Australian Government

Department of Employment

SENATE STANDING COMMITTEE ON EDUCATION AND EMPLOYMENT LEGISLATION

INQUIRY INTO THE SEAFARERS REHABILITATION AND COMPENSATION AND OTHER LEGISLATION AMENDMENT BILL 2015

SUBMISSION OF THE DEPARTMENT OF EMPLOYMENT

Table of Contents

Introduction

1. The Department of Employment (the Department) welcomes the opportunity to make a written submission to the Senate Education and Employment Legislation Committee inquiry into the Seafarers Rehabilitation and Compensation and Other Legislation Amendment Bill 2015 (the Bill). Comcare has provided input to and supports the Department's submission.

2. The Bill was introduced into the House of Representatives on 26 February 2015 and is a direct response to the Administrative Appeals Tribunal's (AAT) decision in *Aucote and Samson Maritime Pty Ltd* [2014] AATA 296 and the Full Federal Court's decision in *Samson Maritime Pty Ltd v Aucote* [2014] FCAFC 182 (the *Aucote* decisions). The Bill amends the *Seafarers Rehabilitation and Compensation Act 1992* and the *Occupational Health and Safety (Maritime Industry) Act 1993* to restore certainty regarding the coverage of those Acts to the Australian maritime industry.

3. The Bill will:

- repeal provisions which extend the coverage of the Seacare scheme based on whether an employee is employed by a trading, financial or foreign corporation to confine the coverage of the scheme to *prescribed ships*[1] engaged in interstate and international trade or commerce
- ensure that only ships which are directly and substantially engaged in interstate or international trade or commerce are covered by the Seacare scheme
- apply the amendments to coverage retrospectively, and
- make amendments that affect the operation of the Safety Net Fund Levy so that employers who are exempted from the Seacare scheme are not required to pay the levy.

Purpose of the submission

4. This submission provides details of the impact of the *Aucote* decisions on participants in the maritime industry: employers, seafarers, government agencies, regulators and insurers.

5. The submission then explains how the impact of the decisions on industry participants would be addressed by the swift passage of the Bill by returning coverage of the Seacare scheme to what it has been commonly understood to be since the commencement of the scheme in 1993. In doing so it also explains the impact of the Bill on Seacare scheme participants.

6. The Bill is a rapid response to the Federal Court's *Aucote* decision, developed in the two months since the handing down of the decision. A decision which has jeopardised the financial sustainability of the Seacare scheme. By restoring coverage to what was widely understood to be the status quo, the Bill will allow time for a more considered examination of the Stewart-Crompton Review of the scheme, including the long-standing issues relating to coverage. This process will include consultation will all industry participants. It is the Government's intention to introduce further legislation containing these measures into the Parliament in the second half to 2015.

[1] 'Prescribed ships' means ships prescribed for the purposes of the *Navigation Act 1912,* which is generally Australian ships or foreign ships with an Australian crew.

However, while this process is occurring it is essential that seafarers are protected including injured seafarers with historic workers' compensation claims, the financial stability of the scheme is preserved and certainty to the industry is restored by the swift passage of this Bill.

Overview of the Seacare scheme

7. The *Seafarers Rehabilitation and Compensation Act 1992* (the Seafarers Act) provides workers' compensation and rehabilitation arrangements for seafarers in a defined part of the Australian maritime industry. The Seafarers Act establishes a privately underwritten workers' compensation scheme, with employers covered by the Act required to maintain an insurance policy with an approved insurer to cover workers' compensation claims made under the Act. The Seafarers Act establishes the Seafarers Safety, Rehabilitation and Compensation Authority (the Seacare Authority), which oversees the scheme. The *Safety Rehabilitation and Compensation Act 1988* requires Comcare to provide the Seacare Authority with secretarial and other support.

8. The Seafarers Act operates in conjunction with the *Occupational Health and Safety (Maritime Industry) Act 1993* (the OHS(MI) Act), which regulates work health and safety for a defined part of the Australian maritime industry. The OHS(MI) Act is co-regulated by the Seacare Authority and the Australian Maritime Safety Authority (AMSA), with AMSA being the inspectorate responsible for enforcing that Act.

