

Seacare Authority Consultation paper – Manual Handling

Consultation period finishes **Tuesday, 30 September 2008**

Purpose

1. The purpose of this paper is to seek comments from employers / operators, employees and other stakeholders on proposed amendments to Part 3 'Manual Handling' of the *Occupational Health and Safety (Maritime Industry)(National Standards) Regulations 2003* (the regulations), which regulate manual handling tasks performed by seafarers.
2. The proposed amendments are to implement the new *National Standard for Manual Tasks* (the National Standard) in the Seacare jurisdiction.

Background

3. Every year in Australia approximately 41% of claims for compensation are due to injuries at work from manual handling. Statistics for the Seacare jurisdiction appear to reflect this trend. Over the period 2003-04 to 2007-08 accepted workers compensation claims due to body stressing injuries, as a result of manual handling tasks at work, ranged between 35% and 42% of claims.
4. The current Seacare regulations are based on the former *National Standard for Manual Handling [NOHSC: 1001(1990)]*. The object of the regulations are to prevent the occurrence of injury, and reduce the severity of injuries, resulting from manual handling tasks; and to require employers to identify, assess and control risks arising from manual handling tasks. The regulations incorporate specific detail of relevance to the maritime industry, including:
 - limitations to the degree of flexibility in workplace design due to ship design requirements;
 - some restrictions in alternative approaches because of workplace layout;
 - dynamic considerations and the fact that the workplace is a moving platform; and
 - the body of international obligations (through the International Maritime Organisation) that govern ship operations.
5. The regulations are supported by the former *Approved Code of Practice for Manual Handling (Maritime Industry) 2006*, based on the *National Code of Practice for Manual Handling [NOHSC: 2005(1990)]*.
6. In August 2007, a new national standard and new national code of practice for manual tasks were declared by the Australian Safety and Compensation Council (ASCC). The *National Standard for Manual Tasks (2007)* (national standard) and the *National Code of Practice for the Prevention of Musculoskeletal Disorders from Performing Manual Tasks at Work (2007)* (national code) can be found on the ASCC website at www.ascc.gov.au/ascc/HealthSafety/OHSstandards. The ASCC recommends that jurisdictions implement the national standard and national code by August 2009.
7. The national standard was endorsed by the Workplace Relations Ministers Council (WRMC) on 23 May 2008.

Issues

8. The Seacare Authority is committed to the implementation of the national standard and national code to ensure national consistency with other jurisdictions and so align Seacare with best practice. To do this the Seacare Authority needs to seek the agreement of the Minister for Employment and Workplace Relations to proposed amendments to the current manual handling regulations and to the development of a new code of practice.
9. In developing amended regulations and a new code the existing detail and information relevant to the Australian maritime industry in the current regulations and code will be taken into account. Key features of the proposed amended regulations * (detailed in **Attachment A**) are set out below. [* Please note that the actual wording of the amendments might vary from that proposed as the final wording will depend in part on how the regulations are drafted by the Office of Legislative drafting and Publishing (OLDP)].

Change from 'Manual Handling' to 'Manual Tasks'

10. The current regulations define manual handling as 'an activity requiring the use of force exerted by a person to lift, lower, push, pull, carry or otherwise move, hold or restrain any person, animal or thing'. The new national standard replaces the term 'Manual Handling' with 'Manual Tasks'. This change in terminology reflects best practice and recognises work-related musculoskeletal disorders (MSD)s, which includes occupational overuse syndrome (OOS) and a range of other body stressing injuries which result from manual tasks undertaken at work.
11. Manual tasks means 'a task comprised wholly or partly by any activity requiring a person to use his or her musculoskeletal system in performing his or her work and can include the use of force for lifting, lowering, pushing, pulling, carrying or otherwise moving, holding or restraining any person, animal or item'

Application and Requirements

12. The proposed amended regulations will apply to operators, employees and workplaces under the operator's control in relation to: an injury or disease of the musculoskeletal system that arises in whole or in part from undertaking manual tasks in the workplace, whether occurring suddenly or over a prolonged period of time, but does not include an injury or disease which is caused by crushing, entrapment or cutting resulting from the mechanical operation of plant or other equipment.

Interpretation of new national standard

13. The new standard provides for duties of a 'designer', however designers are not duty holders under the *Occupational Health and Safety (Maritime Industry) Act 1993* (the OHS(MI) Act). Therefore, duties are not able to be placed on designers in the proposed amendments to the regulations.
14. 'Duties of a person with control' under the new standard are taken to mean 'Duties of the operator' for the purposes of the proposed amendments to the regulations.
15. 'Duties of workers' is taken to mean 'Duties of employees' for the purposes of the proposed amendments to the regulations.

