



Australian Government

Seafarers Safety, Rehabilitation  
and Compensation Authority

Seacare  
Annual Report  
2008–09



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Note: Throughout this report the Seafarers Safety, Rehabilitation and Compensation Authority is referred to as the Seacare Authority or the Authority. Seacare is the registered trading or business name of the Seacare scheme of occupational health and safety, rehabilitation and compensation.

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# Letter of transmission to the Minister



**Australian Government**  
**Seafarers Safety, Rehabilitation  
and Compensation Authority**

The Hon. Julia Gillard MP  
Deputy Prime Minister  
Minister for Employment and Workplace Relations  
Parliament House  
CANBERRA ACT 2600

Dear Deputy Prime Minister

Pursuant to subsection 125A(1) of the *Seafarers Rehabilitation and Compensation Act 1992* (Seafarers Act), I am pleased to present the Annual Report on the activities of the Seafarers Safety, Rehabilitation and Compensation Authority for the financial year ended 30 June 2009. This Annual Report includes a report on the operation of the *Occupational Health and Safety (Maritime Industry) Act 1993* (OHS(MI) Act) and regulations, pursuant to subsection 114(1) of the OHS(MI) Act.

The Report also includes information on the operation of the Seafarers Safety Net Fund following a declaration under section 100 of the Seafarers Act on 10 April 2002 that the Authority has the functions, powers and obligations of the Fund from that date.

As that declaration also invoked the operation of the *Seafarers Rehabilitation and Compensation Levy Act 1992* and *Seafarers Rehabilitation and Compensation Levy Collection Act 1992*, this Report addresses the operation of those Acts, and regulations made under those Acts, for the period ending 30 June 2009.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Paul O'Connor'.

Paul O'Connor  
Acting Chairperson  
22 September 2009

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# Seacare mission statement and statutory objects

The mission of the Seacare Authority is to take a leading role in minimising the human and financial costs of workplace injury in the Australian maritime industry.

**The administration of the *Seafarers Rehabilitation and Compensation Act 1992* (Seafarers Act), the *Seafarers Rehabilitation and Compensation Levy Act 1992* (Levy Act) and the *Seafarers Rehabilitation and Compensation Levy Collection Act 1992* (Levy Collection Act).**

In administering the Seafarers Act, Levy Act and Levy Collection Act, the Seacare Authority aims to:

