



**Australian Government**  

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**Department of Employment**

**SENATE STANDING COMMITTEE ON  
EDUCATION AND EMPLOYMENT**

**SEAFARERS SAFETY AND COMPENSATION BILLS PACKAGE**

**SUPPLEMENTARY SUBMISSION OF THE  
DEPARTMENT OF EMPLOYMENT**

**DECEMBER 2016**

## INTRODUCTION

1. This submission from the Department of Employment to the Senate Standing Committee on Education and Employment Inquiry into the Seafarers Safety and Compensation Bills Package (Bills Package) provides supplementary evidence to the Committee in response to claims made in the ACTU's submission regarding consultation with maritime unions during the development of the Bills Package.
2. The Bills Package seeks to amend the:
  - 2.1. Seacare scheme legislation, including the *Seafarers Rehabilitation and Compensation Act 1992*, the *Occupational Health and Safety (Maritime Industry) Act 1993*, the *Seafarers Rehabilitation and Compensation Levy Act 1992* and the *Seafarers Rehabilitation and Compensation Levy Collection Act 1992*,
  - 2.2. *Work Health and Safety Act 2011*, and
  - 2.3. *Safety, Rehabilitation and Compensation Act 1988*.

## INDUSTRY CONSULTATION

### General Amendments to the Seacare Scheme Legislation

3. The ACTU submission to the Committee claims that the Australian Government "...did not develop any of the [Seafarers Safety and Compensation] Bills through consultation with the ACTU and maritime unions." The submission further claims that "...the ACTU and maritime industry unions have only had eight weeks to analyse the Bills that have been developed by the Australian Department of Employment over a period of 3 ½ years."<sup>1</sup>
4. The Department actively sought to engage with unions and employer associations directly involved in the maritime industry (Seacare stakeholders) during the development of the Bills Package. For the benefit of the Committee, detail of consultations that have taken place during the development of the Bills Package is provided at [Attachment A](#).
5. Prior to the release of the Seacare reform consultation RIS, at the National Workplace Relations Consultative Committee meeting on 4 December 2015, key employer associations and unions, including three representatives of the ACTU, were informed of the upcoming release of the consultation Regulation Impact Statement (RIS).
6. The Department informed Seacare stakeholders and other related stakeholders of the release of the consultation RIS on 23 December 2015 and advertised the release of the consultation RIS in national print and online media during January 2016. The submission period was open for six weeks until 5 February 2016, although late submissions were accepted. The ACTU did not make a submission in response to the consultation RIS.
7. The previews of the draft Bills package were conducted in a similar manner to the Committee on Industrial Legislation, which reviews workplace relations legislation prior to introduction into Parliament. Over three days in March and April 2016, stakeholders in attendance were provided with an opportunity to review the draft Bills Package and comment on the proposed reforms. Through August and September 2016, the Department provided Seacare stakeholders with further information on the proposed Bills Package and invited them to meet with the Department to further discuss the Package.
8. In addition to the consultations and the release of the consultation RIS outlined at [Attachment A](#), Departmental officers were available to discuss the proposed reforms to the Seacare scheme with Seacare stakeholders at all times and had a number of informal discussions with stakeholders on the proposed reforms throughout the development of the Bills Package. Departmental officers also

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<sup>1</sup> ACTU submission to the Senate Standing Committee on Education and Employment inquiry into the Seafarers Safety and Compensation Bills Package, p.3

provided regular updates to the Seacare Authority at its meetings on the progress of the Bills Package during its development.

9. At no stage during the extensive consultations with the maritime unions was there a suggestion that the unions were unable to properly represent their members' views in the absence of the ACTU.
10. The Seacare reforms outlined in the Bills Package broadly reflect the findings of the independent reviews of the Seacare scheme and the policy proposals provided to stakeholders prior to the workshop consultations, while incorporating feedback received during consultations.

### **Amendments to the Work Health and Safety Act 2011**

11. A majority of Safe Work Australia (SWA) members and Commonwealth, state and territory work health and safety (WHS) Ministers agreed in April and October 2014, respectively, to a number of amendments to the model WHS laws, including:
  - 11.1. removing the requirement on businesses to provide the relevant authority with an up to date list of health and safety representatives, and
  - 11.2. replacing references to giving 'directions' in a Provisional Improvement Notice, with giving 'recommendations'.
12. These amendments were agreed consistent with the process outlined in the *Intergovernmental Agreement for Regulatory and Operational Reform in Occupational Health and Safety* (IGA). Consultation on the amendments occurred through an established tripartite consultation process with SWA members, which include representatives of each Commonwealth, state and territory government, two members nominated by the ACTU and two members representing industry.

### **Amendments to the Safety, Rehabilitation and Compensation Act 1988<sup>2</sup>**

13. The Bills Package includes amendments to the *Safety, Rehabilitation and Compensation Act 1988* to:
  - 13.1. replace the age at which weekly incapacity payments currently cease (65) with 'pension age' as defined in the *Social Security Act 1991* (SS Act) (Cth), and
  - 13.2. align the SRC Act with minimum benchmarks to be set by the National Injury Insurance Scheme by removing the cap on weekly amount payable for household and attendant care services for employees with a catastrophic injury.
14. The Government initially sought to make these amendments through the Safety, Rehabilitation and Compensation Amendment (Improving the Comcare Scheme) Bill 2015, which was introduced into Parliament on 25 March 2015. This Bill lapsed when the last Parliament was dissolved.
15. Extensive consultation on reform of the Comcare scheme was undertaken prior to the introduction of the Bill into Parliament. This consultation is detailed in the RIS that accompanied the Bill.<sup>3</sup> The Department did not consult broadly with Comcare stakeholders prior to reintroducing these amendments in the Seacare Bills Package, although Seacare stakeholders were informed during tripartite consultations on the Bills Package that these amendments would be reintroduced.

