



Guide for applicants for asbestos removal and asbestos assessor licences and notifications

– of asbestos removal work, asbestos fibres and emergency demolition of structures containing asbestos

March 2013

Disclaimer

This publication may contain work health and safety and workers compensation information. It may include some of your obligations under the various legislations that WorkCover NSW administers. To ensure you comply with your legal obligations you must refer to the appropriate legislation.

Information on the latest laws can be checked by visiting the NSW legislation website legislation.nsw.gov.au

This publication does not represent a comprehensive statement of the law as it applies to particular problems or to individuals or as a substitute for legal advice. You should seek independent legal advice if you need assistance on the application of the law to your situation.

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Introduction

The *Work Health and Safety Regulation 2011* (WHS Regulation) provides for the licensing for asbestos removal work and asbestos assessor work. It also requires notification to WorkCover NSW of asbestos work when results of air monitoring show the concentration of respirable asbestos fibres is more than 0.02 fibres/ml and before the demolition of a structure or plant in an emergency situation where asbestos is fixed or installed in the structure or plant.

Why you need a licence

The asbestos removal licences aim to protect workers with the greatest potential for asbestos exposure and to secure safe removal practices to protect building occupants and others at the workplace.

Asbestos assessor licences aim to improve the consistency and accuracy of advice from consultants who provide air monitoring and clearance certificates in relation to friable asbestos removal work.

Part 4 of the *Work Health and Safety Act 2011* (WHS Act) imposes penalties on people who carry on work at a workplace without authorisation where the regulations require that work be authorised. Part 8.10 of the WHS Regulation require authorisation (in this case licensing) for certain asbestos removalists and asbestos assessors.

Why you need to notify

Notifications of asbestos work and emergency demolition provides risk based information to WorkCover so it can apply resources and target compliance and enforcement actions to areas of greatest risk to health and safety.

Licence types

Class A asbestos removal licence allows the licence holder to remove friable asbestos and non-friable asbestos and asbestos contaminated dust (ACD). (Clauses 485 and 487 of WHS Regulation).

Class B asbestos removal licence allows the licence holder to remove non-friable asbestos and ACD associated with the removal of non-friable asbestos. (Clause 487(1) of the WHS Regulation).

An asbestos assessor licence is required for air monitoring, clearance inspections and clearance certificates for class A removal work (friable asbestos removal work). (Clause 489 of the WHS Regulation).

Scope

Class A asbestos removal licence

A class A asbestos removal licence is required for the removal of friable asbestos or ACD. (Clause 485 of the WHS Regulation).

ACD is asbestos contaminated dust or debris and means any dust or debris that has settled within a workplace and is, or is assumed to be, contaminated with asbestos. (Clause 5 of the WHS Regulation).

A class A asbestos removal licence is not required for the removal of ACD that is associated with the removal of non-friable asbestos or is only a minor contamination. (Clause 486 of the WHS Regulation).

Class B asbestos removal licence

A class B asbestos removal licence is required for the removal of more than 10 square metres of non-friable asbestos or ACM, or ACD associated with the removal of more than 10 square metres of non-friable asbestos.

Class B asbestos removal licence is not required for the removal of:

- 10 square metres or less of non-friable asbestos or ACM.
- ACD associated with the removal of 10 square metres or less of non-friable asbestos or ACM.

(Clause 487 of the WHS Regulation).

Asbestos containing material (ACM) means any material or thing that, as part of its design, contains asbestos. (Clause 5 of the WHS Regulation).

Asbestos assessor licence

An asbestos assessor licence is required for air monitoring, clearance inspections or the issuing of clearance certificates for class A asbestos removal work, where a class A licence is required. (Clause 489 of the WHS Regulation).

A competent person who is not a licensed asbestos assessor can carry a clearance inspection for licensed asbestos removal work that does not require a class A licence. (Clause 473(2)(a)(b) of the WHS Regulation).

Who may apply for a licence

Only a person who conducts a business or undertaking in which asbestos removal work is carried out may apply for an asbestos removal licence. (Clause 491(1) of the WHS Regulation).

'Person conducting a business or undertaking' is defined in clause 5 of the WHS Act. A person conducting a business or undertaking may be an individual, a body corporate, a government agency, a partnership or an unincorporated association.

Only an individual holding the qualifications set out in clause 493 of the WHS Regulation may apply for an asbestos assessor licence. (Clause 491(2) of the WHS Regulation).

Supervisor for asbestos removal licences

The application for either class A or class B asbestos removal licence must include the name(s) of the competent person(s) who has been engaged to supervise the asbestos removal work. (Clauses 493(1)(a) and 494(1)(a) of the WHS Regulation).

