



Australian Government

Comcare

Proposed amendments to
regulations under the
*Occupational Health and Safety
Act 1991* for the control of risks
related to manual handling.

Consultation paper

Consultation period finishes 15 February 2008

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Foreword

The Safety, Rehabilitation and Compensation Commission (the Commission) oversees the operation of the *Occupational Health and Safety Act 1991* (the Act). The functions of the Commission include:

- developing occupational health and safety policies and strategies and ensuring compliance with the Act; and
- overseeing legislative policy and advising the Minister for Employment and Workplace Relations on matters relating to the Act.

Comcare is a statutory body established by the Australian Government to lead and promote efforts to prevent and reduce the incidence of occupational injury and disease as well as promote safety by producing a healthy and safe work environment.

Comcare undertakes a number of functions on behalf of the Commission. Comcare's activities include education, regulation, enforcement, research and provision of relevant policy advice to both the Commission and persons covered by the Act.

Purpose

1. The purpose of this paper is to discuss and seek comments from employers, employees and other stakeholders on a proposal for amendments to Part 5 – ‘Manual Handling’ of the *Occupational Health and Safety (Safety Standards) Regulations 1994* (the regulations).
2. The proposed amendments are to implement the recently declared *National Standard for Manual Tasks* (the national standard) in the Commonwealth jurisdiction.

Background

3. Every year in Australia approximately 41% of all claims for compensation are due to injuries at work from manual handling. Statistics for the Commonwealth jurisdiction also support this trend, with 40.9% of all claims from 2001-02 to 2006-07 due to body stressing injuries, as a result of manual handling tasks at work.¹
4. The Commonwealth regulates the risks related to manual handling in Part 5 – ‘Manual Handling’ of the *Occupational Health and Safety (Safety Standards) Regulations 1994*. The regulations are based on the *National Standard for Manual Handling [NOHSC:1001(1990)]*. The objects of the regulations are to prevent the occurrence of injury and/or reduce the severity of injuries resulting from manual handling tasks in workplaces; and to require employers to identify, assess and control risks arising from manual handling activities in the workplace.
5. Up until December 31 2007 the regulations were supported by an Approved Code of Practice for Manual Handling, however under the *Legislative Instruments Act 2003*, this Approved Code of Practice for Manual Handling is no longer in force.
6. In August 2007, a new national standard and code of practice for manual tasks was declared. The *National Standard for Manual Tasks* and the *National Code of Practice for the Prevention of Musculoskeletal Disorders from Performing Manual Tasks at Work* can be found on the Australian Safety and Compensation Council (ASCC) website at www.ascc.gov.au. The ASCC recommends implementation of the new national standard and the code in all jurisdictions by August 2009.

Issues

7. The Commonwealth is committed to the implementation of national standards and codes to ensure national consistency and to align the Commonwealth with best practice. The Commonwealth needs to amend the current regulations and implement a new approved code of practice in order to implement the new national standard and code.
8. Comcare recommends that Part 5 - ‘Manual Handling’ of the regulations be amended to align it with the requirements of the new national standard. These amended regulations will be supported by a new approved code of practice and the subsequent development of supporting guidance material based on the new national code.

¹ Research and Analysis Section, Comcare (2007)

Key features of proposed new regulations

Change from Manual Handling to Manual Tasks

8. The regulations currently 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'*.
9. 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 (MSDs), which includes occupational overuse syndrome (OOS) and a range of other body stressing injuries which result from manual tasks undertaken at work.
10. 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

11. It is proposed that the manual tasks regulations will apply to employers, employees and workplaces under the employer'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.
12. **Attachment A** describes the requirements of the proposed new regulations for the control of risks related to manual tasks. These requirements are based on the requirements of the new national standard.

Interpretation of new national standard in the Commonwealth

13. The new standard provides for duties of a 'designer', however, currently designers are not duty holders under the Commonwealth OHS 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 employer' 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. Comcare proposes that:

- Part 5 – ‘*Manual Handling*’ of the regulations be amended to implement the key requirements of the new national standard as per Attachment A.
- the regulations are supported by a new code of practice and the subsequent development of supporting guidance material based on the new national code of practice.
- the title of Part 5 of the regulations be changed from ‘*Manual Handling*’ to ‘*Manual Tasks*’.

Invitation for comments

18. Comcare is committed to improving the health and safety of employees in the Commonwealth jurisdiction and engaging our customers and stakeholders in the process of achieving that improvement.