9. The Seacare scheme is supported by a Safety Net Fund (the Fund). The Fund operates as a safety net 'employer' to provide workers' compensation payments to employees where there is no employer against whom a claim can be made (for example, because an employer becomes bankrupt or insolvent or is wound up or ceases to exist). The Fund is supported by a levy on employers under the *Seafarers Rehabilitation and Compensation Levy Act 1992* (the Levy Act). Currently, all employers covered by the Seacare scheme are required to pay the levy each quarter under the *Seafarers Rehabilitation and Compensation Levy Collection Act 1992*, even if an exemption has been granted from Seacare scheme coverage under section 20A of the Seafarers Act.

10. Because it would be inappropriate for employers not covered by the Seacare scheme (and so covered by equivalent state legislation), to pay a levy to support the scheme, the Government's current practice is to administratively waive the obligation to pay the levy. The Bill's amendments to the definition of 'seafarer berth' will remove the need for this process. This ensures the legislation reflects the common sense position that an employer who is exempted from the Seacare scheme should not pay a levy under the Seacare scheme. This amendment will not affect the financial position of the Fund.

11. In 2013-14, employers were required to pay approximately $15 per berth used on their vessels, which amounted to a total of $153,755 being collected for the purpose of the levy.[2]

12. As at 22 January 2015, the total equity of the Fund was $1,259,430, derived from $1,370,284 in assets and $110,854 in liabilities.

[2] Seafarers Safety, Rehabilitation and Compensation Authority, *Annual Report 2013-14*.

How coverage of the Seacare scheme has been applied in the past

13. The Seacare scheme is relatively confined in scope, only applying to employers and employees in a defined part of the broader maritime industry. As stated above, the Seacare scheme has been commonly understood to apply to ships and units engaged in interstate or international trade. Ships and units engaged in intrastate trade—that is, those operating solely or primarily within the coastal waters of a single state—were understood to be covered by state workers' compensation and work health and safety laws. This approach to coverage was consistent with the coverage of the *Seamans Compensation Act 1911*, which established Australia's first national workers' compensation scheme for seafarers.

14. Based on this understanding, the Seacare scheme applied to approximately 33 employers and 7,516 employees (4,721 FTE employees) in 2013–14[3]—about 20 per cent of the Australian maritime industry.

15. Submissions received to the review of the Seacare scheme commissioned by the former government (undertaken by Mr Robin Stewart-Crompton, published in 2013), including those received from employers, the Maritime Union of Australia (MUA) and the Australian Maritime Officers Union (AMOU), provide evidence that industry participants clearly understood the scheme coverage to be narrow.

16. The joint submission of the Maritime Union of Australia (MUA) and the Australian Maritime Officers Union (AMOU) called for coverage of the Seacare scheme to be expanded, demonstrating that those unions were of the view that intrastate trade or commence was not at that time covered by the scheme.

The *Aucote* decisions' broad view of coverage

17. In the *Aucote* decisions, an alternative broad interpretation of the coverage provisions of the Seacare scheme was upheld:

- the AAT held that work which was preparatory or incidental to interstate or international trade or commerce (in this case the construction of a wharf) was considered to be covered,
- the Full Federal Court subsequently held the Seacare scheme applies to all seafarers employed by a trading, financial or foreign corporation on a prescribed ship and to operators of prescribed ships that are a trading, financial or foreign corporation.

18. The purpose of the Bill is to respond to this new view of coverage. To address the AAT decision, the Bill amends the coverage provisions to require a ship to be 'directly and substantially' engaged in interstate or international trade or commerce. These words will ensure that incidental or preparatory work that is purely within the waters of a single state is not considered to engaging interstate or international trade or commerce.