If the applicant is an individual who proposes to supervise the carrying out of asbestos removal work, the details must relate to the applicant. (Clause 493(2) and 494 (2) of the WHS Regulation).

Age restrictions

Each nominated supervisor must be at least 18 years of age. If the individual applicant is also the supervisor, then the applicant must be at least 18 years of age. (Clauses 493(1)(b), 493(2) and 494(1)(b), 494(2) of the WHS Regulation). Evidence of age is required.

Experience and qualifications

Experience required for a class A asbestos removal licence

Each nominated supervisor and, if the individual applicant is also the supervisor, then the applicant must have at least three years relevant industry experience in the removal of friable asbestos. (Clauses 493(1)(d) and 493(2) of the WHS Regulation).

WorkCover requires such experience to be demonstrated by submitting, with the application form, a description of the work undertaken over a three year period (at least) which is supported by references relevant to the three year period. For example, references from employers/licence holders or supervisors who are nominated supervisors for friable asbestos licence holders. Only required for new applications.

Competencies required for class A asbestos removal licence

Each nominated supervisor and, if the applicant is also the supervisor, then the applicant must submit, with their application form, a copy of the certification that evidences the successful completion of the vocational education and training (VET) course for supervise asbestos removal – CPCCBC4051A. Only required for new applications.

(Clauses 493(1)(c) and 494(2) of the WHS Regulation).

Experience required for a class B asbestos removal licence

Each nominated supervisor and, if the individual applicant is also the supervisor, then the applicant must have at least 12 months industry experience in the removal of non-friable asbestos. (Clauses 494(1)(d) and 494(2) of the WHS Regulation).

WorkCover requires experience to be demonstrated by submitting, with the application form, a description of the work undertaken over a 12 month period (at least) which is supported by references relevant to the 12 month period. For example, references from the employer/licence holder or supervisors who are nominated supervisor for non-friable asbestos work. Only required for new applications.

Competencies required for a class B asbestos removal licence

Each nominated supervisor and, if the individual applicant is also the supervisor, then the applicant must submit, with their application form, a copy of the certification that evidences the successful completion of the VET course for supervise asbestos removal – CPCCBC4051A. (Clauses(1)(c) and 494(2) of the WHS Regulation).

Experience required for an asbestos assessor licence

The applicant must demonstrate through training or experience the knowledge and skills of the relevant asbestos removal industry practice. (Clause 495(a) of the WHS Regulation).

WorkCover will generally require a description of work experience in performing or supervising the work of an asbestos assessor (ie air monitoring, clearance inspections and issue of clearance certificates) over the preceding two years. The description should include the name and contact telephone numbers of referees. Only required for new applications.

Competencies required for an asbestos assessor licence

An applicant must submit with their application evidence of the successful completion of either:

- a copy of the certification in relation to the VET course for conduct asbestos assessment associated with removal – CPCCBC5014A, or
- evidence of the completion of a tertiary qualification in occupational health and safety or industrial hygiene or science or building construction or environmental health.

(Clause 495(b) of the WHS Regulation). Only required for new applications.

Certified safety management system required for a class A asbestos removal licence

Applicants for a class A asbestos removal licence must also submit, with the application, evidence that they have a certified work health and safety management system in place at the time of lodging their application for a licence. (Clause 493(1)(e) of the WHS Regulation).

Certified safety management system means a safety management system that complies with AS 4801: 2001 *Occupational health and safety management systems*, or an equivalent system determined by WorkCover. (Clause 5 of the WHS Regulation).

Photographs

Applicants for an asbestos assessor licence must submit, with their application, two passport size photographs with their name, date of birth and signature on the back of the photographs.

Workers Compensation

Asbestos removalist licence holders who are not exempt employers must submit, with their application, a certificate of currency for workers compensation insurance.

An exempt employer is defined as an employer who during a financial year has reasonable grounds for believing that the total amount of wages that will be payable by them during the financial year to workers employed by them will be not more than the exemption limit for that financial year. Section 155AA of the *Workers Compensation Act 1987* (WC Act).

exemption limit for a financial year means \$7,500 or such other amount as may be fixed by an insurance premiums order as the exemption limit for that financial year.

financial year means a period of 12 months commencing on 1 July in any year.

wages means wages as defined in section 174 and includes any distribution to a worker as a beneficiary under a trust that would (under section 174AA) constitute wages for the purposes of section 174.

Certificate of registration for asbestos removal licence

An applicant for an asbestos removal licence who will be trading under a business name must submit, with the application, a copy of their certificate of registration of trading name. (Clause 492(2)(d) of the WHS Regulation).

Residency/location

An asbestos removal licence or asbestos assessor licence will not be issued if the applicant holds an equivalent licence under a work health and safety law of another state or territory or the Commonwealth unless the licence is due for renewal. (Clause 497(2)(b) of the WHS Regulation).