16. References to the term 'item', in relation to manufacturers and suppliers, has been replaced with 'plant or substance', for the purposes of the proposed amendments to the regulations.

Recommendations

17. Seacare Authority proposes that:

- Part 3 'Manual Handling' of the current regulations be amended to implement the key requirements of the new national standard as per **Attachment A**; and
- the title of the regulations be changed to 'Manual Tasks'; and
- the regulations are supported by a new code of practice and the development of supporting guidance material based on the new national code of practice.

Invitation for comments

18. Seacare Authority is committed to improving the health and safety of employees in the Seacare jurisdiction and engaging stakeholders in the process of achieving that improvement.

19. Employers / operators, employees and other stakeholders in the Commonwealth jurisdiction are encouraged to participate in this consultation process and to provide comments (see **Attachment B**). Comments, preferably using the comment form provided, should be submitted to the Seacare Management Section of Comcare **before close of business on Tuesday 30 September 2008**.

20. The Seacare Authority will continue to liaise with stakeholders to discuss the safety requirements to be included in the regulations and issues for implementation including the development of a code of practice and guidance material.

21. For further information, please contact David Bonny (Assistant Director, Seacare Management Section) by phone on (02) 6275 0087 or email at david.bonny@comcare.gov.au.

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for

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1 September 2008

Proposed amendments to Part 3 ‘Manual Handling’ of the Occupational Health and Safety (Maritime Industry)(National Standards) Regulations 2003

***Changed* Part 3 Manual Tasks**

Division 1 Introduction

3.01 Object of Part 3

Updated The object of this Part is:

- ~~(a) to prevent the occurrence of injury, and reduce the severity of injuries, resulting from manual handling tasks; and~~
- (a) to reduce the incidence and severity of musculoskeletal disorders to workers performing manual tasks.
- (b) to require ~~employers~~ operators to identify, assess and control risks arising from manual ~~handling~~ tasks in workplaces.

***Changed* 3.02 ~~Definition of manual handling~~ Interpretation**

In this Part:

New *Hazardous manual task* means

- (a) a manual task having any of the following characteristics:
 - (i) repetitive or sustained application of force;
 - (ii) repetitive or sustained awkward posture;
 - (iii) repetitive or sustained movement;
 - (iv) application of high force;
 - (v) exposure to sustained vibration;
- (b) a manual task involving the handling of a person or an animal; or
- (c) a manual task involving the handling of unstable or unbalanced loads or loads which are difficult to grasp or hold.

Replace ~~*Manual handling* means an activity requiring the use of force exerted by a person to lift, lower, push, pull carry or otherwise move, hold or restrain any person, animal or thing.~~

New *Manual task* means a task comprised wholly or partly by any activity requiring a person to use his or her musculoskeletal system in performing his or her work and can include the use of force for lifting, lowering, pushing, pulling, carrying or otherwise moving, holding or restraining any person, animal or item.

New *Musculoskeletal disorder (MSD)* means an injury or disease of the musculoskeletal system that arises in whole or in part from undertaking manual tasks in the workplace, whether occurring suddenly or over a prolonged period of time, but does not include an injury or disease which is caused by crushing,

entrapment or cutting resulting from the mechanical operation of plant or other equipment.

New *System of work* includes any of the following:

- (a) work processes;
- (b) work practices; and
- (c) work methods.

New *Use* means the act of handling or interacting with any item, system of work or workplace in the course of performing a manual task.

Changed **Division 2 Duties of an employer operator**

Changed **3.03 Duties of an employer operator – general**

New () An operator must take all reasonably practicable steps to ensure the health and safety of their employees and other persons at or near a workplace under their control. To discharge this duty, an operator must identify hazardous manual tasks that may give rise to musculoskeletal disorders, assess the risks posed by hazardous manual tasks and eliminate or minimise the risks.

Employees and other persons at a workplace

Updated (1) An employer operator that controls a workplace must ensure that:

- (a) the plant and the containers used at the workplace are designed, constructed and maintained to be without risk to health and safety when manually handled undertaking manual tasks; and
- (b) the work systems involving manual handling tasks carried out at the workplace are designed to be without risk to health and safety for the purpose of undertaking manual handling tasks; and
- (c) the working environment of the workplace is designed to allow the safe performance of manual handling tasks.