19. The Federal Court's decision has a more dramatic effect on the coverage of the Seacare scheme. This is because the majority of employers and operators within the maritime industry are either trading or foreign corporations. As such, the practical consequence of this broad

[3] Ibid.

interpretation is that the Seacare scheme extends to the majority of the Australian maritime industry, including ships and units which primarily operate within a single state. It had been understood that these ships and units were covered by state workers' compensation and work health and safety laws.

20. It is estimated that the *Aucote* decisions' broad view of coverage could mean that the Seacare scheme applies to 11,000 vessels and approximately 20,000 employees.[4]

21. To address the Federal Court decision, the Bill repeals the coverage provisions that operate by reference to whether an employer is a trading, financial or foreign corporation. This ensures that a ship must be engaged in interstate or international trade or commerce to be covered by the Seacare scheme.

22. The *Aucote* decisions profoundly expanded the coverage of the Seacare scheme. The Bill responds to these decisions, not by contracting coverage, but restoring it to its broadly understood position.

23. As an interim measure, the Seacare Authority proposes to grant a broad exemption under section 20A of the Seafarers Act aimed at addressing the expanded coverage of the Seacare scheme resulting from the *Aucote* decisions. As stated by the Seacare Authority on its website,[5] this exemption is intended as a transitional measure that aims to provide certainty to industry participants on their workers' compensation arrangements, while the Parliament considers the Bill. Exemptions granted under section 20A only have prospective application and there is no ability for the Seacare Authority to exempt ships from coverage of the OHS(MI) Act. While this measure will give some comfort to the sector, it will not provide certainty nor deal with the historic issues that arise as a result of the *Aucote* decisions.

Longstanding coverage issues

24. The Department acknowledges there are longstanding issues regarding the coverage of the Seacare scheme. However, these issues concern the application of the *Navigation Act 1912* as it relates to coverage under the OHS(MI) Act and not the coverage issues in the *Aucote* decisions that the Bill responds to.

25. AMSA considers that the *Navigation Act 1912* must be read as a whole for the purposes of OHS(MI) Act definition, so that the exclusions under Part I of the *Navigation Act 1912* apply to limit the types of prescribed ships coming within the OHS(MI) Act. The Department, Comcare and the Seacare Authority do not consider that the definition of a prescribed ship is limited in this way.

26. In other words, AMSA does not believe that it has jurisdiction under the OHS(MI) Act over certain vessels that the Seacare Authority considers are within the Act's coverage. This also has implications for the Seafarers Act's scope, which also refers to prescribed vessels under Part II of the *Navigation Act 1912*.

[4] There are approximately 11,000 vessels on the National Register that could come under the scope of the Seacare scheme.
[5] See: http://www.seacare.gov.au/compensation/coverage/exemption_from_the_seafarers_act/seacare_authority_to_grant_a_section_20A_exemption

27. This issue has existed for some years. In 2004, the Commonwealth's Chief General Counsel (Mr Henry Burmester QC) advised the Seacare Authority and AMSA about the interpretation of the legislation. Mr Burmester felt that a court would be more likely to read the definition of prescribed ship solely by the application provision in Part II of the *Navigation Act 1912*, without further qualification by applying the limitation set out in Part I.

28. In his March 2013 review, Mr Stewart-Crompton recommended legislative changes to clarify coverage to put this matter beyond doubt but noted particular issues with expanding the coverage of the Seacare scheme:

> *"Broadening the scheme's coverage would have implications for State and Territory regulation. Depending on the nature of the change, there might be strong resistance by those governments, as well as from industry participants. Aside from anything else, the superior OHS and workers' compensation performance in the State and Territory jurisdictions suggests that the Seacare scheme's performance would need to improve markedly before entering into areas of non-Commonwealth regulation could be reasonably contemplated."*[6]

29. The Bill does not seek to address all issues with the coverage of the Seacare scheme. It only seeks to address the issues raised by the *Aucote* decisions.