Subject to the applicant meeting other requirements of the WHS Regulation, WorkCover must issue an asbestos removal licence or asbestos assessor licence to an applicant who:

- resides in NSW or if residing outside NSW satisfies the WorkCover of circumstances justifying the granting of the licence. (Clause 497(2)(c) of the WHS Regulation), or
- if a body corporate applicant has its registered address in NSW or if located outside NSW, satisfies the WorkCover of circumstances justifying the granting of the licence. (Clause 497(2)(d) of the WHS Regulation).

A circumstance justifying the grant of the licence would be the proximity of the residence/registered address to a state or territory or the Commonwealth work health and safety regulator's office.

Proof of identity

Applicants must provide evidence of their identity. (Clause 492(2)(b) of the WHS Regulation).

Applicants for an asbestos removal licence must submit, with their application, a copy of their certificate of registration (issued by Australian Securities and Investment Commission) or a copy of a certificate of incorporation (issued by a state or territory or the Commonwealth regulator), whichever is applicable.

Individual applicants for an asbestos assessor licence will be required to have a Justice of the Peace (JP) sign the application form certifying that they have sighted a combination of the following original documents that in total add up to at least 100 points and to confirm that the passport photographs are that of the applicant:

One of the following:

Birth Certificate or Citizenship Certificate or passport (passport must be current or expired within the last two years, but not cancelled).

70 points

A combination of the following to make up at least 100 points

- A licence issued under Australian law (eg driver's permit or licence), which contains a photograph or signature 40 points
- Student card issued by a tertiary institution 40 points
- Utility bill in applicant's name (eg council rates notice, water, power or phone account) 25 points
- Medicare card 25 points
- Credit or debit card, passbook or account statement from a financial institution (only one per financial institution can be counted) 25 points

Duration of licence

An asbestos removal licence or asbestos assessor licence lasts for five years unless cancelled earlier. (Clause 503 of the WHS Regulation).

Recognition of interstate authorisations

WorkCover will recognise a current asbestos removal licence or current asbestos assessors licence issued under the work health and safety legislation of another state or territory or the Commonwealth that is being used in accordance with the terms and conditions under which it was granted. (Clause 490 of the WHS Regulation).

How to apply for a licence

To apply for an asbestos removal licence complete the *Application for an asbestos removal licence* (Asbestos – 01) form (catalogue no. WC03527).

To add an additional supervisor or delete a supervisor or change supervisors details use the *Asbestos removal supervisor nomination* (Asbestos – 03) form (catalogue no. WC03524).

To apply for an asbestos assessor licence complete the *Application for an asbestos assessor licence* (Asbestos – 02) form (catalogue no. WC03911).

These forms are available on the WorkCover website. Lodgement instructions are on the forms.

Fees

Refer to the [WorkCover NSW fees schedule \(catalogue no. WC01011\)](#) on the WorkCover website or call 13 10 50.

Granting/renewal/refusing

What does the regulator take into account when deciding whether to grant or renew a licence

WorkCover will consider the following in making a decision for the issue of an asbestos removal licence or an asbestos assessor licence or the renewal of an asbestos removal licence or assessor licence.

- Whether an equivalent licence is held by the applicant under the work health and safety law of another state or territory or the Commonwealth and whether the licence is due for renewal.
- Whether the applicant lives in the NSW or if a body corporate applicant has its registered address in the NSW. Where the applicant resides/is located outside NSW, the applicant must satisfy WorkCover there are special circumstances that justify the grant of the licence.
- Whether the applicant has provided evidence of the successful completion of the required VET course.
- Whether nominated supervisors for asbestos removal licences and if the applicant is the supervisor the applicant, is at least 18 years of age.
- Whether the applicant is disqualified under a corresponding work health and safety law of another state or territory or the Commonwealth from holding an equivalent licence.
- Whether the applicant in making the application has given information that is false or misleading or has failed to provide information that should have been provided in the application.
- Whether the applicant is able to ensure that work or other activities to which the licence relates is carried out safely and competently in compliance with any conditions on the licence. In making its decision WorkCover will consider:
 - Whether the applicant and in the case of a body corporate, the body corporate and each officer of the body corporate has been convicted or found guilty of any offence under the WHS Act or the WHS Regulation or under the work health and safety law of another state or territory or the Commonwealth
 - Whether the applicant or in the case of a body corporate, the body corporate and each officer of the body corporate has been convicted or found guilty of any offence in relation to the unlawful disposal of hazardous waste under the *Protection of the Environment Operations Act 1997* (PEO Act)
 - Whether the applicant and in the case of a body corporate, the body corporate and each officer of the body corporate has previously been refused an equivalent licence under the work health and safety law of another state or territory or the Commonwealth
 - Whether the applicant and in the case of a body corporate, the body corporate and each officer of the body corporate previously held an equivalent licence under the work health and safety law of another state or territory or the Commonwealth with conditions and/or whether the licence was suspended or cancelled and whether a disqualification period had been applied
 - Whether the applicant and in the case of a body corporate, the body corporate and each officer of the body corporate has entered into an enforceable undertaking under the WHS Act or under the work health and safety law of another state or territory or the Commonwealth