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<sup>2</sup> The ACTU submission incorrectly refers to this Act as the Safety, Rehabilitation and Compensation Act 2006

<sup>3</sup> [http://www.aph.gov.au/Parliamentary\\_Business/Bills\\_LEGislation/Bills\\_Search\\_Results/Result?bld=r5434](http://www.aph.gov.au/Parliamentary_Business/Bills_LEGislation/Bills_Search_Results/Result?bld=r5434)

**Industry and Union Stakeholder Consultation Led by the Department**

Date	Event	Seacare stakeholders invited
11 June 2015	1 <sup>st</sup> Industry/Union Workshop Consultation (Coverage)	<ul style="list-style-type: none"> <li>• Australian Institute of Marine and Power Engineers (AIMPE)</li> <li>• Australian Maritime Officers Union (AMOU)</li> <li>• Maritime Union of Australia (MUA)</li> <li>• Australian Mines and Metals Association (AMMA)</li> <li>• Maritime Industry Australia Ltd (MIAL)</li> <li>• Mr Barry Sherriff (Chair, Seacare Authority and SRCC)*</li> </ul>
26 June 2015	2 <sup>nd</sup> Industry/Union Workshop Consultation (Governance and Cost Recovery)	<ul style="list-style-type: none"> <li>• AIMPE</li> <li>• AMOU</li> <li>• MUA</li> <li>• AMMA</li> <li>• MIAL</li> <li>• Mr Barry Sherriff</li> </ul>
16 July 2015	3 <sup>rd</sup> Industry/Union Workshop Consultation (WHS)	<ul style="list-style-type: none"> <li>• AIMPE</li> <li>• AMOU</li> <li>• AMMA*</li> <li>• MIAL (represented by SeaRoad Shipping representative)</li> <li>• MUA</li> <li>• Mr Barry Sherriff</li> </ul>
6 August 2015	4 <sup>th</sup> Industry/Union Workshop Consultation (Workers' Compensation)	<ul style="list-style-type: none"> <li>• AIMPE</li> <li>• AMOU</li> <li>• AMMA*</li> <li>• MIAL</li> <li>• MUA</li> <li>• Mr Barry Sherriff*</li> </ul>
26 August 2015	5 <sup>th</sup> Industry/Union Workshop Consultation (teleconference) (Coverage)	<ul style="list-style-type: none"> <li>• AIMPE*</li> <li>• AMOU*</li> <li>• AMMA*</li> <li>• MIAL</li> <li>• MUA</li> </ul>
27 January 2016	Consultation RIS workshop <sup>+</sup>	<ul style="list-style-type: none"> <li>• AMMA</li> <li>• MIAL</li> <li>• AON Risk Services</li> </ul>
9 March 2016	1 <sup>st</sup> Legislation Preview	<ul style="list-style-type: none"> <li>• AIMPE</li> <li>• AMOU</li> <li>• AMMA</li> <li>• MIAL</li> <li>• MUA*</li> </ul>
4–5 April 2016	2 <sup>nd</sup> Legislation Preview	<ul style="list-style-type: none"> <li>• AIMPE</li> <li>• AMOU</li> <li>• AMMA</li> <li>• MIAL</li> <li>• MUA</li> </ul>

\***Note:** Invited but did not attend

<sup>+</sup> **Note:** The Department offered to hold a similar meeting with union stakeholders but they did not arrange a meeting

### Consultation RIS Submissions

Date	Event	Written submissions received from
21 December 2015	Consultation RIS released for public comment	<ul style="list-style-type: none"> <li>• Allianz</li> <li>• AMMA</li> <li>• Anonymous x 6</li> <li>• AON Risk Services</li> <li>• MIAL</li> <li>• MUA</li> <li>• Quicksilver Connections</li> <li>• Tall Ship Adventures Pty Ltd</li> <li>• Western Australian Fishing Industry Council</li> <li>• Whitehaven Adventures Pty Ltd</li> </ul>

### Consultation on Final Bills Package

Date	Event	Seacare stakeholders invited
August/ September 2016	Further discussions with stakeholders on proposed Bills Package	<ul style="list-style-type: none"> <li>• AIMPE</li> <li>• AMOU<sup>x</sup></li> <li>• AMMA<sup>x</sup></li> <li>• MIAL</li> <li>• MUA</li> </ul>

<sup>x</sup> **Note:** Information was distributed to all stakeholder groups, but AIMPE, AMOU and AMMA did not participate in a discussion with the Department

**Note to all tables:** Mr Dale Emmerton (National Marine Manager, SeaRoad Shipping) and Mr Malcolm Hearnden (Manager, Swire Pacific Ship Management) were also invited to all meetings and consultation on the final Bills Package as members of the Seacare Authority representing employers. Both Mr Emmerton and Mr Hearnden participated in some consultations. The tables do not include Comcare and AMSA, who also participated in some workshop consultations and were consulted during the development of the Bills Package.