30. The recommendations of the review have not been addressed by a government to date.

31. The Government is giving urgent, but careful, consideration to the recommendations of the Stewart-Crompton Review of the Seacare Scheme, including those to clarify the coverage of the scheme or delink the scheme from the *Navigation Act*, and will make decisions on future reforms to the Seacare scheme in due course. The Government will consult with all industry participants on the nature of the reforms.

Impacts on participants in the Seacare scheme

32. Broadly, there are four main participants in the part of the maritime industry covered by the Seacare scheme:

- Seafarers
- Employers
- Government agencies and regulators, and
- Insurers and claims managers.

33. The impact of the *Aucote* decisions on each of these participants is explained in detail below.

[6] *Review of the Seacare Scheme Report March 2013*, Robin Stewart-Crompton, Pg 29

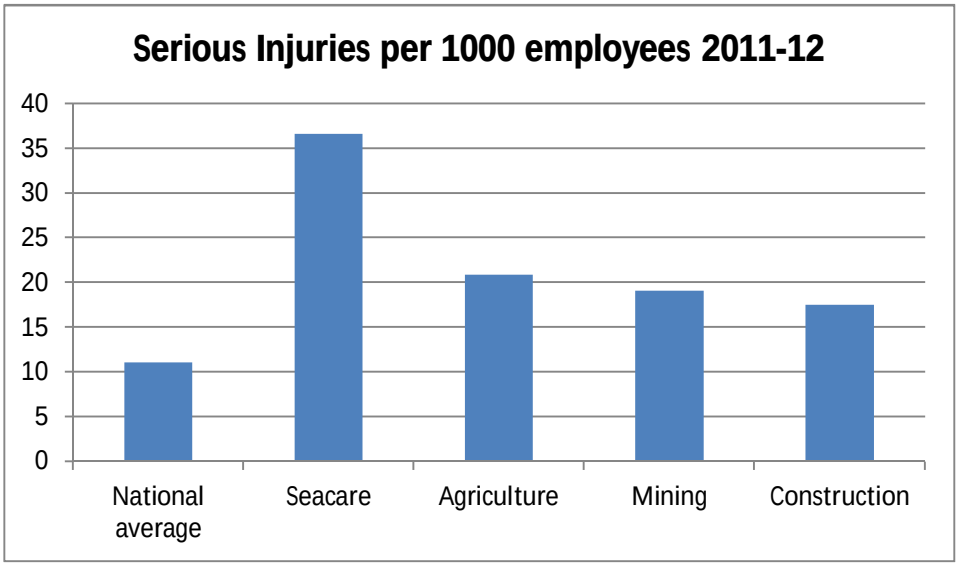
Seafarers

Work health and safety

34. The expanded coverage of the Seacare scheme impacts on the regulation of safety. The Federal Court decision has moved a large number of ships and seafarers out of coverage by state work health and safety laws and into coverage by the OHS(MI) Act. The large expansion means that Comcare and AMSA are required to regulate all workplaces within the scope. Both of Comcare and AMSA are not funded, or resourced, to immediately take on the role of administering a substantially larger Seacare scheme.

35. As a result of the *Aucote* decisions, state work health and safety regulators do not have the power to continue enforcing state work health and safety laws on ships for intrastate voyages. This lack of enforcement potentially jeopardises safety in this high-risk industry. The decisions also raise questions about the validity of enforcement action taken by state work health and safety regulators since 1993.

36. Further, the OHS(MI) Act has not been substantially amended since its enactment in 1993 and now reflects an outdated approach to work health and safety regulation in comparison to the majority of other Australian jurisdictions – noting that harmonised work health and safety laws were introduced in the Commonwealth and other jurisdictions in 2012. The OHS(MI) Act requires revision to align it with the model work health and safety laws developed by Safe Work Australia something that has not been actioned to date.[7] The model work health and safety laws contain several improvements including broader duties of care, broader obligations for worker consultation and representation, graduated measures for securing compliance, positive officer duties and higher criminal penalties for non-compliance.



