

EXPLANATORY STATEMENT

Select Legislative Instrument 2006 No. 338

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) Amendment Regulations 2006 (No. 1)

Section 121 of the *Occupational Health and Safety (Maritime Industry) Act 1993* (the Act) provides that the Governor-General may make regulations 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 Act establishes a statutory framework to secure the health and safety of certain classes of seafarers.

The *Occupational Health and Safety (Maritime Industry) (National Standards) Regulations 2003* (the Principal Regulations) currently give legislative force to national standards declared by the former National Occupational Health and Safety Commission (NOHSC) in relation to hazardous substances.

These Regulations amend the Principal Regulations to give effect to the national standard for manual handling [NOHSC:1001 (1990)] declared by NOHSC. Although NOHSC was abolished by the *National Occupational Health and Safety Commission (Repeal, Consequential and Transitional Provisions) Act 2005*, section 7 of that Act preserves standards declared by NOHSC.

The purpose of the Regulations is to prevent the occurrence of, or reduce the severity of, injuries arising from manual handling tasks. The Regulations require employers to identify, assess and control the risks arising from manual handling activities in workplaces. The term 'manual handling' is defined in the Regulations 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".

Details of the Regulations are set out in the Attachment.

Following consultation with the Australian Maritime Industry the Seacare Authority recommended adoption of the national standard for manual handling, subject to some minor amendments to reflect maritime industry conditions.

The Office of Regulation Review advised that a regulation impact statement (RIS) was not mandatory as a RIS was prepared for the development of the national standard and the amendments required to accommodate the unique nature of the maritime industry were minor in nature.

The proposed Regulations would be a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulations commence on the day after registration on the Federal Register of Legislative Instruments.

ATTACHMENT

Details of the proposed *Occupational Health and Safety (Maritime Industry) (National Standards) Amendment Regulations 2006 (No. 1)*

Regulation 1: Name of Regulations

This identifies the Regulations as the *Occupational Health and Safety (Maritime Industry) (National Standards) Amendment Regulations 2006 (No. 1)*.

Regulation 2: Commencement

This provides that the Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.

Regulation 3: Amendment of *Occupational Health and Safety (Maritime Industry) (National Standards) Regulations 2003*

This provides that the *Occupational Health and Safety (Maritime Industry) (National Standards) Regulations 2003* (the Principal Regulations) are amended as set out in Schedule 1.

Schedule 1: Amendments

Item [1]: After Part 2 *insert* new Part 3 Manual Handling

Division 1 - Introduction

New regulation 3.01 sets out the object of Part 3, namely, 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 relating to manual handling tasks.

New regulation 3.02 defines the term 'manual handling'.

Note: The Note brings the reader's attention to the fact that there is an *Approved Code of Practice for Manual Handling (Maritime Industry)*. The Code is published on the Federal Register of Legislative Instruments and has been developed to provide practical guidance for the identification, assessment and control of risks arising from manual handling activity in workplaces.

Division 2 - Duties of Employers

New regulation 3.03 prescribes the duties of employers in relation to the design of plant, containers, workplaces, work systems and the working environment at the workplace, and while employees are carrying out manual handling tasks.

Penalties of 10 penalty units are prescribed for contraventions of the proposed subregulations 3.03(1) and (2).

New regulation 3.04 imposes a requirement that employers examine manual handling tasks and would prescribe the duties of employers in relation to assessing the risks of a task against a range of matters listed in subregulation (2), including, the actions and movements involved in the task, frequency, duration, weight and distance involved in the task and the layout of the workplace.

Penalties of 10 penalty units are prescribed for contraventions of the proposed subregulations 3.04(1) and (2).

New regulation 3.05 prescribes the duties of employers in relation to risk control and the requirement to redesign a task in order to eliminate or minimise the risk of injury from manual handling, where reasonably practicable.

Penalties of 10 penalty units are prescribed for contraventions of the proposed subregulations 3.05(1), (3), (4) and (5).

Division 3 - Duties of Employees

New regulation 3.06 prescribes the duties of employees in relation to the carrying out of manual handling tasks, in accordance with the training they have received.

Penalties of 10 penalty units are prescribed for contraventions of the proposed new regulation 3.06(1) and (4).