19. Employers, employees and other stakeholders in the Commonwealth jurisdiction are encouraged to participate in this consultation process and to provide comments (see Attachment B). Comments should be submitted to Comcare by close of business **15 February 2008**.

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

Attachment A – Proposed amendments to Part 5 – ‘Manual Handling’ of the *Occupational Health and Safety (Safety Standards) Regulations 1994*

Part 5 – Manual Tasks

Objects

The objects of this part of the regulations are:

- to reduce the incidence and severity of musculoskeletal disorders to workers performing manual tasks.
- to require employers to identify, assess and control risks arising from manual tasks in workplaces.

Definitions

Hazardous manual task means

- 1) 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;
- 2) a manual task involving the handling of a person or an animal; or
- 3) a manual task involving the handling of unstable or unbalanced loads or loads which are difficult to grasp or hold.

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.

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.

Occupational Overuse Syndrome (OOS) also known as repetitive strain injury (RSI), is a collective term for a range of conditions characterised by discomfort or persistent pain in muscles, tendons and other soft tissues, with or without physical manifestations. It is usually associated with tasks which involve;

- (a) repetitive or forceful movement or both; and/or
- (b) maintenance of sustained or awkward postures.

System of work includes any of the following

- (a) work processes;
- (b) work practices; and

(c) work methods.

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

Duties of manufacturers and suppliers

a. **duty to 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;

- the nature of the plant or substance manufactured or supplied by the person; or
- 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;

- the intended use(s) of the plant or substance;
- potential hazards that may give rise to musculoskeletal disorders to workers performing manual tasks; and
- options for the elimination of risks or control of potential risks posed by the hazards.

b. **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;

- the intended use(s) of the plant or substance; and
- options for the elimination of risks.

This information must be updated when new information becomes available, it must be readily understood by employers and employees who will use the plant or substance. This information must be retained for a minimum period of 7 years.

Duties of employers

a. **general duty of the employer**

Employers 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 employer 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.

b. risk management

A risk assessment process must be undertaken by the employer;

- before work involving manual tasks commences;
- when a musculoskeletal disorder or hazardous manual task is reported;
- when any change, redesign or alteration is made to structures, the workplace or plant or substances; and
- when new information on performing manual tasks becomes available.

Risk assessments must;

- identify hazardous manual tasks;
- assess the risk posed by hazardous manual tasks, which must take account of various risk factors;
- eliminate the risks, or if this is not reasonably practicable, minimise the risks of musculoskeletal disorders by implementing control measures; and
- monitor and review risk control measures on an ongoing basis.

c. consultation

An employer must consult with workers who undertake manual tasks, HSRs 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 employer must ensure consultation is undertaken before;

- new plant, substances or systems of work are introduced; and
- conducting any step of the risk management process.

d. provision of information, training and supervision

An employer 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.

Duties of employees

a. Employee's duty of care

Employees who perform manual tasks must, as far as reasonably practicable;

- take care of their own health and safety and the health and safety of others in the workplace;
- co-operate with the employer to enable them to comply with their duty;
- comply with all lawful instructions, information and training provided in relation to health and safety by their employer;
- comply with risk measures as instructed and trained; and
- notify the employer about any matter known to them that affects or might affect the ability of their employer to comply with their duty.

Attachment B – Comment Form

Thank you for taking the time to review this consultation paper on the proposed amendments to regulations on manual handling in the Commonwealth jurisdiction.

This form is designed to be either printed and mailed or faxed. Alternatively it can be filled out and sent electronically to the email address listed below.

Please ensure your response is submitted to Comcare by C.O.B on the **15 February 2008**.

Mail to: Bernadette Sutor
OHS Policy Section
Comcare
GPO Box 9905
Canberra ACT 2601

Email to: ohs.policy@comcare.gov.au

Fax to: (02) 6274 8877

Your contact details

Name:	
Organisation:	
Position:	
Address:	
Phone no:	
Email address:	

Your comments

Comcare is particularly interested in your comments on the following aspects of the consultation paper.

Question 1.

Do you agree with Comcare's proposal to amend the current regulations on manual handling, and do you support the implementation of a new code of practice?
Please mark your answer with an X Yes (<input type="checkbox"/>) No (<input type="checkbox"/>)
If "No" please explain:

Question 2.

Do you agree with the requirements of the proposed regulations in Attachment A?
Please mark your answer with an X (<input type="checkbox"/>) Yes (<input type="checkbox"/>) Yes, with minor changes (<input type="checkbox"/>) Yes, with significant changes (<input type="checkbox"/>) No
Comments:

Please use this space if you have further comments on any aspect of this consultation paper.