

# Questions and submission form



## How to provide us with feedback

We need to hear what you think about the proposals in the discussion document by no later than **Friday 18 July 2014**.

This submission form provides a series of tables that bring together all the questions asked throughout the discussion document, and a page reference so you can go back and look at the relevant discussion as necessary.

We know there are a lot of questions – but you don't have to answer them all if you don't want. If you only feel the need to comment on one or two areas of regulation that are relevant to you, that's OK.

However, please have a look at the general questions in Chapter 1 regardless, because these are relevant to all of the new regulations proposed in the discussion document, so we need to know what you think about them too.

Add your comments in the right hand column, and when you're finished, email it to [HSWregs@mbie.govt.nz](mailto:HSWregs@mbie.govt.nz)

Or, you can mail your submission to:

The Manager  
Health, Safety and Compensation Frameworks Policy team  
Ministry of Business, Innovation and Employment  
PO Box 3705  
Wellington 6140

Please mark the outside of the envelope with:

**Submission:** Regulations to support the new Health and Safety at Work Act

If you email us your submission, there is no need to send a hard copy by mail as well.

## Submissions will be publicly available

Your submission will be kept by the Ministry of Business, Innovation and Employment and will become public information. This means that a member of the public may request a copy of your submission from us under the *Official Information Act 1982*. Any submission summary or analysis report we create as a result of this process may also mention your submission.

Please tell us if there is any part of your submission (including your name) that you do not want to be released or included in a submission summary or analysis report. For example, you may not want members of the public knowing about something that happened to you personally.

If you do not want all or part of your submission to be released or included in an MBIE submission summary or analysis report, please tell us which parts and the reasons why. Your views will be taken into account:

- in deciding whether to withhold or release any information requested under the Official Information Act; and
- in deciding if, and how, to refer to your submission in any submission summary or analysis report we create.

## Privacy

The *Privacy Act 1993* governs how we collect, hold, use and disclose personal information provided in your submission. You have the right to access and correct this personal information.

## SUBMITTER INFORMATION

Please answer the following questions to help with our analysis of comments received from submitters.

1. Are you providing this submission: (please select one)	<input type="checkbox"/> as an individual	<input type="checkbox"/> as a representative organisation Please describe the nature and size of membership:	<input checked="" type="checkbox"/> on behalf of a group of people or a business How many people are in the group, or work in the business, that you are providing this submission on behalf of? <input type="checkbox"/> 1-5 <input type="checkbox"/> 6-19 <input type="checkbox"/> 20-49 <input type="checkbox"/> 50-99 <input type="checkbox"/> 100-250 <input type="checkbox"/> 251-500 <input checked="" type="checkbox"/> >500
2. <b>Optional</b> – Please provide your name	Auke Roelink		
3. My/our background or interest area is as a(n): (please select all that apply)	<input type="checkbox"/> employee or employee representative <input type="checkbox"/> self-employed person <input type="checkbox"/> contractor or subcontractor <input type="checkbox"/> business owner/operator <input checked="" type="checkbox"/> employer <input checked="" type="checkbox"/> person in a governance role of a business/organisation (e.g. company director, partner, chief executive) <input type="checkbox"/> researcher or academic		<input type="checkbox"/> person gaining work experience or undertaking a work trial <input type="checkbox"/> health and safety representative <input type="checkbox"/> volunteer <input checked="" type="checkbox"/> health and safety professional <input type="checkbox"/> person engaged in asbestos removal, testing, or assessment <input type="checkbox"/> process safety manager <input type="checkbox"/> health and safety legal expert <input type="checkbox"/> other interested party:
4. What type of industry are you or your business/organisation mostly associated with? (please select all that apply)	<input type="checkbox"/> Agriculture & Fishing <input type="checkbox"/> Electricity, gas, water, and waste services <input checked="" type="checkbox"/> Wholesale or Retail Trade <input checked="" type="checkbox"/> Transport & Postal Services <input type="checkbox"/> Information Media & Telecommunications <input type="checkbox"/> Financial & Insurance Services <input type="checkbox"/> Arts & Recreational services	<input type="checkbox"/> Forestry & Logging <input type="checkbox"/> Chemical Product Manufacturing <input type="checkbox"/> Accommodation & Food Services <input type="checkbox"/> Construction <input type="checkbox"/> Public Administration & Safety <input type="checkbox"/> Professional, Scientific & Technical Services <input type="checkbox"/> Rental, Hiring & Real Estate Services	<input type="checkbox"/> Mining <input type="checkbox"/> Petroleum Product Manufacturing <input type="checkbox"/> Other Manufacturing <input type="checkbox"/> Warehousing & Storage Services <input type="checkbox"/> Education & Training <input type="checkbox"/> Health care & Social Assistance <input type="checkbox"/> Administrative & Support Services <input type="checkbox"/> Other:
5. If your business is part of the supply chain for plant, substances, or structures, <b>for use in a workplace</b> , does your business: (please select all that apply)	<input type="checkbox"/> <b>Design</b> plant, substances, or structures <input type="checkbox"/> <b>Supply</b> plant, substances, or structures	<input type="checkbox"/> <b>Manufacture</b> plant, substances, or structures <input type="checkbox"/> <b>Import</b> plant, substances, or structures	<input type="checkbox"/> <b>Install, construct, or commission</b> plant or structures
6. Is your business/organisation: (please select all that apply)	<input checked="" type="checkbox"/> Rurally based: <input checked="" type="checkbox"/> Trans-Tasman	<input checked="" type="checkbox"/> Nationwide	<input checked="" type="checkbox"/> Urban based: <input checked="" type="checkbox"/> International
7. (please select any that apply)	<input type="checkbox"/> I would like my submission (or specified parts of my submission) to be kept confidential, and attach my reasons for this for consideration by MBIE <input type="checkbox"/> I would like my submission reported anonymously (i.e. without my name attached) by MBIE		

