

1997

LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

OCCUPATIONAL HEALTH AND SAFETY ACT 1989

**OCCUPATIONAL HEALTH AND SAFETY (MANUAL
HANDLING) REGULATIONS**

EXPLANATORY MEMORANDUM

Circulated by the authority of

TREVOR KAINE MLA
MINISTER FOR INDUSTRIAL RELATIONS

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OCCUPATIONAL HEALTH AND SAFETY (MANUAL HANDLING)
REGULATIONS

OUTLINE

Section 87 of the *Occupational Health and Safety Act 1989* (the Act) provides that the Minister may by instrument in writing approve a code of practice for the purpose of providing practical guidance to employers, self-employed persons and employees. Pursuant to this section the Minister approved an ACT Standard and Code of Practice on Manual Handling (2nd Revised Edition). These Regulations are closely based on that Code of Practice but impose mandatory requirements in relation to manual handling for employers, persons in control of workplaces and employees.

Section 97 of the Act provides that the Executive may make Regulations, not inconsistent with the Act, prescribing matters necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Section 27 of the Act imposes duties on employers to take all reasonably practicable steps to protect the health, safety and welfare at work of the employer's employees. Section 29 of the Act requires a person who has, to any extent, control of a workplace, means of access or egress to a workplace, or plant or a substance at a workplace to take all reasonably practicable steps to ensure that it is safe and without risk to health.

In meeting the duty of care required under section 27 for employers, and 29 for persons in control of workplaces, it is necessary and convenient to provide those persons under those duties with detailed requirements as to how they might meet their legislative duty in respect to hazards arising out of manual handling. These Regulations satisfy that requirement.

SUBSTANTIVE DETAILS

Regulation 1 specifies the title of the Regulations.

Subregulation 2(1) provides that this Regulation commences on the day in which the Regulations are notified in the Gazette.

Subregulation 2(2) provides for the commencement of the remaining Regulations on a day or respective days fixed by the Minister by notice in the Gazette.

Subregulation 2(3) provides a sunset clause that brings the regulations into force six months after subregulation 2(1) becomes operative if they have not been commenced by that time.

Regulation 3 defines the terms "manual handling", "person in control", "representative on health and safety issues", and "the Act".

Regulation 4 sets out the object of these Regulations which is to ensure that employers and persons in control take all reasonable practicable steps that area available to them to ensure-

- (a) that plant, equipment and containers that may be manually handled are safe when manually handled;
- (b) that work practices involving manual handling are designed to be safe; and
- (c) that the working environment is designed to be consistent with safe manual handling activities.

Subregulation 5(1) requires an employer or person in control to ensure that a manual handling task is examined and assessed where it is likely to be a risk to health and safety.

Subregulation 5(2) qualifies subregulation 5(1) by providing that the subregulation applies to a person in control in is so far as his or her control extends to the carrying out of the task that is likely to be at risk.

Subregulation 5(3) sets out the various manual handling aspects to be taken into account in the examination and assessment required by subregulation 5(1). A penalty of 10 penalty points is provided for individuals and 50 penalty points for a body corporate.

Subregulation 6(1) requires that where a manual handling task is assessed as being a risk to health and safety, the employer and person in control shall take such steps as are reasonably practicable to minimise the risk. A penalty of 10 penalty units is provided for individuals and 50 penalty units for a body corporate.

Subregulation 6(2) provides that for the purposes of subregulation 6(1) the employer or person in control shall redesign the manual handling task to minimise the risk and ensure that each employee involved in the manual handling task receives appropriate training (including training in safe manual handling techniques) and supervision.

Subregulation 6(3) provides that where redesign of the manual handling task is not reasonably practicable, the employer or person in control shall take certain specified actions to minimise the risk of injury resulting from manual handling.

Subregulation 6(4) provides that where redesign of the manual handling task is reasonably practicable, but unable to be implemented immediately, then the employer or person in control shall comply with subregulation 6(3) until he or she can comply with subregulation 6(2). This provision is intended to cover situations where there is an unavoidable delay in introducing proper manual handling control measures.

Subregulation 6(5) requires employees to apply the training received under the regulation and to comply with lawful instructions given by a person supervising a manual handling task.

Subregulation 7(1) requires that an employer and person in control shall, in complying with regulation 5 or 6, take reasonable steps to consult with the employees who are required to carry out the manual handling task and a representative on health and safety issues.

Subregulation 7(2) provides that consultation under subregulation 7(1) must involve the sharing of information and the exchange of views between the employer or person in control and the persons who must be consulted. The subregulation also requires that there be a genuine opportunity for those persons to contribute effectively to any decision-making process aimed at eliminating or minimising manual handling risks. A penalty of 10 penalty units for an individual and 50 penalty units for a body corporate are provided.