37. The Seacare scheme has the highest rate of serious injury of any Australian work health and safety jurisdiction. In the 2011-12 period the Seacare scheme had a serious injury rate of 36.6 serious injuries per 1000 employees. While this was a reduction on previous years, it is still markedly

[7] The OHS(MI) Act was modelled on the (now repealed) Commonwealth *Occupational Health and Safety Act 1991*

higher than the national rate of 11.1 serious injuries per 1000 employees, or with the performance of other dangerous industries, such as agriculture, mining and construction (respectively, 20.9, 19.1 and 17.5 serious injuries per 100 employees).[8]

Workers' compensation

38. The *Aucote* decisions impact on seafarers in terms of which workers compensation scheme (Commonwealth, state or territory) covers them. Workers' compensation schemes across Australia vary substantially making it difficult to assess whether one particular scheme is better, or more generous, than another.

39. To determine if an injured seafarer would receive greater benefits under the Seacare scheme a number of factors need to be considered including:

- the injured seafarer's wages
- their level of impairment
- their subjective preferences for weekly compensation payments or a lump sum payment, and
- their ability to return to work.

40. The Seacare scheme's rehabilitation and return to work performance is substantially worse than other Australian workers' compensation schemes. The average durable return to work rate across all Australian workers' compensation schemes for 2013-14 period was 79 per cent, while for the Seacare scheme it was only 64 per cent.[9]

41. An impact of the *Aucote* decisions could be that seafarers that had been injured and compensated in the sector under state and territory laws, dating back as far as 1993, may be required to pay back any compensation received and have that compensation reconsidered under the Seacare scheme. This could mean that some seafarers may be left worse off and out of pocket.

42. Another impact of the *Aucote* decisions for seafarers is the likelihood of calls on the Fund increasing. This is both because there are now more seafarers in the scheme and because previously injured employees could make claims under the Seacare scheme for old injuries against an employer that no longer exists and/or is unable to pay.

43. Actuarial advice sought by the Seacare Authority in 2010-11 indicated the Fund needs at least $900,000 in total to meet future liabilities. As at 30 June 2014, the Fund held approximately $1.2 million. The Fund has a reinsurance policy to provide indemnity for any amount of the Fund's liability that exceeds $1 million for a single event.

[8] All figures from Safe Work Australia, *Comparative Performance Monitoring Report: Comparison of work health and safety and workers' compensation schemes in Australia and New Zealand*, 16th ed, October 2014,| Pg 7, 38.
[9] Seafarers Safety, Rehabilitation and Compensation Authority, *Annual Report 2013-14*, Pg 14.

44. The Fund contains sufficient money to meet expected future liabilities, although its current levels are based on expected future liabilities for a scheme covering ships which are directly and substantially engaged in interstate or international trade or commerce.

45. If the Fund is depleted, seafarers who are injured will face significant delays in receiving compensation for injuries or may not be able to obtain any compensation.

How the Bill addresses the impacts of the Aucote decisions for seafarers

46. The Bill restores the coverage of the Seacare scheme to how it has been understood to be, prior to the *Aucote* decisions. Employees on intrastate voyages will remain covered by state workers' compensation and work health and safety laws. The Bill will ensure the effective regulation of work health and safety by regulators which are resourced to undertake compliance and enforcement action.

47. The Bill ensures that no seafarer will lose any workers' compensation payments they have received or face a reduction in workers' compensation payments they are receiving. The Bill will overcome the pressures placed on the Fund—ensuring that seafarers under the Seacare scheme continue to have access to the workers' compensation, even if their employer becomes insolvent. The return to the status quo will allow the opportunity for a measured and considered response to the Stewart-Crompton review that will best fit all scheme participants, including seafarers. The poor rehabilitation and return to work performance of the Seacare scheme highlight that it is not appropriate for an ad-hoc shift to wider coverage of the scheme.

48. The Bill includes provisions which expressly ensure that any seafarers who have already made a claim under the Seafarers Act, such as Mr Aucote, will not be affected by the amendments and will retain all of their rights to workers' compensation.