## OVERVIEW

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Qn #	Question	Pg#	Your comments/notes
1.	Do you have any comment to offer on the proposed approach to phasing the development of regulations?	15	Phasing process is logically founded and is a best fit given the time constraints.
2.	As a duty holder, do you rely on commercially-printed hard copies of regulations purchased either from Legislation Direct or selected retail outlets? Or, do you view or print off your own copies of regulations from the NZ Legislation website as needed?	16	We exclusively use internet based resources. Given we are a nationwide, trans Tasman, organisation one important factor will be consistency and longevity of webpage URL. We set up links to relevant legislation on our intranet which has, in some jurisdictions, resulted in regular, timewasting, maintenance as the department name or webpage is changed, moved, altered resulting in non-functioning links.
3.	What do you think are the relative benefits and drawbacks of either: having a single set of Health and Safety at Work regulations containing all regulatory requirements in one place; or having multiple sets of regulations each focusing on a single topic (some of which will apply to everyone, and others which will only apply to a select group of duty holders)?	16	There is a strong need to make compliance simple. It is unreasonable to expect, particularly smaller, employers to be able to identify multiple regulations and then sift through each to find the relevant sections of the regulations and then knit all of them together to get an understanding of their responsibilities. It may be fun for lawyers but it is a nightmare for employers and one of the reasons many give up and just do what they think is best.
4.	Do you have any comment to offer on the proposed approach to identifying regulatory offences?	16	No

Qn #	Question	Pg#	Your comments/notes
5.	Do you have any comment to offer on the principles for identifying which requirements of the new regulations should be infringement offences?	17	My only comment is that infringement notices should be used only when previous counselling and warnings have not worked rather than for first time offences which are the result of misunderstanding or mistake.
6.	Are there any proposed requirements in the regulations that you think should be infringement offences? Which ones, and why?	17	
7.	Do you think any of the new regulations will need an extended period of time to allow duty holders to comply (i.e. beyond when the proposed new Act and regulations first come into effect)? Which ones, and why?	18	
8.	Are there any other transitional issues that you think should be considered? Please explain.	18	

## REGULATING GENERAL RISK AND WORKPLACE MANAGEMENT

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When providing your comments, we would particularly appreciate information about the relative benefits, costs (financial or otherwise) and any other impacts of these proposals on businesses, workers or other stakeholders. This information will help us more fully understand the effects the regulations would have if introduced.

Qn #	Question	Pg#	Your comments/notes
9.	Do you have any comment to offer on the regulatory proposal about the process for managing specified risks to health and safety in the workplace? Specifically, do you have any comment on the Australian requirements for reviewing control measures, and which of them may be appropriate here?	37	Standardisation across Aust-Nz will assist trans-Tasman organisations like ours.
10.	What do you think are the main benefits and costs of this proposal? (Please quantify any impacts identified and express in dollar terms to the extent practical)	37	Cost will be transitioning current documentation into the new required format. This can be minimised if there is a transition period of say 12 months which will allow organisations to incorporate updating their documentation during their normal review process.
11.	Do you have any comment to offer on the regulatory proposal about the provision of information, training, supervision and instruction?	38	There needs to be a greater emphasis on holding workers accountable. Everyone knows it is not economically possible to have a supervisor per worker. When a worker has been inducted, trained, assessed as competent, shown to understand the task Safe Work Procedure and elected to ignore all of these and take short cuts then there MUST be some accountability on the worker. This is a MAJOR failing of all HSE Systems.
12.	Do you have any comments about the proposed regulations for general workplace facilities?	41	No
13.	Do you envisage any impacts (positive or negative) as a result of not specifically mentioning things such as controlling humidity and air velocity, over-crowding, and accommodation for agricultural workers in the proposed regulations?	41	No negative impacts. Regulation of overcrowding is enabled through the wording of the Act. This is one area where it will be useful to provide inspectors with the power to stop work should conditions be found which are below the standard that would be expected by a "reasonable person".

Qn #	Question	Pg#	Your comments/notes
14.	Do you have any comment about the regulatory proposal for the provision of first aid facilities? Does the proposal differ greatly from how you are interpreting the current requirements? Please explain.	42	This may become a cost issue where an increased number of First Aiders is required. It could be envisaged under the new legislation that ALL workers who work on their own would require First Aid training. This would add significant cost to our business. One way to circumvent this is to empower PCBUs to develop and deliver their own basic First Aid courses.
15.	Should some businesses not be subject to the requirement to develop, maintain and implement an emergency plan? If so, on what basis (e.g. business size/number or location of workers/risk type) and why?	43	The benefit of requiring an Emergency Plan for a business with 1 - 5 employees working out of a site which allows all to be within eyesight or earshot needs to be questioned. Smaller teams tend to be far more cohesive and inherently adopt different roles dependent on need at the time. BUT - Every site should have at least 1 trained evac warden
16.	Do you have any other comments to make about the regulatory proposal for emergency plans?	43	Just point everyone to AS3745. Provide businesses with a simple template they can use.
17.	Do you see any issues with including protective clothing within the definition of PPE as in the Australian model regulations?	44	No.
18.	Do you think the proposed requirements on PCBUs for the provision and use of PPE, based on the Australian model regulations, are clear and detailed enough? Please give reasons.	45	PCBUs should be responsible for ensuring PPE is provided or available were required.
19.	Do you agree with the proposed amendment to the Australian model regulations about PPE needing to be compatible with other required PPE? What is the impact of incompatible PPE in your area of work? Please give examples.	45	Yes Ear muffs and hard hats. It is often difficult to correctly wear ear muffs and hard hats at the same time. This results in hearing protection not being used or being used ineffectively.
20.	Do you think it is necessary to continue the current provisions enabling a worker to genuinely and voluntarily choose to provide their own personal protective clothing so long as this does not compromise their safety? Do you agree to broaden this out to include all PPE? Please give reasons.	45	This provision should be removed. If the option for workers to provide their own PPE is still permitted then the responsibility for the consequences of using that PPE should lay at the worker's feet, not the PCBU. An example is hearing protection. Many workers and PCBUs will not be aware that there is different classes of ear-muff which have different levels of attenuation. The simple fix - The PCBU provides the PPE