An enforceable undertaking is an alternative to court action for an alleged breach of the Act. It is a legal agreement in which the employer takes on the obligation to carry out specific activities to improve not only worker health and safety, but also deliver benefits to industry and the broader community.

 - The applicant and in the case of a body corporate, the body corporate and each officer of the body corporate's compliance record with respect to any matters arising under the WHS Act or the WHS Regulation or under the work health and safety law of another state or territory or the Commonwealth. In respect to compliance record WorkCover will consider the following in making a decision, current and previous suspension, cancellation or disqualification. A previous refusal of a licence by any work health and safety regulator. History of compliance to any condition of the licence and/or any requirement to improve or modify performance and improvement and prohibition notices that have been issued.

(Clauses 497, 498, 499, 500 of the WHS Regulation).

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- For the granting of an asbestos assessor licence or renewal of an asbestos assessor licence that the applicant/ licence holder has agreed to have their details published in a public register pursuant to clause 528 of the WHS Regulation.
 - For the renewal of an asbestos removal licence WorkCover will in addition consider matters including:
 - whether asbestos removal work relevant to the licence type has been carried out during the preceding term of the licence. (Clause 518(b) of the WHS Regulation)
 - whether written evidence was submitted with the application of any training/reassessment or taken any other action imposed as a condition on the licence
 - whether the applicant has declared that the applicant or supervisor named by the applicant (as applicable) has maintained his or her competency to carry out the work covered by the licence.

(Clause 516 of the WHS Regulation).

If WorkCover decides to grant the licence, it must notify the applicant within 14 days after making the decision. (Clause 497(4) of the WHS Regulation).

If WorkCover does not make a decision within 120 days after receiving the application, or the additional information requested under clause 496 of the WHS Regulation, the application is taken to have been refused. (Clause 497(5) of the WHS Regulation).

Granting of a conditional licence

WorkCover may impose conditions on an asbestos removal or asbestos assessor licence when granting or renewing the licence. Conditions that may be imposed include:

- control measures to be implemented in carrying out of the work
- record keeping
- requiring the licence holder or nominated supervisor of the licence holder to undertake retraining or reassessment during the term of the licence.
- provision of information to WorkCover
- nature of work or activities authorised by the licence
- circumstances in which work may be carried out.

(Clause 502 of the WHS Regulation).

The imposition of conditions on a new licence or the renewal of a licence is a reviewable decision. See section titled 'Application for review of decision' [on page 18](#).

Amendment imposed by the regulator

WorkCover may, on its own initiative, amend an asbestos removal licence or asbestos assessor licence, including varying or deleting a condition or imposing a new condition on the licence.

If WorkCover proposes to amend a licence, it must provide written notice to the licence holder that includes setting out the proposed amendment and the reasons for it and advising the licence holder that they may, by a specified date (not being less than 28 days after giving the notice), make a submission in relation to the proposed amendment.

After the specified date, WorkCover must:

- if the licence holder made a submission, consider the submission
- whether or not the licence holder made a submission, decide whether or not to make the proposed amendment or a different amendment resulting from consideration of the submission received.

Within 14 days after making a decision WorkCover must provide written notice to the licence holder that:

- sets out the amendment, if any, or states that no amendment is to be made
- if a submission was made in relation to the proposed amendment, sets out WorkCover's reasons for making the amendment
- specifies the date, not being less than 28 days after the licence holder is given notice, on which the amendment takes effect.

A decision to amend a licence is a reviewable decision. (Clause 508 of the WHS Regulation).

Refusing to grant or renew an asbestos removal or asbestos assessor licence

WorkCover must refuse to issue a licence or renew a licence if satisfied that the applicant:

- has been disqualified under the work health and safety law of another state or territory or the Commonwealth from holding an equivalent licence. (Mandatory refusal). (Clause 497(3)(a) of the WHS Regulation).
- in making the application has given information that is false or misleading or did not provide information that should have been provided. (Mandatory refusal). (Clause 497(3)(b) of the WHS Regulation).

