

# **Occupational Health and Safety (Maritime Industry) (National Standards) Regulations 2003 2003 No. 324**

## **EXPLANATORY STATEMENT**

Statutory Rules 2003 No. 324

Issued by the authority of the Minister for Employment and Workplace Relations

*Occupational Health and Safety (Maritime Industry) Act 1993*

### ***Occupational Health and Safety (Maritime Industry) (National Standards) Regulations 2003***

The *Occupational Health and Safety (Maritime Industry) Act 1993* (the Act) establishes a statutory framework to secure the health and safety of certain classes of seafarers.

Subsection 6(1) provides that the Act applies in relation to a 'prescribed ship' or 'prescribed unit' that is engaged in trade or commerce. The terms 'prescribed ship' and 'prescribed unit' are defined in section 4 of the Act. A 'prescribed ship' means a ship to which Part II of the *Navigation Act 1912* applies but does not include, for example, a 'Government ship'. A 'prescribed unit' means an off-shore industry mobile unit that is not self-propelled and is under tow.

Section 121 of the Act provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The Seafarers Safety, Rehabilitation and Compensation Authority (known as the Seacare Authority) is a statutory body established under section 103 of the *Seafarers Rehabilitation and Compensation Act 1992* (Seafarers Act). The Authority has a range of functions under section 9 of the Act as well as functions conferred on it by section 104 of the Seafarers Act.

The National Occupational Health and Safety Commission (NOHSC), established under section 6 of the *National Occupational Health and Safety Commission Act 1985* (the NOHSC Act), develops National Standards and Codes of Practice to promote uniformity in Australian occupational health and safety schemes. These National Standards and Codes of Practice do not have legislative force of themselves; they are given legislative force by relevant State, Territory or Commonwealth occupational health and safety legislation.

On 21 September 2001, the Workplace Relations Ministers' Council agreed to a national prohibition on the workplace use of chrysotile asbestos from 31 December 2003. On 8 November 2002, Commonwealth, State and Territory Ministers agreed to extend the prohibition to actinolite, anthophyllite and tremolite asbestos.

NOHSC subsequently declared an amendment to the National Model Regulations to prohibit the use of chrysotile, actinolite, anthophyllite and tremolite asbestos. The declaration was gazetted on 18 June 2003.

The Regulations adopt and give partial legislative force to the NOHSC National Standard titled *National Occupational Health and Safety Commission National Model Regulations for Hazardous Substances* (National Model Regulations) relating to the control of hazardous substances in the workplace. Initially, the Regulations only apply to asbestos, although it is

envisaged that other substances will be included within the scope of the Regulations once further consultation has taken place.

The Regulations adopt and give legislative force to the amended National Model Regulations to provide a framework within which the prohibition on the use of asbestos by seafarers covered by the Act can be implemented. The Regulations:

- prohibit the use of actinolite, amosite, anthophyllite, chrysotile, crocidolite and tremolite forms of asbestos, except when used in permitted circumstances specified in the Regulations;
- provide a method to enable operators to be granted an exemption from the prohibition on using chrysotile asbestos at work if the use of chrysotile is specified in the Regulations; and
- provide a regime to ensure that certain steps are taken to minimise the risks to health and safety associated with the use of asbestos in permitted circumstances or where an exemption has been granted.

Details of the Regulations are set out in the Attachment.

The Regulations commence on 31 December 2003.

## **ATTACHMENT**

### ***OCCUPATIONAL HEALTH AND SAFETY (MARITIME INDUSTRY) (NATIONAL STANDARDS) REGULATIONS 2003***

#### **Part 1 - Introduction**

##### **Regulation 1.01 - Name of Regulations**

This is a formal provision that provides for the name of the Regulations.

##### **Regulation 1.02 - Commencement**

This regulation provides that the Regulations commence on 31 December 2003.

A note has been inserted to refer to section 4 of the *Acts Interpretation Act 1901* which enables things to be done between gazettal and commencement of the Regulations to ensure that arrangements are in place for the scheme to operate from 31 December 2003.