Qn #	Question	Pg#	Your comments/notes
21.	Do you agree to continue the absolute nature of the requirement on PCBU's to provide PPE to workers and other people in the workplace, and ensure it is used/worn? What are the positive/negative impacts of this? Please give your reasons.	46	PCBU's should be responsible for people under their control. They should not be required to provide PPE to a contractor who comes on site without any PPE. This should be the responsibility of the contractor's employer. Where a worker has been provided with PPE, trained in its use and instructed where to use it but chooses not to, then the responsibility for injury should fall to the worker.
22.	Do you agree to maintain the absolute nature of the provisions on workers and other people in the workplace to use/wear PPE? What are the positive/negative impacts of this? Please give your reasons.	46	There needs to be an overarching requirement for workers to comply with lawful instruction and training. Whilst this is enunciated in the legislation it is too often overlooked as regulators roll-out the "Failure to provide adequate supervision" or "failure to provide safe systems of work"
23.	Are there any other amendments that you think should be made to the new regulations relating to PPE? Please give your reasons.	47	All PPE should conform to a requisite standard.
24.	Do you support the proposal to introduce a specific requirement on PCBU's to manage risk to the health and safety of workers doing remote or isolated work? Do you think this requirement is necessary in the New Zealand context based on the meaning of remote and isolated work? Do you have examples of this kind of work in New Zealand? Please give reasons.	48	Yes. The modernisation and economic rationalisation of the workplace has resulted in many more workers working alone and in isolated areas.
25.	Are there any other amendments that you think should be made to the new regulations relating to remote or isolated work? Please give your reasons.	48	No
26.	Do you have any comments to make in relation to the regulatory proposal for managing risks from airborne contaminants? Particularly, what do you think is a reasonable timeframe for keeping records of air monitoring?	49	The timeframe of record keeping should be relevant to the contaminant and the foreseeable time it takes for deleterious effects to become evident. Asbestos - Records should be kept indefinitely. Alcohol fumes (as an example) - 1 - 2 years as there is no long term effect.



Qn #	Question	Pg#	Your comments/notes
27.	Do you think the proposed regulation for managing risks from airborne contaminants will impose any additional costs on PCBUs? Conversely, what are the benefits of this proposal? (Please quantify any impacts identified and express in dollar terms to the extent practical)	49	Costs of monitoring to the appropriate standard are high and regular monitoring requirements will multiply this cost. Cost of records maintenance is also to be considered.
28.	Do you have any comments in relation to the regulatory proposals for managing risks associated with hazardous atmospheres?	51	30 years ago people changed jobs infrequently which makes tying exposure to result relatively easy. With the increasing frequency of changing jobs in today's society it would be of benefit to develop a set of contaminants deemed hazardous and then require organisations to store the results of air monitoring in a central repository (probably govt run). This will assist in future tracking of cause and effect of contaminants.
29.	Do you think the proposed regulation for managing risks associated with hazardous atmospheres will impose any additional costs on PCBUs? Conversely, what are the benefits of this proposal? (Please quantify any impacts identified and express in dollar terms to the extent practical)	51	It will only impose costs on those organisations which currently do not manage their hazardous atmospheres. This is a good thing.
30.	Do you think New Zealand should define an atmosphere as hazardous: if the concentration of flammable gas, vapour, mist or fumes exceeds 5% of the substance's lower explosive limit (the Australian model approach), or based on the concentration of flammable gas, vapour, mist or fumes as classified by AS/NZS 60079.1.10: 2009, or other such standards?  Please give reasons, noting positive or negative effects.	51	My preference is to steer away from Standards where possible UNLESS these standards, or the relevant sections of the Standards, are FREELY made available to the PCBU.  Currently the cost of purchasing and maintaining the multiple required sets of Standards to run a modest business is many, many thousands of dollars. Requiring organisations to maintain updated Standards is not feasible and WILL lead to non-compliance.  This 1 Std alone is AUD \$488 - see link below. <a href="http://infostore.saiglobal.com/store/Details.aspx?ProductID=1137925&amp;utm_source=PDF&amp;utm_medium=Website_Infostore&amp;utm_campaign=IS-PreviewPDF">http://infostore.saiglobal.com/store/Details.aspx?ProductID=1137925&amp;utm_source=PDF&amp;utm_medium=Website_Infostore&amp;utm_campaign=IS-PreviewPDF</a>
31.	Do you have any comment to make in relation to the regulatory proposal about the storage of flammable substances at the workplace?	52	This sounds like PCBU will require a risk assessment to justify their storage levels. A simple solution.

Qn #	Question	Pg#	Your comments/notes
32.	Do you think the proposed regulation for the storage of flammable substances at the workplace will impose any additional costs on PCBU's? Conversely, what are the benefits of this proposal? (Please quantify any impacts identified and express in dollar terms to the extent practical)	52	Not if the risk assessment process supports their current practices.
33.	Do you have any comment on the regulatory proposal about managing the risk of falling objects?	53	No. It is just part of the PCBU general duty of care. I am not sure why it is singled out for special attention.
34.	Do you have any comment on the regulatory proposal about managing risks associated with hazardous containers and loose but enclosed materials?	54	No
35.	Do you have any comment on the regulatory proposal about carrying over the current provisions for young persons?	56	Does not impact our workplace
36.	How do you think regulation 61 of the current regulations relating to the use of tractors for agricultural work by 12 year olds should be transferred to the new regulations? Do you think that this exception should be removed? Please give your reasons.	57	12 year olds should not be driving tractors. It's pretty simple really. Just do a risk assessment taking into consideration their physical, mental and emotional abilities and it will come up - Extreme Risk. Young people will always be intimidated by elders and will also not have the life experience to truly evaluate risk.
37.	Do you think there should be a provision in the new regulations prohibiting people younger than 15 years of age from working in an area where hazardous substances are manufactured, handled or sold? Please give your reasons.	57	No, This would imply that there are insufficient controls in place and that exposing older workers to the risk is acceptable. Make the PCBU implement the risk controls.
38.	Do you have any comment to offer on the regulatory proposal about limited child care providers?	57	This regulation is out of place here. The intent of the Act is to consider the workplace and implications of work. It is not meant to consider the possibility of child molesters. Following the current reasoning would mean it is reasonable to incorporate the Road Traffic Act under these regulations as "work" is carried out on the road and people "may" be affected?!

## REGULATING WORKER PARTICIPATION, ENGAGEMENT AND REPRESENTATION

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When providing your comments, we would particularly appreciate information about the relative benefits, costs (financial or otherwise) and any other impacts of these proposals on businesses, workers or other stakeholders. This information will help us more fully understand the effects the regulations would have if introduced.