If WorkCover proposes to refuse to grant the licence or renewal, it must provide written notice to the applicant:

- informing the applicant of the reasons for the proposed refusal
- advising the applicant that they may, by a specified date (not being less than 28 days after giving the notice), make a submission in relation to the proposed refusal.

After the specified date, WorkCover must:

- if the applicant has made a submission, consider the submission
- whether or not the applicant has made a submission, decide whether to grant or refuse to grant the licence
- within 14 days after making the decision, give the applicant written notice of the decision including reasons for the decision.

(Clause 501 of the WHS Regulation).

The refusal to grant a licence or renew a licence is a reviewable decision.

Obligations

Change of details

The licensed asbestos removalist or asbestos assessor must give written notice to WorkCover of any changes to their details within 14 days of becoming aware of a change. This includes, for a licensed removalist, changes to details of nominated supervisors. (Clause 506 of the WHS Regulation).

Supervisor on site

A licensed asbestos removalist must ensure that the nominated supervisor is present at the site whenever friable asbestos removal work is being carried out and is readily available to attend the site for non-friable asbestos removal work. (Clause 459 of the WHS Regulation).

Asbestos removal workers to be trained

A licensed asbestos removalist must not allow a worker to carry out asbestos removal work unless the worker holds a certification in relation to the specified VET course for asbestos removal relevant to the class of asbestos removal that is being carried out. (Clause 460 of the WHS Regulation).

Replacement licence document

A licence holder of an asbestos removalist licence or an asbestos assessor licence must give written notice to WorkCover as soon as practicable if the licence is lost, stolen or destroyed, and may apply for a replacement licence. An application for a replacement licence must include a declaration describing the circumstances in which the original document was lost, stolen or destroyed. (Clause 513 of the WHS Regulation).

A decision to refuse to issue a replacement asbestos removalist or asbestos assessor licence document is a reviewable decision.

Cancellations/suspensions of a licence

WorkCover may suspend or cancel an asbestos removal licence or asbestos assessor licence if it is satisfied about one or more of the following:

- The licence holder has failed to ensure that the work or other activities authorised by the licence were carried out safely and competently.
- The licence holder has failed to comply with a condition of the licence.
- The licence holder has given false or misleading information or failed to give information that should have been given in the application for the grant of a licence or renewal of the licence or where requested by WorkCover.
- The licence holder of an asbestos removal licence does not have a qualified nominated asbestos removal supervisor.
- In relation to a class A asbestos removal licence, the licence holder has failed to have a certified safety management system in place.
- In relation to an asbestos removal licence, the licence was granted or renewed on the basis of certification that was obtained on the basis of the giving of false or misleading information by any person or body.

(Clauses 520 and 521(3) of the WHS Regulation).

In making a decision to cancel or suspend a licence WorkCover must have regard to any:

- submission made by the licence holder
- advice received from another work health and safety regulator.

In making a decision regarding these first two points above (clauses 520(1)(a) and (b) of the WHS Regulation), WorkCover must take into account any relevant matter, including:

- any offence under the WHS Act or WHS Regulation or under the work health and safety laws of another state or territory or the Commonwealth, of which the licence holder has been convicted or found guilty
- any refusals or suspensions or cancellations of an equivalent licence applied for or held under the WHS Act or WHS Regulation or under the work health and safety laws of another state or territory or the Commonwealth
- any enforceable undertaking that has been entered into by the licence holder under the WHS Act or the WHS Act of another state or territory or the Commonwealth
- the licence holder's record (compliance record) in relation to any matters arising under the WHS Act or WHS Regulation or under the work health and safety laws of another state or territory or the Commonwealth.

(Clause 521 of the WHS Regulation).

Notice to and submissions by the licence holder (prior notice)

Before suspending or cancelling an asbestos removal licence or asbestos assessor licence WorkCover must:

- give the licence holder written notice of the proposed suspension or cancellation or disqualification that outlines all relevant allegations, facts and circumstances known to WorkCover.
- advise the licence holder that they may, by a specified date (not being less than 28 days after giving the notice), make submission to WorkCover in relation to the proposed suspension or cancellation and any proposed disqualification.

(Clause 522 of the WHS Regulation).

Notice of the decision

WorkCover must give the licence holder written notice of a decision to suspend or cancel an asbestos removal licence or an asbestos assessor licence within 14 days after the decision is made. The notice must state that the licence is to be suspended or cancelled and, if the licence is suspended, the notice must state:

- when the suspension begins and ends and the reasons for the suspension
- whether the licence holder is required to obtain retraining or reassessment or take any other action before the suspension ends
- whether or not the licence holder is disqualified from applying for a further licence during the suspension.

If the licence is to be cancelled, the notice must state when the cancellation takes effect and the reasons for the cancellation and whether or not the licence holder is disqualified from applying for a further licence.