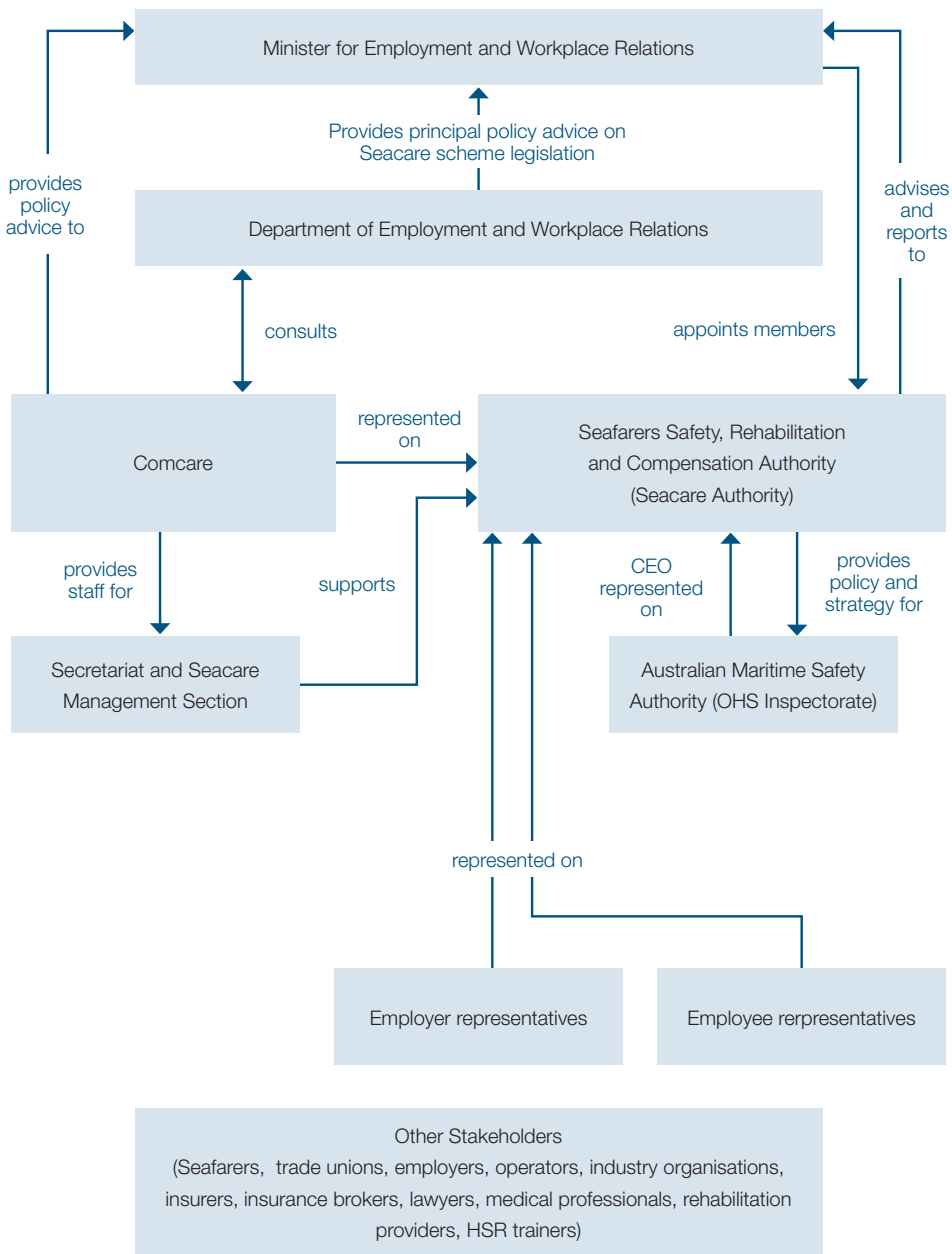
- provide an efficient and cost-effective scheme of workers' compensation and rehabilitation for seafarers who are injured or contract an illness in the course of their employment
- administer the Seafarers Safety Net Fund efficiently.

**The objects of the *Occupational Health and Safety (Maritime Industry) Act 1993* (OHS(MI) Act)**

The objects of the OHS(MI) Act are to:

- secure the health, safety and welfare at work of maritime industry employees
- protect persons at or near workplaces from risks to health and safety arising out of the activities of maritime industry employees at work
- ensure that expert advice is available on occupational health and safety (OHS) matters affecting maritime industry operators, maritime industry employees and maritime industry contractors
- promote an OHS environment for maritime industry employees that is adapted to their health and safety needs
- foster a cooperative, consultative and effective relationship between maritime industry operators and maritime industry employees on the health, safety and welfare of maritime industry employees at work.

# Seacare scheme organisation chart



# Legislation administered by the Seacare Authority

Enactments administered by the Minister for Employment and Workplace Relations through the Seacare Authority at 30 June 2009:

- *Seafarers Rehabilitation and Compensation Act 1992*
  - Seafarers Rehabilitation and Compensation Regulations 1993
- *Seafarers Rehabilitation and Compensation (Transitional Provisions and Consequential Amendments) Act 1992*
- *Seafarers Rehabilitation and Compensation Levy Act 1992*
  - Seafarers Rehabilitation and Compensation Levy Regulations 2002 (as amended)
- *Seafarers Rehabilitation and Compensation Levy Collection Act 1992*
  - Seafarers Rehabilitation and Compensation Levy Collection Regulations 2002 (as amended)
- *Occupational Health and Safety (Maritime Industry) Act 1993*
  - Occupational Health and Safety (Maritime Industry) Regulations 1995 (as amended)
  - Occupational Health and Safety (Maritime Industry) (National Standards) Regulations 2003 (as amended).