Qn #	Question	Pg#	Your comments/notes
39.	Do you have any comments on the proposed procedure for determining or varying work groups where there is one PCBU?	68	Is there any thought of placing a minimum workforce number in place prior to having Safety Committees and HSR? Many of our sites are 4 - 6 men operations and, whilst it is unlikely, disruptive workforce elements may "require" representation and a committee either out of mischievousness or as a shield if they are undergoing a disciplinary process. This IS what happens in the real world.
40.	Do you have any comments on the proposed process for determining work groups where there are multiple PCBUs?	69	Work groups should consist of a logical cluster, either defined by work location, proximity to each other, or similar roles.
41.	Do you have any comments on the proposed eligibility criteria for a Health and Safety representative?	69	There should be a method of quickly and cleanly removing useless HSRs.
42.	Do you have any comments on the regulatory proposals for the election process for health and safety representatives?	70	No. The proposed process is a good one.
43.	Do you have any comments on the regulatory proposal about the term of office of three years?	71	No.

Qn #	Question	Pg#	Your comments/notes
44.	Existing trained Health and Safety representatives are able to issue hazard notices – what additional training do you think is required in order for these Health and Safety representatives to issue PINs and direct unsafe work to cease, if any? Please give your reasons.	72	HSRs will need good negotiation and communication skills. Unnecessary tie is wasted where a strong-headed HSR is not prepared to discuss alternatives to ceasing work, resulting in the time required to engage an independent 3rd party.
45.	What essential content needs to be covered in training for Health and Safety representatives to have enough knowledge to effectively carry out their functions and powers? Please give your reasons.	72	Act, Regulations and examples of how these link to an organisation's procedures. Coaching skills are needed as HSRs should act as safety champions and demonstrate that it is ok to go up to a work mate and ask them to change the way they are working as it is unsafe. Safety needs to be promoted as a workplace responsibility and not a management responsibility.
46.	How do you think Health and Safety representative training should be delivered, for example online or face-to-face? Please give your reasons.	72	Training should definitely be face to face. It should require active involvement as a pre-requisite to passing and also the successful completion of a competency assessment. On-line training does not provide the benefit of discussions with other HSR from other industries/businesses.
47.	What level of experience and qualifications must the training organisation have in order to provide training for Health and Safety representatives? Please give your reasons.	72	They must have extensive commercial/industrial experience. There is no benefit in purely theoretical training taking place. HSR is not a tick the box role, it requires intelligent people with passion. Those who train HSR should be the same.
48.	What assessment should Health and Safety representatives have to undergo, if any, as part of their training to be able to exercise their powers and functions under the proposed new Act?	72	Oral - Role playing a conflict situation. Negotiation - Discussing serious issues with difficult employers which require work cessation. Written - They need to be able to accurately records details of incidents. Recording the detail of a video scenario. Written competency assessment on the basic requirements of the Act and Regs. Basics of running/participating in a safety cttee.
49.	Do you have any comments on the proposed process for Health and Safety representatives to access training and the PCBU's obligations for training?	73	Once a HSR has been trained they should be obliged to stay in the role for a minimum of 2 years. a reasonable number of HSR go to the training, do the role for 3 - 6 months and then drop out. The next HSR then goes on the course etc. This is an unreasonable expectation and financial and time burden for the employer to have to bear.

Qn #	Question	Pg#	Your comments/notes
50.	Do you have any comments on the proposed reasons for someone to cease being a Health and Safety representative or the process for workers to remove a Health and Safety representative from office?	74	Breaching safety rules should lead to a sanction as they should be PROMOTING safe work. As above, once trained there should be a "no resignation" period. For demonstrable vexatious or mischevious behaviour causing workplace disruption. eg unionism under the guise of safety.
51.	Do you have any other comments on the regulatory proposals for Health and Safety representatives?	74	Organisations should be able to dismiss a standing requirment to have a HSR if the standing HSR steps down and no-one else comes forward.
52.	Do you think PCBUs must be required to appoint at least one person to the Health and Safety committee who has delegated authority to make decisions on health and safety matters? Please give your reasons.	75	Yes. Otherwise the committee becomes a pointess exercise and workers will see this and, in turn, their committment to safety will decrease accordingly.
53.	Do you have any comments on the proposed regulations regarding Health and Safety committees?	76	Regulations needs to allow organisational flexibility. As an example, our organisation has 90 sites spread across NZ. If each has a HSR and each HSR is to attend a safety cttee mtg 4 times per year the cost would be prohibitive. There needs to be consideration given to getting involvement by means other than physical attendance. Be this phone hook-up, video conferencing. Then there is the issue of taking a head out of a 4 man location for 2 days, allowing for travel, which places increased pressure, and risk, on the remaining employees at the site.
54.	Do you have any comments on the proposed situations where an inspector may make a final decision about a matter? Please give your reasons.	77	Inspectors should be used as mediators, not decision makers.
55.	Do you have any further comments that you would like to make on the regulating of worker participation?	77	It is important that the Regulations support participation where employees are committed to the process rather than introduce requirements where one or some of the parties are only tokenly committed.

## REGULATING WORK INVOLVING ASBESTOS

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When providing your comments, we would particularly appreciate information about the relative benefits, costs (financial or otherwise) and any other impacts of these proposals on businesses, workers or other stakeholders. This information will help us more fully understand the effects the regulations would have if introduced.

Qn #	Question	Pg#	Your comments/notes
56.	Is the approach of a general prohibition with exceptions the best means of restricting work with asbestos in New Zealand workplaces? Do you consider it would be more effective than the current New Zealand system? What would be the implications of this approach for people that current deal with asbestos?	85	As the risks associated with asbestos become more apparent and the seeds sown many years ago now ripen into a tide of people suffering a slow, painful death the need to strictly control the use, management and disposal of asbestos is urgent. Current NZ legislation is too lax and needs to be revised, taking benefit from other jurisdictions and then further tightened to make NZ the leader in asbestos management.
57.	Is the definition of “work involving asbestos” comprehensive and consistent with the definition in the current regulations?	85	Reword second bullet point to state: work involving the demolition or maintenance of any object, structure or component, containing asbestos. There are many, many pieces of equipment in NZ which contain friable asbestos in their gaskets etc. These must be accounted for. The original wording places unnecessary emphasis on buildings.
58.	Is the list of exempt activities contained in the Australian model regulations appropriate for New Zealand?	86	DIY work involving asbestos and banning of asbestos containing materials should be included in the same environmental legislation. Many homeowners are unaware of the danger they place themselves and their families in. This should be addressed legislatively.
59.	Is there a date from which it can be assumed that asbestos is not present in workplaces and from which plant or structures installed after that date could be exempted from the regulations?	86	There is no current date as there are still asbestos containing products entering the country!
60.	What are the foreseeable situations where WorkSafe NZ could approve “methods adopted for managing risk associated with asbestos”?	86	Where an organisation wishes to utilise an alternative method for managing the risk associated with asbestos they should be required to submit their business/risk mitigation case to be assessed by an expert panel. If successful a one-shot permit should be provided which contains the strict requirements that must be adhered to.