Employees at work

Updated (2) An employer operator under whose control an employee performs work must ensure that:

- (a) the plant and the containers used at the workplace are designed, constructed and maintained to be without risk to health and safety when manually handled undertaking manual tasks; and
- (b) the work systems involving manual handling tasks carried out by the employee are designed to be without risk to health and safety for the purpose of undertaking manual handling tasks; and
- (c) the working environment of a place at which the employee performs work is designed to allow the safe performance of manual handling tasks.

Updated (3) It is a defence to a prosecution for an offence against subregulation (1) or (2) if the ~~employer~~ operator complied with the subregulation as far as reasonably practicable.

Updated **3.04 Duties of an employer operator – risk assessment**

Replace ~~(1) An employer must ensure that:~~

~~(a) A manual handling task that is likely to be a risk to health and safety is examined; and~~

~~(b) The risk is assessed in accordance with subregulation (2).~~

New (1) An operator must undertake a risk assessment:

(a) before work involving manual tasks commences; or

(b) when a musculoskeletal disorder or hazardous manual task is reported; or

(c) when any change, redesign or alteration is made to structures, the workplace or plant or substances; or

(d) when new information on performing manual tasks becomes available.

New () The risk assessment must:

(a) identify hazardous manual tasks; and

(b) assess the risk posed by hazardous manual tasks, which must take account of relevant risk factors:

Updated (2) The employer must take into account as many of the following ~~matters~~ risk factors as are relevant in assessing a risk:

(a) the actions and movements involved in the task;

(b) the layout of:

(i) the workplace at which the task is carried out; or

(ii) the place, other than a workplace, at which the task is carried out;

(c) the layout of the workstation at which the task is carried out;

(d) the posture and the position that must be taken by each individual involved in carrying out the task;

(e) the duration of the task;

(f) the frequency with which the task is carried out;

(g) the location of each load involved in the task;

(h) the distance that a load is moved as part of the task;

(i) the weight involved in the task;

(j) the force required to carry out the task;

- (k) the characteristics of each load involved in the task;
- (l) the characteristics of any plant that is used in the course of carrying out the task;
- (m) the organisation of work at:
 - (i) the workplace at which the task is carried out; or
 - (ii) the place other than a workplace, at which the task is carried out;
- (n) the work environment of:
 - (i) the workplace at which the task is carried out; or
 - (ii) the place other than a workplace, at which the task is carried out;
- (o) the skills and experience of each individual involved in carrying out the task;
- (p) the age of each individual involved in carrying out the task;
- (q) the clothing worn by each individual involved in carrying out the task;
- (r) the special needs of each individual involved in carrying out the task;
- (s) if the workplace is, or is on, a vessel – the stability of the vessel;
- (t) any other matter that is considered relevant following consultations required under the Act or these Regulations.

Delete (3) ~~Strict liability applies to the physical element in paragraph (2)(t) that the consultations are required under the Act or these Regulations.~~

Updated **3.05 Duties of an employer operator – risk control**

Updated (1) An employer operator must ensure that all risks to health and safety of musculoskeletal disorders relating to carrying out a manual handling task are controlled in accordance with this regulation.

(2) It is a defence to a prosecution for an offence against subregulation (1) if the employer operator complied with the subregulation as far as reasonably practicable.

Updated (3) An employer operator must:

- (a) subject to subregulation (5) – redesign the task:
 - (i) to eliminate or minimise the risks associated with each risk factor assessed under regulation 3.04; or
 - (ii) if it is not practicable to eliminate or minimise an assessed risk factor – to control the risks factor by implementing control measures; and

- (iii) monitor and review risk control measures on an ongoing basis.
- (b) provide appropriate training to employees involved in carrying out the task, including training in safe undertaking manual handling techniques tasks safely; and
- (c) if possible, schedule the task for the lowest risk period of the operation.

Example for paragraph (c)

When the vessel on which the task is carried out is at dock, rather than at sea.

- Updated* (4) If the redesign of a task is reasonably practicable, but cannot be implemented within a reasonable time after a risk is identified, the ~~employer~~ operator must, as soon as practicable after identifying the risk, and until the task has been redesigned:
- (a) implement as many of the following measures as are appropriate to control the risk factors:
 - (i) the provision of mechanical aids ~~to manual handling~~;
 - (ii) the provision of personal ~~protective~~ protection equipment; and
 - (iii) ~~manual handling by~~ team lifting; and
 - (b) provide appropriate training to employees to give effect to each measure implemented under paragraph (a).
- (5) If it is not reasonably practicable for an ~~employer~~ operator to redesign a task, the ~~employer~~ operator must undertake actions referred to in paragraphs (4) (a) and (b).