##### **Regulation 1.03 - Interpretation**

This regulation provides the interpretation of terms used in the Regulations, including 'Act' and 'NOHSC', together with several notes to assist the interpretation of the proposed Regulations.

#### **Part 2 - Hazardous substances**

Part 2 of the Regulations makes provision for the use of hazardous substances. The Part consists of three Divisions. Division 1 contains the objects, scope and definitions for the Part. Division 2 contains provisions imposing duties on manufacturers and suppliers of hazardous substances for the maritime industry. Division 3 contains provisions imposing duties on an operator of a prescribed ship or unit as defined in section 2 of the *Occupational Health and Safety (Maritime Employment) Act 1993*.

##### **Division 1 - Introduction**

##### **Regulation 2.01 - Objects of Part**

Regulation 2.01 defines the object of Part 2 as being to ensure that certain steps are taken that will minimise the risk to the health of persons due to exposure to hazardous substances in the workplace, including by limiting the circumstances under which the use of chrysotile can be exempted.

##### **Regulation 2.02 - Application of Part**

Regulation 2.02 provides for the scope of the Part. Subregulation (1) provides that the Part applies to hazardous substances as defined in regulation 2.03 and extends to all workplaces in which hazardous substances are used and to all persons who could be exposed to hazardous substances. However, initially the only hazardous substances that fall within the definition of 'hazardous substance' are forms of asbestos.

Subregulation (2) provides that the Part does not apply to a substance that is being transported in accordance with requirements set out in the International Maritime Dangerous Goods Code.

##### **Regulation 2.03 - Definitions for Part**

Regulation 2.03 defines the terms used in the Part.

## **Division 2 - Duties of a manufacturer, and a supplier, of a hazardous substance for the maritime industry**

### **Regulation 2.04 - Material Safety Data Sheets: Manufacturer's duties**

Regulation 2.04 requires a manufacturer of a hazardous substance to prepare a Material Safety Data Sheet (MSDS) (subregulation (1)), containing certain information (subregulation (3)) which is to be reviewed to ensure it is kept accurate (subregulation (4)). Subregulation (5) requires a manufacturer, in the case where the manufacturer is not the supplier, to give a copy of the current MSDS for a substance to a supplier before the substance is supplied to an operator and if subsequently requested by the supplier.

A contravention of the requirements of regulation 2.04 would be an offence with a maximum penalty of 10 penalty units. Subregulation (2) provides that strict liability applies to the physical element that the MSDS complies with the requirements of subregulation (3).

### **Regulation 2.05 - Material Safety Data Sheets: Supplier's duties**

Regulation 2.05 requires a supplier of a hazardous substance to provide a MSDS to an operator on or before the first occasion that a hazardous substance is supplied to the operator. The regulation also requires a supplier to provide a MSDS to an operator if subsequently requested by the operator.

A contravention of the requirements of regulation 2.05 would be an offence with a maximum penalty of 10 penalty units.

### **Regulation 2.06 - Labelling of hazardous substances**

Regulation 2.06 prescribes the obligation of a supplier to label containers of hazardous substances with relevant health and safety information.

A contravention of the requirements of regulation 2.06 would be an offence with a maximum penalty of 10 penalty units. Subregulation (2) provides that strict liability applies to the physical element that the label complies with the requirements of subparagraph (1) (b) (i).

### **Regulation 2.07 - Provision of information by a supplier**

Regulation 2.07 requires a supplier to provide on request by an operator a summary report produced under the *Industrial Chemicals (Notification and Assessment) Act 1989* and any further information that the supplier may have regarding the safe use of the hazardous substance they supply.

A contravention of the requirements of regulation 2.07 would be an offence with a maximum penalty of 10 penalty units.