Qn #	Question	Pg#	Your comments/notes
61.	Do you support the imposition of a broad duty on all PCBU's at a workplace to eliminate the exposure of persons at the workplace to asbestos, and where this is not reasonably practicable to not exceed a workplace exposure standard? What would be the practical effect of introducing this duty?	87	Yes. Less asbestos related deaths.
62.	Should the same standard be adopted for chrysotile (white asbestos) as for crocidolite and actinolite and the exposure standard brought into line with those of the Australian and United Kingdom jurisdictions?	88	Yes.
63.	Should the exposure standard be specified in the new regulations themselves, or in an approved code or other instrument?	88	The exposure standard should form part of an easily reviewable document which is easily accessible. It is likely that as knowledge about asbestos improves the exposure levels will change. The process to enforce this should be the simplest one available.
64.	Should the distinction between friable and non-friable asbestos in the current regulations be removed and the Australian approach of requiring the same processes for all asbestos or asbestos-containing materials be adopted for New Zealand?	89	Yes - We should standardise to the most stringent level.
65.	How should the new regulations define a "competent person" to determine/assess whether or not asbestos or asbestos-containing material is present in a workplace?	89	A person who has both the educational underpinning knowledge combined with a set amount of experience in the identification and handling/management of asbestos containing materials. An educational foundation must be required as a minimum.
66.	Should an asbestos register, or statement of the non-existence of asbestos, be required for every workplace or potential workplace (including residential properties under the management or control of PCBU's) in New Zealand? What is the burden of compliance likely to be, and is the compliance burden justified?	90	Yes. The burden of compliance will be high initially but is required to get the current environment under control. Through implementing the Australian requirements into our NZ operations it has been alarming to find the lack of understanding, and consequent poor management, of asbestos in NZ. It only takes 1 fibre.



Qn #	Question	Pg#	Your comments/notes
67.	Is a workplace asbestos register best addressed for all types of workplaces under health and safety regulations, or would some, such as residential premises, be better addressed through another regulatory regime, such as under the Building Act 2004?	90	All premises in NZ should have to have a register. This will assist in protecting the population by increasing their awareness.
68.	Should the new regulations contain a requirement for a written Asbestos Management Plan in all cases? Are there some workplaces that could be dealt with by specific regulatory requirements or "rules" for types of work involving asbestos?	91	There should be a "base requirement" document which would apply to sites where asbestos is in low risk use, such as inside fore doors, or in switchboards. This document could then be appended to incorporate areas of greater risk. The review cycle for Management Plans should be linked to risk. Low risk sites, as mentioned above, could have a 10 year review whilst high risk site could be required to undertake an annual or biennial review. This would also accelerate the process of encouraging organisations to more effectively manage, or remove, asbestos in their workplaces,
69.	Is there additional guidance that New Zealand workplaces would need to develop their asbestos management plans that is not available from Australia, or are there significant differences in terms of risk or practices that should be considered in developing the new regulations?	91	There appear, from our exposure, to be a far greater prevalence of friable asbestos containing product in NZ. The development of comprehensive educational materials, incorporating examples, would be very beneficial.
70.	Is the process for the management of asbestos and associated risks set out in part 8.4 of the Australian model regulations as described above appropriate in a New Zealand context?	91	Where NOA is present in a fixed location, such as a vein in rock, then this should be clearly marked and incorporated into a register. Particularly important in underground mining where there is limited air movement etc.
71.	What level of accreditation is required for New Zealand laboratories, and what expertise and infrastructure would need to be in place to support an appropriate level of accreditation? Does this currently exist?	91	NATA to ISO/IEC 17025
72.	New Zealand has limited naturally-occurring asbestos deposits. Are provisions concerning such deposits necessary in the new regulations?	91	Yes

Qn #	Question	Pg#	Your comments/notes
73.	Are the proposed health monitoring requirements for workers carrying out asbestos removal work or asbestos related work adequate? What changes, if any, will be needed to implement them in New Zealand?	92	Health monitoring of workers should be mandatory and ongoing, given the long gestation time of mesothelioma.
74.	Are the proposed training requirements for workers carrying out asbestos removal work or asbestos related work adequate? What institutional and other resources, if any, will be needed to implement them in New Zealand?	92	The training needs to be more stringent than that in Australia.
75.	Is the proposed prohibition on the use of high pressure water sprays or compressed air equipment on asbestos or asbestos-containing material, and the requirement for controls on power tools, brooms and other implements used on asbestos appropriate? Do the new provisions reflect New Zealand practice?	93	These are necessary to prevent the liberation of fibres.
76.	Should the new regulations prescribe a mandatory process to identify and manage asbestos hazards in the demolition and refurbishment of all structures and plant? Is the process in the Australian model regulations and effective way of identifying and managing the risk? How much would this differ from current New Zealand practice?	93	Yes. An assessment prior to any demolition of any building should be mandatory.
77.	Should the duty to identify and remove asbestos in workplaces that are residential premises rest with the PCBU that has been commissioned to do the work?	94	No. This will open the gates for unscrupulous operators. The owners of the residence should be required, as part of the council planning process, to provide an assessment completed by an approved contractor. This would then be passed onto the PCBU. The statement, "This is consistent with our understanding of where the expertise is likely to be found, and best sits with regard to work on housing that is commissioned by homeowners and others." is naive. The average carpenter is unlikely to know all the different types of asbestos.