New **Duties of an operator – consultation**

- () An operator must consult with workers who undertake manual tasks, health and safety representatives and other persons that may be affected about the provision of information and training and any proposed changes, redesign or alteration made to structures, the workplace, plant or substance.
- () An operator must ensure consultation is undertaken before:
 - (a) new plant, substances or systems of work are introduced; and
 - (b) conducting any step of the risk management process.
- () An operator must provide workers with appropriate information, training and supervision to enable them to perform manual tasks safely and assist them to participate in the risk assessment process.

New

Division ? Duties of manufacturers and suppliers

Manage risks of musculoskeletal disorders

- () Manufacturers or suppliers must, as far as reasonably practicable, eliminate the risk or, if this is not reasonably practicable, minimise the risks of musculoskeletal disorders to workers performing manual tasks that may arise from either;
 - (a) the nature of the plant or substance manufactured or supplied by the person; or
 - (b) the manner in which it is supplied.
- () Manufacturers or suppliers who provide plant or substances for use during manual tasks must, as far as reasonably practicable, ascertain and take account of:
 - (a) the intended use(s) of the plant or substance;
 - (b) potential hazards that may give rise to musculoskeletal disorders to workers performing manual tasks; and
 - (c) options for the elimination of risks or control of potential risks posed by the hazards.

Communication of safety information

- () Manufacturers or suppliers who supply plant or substances for use during manual tasks must provide information on the risks assessed and control measures required to enable the plant or substance to be manufactured, supplied, and used safely.
- () The information must include;
 - (a) the intended use(s) of the plant or substance; and
 - (b) options for the elimination of risks.
- () This information must be updated when new information becomes available, it must be readily understood by operators and employees who will use the plant or substance. This information must be retained for a minimum period of 7 years.

Division 3 Duties of an employee

New

Duties of an employee - duty of care

- () Employees who perform manual tasks must, as far as reasonably practicable;
 - (a) take care of their own health and safety and the health and safety of others in the workplace;
 - (b) co-operate with the operator to enable them to comply with their duty;

- (c) comply with all lawful instructions, information and training provided in relation to health and safety by the operator;
- (d) comply with risk measures as instructed and trained; and
- (e) notify the operator about any matter known to them that affects or might affect the ability of the operator to comply with their duty.

Updated **3.06 Duties of an employee – use of training**

Updated (1) An employee who has been given training in safe manual handling task techniques in accordance with paragraph 3.05 (3) (b) must carry out the manual handling task in accordance with the training.

Delete ~~(2) Strict liability applies to the physical element in subregulation (1) that the training in safe manual handling techniques is in accordance with paragraph 3.05 (3) (b).~~

(3) It is a defence to a prosecution for an offence against subregulation (1) if the employee complied with the subregulation as far as reasonably practicable.

(4) An employee who has been given training to give effect to a measure implemented under subregulation 3.05 (4) or (5) must carry out manual handling tasks in accordance with the training.

Delete ~~(5) Strict liability applies to the physical element in subregulation (1) that the training to give effect to a measure implemented under subregulation 3.05 (4) or (5).~~

(6) It is a defence to a prosecution for an offence against subregulation (4) if the employee complied with the subregulation as far as reasonably practicable.

Comment Form on proposed amendments to Part 3 ‘Manual Handling’ of the Occupational Health and Safety (Maritime Industry)(National Standards) Regulations 2003

Thank you for reviewing the consultation paper on the proposed amendments to the current manual handling regulations for the Seacare jurisdiction. Please submit this form and any additional comments, **before COB on Tuesday 30 September 2008**, to:

Seacare Management Section
Comcare
GPO Box 9905
Canberra ACT 2601

or Email seacare@comcare.gov.au or Fax (02) 6275 0067

Contact details

Name			
Position			
Organisation			
Postal Address			
Phone			
Email			
Signature		Date	

Comments (Please provide comments explaining the reasons for your support or otherwise.)

Question 1 Do you agree with Seacare’s proposal to amend the current regulations on manual handling, and do you support the implementation of a new code of practice? () **Yes** or () **No**

Reasons:

Question 2 Do you agree with the requirements of the proposed amended regulations in **Attachment A**?

- () **Yes** or
- () **Yes with minor changes** or
- () **Yes with significant changes** or
- () **No**

Reasons:

Any other comments on this consultation are welcome.