## **Division 3 - Duties of an operator in relation to the use of hazardous substances**

### **Regulation 2.08 - Prohibition on uses of hazardous substances**

Regulation 2.08 requires an operator to ensure that hazardous substances referred to in Schedule 2 are not used at work except in circumstances specified in column 3 of Schedule 2. However, initially, the only substances listed on Schedule 2 are forms of asbestos. It is envisaged

that other substances will be added to the Schedule once consultation has taken place with the maritime industry.

A contravention of the requirements of regulation 2.08 would be an offence with a maximum penalty of 10 penalty units.

### **Regulation 2.09 - Exemption from regulation 2.08**

Subregulation (1) makes provision for the Seafarers Safety, Rehabilitation and Compensation Authority (the Seacare Authority) to grant exemptions from the Regulations. However, an exemption would only be granted to an operator if the operator applies in accordance with Schedule 3. The Seacare Authority would only be able to grant an exemption in accordance with Schedule 3.

### **Regulation 2.10 - Review of decisions**

Regulation 2.10 provides that merits review by the Administrative Appeals Tribunal is available in relation to a decision by the Seacare Authority under Schedule 3 to:

- refuse to grant an exemption for the use of a hazardous substance (paragraph 1.02 (1) (b));
- refuse to grant an exemption for the use of chrysotile (paragraph 2.04 (1) (b));
- make an exemption for the use of a hazardous substance subject to conditions that promote the objects of Part 2 of the Regulations (subclause 1.03 (1));
- make an exemption for the use of chrysotile subject to conditions that promote the objects of Part 2 of the Regulations (subclause 2.05 (2));
- add a condition to, or vary or revoke a condition of, an exemption for the use of a hazardous substance (subclause 1.03 (2));
- add a condition to, or vary or revoke a condition of, an exemption for the use of chrysotile (subclause 2.05 (3));
- cancel an exemption for the use of a hazardous substance if the Seacare Authority is satisfied that continuing the exemption would be inconsistent with the objects of Part 2 of the Regulations (paragraph 1.04 (2) (a));
- cancel an exemption for the use of chrysotile if the Seacare Authority is satisfied that continuing the exemption would be inconsistent with the objects of Part 2 of the Regulations (paragraph 2.06 (2) (a));

### **Regulation 2.11 - Use of Material Safety Data Sheets**

Regulation 2.11 requires an operator to obtain a MSDS from a supplier and to ensure that the MSDS is made available to all employees who could be exposed to a hazardous substance. Subregulation (3) places an obligation on the operator to ensure that a MSDS is not altered. Subregulation (4) prevents an operator altering an MSDS except in the circumstances set out in paragraphs (a)-(d).

A contravention of the requirements of regulation 2.11 would be an offence with a maximum penalty of 10 penalty units.

## **Regulation 2.12 - Use of labels**

Regulation 2.12 requires an operator to ensure that all containers used at work including those delivered to and those produced within the workplace are labelled in accordance with regulation 2.06.

Where a substance is decanted and not used immediately subparagraph (1)(b)(ii) requires the container to be labelled with the product name of the substance and the risk and safety phrases. Where a substance is decanted and used immediately, subregulation (4) provides an exemption from labelling if the container into which the substance is decanted is cleaned so that it no longer contains the substance.

The operator is also required to ensure that a person does not remove, deface, modify or alter the label.

A contravention of the requirements of regulation 2.12 would be an offence with a maximum penalty of 10 penalty units. Subregulation (2) provides that strict liability applies to the physical element that the container is labelled in accordance with the requirements in proposed subparagraph 2.06 (1) (b).

## **Regulation 2.13 - Register of hazardous substances**

Regulation 2.13 requires an operator to ensure that a register is kept of all hazardous substances that are used at a workplace. Subregulation (2) prescribes the minimum information which should be included in a register being a list of all hazardous substances used together with their MSDS. An operator is also required to ensure that persons with potential for exposure to hazardous substances have ready access to the register.

A contravention of the requirements of regulation 2.13 would be an offence with a maximum penalty of 10 penalty units.