Qn #	Question	Pg#	Your comments/notes
78.	In the absence of a date where asbestos and asbestos-containing material were banned from importation and use in New Zealand, is there a date after which structures or plant were built or installed from which they should be exempt from the process requirements?	94	Sadly not. NZ needs to ban ACM imports immediately.
79.	Are the requirements for asbestos removal set out in part 8.7 appropriate for New Zealand? And what new capacity or infrastructure would be needed to support them?	95	PArt 8.7 is an improvement on the current NZ system. It could be further enhanced by requiring contractors to lodge work plans with local MoBIE offices and then have random audits conducted to ensure compliance. This would be a step ahead of current Australian practice.
80.	Does the 10 square metre exemption create an appropriate threshold for the use of a licensed asbestos removalist? If not, is there an alternative means of exempting small-scale or "de minimis" asbestos removal work? If it is, are there ways of ensuring the exemption is not exceeded?	96	All workplace asbestos removal should be carried out by licensed persons only. It is the size of the fibre that kills, not the size of the piece of asbestos sheet. It is incomprehensible to assume that it is "safe" to remove asbestos up to X square metres. If it is permissible to remove 10 square metres, do you realistically expect a PCBU under cost and time pressures to engage a licensed contractor to remove 11 square metres?
81.	What information should be provided to regulator on notification of asbestos removal work?	96	Removal should take on the air of a permit. That is work is documented to, and can only, occur at a prescribed time. Address, Date of work, time of work, plan, monitoring regime, number of workers, license number of each worker, laboratory details for monitoring, quantity, methods, risk assessment, waste disposal process and location.
82.	What level of ITO or other training should be required for asbestos removal license holders and removal workers for the two classes of licensed asbestos removal work?	96	There should only be one level, the most stringent, of license. This minimises risk and avoids mis-understanding of requirements.
83.	Should there be a link between licensing and the appropriate disposal of asbestos waste?	96	All disposal should be as per Australian Class A requirements.
84.	Is there currently the industry capability to provide for licensed asbestos removalists?	96	I hope so !

Qn #	Question	Pg#	Your comments/notes
85.	Is it appropriate that businesses, as distinct from individuals, are licensed?	96	No. The individual workers should be licensed. This will reduce the current situation where poorly educated workers with little understanding of the risks involved are used in removal work. And to get a license should require serious training. This is a high risk task and should be treated accordingly
86.	Should there be a requirement to have an asbestos removal supervisor always present during class A work and available for class B work?	96	There should only be one class of work requiring a Supervisor present at all times. This requirement could possibly be reduced if, as in ans 85, we improve the training and calibre of workers.
87.	What level of qualification is appropriate for licensed asbestos assessors?	96	See answer to Qu65
88.	How should a PCBU be able to determine if asbestos is being assessed by a "competent person"?	97	Asbestos assessors should be licensed
89.	Should a clearance certificate be required in all cases of asbestos removal, or is there scope for the issuing of exemptions?	97	All cases. And the clearance certificate should not allow limitations. As an example: After having an asbestos roof removed the provided clearance certificate cleared the site with the limitation "High level areas not assessed" Totally ridiculous.
90.	What would the expected demand be for independent licensed assessors to meet these requirements? And what will be necessary for the regulator and asbestos removal industry to meet this demand?	97	There will be an increased demand. This requires an up-step in quality and qty of training.
91.	Does the membrane filter method provide the best means of air monitoring for class A asbestos removal work?	97	I do not know. The best process available should be used.
92.	Are the thresholds of 10 percent and 20 percent of the workplace exposure standards for asbestos dust appropriate for the investigation and review and ceasing of class A asbestos removal work respectively?	97	Yes. This should cause immediate cessation of work and initiate a contingency process to reduce fibre counts.

Qn #	Question	Pg#	Your comments/notes
93.	Should class A asbestos removal work apply to the removal of all occurrences of friable asbestos and asbestos-containing dusts above minimum quantities? Are there other situations in New Zealand workplaces or residential premises that it should apply to?	98	Class A should apply to everything.
94.	Are the steps required for the removal of friable asbestos in the regulations appropriate in a New Zealand context? Having considered the materials in support of the Australian model regulations, what additional guidance or resources would be required in New Zealand?	98	There appears to be far greater exposure to friable asbestos in NZ (from my experience) This is the basis for my view that all work be classified under Class A rules
95.	Is the list of asbestos-related work (as defined by the exemptions to the prohibition on work involving asbestos) comprehensive enough for New Zealand?	98	There should be no exemptions
96.	Are the minimum standards for asbestos-related work contained in part 8.9 of the Australian model regulations suitable for the asbestos-related work carried out in New Zealand?	99	Air monitoring should be mandatory for all asbestos repair/removal
97.	Are the requirements and processes for the licensing of asbestos removalists suitable for the New Zealand industry and workplaces?	100	Each person handling asbestos during the removal process should be licensed. Once the asbestos is securely wrapped and contained for disposal can it be handled by unlicensed workers (such as lorry drivers.)

Qn #	Question	Pg#	Your comments/notes
98.	Are the requirements and processes for the licensing of asbestos assessors suitable for the New Zealand industry and workplaces?	100	No, There needs to be more rigid regulation.
99.	Is there an agency, other than WorkSafe NZ, that is most suited to the maintenance of the licensing regime in New Zealand? Or should the regime be operated by the regulator?	100	Operated by the Regulator. Too many outsourced operations find themselves cutting corners as they focus on return on investment. This cannot be allowed to happen in this situation.
100.	Would the asbestos removal industry and supporting infrastructure be able to meet the new requirements?	100	They must be forced to. a 12 month transition period would assist this. If they have not transitioned in 12 months they should be required to hand back their license.
101.	What, if any, requirements are superfluous, or are missing from the licensing process?	100	
102.	Are the qualifications and experience required for each category of licence in the Australian model regulations suitable for the New Zealand industry?	100	There should only be one class of license equivalent to Class A and then a higher level license for an assessor.
103.	Should any further terms be defined in the new regulations?	101	no

## REGULATING WORK INVOLVING HAZARDOUS SUBSTANCES

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When providing your comments, we would particularly appreciate information about the relative benefits, costs (financial or otherwise) and any other impacts of these proposals on businesses, workers or other stakeholders. This information will help us more fully understand the effects the regulations would have if introduced.

