Commission (employers should note that the holding of a current state/territory asbestos removal licence will be a highly relevant consideration for the Commission); and
  - the permit will be valid for two years, unless cancelled earlier by the Commission.
- An employer can undertake asbestos removal work other than “authorised asbestos removal work” where a competent person performs the work (note that Regulation 20.01 provides a definition of “competent person”).

- Employers undertaking authorised asbestos removal work will be required to notify the Commission of plans to undertake the work at least 48 hours before the work commences:
  - notification of removal work is to be in writing on a form approved by the Commission.

#### B – where an employer engages an asbestos removalist

- Employers who engage an asbestos removalist to undertake asbestos removal work must ensure that the removalist is permitted, either by a law of the Commonwealth or a State or Territory, to perform such work:
  - for authorised asbestos removal work the removalist would need to have a permit or licence; and
  - for asbestos removal work other than ‘authorised asbestos removal work’ the removalist would need to be a “competent person”.

#### General duties on employers at workplaces where asbestos removal work is being undertaken

- Employers at a workplace where authorised asbestos removal work is planned must notify employees and occupiers of adjoining and nearby premises that are reasonably likely to be affected by the work, before the work commences.
- After authorised asbestos removal work has been undertaken, the employer will be required to have a clearance inspection carried out by a competent person independent from the person who undertook the work, before the work area is reoccupied.
- The employer will need to obtain a clearance certificate from the person undertaking the inspection stating that an inspection has occurred, the workplace is safe to be reoccupied and including any monitoring results. This certificate must be provided to the Commission within 5 days of the certificate being issued.

Comcare encourages stakeholders to read the National Code of Practice for the Safe Removal of Asbestos [NOHSC:2002(2005)].

Comcare is committed to improving the health and safety of employees in the Commonwealth jurisdiction and in engaging our stakeholders in the process of achieving that improvement. The comments received will be considered in the development of Comcare’s advice to the Safety, Rehabilitation and Compensation Commission and to the Minister for Employment and Workplace Relations (the Minister) on the proposed regulatory amendments.

#### **The consultation period ends on 2 October 2008.**

Please provide any comments on the proposed regulatory amendments by close of business on 2 October 2008. These may be submitted to Comcare by email: [HelpDesk-HAZMAT@comcare.gov.au](mailto:HelpDesk-HAZMAT@comcare.gov.au) or by fax: (02) 6274 8682.