## Amendments to Seacare scheme legislation, including Regulations

There were amendments to the Seacare scheme legislation during 2008–09 resulting from:

- *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008* (Same-Sex Act), which removed discrimination against same-sex couples and their dependant children from a wide range of Commonwealth laws and programs including the Seafarers Act. The Same-Sex Act extends recognition to de facto couples and registered de facto couples of the same sex.
- *Employment and Workplace Relations Amendment Act 2009*, which increased compensation benefits for dependants of an employee where work-related injuries resulted in death.

## Related legislative matters arising

Consequential amendments were made to the Seacare scheme legislation in 2008–09 resulting from the *Fair Work (State Referral and Consequential and Other Amendments) Act 2009*.

# Chairperson's report

I am pleased to make this report on the activities of the Seafarers Safety, Rehabilitation and Compensation Authority (Seacare Authority) to the Deputy Prime Minister and Minister for Employment and Workplace Relations, the Hon. Julia Gillard MP, to the Australian Parliament and to the Australian maritime industry. This is the tenth annual report I have had the privilege to make as the Chairperson of the Seacare Authority.

The Seacare Authority is the regulator of occupational health and safety (OHS), workers' compensation and rehabilitation for seafarers on applicable vessels within the Australian maritime industry. The Authority is created by and administers the *Seafarers Rehabilitation and Compensation Act 1992* (Seafarers Act). The Seafarers Act establishes a workers' compensation and rehabilitation scheme for seafarers injured in the course of their employment on prescribed ships engaged in interstate, intra-territorial and international trade or commerce. The Authority has OHS responsibilities under the *Occupational Health and Safety (Maritime Industry) Act 1993* (OHS(MI) Act) together with the Australian Maritime Safety Authority (AMSA) which performs the OHS Inspectorate function for the Seacare scheme.

During the course of the year a number of reviews were conducted that will have a significant impact on the OHS legislative framework and on the maritime industry. The Authority has closely monitored progress on the move towards model OHS laws and has noted the implications for industry specific OHS laws included in the reform agenda. The Authority has also noted progress on the move towards uniform national maritime regulation and has made a submission to the Regulatory Impact Statement (RIS) consultation process. These and other reform agenda will have a profound impact

on the scheme and the Authority's operations in the coming years.

In terms of legislative change, I am particularly pleased with the passage of legislation through the Parliament in 2009 to significantly increase the level of death benefits payable in the scheme. The legislation increases the level of benefits to an amount comparable with other workers' compensation schemes in Australia.

Seacare's primary objective is to minimise injury and illness within the Australian maritime industry and, until this past year, the Seacare scheme had an enviable record of having no work-related fatalities for fourteen years. However, it is with deep regret that I have to report that there were three work-related fatalities in the scheme during the course of the year. Two of the fatalities are under the jurisdiction of the OHS(MI) Act and are subject to investigations by AMSA, while the third is under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* and is subject to investigation by the National Offshore Petroleum Safety Authority (NOPSA). The Seacare Authority regards any fatality in the scheme as unacceptable and will be looking at the findings from the respective investigations to see if there are any lessons that can be disseminated to the jurisdiction.

In terms of injury incidence rates, 2008–09 was also a disappointing year with the first increase in rates for three years. The scheme reported an injury incidence rate of 30.9 compared to 28.9 in 2007–08. The increase in injury incidence means that the Seacare scheme is now outside the rate required to meet the National OHS Strategy 2002–12 target of a 40 per cent reduction in injury incidence over ten years. The increase in injury incidence and the number of fatalities represent a significant challenge for the industry and the Authority in the coming year.

# Chairperson's report

The Seacare scheme has maintained its steady improvement in terms of return to work programs for injured seafarers. Also, the latest information on premium rates for workers' compensation insurance held by the scheme's employers indicates that rates are stable.

The Seacare Authority continued to manage the Seafarers Safety Net Fund that provides for eligible compensation benefits to be paid for injured seafarers when there is no extant employer or underwriter against which a claim can be lodged. The Authority has ensured that the Fund's target reserve amount is achieved and will continue to monitor the level of the Fund and levy returns to ensure that sufficient funds are available to meet any claims and administration expenses. The Authority is in the process of obtaining a reinsurance policy for the Fund and expects to have a policy in place early in the new financial year.