## **Regulation 2.14 - Provision of information about enclosed hazardous substances**

Regulation 2.14 requires that where a hazardous substance is contained in an enclosed system, such as a pipe, the operator is to provide information to all persons that could be exposed to the hazardous substance about the hazardous substance in the enclosed system.

A contravention of the requirements of regulation 2.14 would be an offence with a maximum penalty of 10 penalty units.

## **Regulation 2.15 - Risk assessment for hazardous substances**

Subregulation (1) requires an operator to ensure that an assessment is made of the risk to health caused by work where there is a potential for exposure to a hazardous substance.

Subregulation (3) requires an operator to perform an assessment prior to the substance being used at the workplace or before introducing or changing a work practice, process or activity if that introduction or change may give rise to a health risk.

Subregulation (4) sets out the steps which should be taken when undertaking an assessment.

Subregulation (5) allows an operator, where a hazardous substance is used in the same or similar circumstances in a number of different workplaces or work areas within the one workplace, to do a single assessment of one representative work situation.

Where an assessment indicates that there is not a significant risk to health from the use of the hazardous substance subregulation (6) does not require an operator to record the assessment but to make a note in the register that an assessment has been done.

Where an assessment indicates that there is a significant risk to health from the use of the hazardous substance subregulation (7) requires an operator to make an assessment report that reflects the detail of the assessment.

An operator is required to review a risk assessment within the timeframes set out in subregulation (8) and to revise an assessment if the circumstances set out in subregulation (9) arise. Subregulation (10) requires an operator to make assessment reports readily accessible to all employees and contractors with potential for exposure to hazardous substances.

A contravention of the requirements of regulation 2.15 would be an offence with a maximum penalty of 10 penalty units. Subregulation (2) provides that strict liability applies to the physical element that the assessment complies with the requirements of subregulations (3), (4) and (5).

### **Regulation 2.16 - Risk control**

Subregulation (1) requires an operator to ensure that an employee's or contractor's exposure to a hazardous substance is not greater than the relevant exposure standard.

Subregulations (2) and (3) require an operator to carry out risk control measures, other than the provision of personal protective equipment, to prevent or limit the exposure of employees or contractors to a hazardous substance.

Where control measures do not provide adequate control of the risk subregulation (4) also requires an operator to give an employee or contractor personal protective equipment to be used in conjunction with the control measures.

Subregulation (5) requires an operator to ensure that all control measures and any equipment are properly used and maintained.

A contravention of the requirements of regulation 2.16 would be an offence with a maximum penalty of 10 penalty units.

### **Regulation 2.17 - Atmospheric monitoring**

Subregulation (1) prescribes the obligation of an operator to carry out atmospheric monitoring where an assessment indicates the need to obtain an estimate of the exposure of employees or contractors to a hazardous substance.

Subregulation (2) requires an operator to record the result of monitoring. Subregulation (3) requires an operator to provide an employee or contractor who has been, or could be, exposed to a hazardous substance which is the subject of monitoring the results of the monitoring. An operator is also required to have the records of workplace monitoring readily accessible to that employee or contractor.

A contravention of the requirements of regulation 2.17 would be an offence with a maximum penalty of 10 penalty units.

### **Regulation 2.18 - Health surveillance**

Regulation 2.18 requires an operator to undertake, at his or her expense, health surveillance of those employees or contractors who are assessed as having been exposed to a hazardous substance listed in Schedule 4.

Subregulation (2) requires an operator to ensure that a registered medical practitioner supervises the health surveillance program and where there is a significant risk to the health of an employee or contractor ensure the type of procedures for a substance listed in column 2 of Schedule 4 are followed. The operator is also required to select a registered medical practitioner in consultation with the employees or contractors concerned.

Subregulation (4) requires an operator to notify and explain the results to an employee or contractor of a health surveillance concerning them as well as notifying the Australian Maritime Safety Authority (AMSA) of any adverse result detected during the surveillance.

Subregulation (5) requires an operator where he or she receives notice from the registered medical practitioner of an adverse health surveillance result, considered by the practitioner to be related to exposure to a hazardous substance in the workplace, to take action to reassess the employee's or contractor's exposure to the substance and provide controls to minimise any further risks to health and safety.

