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OCCUPATIONAL SAFETY & HEALTH LEGISLATION FOR THE WESTERN AUSTRALIAN MINING INDUSTRY

Employees must be protected from hazardous manual tasks as far as is practicable. The risk management process of hazard identification, risk assessment, risk control, and control monitoring and review provides a structured approach to achieve this.

Injuries from performing manual tasks at work, collectively known as *musculoskeletal disorders*, account for about one third of all injuries in Western Australian mining workplaces. Hazardous manual tasks, those manual tasks that involve certain characteristics increasing the risk of injury, are recognised as a major occupational safety and health risk for the mining industry.

Legislative requirement to manage hazardous manual tasks

Resources Safety administers the *Mines Safety and Inspection Act 1994* (MSI Act)

and the Mines Safety and Inspection Regulations 1995 (MSI Regulations). The MSI Act sets out broad duties with respect to occupational safety and health, and is supported by the MSI Regulations, codes of practice and guidelines. The legislation aims to promote and improve the safety and health of all people working or visiting WA mining operations, including exploration sites.

Under the MSI Act, all duty holders must protect workers from hazards, as far as is practicable. Duty holders include employers; employees; contractors and their employees; labour hire agents and workers; and designers, manufacturers, importers and suppliers of plant.

Duties of employers and self-employed persons

An employer is anyone who employs a person at a mining operation. This may be under an employment contract, an apprenticeship or a traineeship scheme. For the purpose of section 9 of the MSI Act, the principal is deemed to be the employer of any contractor and any employees of the contractor in relation to matters over which the principal is able to exercise control. Contractors and their employees are deemed to be

employees in relation to these matters. Contractors retain the duties of an employer towards their own employees in matters over which they have control.

Employers and self-employed persons have a legal obligation to provide and maintain a working environment to protect the health and safety of themselves and their workforce. Sections 9 and 12 of the MSI Act require employers and self-employed persons to:

- provide and maintain workplaces, plant and systems of work;
- provide information, instructions, training and supervision; and
- consult and cooperate with safety and health representatives and employees

so that employees are not exposed to hazards.

Following an accident where an employee is unable to perform his or her normal duties, the manager must notify the District Inspector and, if requested by the injured person, a trade union representative (MSI Act, section 76). The accident must also be recorded in the accident log book (MSI Act, section 77).

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Duties of employees

Employees are also obliged to take reasonable care to ensure their own and others' safety and health. Section 10 of the MSI Act requires, in addition to taking reasonable care, cooperation with employers and other employees, to follow instructions for their own and others' safety and health.

There is a legislative requirement (MSIA Act, section 11) for all employees to report to their immediate supervisor any situation they believe either constitutes a hazard or has the potential to cause a serious occurrence. The person who receives the report is required to investigate the hazardous situation, determine what action is necessary and then notify the person who made the first report of the final determination.

Duties of those providing plant

Designers, manufacturers, importers and suppliers must ensure that the design and construction of any plant in a mine is, as far as is practicable, safe to install and use.

Note: Plant includes machinery, equipment, appliance, implement, or tool and any component or fitting of, or accessory to any such article.

Section 14 of the MSI Act specifies that a person who designs or constructs any building or structure on a mine, including a temporary structure, must ensure it is safe for anyone who is involved in its construction, maintenance, repair or service. Adequate information must be provided regarding any hazards associated with use of the plant, how it should best be used, and what maintenance regime should be instituted.

Dealing with hazardous manual tasks

If a manual task in a workplace has one or more of the characteristics that comprise a hazardous manual task, all duty holders must ensure they fulfil their obligations to reduce the risk of injury to workers completing the tasks. If possible, the hazardous manual task should be eliminated. Where the hazardous manual task cannot be eliminated, the risk arising from the hazards associated with the task must be reduced. It is a requirement for employers, employees, their safety and health representatives and safety officers to consult throughout the process.

The Australian Safety and Compensation Council's 2007 *National Code of Practice for the Prevention of Musculoskeletal Disorders from Performing Manual Tasks at Work* provides practical guidance that will help with compliance for the general duty of care requirements. The provisions of the code are not mandatory so a duty holder may choose to comply some other way, provided the alternative method used also fulfils the legislative requirements.

Part 6 of the MSI Regulations describes the obligations of duty holders in relation to certain types of plant in mines. The regulations require that all practical measures are taken to provide and maintain a safe working environment in relation to plant. As for all other hazards associated with plant, management of manual task hazards requires a systematic approach to identification, assessment and control to ensure the plant is operated in a safe manner (MSI Regulations, regulation 6.2).

Further information

More information about the duty of care on mining operations can be found in Resources Safety's 2006 publication *General Duty of Care in Western Australian Mines – Guideline*. The guideline can be downloaded at www.docep.wa.gov.au/ResourcesSafety

The *National Standard for Manual Tasks* provides information about the responsibilities of duty holders in relation to manual tasks. The *National Code of Practice for the Prevention of Musculoskeletal Disorders from Performing Manual Tasks at Work* provides practical guidance on how to manage risk arising from performing manual tasks at work. Published by the Australian Safety and Compensation Council in 2007, the standard and code of practice can be downloaded at www.ascc.gov.au

References

Department of Consumer and Employment Protection, 2006, *General Duty of Care in Western Australian Mines – Guideline*: Resources Safety, Department of Consumer and Employment Protection, Western Australia, 37 pp.

Nield, L., 2008, *Managing hazardous manual tasks*: MineSafe, v. 17(1), 7-8.