Qn #	Question	Pg#	Your comments/notes
104.	Do you have any comments in relation to the regulatory proposal requiring a PCBU to prepare and maintain an inventory of hazardous substances?	110	No.
105.	Given that this proposal seeks to codify existing good practice, do you think the proposed regulation, requiring a PCBU to prepare and maintain an inventory of hazardous substances, will impose any additional costs on PCBUs? Conversely, what do you think are the main benefits of this proposal? (Please quantify any impacts identified and express in dollar terms to the extent practical).	111	<p>This will only impose costs for initial setting up of inventories. Cost will be proportional to qty of hazardous substances held so it is difficult to quantify.</p> <p>In our case the initial set up was approximately 4 hours per site - so it would be reasonable to say \$400/site.</p>
106.	Do you have any comments in relation to the proposed regulations setting out processes and considerations for managing the risks to health and safety associated with using, handling, generating or storing a hazardous substance at a workplace?	112	



Qn #	Question	Pg#	Your comments/notes
107.	Given that employers are currently required to manage significant hazards in accordance with sections 8 – 10 of the HSE Act, do you think that the proposed processes and considerations for managing the risks to health and safety associated with hazardous substances will impose any additional costs on PCBU's? Conversely, what do you think are the main benefits of this proposal? (Please quantify any impacts identified and express in dollar terms to the extent practical).	113	
108.	Do you have any comment to make about the regulatory proposal to transfer the requirements of the Classes 1 to 5 Controls regulations and parts of the Dangerous Goods and Scheduled Toxic Substances transfer notice into the new regulations?	113	
109.	Do you think there are any immediate improvements that should be made to the controls on class 1 to 5 substances that are being transferred into the new regulations before the review is carried out?	113	
110.	Do you have any comment to make about the regulatory proposal to transfer the requirements of Schedules 4, 5 and 6 of the HSNO Fireworks, Safety Ammunition, and Other Explosives Transfer regulations into the new regulations?	114	
111.	Do you think there are any immediate improvements that should be made to the controls on fireworks, safety ammunition, and other explosives that are being transferred into the new regulations before the review is carried out?	114	

Qn #	Question	Pg#	Your comments/notes
112.	Do you have any comment to make about the regulatory proposal to transfer regulations 7 – 10 and 29 and 30 of the HSNO Classes 6, 8 and 9 Controls regulations into the new regulations?	115	
113.	Do you think there are any immediate improvements that should be made to the controls on class 6 and 8 substances that are being transferred into the new regulations before the review is carried out?	115	
114.	Do you think that workplaces storing classes 6.1A, 6.1B, and 6.1C (substances that are acutely toxic) and class 6.7A (substances that are known or presumed human carcinogens) should be required to establish a hazardous substance location and obtain a test certificate for that location?	115	
115.	Do you have any comment to make about the regulatory proposal to transfer the requirements of Schedules 2 and 3 of the HSNO Fumigants transfer notice into the new regulations?	115	
116.	Do you think there are any immediate improvements that should be made to the controls on fumigants that are being transferred into the new regulations before the review is carried out?	116	
117.	Do you have any comment to make about the regulatory proposal to require a PCBU to ensure that a hazardous substance used, handled or stored at the workplace is correctly labelled in accordance with the HSNO Identification regulations (8 to 30, 32 and 33) and the HSNO Emergency Management regulations (8 to 10)?	116	

Qn #	Question	Pg#	Your comments/notes
118.	Do you think there are any other immediate improvements that should be made to workplace labelling requirements?	116	
119.	Do you have any comments in relation to the proposed regulations requiring a PCBU to obtain and make available the current safety data sheet for a hazardous substance?	118	
120.	Do you think the proposed regulations, requiring a PCBU to obtain and make available the current safety data sheet for a hazardous substance, will impose any additional costs on PCBUs? Conversely, what do you think are the main benefits of this proposal? (Please quantify any impacts identified and express in dollar terms to the extent practical).	118	
121.	Do you have any comment to make about the regulatory proposal to transfer the existing signage requirements set out in the HSNO Identification regulations (51 and 52), and Emergency Management regulations (42) into the new regulations and merge into a single obligation?	118	
122.	Do you think there are any immediate improvements that should be made to the signage requirements that are being transferred into the new regulations before the review is carried out?	119	
123.	Do you have any comment to make about the regulatory proposal to transfer the requirements of the HSNO Compressed Gases regulations into the new regulations?	119	

Qn #	Question	Pg#	Your comments/notes
124.	Do you think there are any immediate improvements that should be made to the requirements for the design, manufacture, verification, testing, and filling of compressed gas containers that are being transferred into the new regulations before the review is carried out?	119	
125.	Do you have any comment to make about the regulatory proposal to transfer the requirements of the HSNO Tank Wagons and Transportable Containers regulations into the new regulations?	119	
126.	Do you think there are any immediate improvements that should be made to the requirements applying to tank wagons and transportable containers regulations that are being transferred into the new regulations before the review is carried out?	120	
127.	Do you have any comment to make about the regulatory proposal to transfer Schedule 8 of the HSNO Dangerous Goods and Scheduled Toxic Substances transfer notice into the new regulations?	120	
128.	Do you think there are any immediate improvements that should be made to the requirements applying to stationary container systems that are being transferred into the new regulations (before the review is carried out)?	120	
129.	Do you have any comment to make about the regulatory proposal to transfer the HSNO Exempt Laboratories regulations into the new regulations?	120	

Qn #	Question	Pg#	Your comments/notes
130.	Do you think there are any immediate improvements that should be made to the requirements applying to laboratories that are being transferred into the new regulations before the review is carried out?	120	
131.	Do you have any comment to make about the regulatory proposal to transfer the HSNO Tracking regulations (excluding regulation 4(2)) into the new regulations?	121	
132.	Do you think there are any immediate improvements that should be made to the tracking requirements that are being transferred into the new regulations before the review is carried out?	121	
133.	Do you have any comment to make about the regulatory proposal to transfer the existing emergency preparedness requirements set out in the HSNO Emergency Management regulations (21 – 41) into the new regulations?	122	