Subregulation (6) requires an operator to keep records of results of health surveillance as confidential records and obtain the written consent of the employee or contractor before giving or showing those records to a person entitled to have access to the records other than a person entitled to access under regulation 2.22.

A contravention of the requirements of regulation 2.18 would be an offence with a maximum penalty of 10 penalty units.

### **Regulation 2.19 - Instruction and training**

Regulation 2.19 requires an operator to provide training and instruction, commensurate with the risk that has been identified in the assessment process, to employees or contractors likely to be exposed to a hazardous substance. The training and instruction would be about the nature of the hazard, the level of risk and the control procedures devised for the use of the hazardous substance.

A contravention of the requirements of regulation 2.19 would be an offence with a maximum penalty of 10 penalty units.

### **Regulation 2.20 - Exposure to scheduled carcinogenic substances**

Regulation 2.20 imposes certain duties on an operator that suspects that an employee or contractor has been exposed to a carcinogenic substance mentioned in Schedule 1.

If an operator suspects that an employee or contractor has been or likely to have been exposed to a scheduled substance, the operator is required to notify the employee or contractor of that exposure. On the termination of the employee's employment, the operator is required to provide a written statement to the employee of the exposure in all circumstances other than those listed in column 3 of Schedule 1.

A contravention of the requirements of regulation 2.20 would be an offence with a maximum penalty of 10 penalty units.

### **Regulation 2.21 - Record keeping**

Regulation 2.21 imposes an obligation on an operator to keep records of assessment reports, atmospheric monitoring, health surveillance and training for certain periods of time. Subregulation (5) requires an operator who has ceased operations to give the records to the Seacare Authority.

A contravention of the requirements of regulation 2.21 would be an offence with a penalty of 5 penalty units. Subregulation (6) provides that an offence under subregulations (1), (2), (3), (4) or (5) is an offence of strict liability. These are administrative obligation provisions of the type where strict liability is commonly applied under existing law.

### **Regulation 2.22 - Records to be accessible**

Regulation 2.22 imposes an obligation on an operator to ensure that all records required to be kept under the Part are accessible to emergency services, AMSA and investigators.

A contravention of the requirements of regulation 2.22 would be an offence with a maximum penalty of 10 penalty units.

## **Division 4 - Employees' and contractors' duties in relation to hazardous substances**

### **Regulation 2.23 - Duties of employees and contractors**

Regulation 2.23 requires an employee or contractor to report to an operator anything that may affect the operator's compliance with the provisions of the Part.

A contravention of the requirements of regulation 2.23 would be an offence with a maximum penalty of 10 penalty units.

## **Division 5 - Hazardous substances supplied to operators before this Part commences**

### **Regulation 2.24 - Transitional - Material Safety Data Sheets and labelling**

Regulation 2.24 applies in relation to a hazardous substance that was supplied to the operator before the Regulations commenced and is still in use at the workplace. A manufacturer is required to prepare and give to the supplier a copy of the current MSDS as soon as practicable and not later than 3 months after the commencement of the Regulations. A supplier is required to give a copy of the MSDS for the substance to the operator as soon as practicable and not later than 3 months after the commencement of the Regulations. An operator is required to obtain an MSDS for the substance as soon as practicable and not later than 3 months after the commencement of the Regulations.

### **Regulation 2.25 - Transitional - risk assessment**

Regulation 2.25 applies in relation to a hazardous substance that was introduced into a workplace before the Regulations commenced and is still in use at the workplace. An operator is required to perform a risk assessment of the substance as soon as practicable and not later than 3 months after the commencement of the Regulations.

## **Schedule 1 - Scheduled carcinogenic substances**

Schedule 1 contains a list of carcinogenic substances. Where an operator who suspects that an employee or contractor has been or is likely to have been exposed to a hazardous substance, regulation 2.20 imposes a duty to notify the employee or contractor of that exposure. On the termination of the employee's employment, the operator is required to provide a written

statement to the employee of the exposure in all circumstances other than those listed in column 3 of Schedule 1.