Employers and operators

49. As noted, approximately 12,000 seafarers who were previously understood to be covered by state workers' compensation and work health and safety laws are, in light of the *Aucote* decisions, covered by the Seacare scheme (i.e., the Seafarers Act and the OHS(MI) Act).

50. Under the Seafarers Act, employers are required to maintain an insurance policy to cover their liabilities under the Act. Failure to comply with this obligation is a criminal offence of strict liability.

51. Employers of seafarers on intrastate voyages have been acting in good faith on the basis that they were covered by state workers' compensation laws and fulfilling obligations under those laws. As a consequence, they would have been (and most likely still are) maintaining insurance policies (whether private or from the relevant state government authority) under state schemes.

52. Premium rates under the Seacare scheme are some of the highest of any workers' compensation scheme in Australia.[10] While premium rates may fall under a substantially expanded scheme, they would be unlikely to fall enough for insurance under the Seacare scheme to be

[10] Safe Work Australia, *Comparative Performance Monitoring Report: Comparison of work health and safety and workers' compensation schemes in Australia and New Zealand*, 16th ed, October 2014, Pg 19

cheaper than insurance under most state or territory workers' compensation schemes. The small number of established employers within the Seacare scheme may see some benefit, however, this would be at the detriment of the far larger number of employers that have been pulled into the scheme.

53. In addition to expenses incurred in relation to moving between workers' compensation schemes, employers will also incur regulatory costs adjusting to the rights and responsibilities under the OHS(MI) Act. For multistate employers, there can be benefits in moving to a single federal work health and safety jurisdiction. However, the employers that are affected by the *Aucote* decisions and the Bill's amendments are primarily engaged in intrastate trade and so are not operating across multiple state jurisdictions.

How the Bill addresses the impact of the Aucote decisions for employers and operators

54. The Bill will address the impact on employers by returning their legislative obligations to what they have been understood to be since 1993.

55. The Bill will also address the potential liability of employers for penalties for not maintaining the correct insurance policy under the scheme and for not providing returns to the Seacare Authority for the purpose of paying the Fund levy. The amendments in the Bill which have retrospective effect will prevent employers being found guilty of these strict liability offences.

Government agencies and regulators

56. The *Aucote* decisions have resulted in a profound shift of workers' compensation and work health and safety coverage of the Australian maritime industry. Whereas the Commonwealth was responsible for regulating workers' compensation and work health and safety for a small proportion of the maritime industry before the decision, it now has responsibility for the vast majority of the industry. This represents a massive cost shift from the states to the Commonwealth.

57. The Seacare scheme has a complex governance arrangement, as outlined in the diagram on page 13.

58. The Seacare Authority, which has general responsibility for the oversight and performance of the Seacare scheme operates as a part-time executive management group. The Seacare Authority has no staff of its own and is instead supported by a small number of staff made available by Comcare under an arrangement set out in the *Safety Rehabilitation and Compensation Act 1988*. The Seacare Authority is unlike most equivalent regulatory bodies in state and territory workers' compensation schemes, which have wider responsibilities, including compliance functions, and far more resources.

59. The Seacare scheme has been administered by the Seacare Authority, Comcare and AMSA, and state workers' compensation and work health and safety schemes administered by state regulators, on the basis that ships engaged in trade or commerce within a single state are covered by state laws.

60. However, the decision means that:

- state and territory regulators that administer workers' compensation and work health and safety laws no longer have any statutory power to do so for seafarers. State government staff that conduct work health and safety inspections and investigations on ships are in effect redundant;
- AMSA will be required to significantly expand its current work health and safety inspectorate functions across a substantially larger number of ships and employees.