Qn #	Question	Pg#	Your comments/notes
134.	Do you have any comment to make about the regulatory proposal that an emergency response plan, or any part of an emergency response plan, could be part of any other management documentation for an emergency whether — required by the general risk and workplace management regulations made under the proposed new Act; or required by some other Act; or undertaken by a PCBU for some other reason?	122	
135.	Do you have any comment to make about the regulatory proposal that an operator who is required to prepare an emergency plan for a major hazard facility in accordance with new regulations covering major hazard facilities would not be also required to prepare an emergency plan by the new regulations covering work involving hazardous substances?	122	
136.	Do you have any comment to make about the regulatory proposal to require a PCBU to revise their emergency response plan, if the Fire Service makes a written recommendation about the content or effectiveness of the plan?	123	
137.	Do you think that we should retain the current prescriptive list of matters to be addressed in an emergency plan (as set out in regulations 29 and 30 of the HSNO Emergency Management regulations) or should we adopt the more flexible list of matters used in Australia (regulation 43 of the Australian model regulations)? Why/why not?	123	

Qn #	Question	Pg#	Your comments/notes
138.	Do you think that we should retain the current prescriptive set of requirements in relation to fire extinguishers (as set out in regulations 21 – 24 of the HSNO Emergency Management regulations) or should we adopt the more performance-based requirements used in Australia (regulations 359 and 360 of the Australian model regulations)? Why/why not?	123	
139.	Do you think there are any immediate improvements that should be made to the emergency preparedness requirements that are being transferred into the new regulations before the review is carried out?	123	
140.	Do you have any comment to make about the regulatory proposal to revoke the existing approved handler requirements and replace with duties in relation to the provision of information, training, instruction, and supervision?	127	
141.	Do you think the proposal to revoke the existing approved handler requirements and replace with duties in relation to the provision of information, training, instruction, and supervision will impose any additional costs on PCBU's? Conversely, what do you think are the main benefits of this proposal? (Please quantify any impacts identified and express in dollar terms to the extent practical)	127	



Qn #	Question	Pg#	Your comments/notes
142.	Do you have any comments in relation to the proposed regulation requiring a PCBU to carry out workplace exposure monitoring where it is necessary to determine the efficiency and effectiveness of measures introduced to control exposure to substances hazardous to health?	129	
143.	Do you have any comments in relation to the proposed regulations for establishing health monitoring for any worker who may be exposed to a substance hazardous to health?	129	
144.	Given that employers, in accordance with sections 10(2) of the HSE Act, are currently required to monitor an employee's exposure to significant hazards (i.e. substances hazardous to health) and, with informed consent, monitor the employee's health, do you think that the proposed regulations for carrying out workplace exposure monitoring and establishing health monitoring will impose any additional costs on PCBUs? (Please quantify any impacts identified and express in dollar terms to the extent practical)	130	

## REGULATING MAJOR HAZARD FACILITIES

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When providing your comments, we would particularly appreciate information about the relative benefits, costs (financial or otherwise) and any other impacts of these proposals on businesses, workers or other stakeholders. This information will help us more fully understand the effects the regulations would have if introduced.

Qn #	Question	Pg#	Your comments/notes
145.	Do you have any comment to make on the proposed definitions?	137	
146.	Do you have any comments on the types of facilities that are proposed in scope or are proposed to be out of scope?	138	
147.	Do you have any comments on the proposed notification process?	139	
148.	Do you have any comments on the proposed review procedure?	141	
149.	Do you have any comments on the proposed process for establishing the suitability of the facility operator or the proposed process for notification by new operators?	142	
150.	Do you have any comments on the proposed threshold quantities for individual hazardous substances or categories of hazardous substances?	148	

Qn #	Question	Pg#	Your comments/notes
151.	Do you agree with the proposed threshold calculation? Why/why not?	148	
152.	Do you have any comment(s) on the proposal to require operators to carry out a formal safety assessment for the operation of a major hazard facility?	150	
153.	Do you have any comments on the proposal to require operators to establish and implement a safety management system for the operation of a major hazard facility?	151	
154.	Do you have any comments in relation to the matters that would need to be included in an emergency plan?	153	
155.	Do you have any comments in relation to the proposal that would require an operator to consult with the local council, when preparing an emergency plan, in relation to the off-site health and safety consequences of a major accident occurring?	154	
156.	Do you have any comments in relation to the proposal that would require an operator to provide a copy of the emergency plan to every person identified in the plan as being responsible for executing it (or a specific part of it) and to every emergency service provider?	154	
157.	Do you have any comments in relation to the proposal that would require an operator to test their emergency plan at least every 12 months in order to demonstrate that every procedure or action in the plan is workable and effective?	154	

Qn #	Question	Pg#	Your comments/notes
158.	Do you have any comments in relation to the proposal that would require an operator to test their emergency plan within 3 months of any change to the persons, procedures, or actions specified in the emergency plan in order to demonstrate that the changed persons can perform their functions under the plan and each changed procedure or action is workable and effective?	154	
159.	Do you have any comments on the proposal to require operators of proposed major hazard facilities to send a design notice to WorkSafe NZ after initial design for the facility has been completed and before making a final investment decision?	155	
160.	Do you have any comments in relation to the particulars that would need to be addressed by a design notice?	155	
161.	Do you have any comments on the proposal that would require the operator of a proposed facility to provide WorkSafe NZ with a completed safety case at least six months before commencing operations at the facility?	159	
162.	Do you have any comments on the safety case process including comments in relation to the information that a safety case should contain or the proposed safety case assessment process?	159	

Qn #	Question	Pg#	Your comments/notes
163.	Do you have any comments on the proposal that WorkSafe NZ would have power to withdraw acceptance of a safety case?	159	
164.	What do you estimate to be the benefits of the proposal, in terms of avoided costs associated with a major accident? (Please quantify these impacts and express in dollar terms to the extent practical.)	159	
165.	Do you have any comments in relation to the proposal to require operators to review and as necessary revise the safety assessment, emergency plan, safety management system, and safety case?	160	
166.	Do you have any comments on the proposal to require operators to provide the local community and the council (for the district in which the major hazard facility is located) with information about the facility, its operations, how the community would be notified if a major accident occurs, and what the community should do if a major accident occurs?	161	

Qn #	Question	Pg#	Your comments/notes
167.	Do you have any comments in relation to the proposal to require operators to notify WorkSafe NZ of dangerous incidents?	162	
168.	Do you have any comments on the proposal to require an operator to implement a safety role for the workers at a major hazard facility?	163	
169.	Do you have any comments on the proposal to require an operator to consult with workers at the facility in relation to the implementation of the workers' safety role at the facility?	163	
170.	How should coordination between councils and WorkSafe NZ be encouraged in relation to potential major hazard facilities and developments in the vicinity of existing major hazard facilities?	164	