Initially, the only scheduled substances are forms of asbestos. It is envisaged that other substances will be added to the Schedule once consultation has taken place with the maritime industry.

## **Schedule 2 - Permitted circumstances for using hazardous substances**

Schedule 2 contains a list of substances that an operator must ensure are not used at work, except in circumstances specified in column 3 of Schedule 2.

Initially, the only scheduled substances are forms of asbestos. It is envisaged that other substances will be added to the Schedule after consultation has taken place with the maritime industry.

## **Schedule 3 - Exemption from regulation 2.08**

Schedule 3 contain clauses setting out the process by which an operator will be able to seek an exemption from the prohibition on using hazardous substances at work contained in regulation 2.08.

### **Part 1 - Hazardous substances other than chrysotile**

Part 1 of Schedule 3 contains provisions setting out a process by which an operator may seek an exemption from the prohibition on using hazardous substances at work other than chrysotile.

#### **Clause 1.01 - Applications for exemption**

Clause 1.01 contains provisions allowing an operator to apply to the Seacare Authority for an exemption from the prohibition on using hazardous substances at work other than chrysotile. The operator must state in its application the use for which the exemption is sought and include evidence that the use of the hazardous substance is essential to the operation of its business.

Subclauses (2) and (3) apply where an operator applies for an exemption before 31 December 2003. The exemption sought in the application will be taken to be granted until the Seacare Authority grants an exemption, or provides the operator with written notice of its refusal to grant an exemption or if the application is taken to have been withdrawn because the operator has not provided the Seacare Authority with requested information about the application within a specified period.

#### **Clause 1.02 - Grant or refusal of exemption**

Clause 1.02 contains provisions setting out the circumstances in which the Seacare Authority can exempt an operator from the prohibition on using hazardous substances at work other than chrysotile.

Subclause (1) allows the Seacare Authority to grant an exemption, refuse to grant an exemption, or ask the operator for more information concerning its application.

Subclause (2) provides that an application is taken to have been withdrawn if the operator has not provided the Seacare Authority with requested information within a time period specified.

Subclause (3) allows the Seacare Authority to exempt an operator from the prohibition on using hazardous substances at work if it is satisfied the application meets the specified criteria listed in the subclause.

If the Seacare Authority refuses to grant an exemption, subclause (4) requires it to provide written notice of its decision and the reasons for it.

### **Clause 1.03 - Conditions of an exemption**

Clause 1.03 contains provisions allowing the Seacare Authority to impose conditions on its grant of an exemption from the prohibition on using hazardous substances at work other than chrysotile.

### **Clause 1.04 - Operation of an exemption**

Clause 1.04 contains provisions relating to the commencement, cancellation and cessation of an exemption.

Subclause (2) provides that the Seacare Authority must cancel an exemption if it is no longer consistent with the objects of Part 2 of the Regulations or the operator asks for the exemption to be cancelled.

As the exemption relates to the use of a hazardous substance that can be harmful if controls are not adopted to ensure its safe use, the Seacare Authority is able to cancel an exemption without consulting the relevant operator. However, as a matter of good administrative practice, the Seacare Authority may consult the operator prior to cancelling the exemption. If an exemption is cancelled because the continued use of the hazardous substance would be inconsistent with Part 2, the Seacare Authority is required to notify the operator in writing of the reasons for the cancellation.

## **Part 2 - Chrysotile**

Part 2 of Schedule 3 establishes a process by which an operator may seek an exemption from the prohibition on using chrysotile at work.

### **Clause 2.01 - Definition**

Clause 2.01 contains a definition for *list of exemptions*.

### **Clause 2.02 - List of exemptions**

Clause 2.02 provides that Seacare Authority may only grant exemptions for the workplace use of chrysotile if the use is listed in one of the three items in the table at subclause (2). The three exemptions are time limited and cease on specified dates.