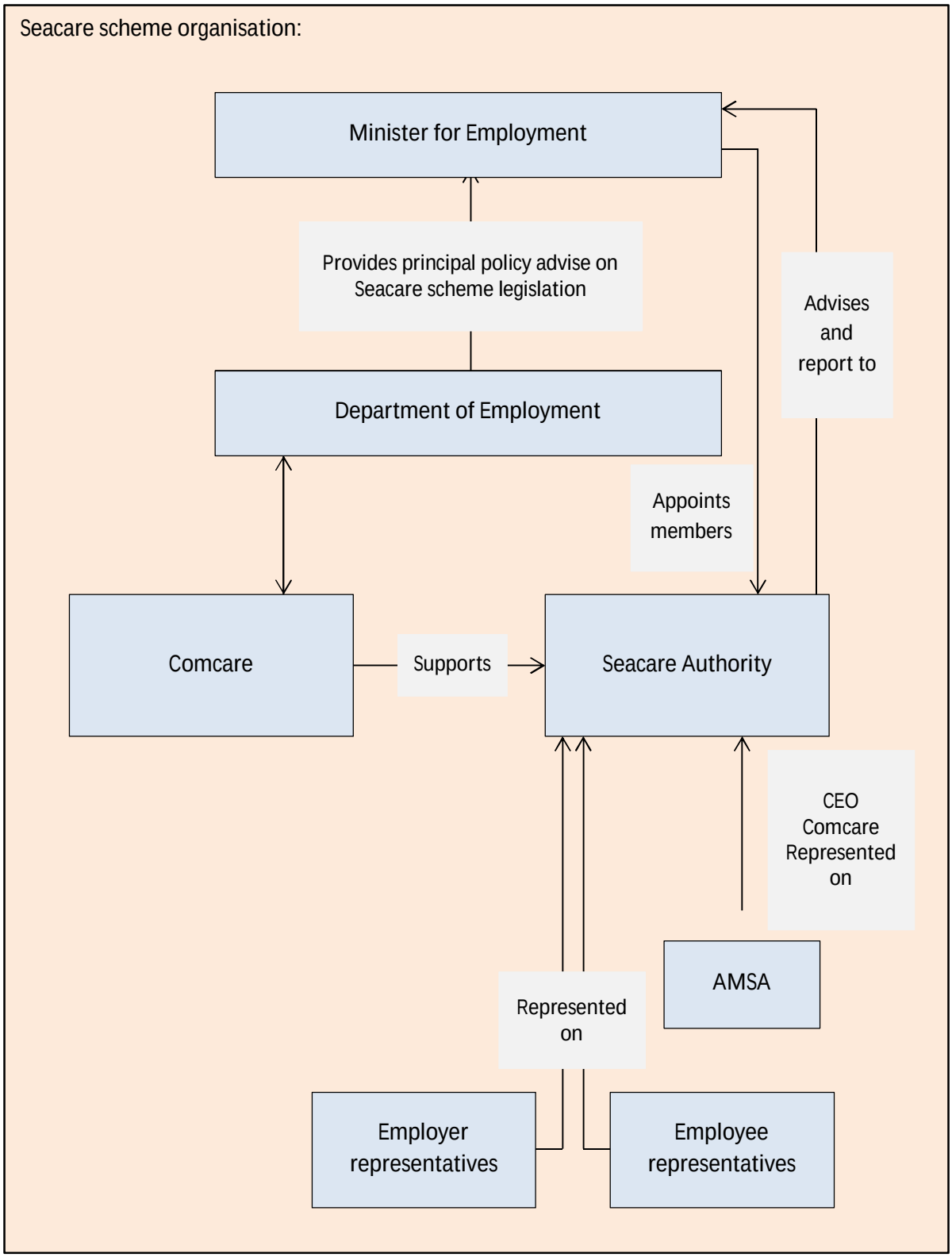
61. AMSA is funded via appropriations and levies imposed in relation to its broader functions in relation to the maritime industry. However, AMSA does not receive any additional appropriations to carry out its functions under the OHS(MI) Act and there is no levy on Seacare scheme employers to pay for regulatory administration.