The Seacare Authority also continued to engage the scheme's stakeholders through a range of activities. In September 2008, the Authority conducted a highly successful Health and Safety Representatives Forum in Melbourne to highlight the role of health and safety representatives in the scheme. The Authority intends to conduct a similar event in Western Australia in October 2009. In October 2008, the Authority conducted its biennial Awards and Conference. Both events were well received by the participants and provided an excellent opportunity for the Authority to showcase OHS initiatives that are being undertaken in the scheme. I would like to thank all participants and organisers for a successful event and to congratulate the winners of the various safety award categories. I am particularly pleased to report that two of the Seacare award winners were selected as finalists in the National Safe Work Australia Awards for 2008.

I wish to record my thanks and gratitude to all members and deputy members of the Seacare Authority who continue to demonstrate a strong commitment to making the maritime industry a safer place to work as well as showing a compassionate approach to the treatment of seafarers who sustain an injury or contract a work-related disease. I would like to pay special tribute to retiring Authority Member, Mr Martin Byrne, for his valuable contribution to the operations of the Authority over many years. I would also like to thank the Comcare CEO and Authority Deputy Chairperson, Mr Martin Dolan, whose term as CEO expired on 30 June 2009, for his support and assistance over the past two years.

I also wish to acknowledge the important role played by AMSA as the OHS Inspectorate for the Seacare scheme and thank the staff of AMSA for their valuable contribution to the work of the Authority.

Finally, I would like to record the Seacare Authority's appreciation for the work of the staff of Comcare, including its senior executives who represent the Seacare Authority in key national forums such as the Heads of Workers' Compensation Authorities (HWCA) and the Heads of Workplace Safety Authorities (HWSA), and particularly the staff of the Secretariat and Seacare Management Section (SSMS) for their significant contribution to the effective running of the Authority's meetings and all its functions.

I commend this Annual Report to readers with an interest in the Australian maritime industry.



Geoff Gronow ESM ED  
Chairperson  
26 August 2009

# Seacare Authority major initiatives and outcomes 2008–09

- published the *Health and Safety Representatives Handbook – A guide for HSRs in the Australian maritime industry*
- held the inaugural Seacare Health and Safety Representatives Forum in Melbourne, September 2008
- held the biennial Seacare Awards and Conference in Sydney, October 2008
- provided a written submission to the Regulation Impact Statement (RIS) consultation process on the move towards uniform national maritime regulation
- agreed to the Seacare Business Plan for 2009–10
- reviewed and revised Seacare Authority's *Guidelines for the Accreditation of Health and Safety Representative (HSR) Training Courses*
- agreed to a regulatory proposal for manual tasks and secured the Minister's approval for the drafting of Regulations
- accredited new Health and Safety Representative (HSR) training courses
- further refined and enhanced the audit scheme for compliance under the OHS(MI) Act
- contributed to the Workplace Relations Ministers' Council's (WRMC) *Comparative Performance Monitoring Report – Comparison of occupational health and safety and workers' compensation schemes in Australia and New Zealand 10th and 11th editions*
- contributed to the *Australia & New Zealand Return to Work Monitor* prepared for the Heads of Workers' Compensation Authorities (HWCA)
- raised awareness of employers' OHS incident reporting obligations as well as the Australian Maritime Safety Authority (AMSA) reporting arrangements and undertook examinations of discrepancies in the number of claims recorded and the number of OHS incident reports made
- reviewed the processes involved in seafarer claims appeals and engaged with the Administrative Appeals Tribunal (AAT) to identify strategies for improved timelines
- undertook an examination of the scheme's claims dispute rate including identification of the factors leading to disputes
- contributed to the development of draft Regulations for confined spaces
- commenced development of the Seacare Health and Safety Representatives Forum to be held in October 2009
- undertook verification that alternative workers' compensation insurance cover is in place for section 20A exemption holders
- cooperated with an audit to review the level of compliance with the Seacare Safety Net Fund levy collection procedures and ensured all employers were meeting with their levy obligations to the full extent
- identified potential providers of a policy of insurance or indemnity from an authorised insurer for any amount of the Authority's liability under the Seafarers Act that exceeds \$1 000 000 for a single event which resulted in an injury to one or more employees.