The three exemptions in the table are three of the four exemptions contained in the National List of Exemptions developed by NOHSC. The National List of Exemptions was developed by NOHSC because alternative materials are not available for some chrysotile uses and certain items require an exemption to allow manufacturers time to develop more reliable alternatives and to enable users to gain the necessary expertise to install the alternative materials safely. On 8 November 2002, the Workplace Relations Ministers' Council agreed to the list of time limited exemptions.

### **Clause 2.03 - Applications for exemption**

Clause 2.03 provides that an operator can apply to the Seacare Authority for an exemption to use a chrysotile item, if the item is contained in items 1 to 3 of the table in clause 2.02. The operator must state in its application the use for which the exemption is sought and include evidence that the use of chrysotile is essential to the operation of its business. The operator is also be required to include with its application a statement of the controls it will adopt to ensure the safe use of the chrysotile item and a statement of action it will take to find alternatives to the use of the chrysotile, including undertaking and/or contributing to research and development of replacement or alternatives to the exempted chrysotile item.

Subclauses (2) and (3) apply where an operator applies for an exemption before 31 December 2003, being the date the prohibition comes into effect. The exemption sought in the application will be taken to be granted until the Seacare Authority grants an exemption in relation to that item, or provides the operator with written notice of its refusal to grant an exemption, or if the application is taken to have been withdrawn because the operator has not provided the Seacare Authority with requested information about the application within a specified period.

#### **Clause 2.04 - Grant or refusal of exemption**

Subclause (1) allows the Seacare Authority to grant an exemption, refuse to grant an exemption, or ask the operator for more information concerning its application.

Subclause (2) provides that an application is taken to have been withdrawn if the operator has not provided the Seacare Authority with requested information within a time period specified.

Subclause (3) allows the Seacare Authority to exempt an operator from the prohibition on using chrysotile at work if it is satisfied the application meets the specified criteria listed in the subclause.

If the Seacare Authority refuses to grant an exemption, subclause (4) requires it to provide written notice of its decision and the reasons for it.

#### **Clause 2.05 - Conditions of an exemption**

Clause 2.05 provides that an exemption may be subject to conditions that promote the objects of Part 2 of the Regulations. Subclause (3) empowers the Seacare Authority to vary, add or revoke a condition of an exemption. Subclause (4) requires the Seacare Authority to provide a written notice containing reasons for the addition, variation or revocation of a condition to an exemption. The notice will also specify the time when an addition, variation or revocation takes effect.

#### **Clause 2.06 - Operation of an exemption**

Clause 2.06 provides for the commencement, cancellation and cessation of an exemption for the prohibition on using chrysotile at work. Subclause (2) provides that the Seacare Authority must cancel an exemption if it is no longer consistent with the objects of Part 2 of the Regulations or the operator asks for the exemption to be cancelled.

As the exemption relates to the use of a hazardous substance that can be harmful if controls are not adopted to ensure its safe use, the Seacare Authority is able to cancel an exemption without consulting the relevant operator. However, as a matter of good administrative practice, the Seacare Authority may consult the operator prior to cancelling the exemption. If an exemption is cancelled because the continued use of the chrysotile item would be inconsistent with Part 2, the Seacare Authority is required to notify the operator in writing the reasons for the cancellation.

As the exemptions contained in items 1 to 3 of the table in clause 2.02 are time limited, subclause (5) provides that an exemption expires at the end of the day stated in the table

relevant to the exempted item or at the end of any earlier day that may be stated in the exemption.

#### **Schedule 4 - Hazardous substances for which health surveillance is required**

Schedule 4 contains a list of substances that require an operator to undertake a health surveillance of those employees or contractors who are assessed as having been exposed to the substance. Column 3 of the Schedule lists the procedures that are to be included in a health surveillance that is performed.

Initially the only scheduled substances are forms of asbestos. It is envisaged that other substances will be added to the Schedule once consultation has taken place with the maritime industry.