If the licence holder is disqualified from obtaining a further licence or authorisation the notice must state:

- when the disqualification begins and ends
- reasons for the disqualification
- whether or not the disqualification ending is conditional upon the licence holder obtaining retraining or reassessment or taking any other action and any class of licence or authorisation under the WHS Regulation that the licence holder must not apply for during the disqualification.

The notice must also state when the licence document must be returned to WorkCover (Clause 523 of the WHS Regulation).

Immediate suspension

WorkCover may immediately suspend an asbestos removal licence or asbestos assessor licence without giving prior notice if:

- work carried out under the licence should cease because the work may involve an imminent serious risk to the health and safety of any person, or
- another state or territory or the Commonwealth work health and safety regulator has suspended an equivalent licence held by the licence holder.

(Clause 524(1) of the work health and safety regulator).

If WorkCover decides to immediately suspend the licence, it must give the licence holder written notice of the suspension and the reasons for the suspension. The suspension of the licence takes effect on the giving of the notice. (Clause 524(2) of the WHS Regulation).

WorkCover may in addition to the notice of suspension under clause 524(2) give notice to the licence holder giving them not less than 28 days to make a submission in relation to the suspension. WorkCover must issue this notice within 14 days of the notice advising of the suspension. (Clause 524(3) of the WHS Regulation).

If WorkCover does not give notice under Regulation 524(3), the suspension of the licence ends at the end of the 14 days. If notice is given the licence remains suspended until a decision is made. (Clause 524(5) of the WHS Regulation).

WorkCover must return the licence document to the licence holder within 14 days after the licence suspension ends. (Clause 526 of the OHS Regulation).

A decision to suspend or cancel a licence or to disqualify a licence holder from applying for a further licence is a reviewable decision. (Clause 520 of the WHS Regulation).

Notification of asbestos removal work

The licensed asbestos removalist must give written notice to WorkCover at least five days before licensed asbestos removal work is commenced. Notification is required to be made to WorkCover on a day that is not a Saturday, Sunday, public holiday or bank holiday.

Five days notice of asbestos removal work is not required and asbestos removal can be commenced immediately where there is:

- a sudden and unexpected event, including a failure of equipment, that may cause persons to be exposed to respirable asbestos fibres, or
- an unexpected breakdown of an essential service that requires immediate asbestos removal work to allow the service to continue.

(Clause 466(1) and (2) of the WHS Regulation).

'Essential services' means the supply of gas, water, sewerage, telecommunications, electricity and similar services, chemicals, fuel and refrigerant in pipes or lines. (Clause 5 of the WHS Regulation).

Where asbestos removal is required immediately, WorkCover must be notified:

- immediately by telephone on **13 10 50**
- in writing within 24 hours after WorkCover is notified by telephone.

(Clause 466(3) of the WHS Regulation).

Notification of respirable asbestos fibre levels of more than 0.02 fibres/ml

The licensed asbestos removalist must notify WorkCover immediately when respirable asbestos fibres are recorded at an asbestos removal area that are more than 0.02 fibres/ml. (Clause 476(1)(b)(ii) of the WHS Regulation).

The WHS Regulation imposes other obligations on the licensed asbestos removalist where fibres are at this level to stop work and implement controls – see clause 476(1) of the WHS Regulation.

Notification of the emergency demolition of a structure or plant involving asbestos

Although the WHS Regulation does not require WorkCover to be notified of demolition in all cases, there are special requirements for notification where an emergency has occurred and asbestos is involved. Specifically, certain persons are required to notify WorkCover of the demolition or refurbishment of a structure or plant:

- that was constructed or installed before 31 December 2003.
Demolition or refurbishment does not include minor or routine maintenance or other minor work. (Clause 447 of the WHS Regulation)
- is located in either a workplace or a residential premises where an emergency has occurred
- the structure or plant must be demolished
- asbestos is fixed to or installed in the structure or plant before the emergency occurred.

(Clauses 454(1) and 455(1) of the WHS Regulation).

Emergency occurs if a structure or plant is structurally unsound or collapse of the structure or plant is imminent. (Clauses 454(4) and 455(4) of the WHS Regulation).

Who must notify and when

Notifications are required to be made to the work health and safety regulator in the state or territory or the Commonwealth in which the asbestos removal work or the structure or plant requiring emergency demolition is located.

Notification of asbestos removal work

A licensed asbestos removalist must give written notice to WorkCover at least five days before licensed asbestos removal work is commenced. (Clause 466(1) WHS Regulation.) Notification is required to be made to WorkCover on a day that is not a Saturday, Sunday, public holiday or bank holiday.