62. Comcare and AMSA have recently estimated that the Seacare scheme (as it was understood to be prior to the Federal Court decision) costs about $2.3 million per year to administer. This amount includes the costs Comcare incurs as part of performing its statutory function of providing administrative support to the Seacare Authority (which includes meeting the costs of Authority meetings, preparing reports and papers for, or on behalf of, the Authority and administering certain functions of the Authority that have been delegated to them) and AMSA's costs from performing its statutory function as the Seacare scheme work health and safety inspectorate (which includes conducting investigations and investigations to enforce work health and safety laws and other work to promote work health and safety awareness and compliance).

How the Bill addresses the impact of the Aucote decision for government agencies

63. By returning the operation of the Seacare scheme to the status quo, the Bill prevents significant funding impacts on regulators and agencies which are not equipped or resourced to administer a significantly broader scheme.

64. The impact on government agencies and regulators has flow on concerns for safety regulation in the industry. If there is to be any change as to how the scheme operates this change needs to be undertaken in a measured and considered way.


Seacare scheme organisation:
Minister for Employment
Provides principal policy advise on Seacare scheme legislation
Advises and report to
Department of Employment
Appoints members
Comcare
Supports
Seacare Authority
CEO Comcare Represented on
AMSA
Represented on
Employer representatives
Employee representatives

Insurers

65. One of the effects of the Aucote decisions is to put the validity of paid premiums by employers to state workers' compensation schemes along with claims made to and payments made by those insurance schemes in doubt.

66. Given that payments under state or territory workers' compensation laws are arguably invalid due to the overriding operation of federal workers' compensation law there remains the ability, unless the amendments are made, for claims to also be made under the Seafarers Act and for insurance funds to be drawn on to finance these claims.

How the Bill addresses the impact of the Aucote decision for insurers

67. The effect of this Bill would be to return coverage to what it has always been understood to be thereby preventing claims for past injuries on insurers that they could never have anticipated. The Commonwealth will continue to work with the states and territories to address the validity of past claims made under state or territory workers' compensation schemes which may result in the states passing complementary legislation.

Conclusion

68. This Bill ensures the continued viability of the Commonwealth's Seacare scheme and restores certainty about the coverage of that scheme for all its participants, including seafarers and their representatives, employers, insurers and regulators.

69. The Bill is not taking away entitlements. No seafarer will lose any workers' compensation payments they have received or face a reduction in workers' compensation payments they are receiving. The amendments contained in the Bill simply clarify and return to seafarers the rights and entitlements they had prior to the Federal Court's decision.

70. It does this by returning the coverage of the Seacare scheme to what it has been commonly understood by participants to be since its commencement in 1993 and dating back to 1911 under the *Seamans Compensation Act 2011*.

71. The Bill therefore seeks to restore the balance of Commonwealth and state coverage of workers' compensation and work health and safety for seafarers that has existed since that time.

72. To effectively achieve this, the Bill applies retrospectively to any injury, loss or damage suffered by any employee on or after the commencement of the Seafarers Act in 1993. Past claims will not be disturbed. This approach ensures that there is certainty as to what a seafarer's appropriate workers' compensation rights are and have been.

73. The return to the status quo will allow the opportunity for a measured and considered response to the Stewart-Crompton review that will best fit all scheme participants, including for seafarers.

74. Should the Bill not be agreed, there would be a large degree of uncertainty about the historic operation of the Seacare scheme. This could result in:

- Seafarers losing or being required to repay workers' compensation received under state workers' compensation and being forced to remake their claims under the Seacare scheme;
- Injured seafarers whose employer has become insolvent being unable to receive workers' compensation payments from the Fund due to its depletion from an increase in calls on the Fund;
- employers being in breach of the obligations to maintain insurance under the Seacare scheme for each year dating back to 1993 (noting that they would have been operating under state and territory schemes—and paying premiums under those schemes); and
- previous prosecutions and enforcement action taken under state work health and safety laws being challenged and potentially overturned.

75. It is the Government's strong intention to ensure that the disturbance created by the *Aucote* decisions is rectified. It is not the Government's intention to change what was broadly understood to be the scope of the Seacare scheme.

76. The Government will be engaging in further reform of the Seacare scheme in which it will broadly consult with all industry participants.