Notification of the emergency demolition of a structure or plant involving asbestos

In relation to a workplace, the person with management or control of the workplace must notify WorkCover immediately in writing after they become aware of the emergency and before demolition is commenced. (Clause 454(3) of the WHS Regulation).

In relation to residential premises, the person who is to carry out the demolition of the premises (the licensed asbestos removalist) must notify WorkCover in writing immediately after they become aware of the emergency and before demolition is commenced. (Clause 455(3) of the WHS Regulation).

Notification of respirable asbestos fibres levels at more than 0.02 fibres/ml

The licensed asbestos removalist carrying out the removal work must immediately notify WorkCover when respirable asbestos fibre levels exceeds 0.02 fibres/ml in the removal area.

How to notify

Notification of asbestos removal work

Interstate and commonwealth asbestos removal licence holders are to notify WorkCover by completing and submitting the *Notification of asbestos removal work* (NA – 01) form (catalogue no. WC03556) available on the WorkCover website. Lodgement instructions are on the application form.

NSW asbestos removal licence holders may notify on line at <https://notifications.workcover.nsw.gov.au/Login.aspx>

Notification of the emergency demolition of a structure or plant involving asbestos

Interstate and NSW licensed removalist and the person with management or control of the workplace are to notify WorkCover by completing and submitting the *Emergency demolition notification where asbestos is involved* (NED – 01) form (catalogue no. WC03555) available on the WorkCover website. Lodgement instructions are on the application form.

Notification of respirable asbestos fibres levels at more than 0.02 fibres/ml

Interstate and Commonwealth demolition licence holders are to notify WorkCover by completing and submitting the *Notification of respirable asbestos fibre levels at more than 0.02 fibres/ml* (NAF – 01) form (catalogue no. WC03589) available on the WorkCover website. Lodgement instructions are on the application form.

Information to be provided to the regulator

Notification of asbestos removal work

Where asbestos is required to be removed immediately, the licensed asbestos removalist must telephone WorkCover on **13 10 50** immediately and should provide the following information:

- Name of the licensed removalist.
- Address of the workplace where the asbestos is to be removed.
- Reason for the immediate need to remove the asbestos.

A written notification for asbestos removal work requires the following information to be provided to WorkCover:

- Licensed removalist details
 - name that appears on the asbestos removalist licence and their registered business (trading) name
 - state/territory or Commonwealth that issued the licence
 - Australian Business Number (ABN)
 - licence number
 - licence class (either class A or class B)
 - business contact details.
- Name and business contact details of the supervisor for the asbestos removal work
- Name of the competent person or licensed assessor details engaged to carry out a clearance inspection and issue a clearance certificate. If a licensed assessor, their licence details.

Note: Friable asbestos removal (class A asbestos removal work) requires a licensed assessor to undertake the clearance inspection and issue the clearance certificate. Non-friable asbestos removal work (class B asbestos removal work) only requires a competent person to undertake the clearance inspection and issue the clearance certificate.

- Details of the person for whom the work is being carried out.
- Details of the workplace (site) where the notifiable asbestos is to be removed.
 - name of the person or organisation conducting a business or who has control of the workplace and their registered business (trading) name
 - address of the workplace. If the workplace is large, the specific location of the asbestos to be removed
 - the kind of workplace
- Notification details: the notification must be dated, date when the asbestos removal work is expected to commence, and the date when the asbestos removal work is expected to finish
- Type of asbestos to be removed (friable or non-friable) and estimated quantity of asbestos to be removed. If friable asbestos is to be removed, details of the way the area will be enclosed.
- The number of workers to be used for the asbestos removal, for each worker, their competency in carrying out asbestos removal work

(Clause 466 of the WHS Regulation).

Immediate notification of respirable asbestos fibres

A licensed removalist should provide the following information when making an immediate notification to WorkCover for air monitoring results of more than 0.02 fibres/ml:

- name of licensed removalist
- address of worksite
- date on which the notification of the asbestos removal was made to WorkCover
- submit a copy of the air monitoring results, as soon as practicable.

Written notification of the emergency demolition of a structure or plant involving asbestos

A person should provide the following information when making a written notification for the emergency demolition of a structure or plant involving asbestos:

- name and contact details of the person with management or control of the workplace or name of person who will be carrying out the demolition at residential premises.
- address of the worksite or residential premises
- nature of the emergency.

Application for review of decision

The table in clause 676 of the WHS Regulation sets out decisions that are reviewable (reviewable decisions) and who is eligible (eligible person) to apply for the review of a reviewable decision.

The applicant is the eligible person to request a review of a decision to refuse to grant or refuse to renew a licence and for the imposition of a condition on a licence or the imposition of a condition on the renewal of a licence (clauses 497, 501, 501 and 517 of the WHS Regulation) and for the refusal to issue a replacement licence document (clause 513 of the WHS Regulation).

The licence holder is the eligible person to request a review of the decision to cancel or suspend a licence or a decision to disqualify the licence holder from applying for another licence (clause 520 of the WHS Regulation) and for the decision, initiated by the regulator to amend a licence (clause 508 of the WHS Regulation).

Internal review

An application for internal review allows WorkCover decision to be reviewed and possibly changed by a person who was not involved in the original decision. A written application for the internal review of a reviewable decision is made using the application form provided by WorkCover. The application must be lodged with 28 days of the day on which the decision first came to the eligible person's notice or such longer period as WorkCover allows. (Clause 678(1) of the WHS Regulation).

The internal reviewer may:

- confirm or vary the reviewable decision, or
- set aside the reviewable decision and substitute another decision that the internal reviewer considers appropriate.

(Clause 680(2) of the WHS Regulation).

If the reviewable decision is not varied or set aside within the 14 day period the internal decision is taken to have been confirmed. (Clause 680(6) of the WHS Regulation).

WorkCover will give the applicant written notice of the decision on the internal review and reasons for the decision within 14 days of making the decision. (Clause 681 of the WHS Regulation).

An application for an internal review does not affect the operation of the original decision or prevent the taking of any lawful action to implement or enforce the decision, though once the decision on internal review is made if a new decision is substituted then that new decision takes effect. (Clause 682 of the WHS Regulation).

External review

If the applicant or licence holder is not satisfied with the decision on internal review, they can apply to the NSW Civil and Administrative Tribunal (NCAT).

Further information

For notification enquires contact Asbestos and Demolition Services on (02) 8260 5885 or by fax (02) 9281 7486 or email adu@workcover.nsw.gov.au.

For all general enquiries, contact WorkCover Customer Service Centre on 13 10 50 or fax (02) 9287 5507 or email operations@workcover.nsw.gov.au.

Legislation

The WHS Regulation is located on the WorkCover website workcover.nsw.gov.au

List of jurisdiction contacts

Jurisdiction	Name of regulator	Telephone	Website
Commonwealth	Comcare	1300 366 979	comcare.gov.au
New South Wales	WorkCover NSW	13 10 50	workcover.nsw.gov.au
Victoria	WorkSafe Victoria	1800 136 089	worksafe.vic.gov.au
Queensland	Workplace Health and Safety Qld	1300 369 915	justice.qld.gov.au
South Australia	SafeWork SA	1300 365 255	safework.sa.gov.au
Western Australia	WorkSafe WA	1300 307 877	worksafe.wa.gov.au
Australian Capital Territory	WorkSafe ACT	(02) 6207 3000	worksafety.act.gov.au
Tasmania	Workplace Standards TAS	1300 366 322 (Inside Tasmania) (03) 62337657 (Outside Tasmania)	wst.tas.gov.au
Northern Territory	NT WorkSafe	1800 019 115	nt.gov.au/justice/worksafe

Checklists

Checklist for asbestos removal licence

- Application form is complete including a signature in the declaration.
The declaration must be signed by each individual in the partnership or unincorporated association. Copy and complete the declaration for each individual and submit with the application form.
- Fee has been submitted.
- Certified copy of registration of business name has been submitted, if applicable. Only required for new applications.
- Body corporate applicants to submit a copy of their certificate of registration (issued by Australian Securities and Investment Commission) or a certified copy of a certificate of incorporation (issued by the state/territory regulator), whichever is applicable. Only required for new applications.
- Supervisors have been nominated, if applicable.
- For each supervisor nominated, copy of the certification for the specified VET course for the supervision of asbestos removal work has been submitted. Only required when the supervisor is first nominated.
- Description of the work performed that is supported by references over a three year period for friable or class A asbestos removal licence or a 12 month period for non-friable or class B asbestos removal licence for each nominated supervisor has been submitted. Only required when the supervisor is first nominated.
- References supporting work experience may be from employers/licence holders or supervisors who are nominated supervisor for friable asbestos work for a class A asbestos removal licence application or non-friable asbestos work for a class B asbestos removal licence application. Only required when the supervisor is first nominated.
- Evidence of a certified safety management system that complies with AS4801: 2001. Only required for class A asbestos applications and renewals.

Checklist for asbestos assessor licence

- Application form is complete including a signature in the declaration.
- Fee has been submitted.
- Copy of documentation showing the successful completion of the VET course for asbestos assessor work or evidence the applicant holds a tertiary qualification has been submitted. Only required for new applications.
- The tertiary qualification must be in occupational health and safety or industrial hygiene or science or building construction or environmental health.
- Description of work experience that includes referees and their contact details has been submitted. Only required for new applications.

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