# Seacare scheme key facts and statistics 2008–09

- There were three work-related fatalities in the Seacare scheme, bringing to an end the fatality-free period in the scheme of fourteen years. (Source: Seacare Authority)
- There were 6255 employees covered under the *Seafarers Rehabilitation and Compensation Act 1992* (Seafarers Act) during the year, working for 36 employers. The full-time equivalent (FTE) employee value was calculated as 4692 seafarers. (Source: Seacare Authority)
- The number of FTE seafarers covered under the *Occupational Health and Safety (Maritime Industry) Act 1993* (OHS(MI) Act) was 4312, working for 36 employers. (Source: Seacare Authority)
- The employees covered by the Seafarers Act were engaged on 270 ships — 63 in the Bluewater sector, 178 in the Offshore sector and 29 in Other sectors (Passenger and Tourism, Dredging and Aquaculture). (Source: Seacare Authority)
- Around 32 per cent of seafarers were employed in the Bluewater sector, 59 per cent in the Offshore sector, and nine per cent in Other sectors (Passenger and Tourism, Dredging and Aquaculture). (Source: Seacare Authority)
- The injury incidence reduction target set by the Seacare Authority for 2008–09 was 28.7 injuries per 1000 seafarers. Seacare’s recorded rate was 30.9. (Source: Seacare Authority)
- The frequency rate of injury and disease resulting in one week or more incapacity was 6.7 per one million hours worked. (Source: Seacare Authority)
- There were 41 incidents including two deaths and 11 serious personal injury incidents, reported to the OHS Inspectorate. (Source: AMSA)
- The OHS Inspectorate undertook 50 investigations, 12 of which were in response to incidents reported. The Australian Maritime Safety Authority (AMSA) issued four prohibition and 17 improvement notices as a result of these investigations. One prosecution was commenced. (Source: AMSA)
- There were 207 workers’ compensation claims lodged and reported to Seacare. There were 188 claims accepted, 145 involving lost time. (Source: Seacare Authority)
- Five insurance companies (Allianz, QBE, CGU, Liberty, GIO–Vero) wrote workers’ compensation insurance policies against the Seafarers Act with Allianz and QBE being the major providers. (Source: Seacare Authority)
- The workers’ compensation premium pool or premium income collected by insurers was approximately \$15.5 million in the latest year for which data is available, 2007–08. The declared wages pool was \$472.9 million which saw the average raw premium rate across the industry at 3.27 per cent. (Source: Seacare scheme insurers and Taylor Fry Pty Ltd)

# Chapter 1: The operations of the Seacare Authority

# The operations of the Seacare Authority

## 1.1 Functions of the Seacare Authority

The Seacare Authority is a statutory body established under the *Seafarers Rehabilitation and Compensation Act 1992* (Seafarers Act). It is located within the portfolio responsibilities of the Minister for Employment and Workplace Relations. Members of the Authority (apart from the CEO of the Australian Maritime Safety Authority (AMSA)) are appointed by the Minister under the Seafarers Act.

The Seacare Authority is not a body corporate and does not employ its own staff. To enable it to perform its functions and exercise its powers, section 72A of the *Safety, Rehabilitation and Compensation Act 1988* requires Comcare to provide the Seacare Authority with secretariat support and other assistance, and to make available the services of such members of its staff as the Authority reasonably requires.

The Seacare Authority performs functions under the Seafarers Act as well as functions conferred on it by the *Occupational Health and Safety (Maritime Industry) Act 1993* (OHS(MI) Act) and associated Regulations. With respect to these legislative functions, the Seacare Authority is the regulator of workers' compensation, rehabilitation, and occupational health and safety (OHS) for defined sections of the Australian maritime industry. This scheme of workers' compensation, rehabilitation and OHS is known as the Seacare scheme (Seacare being the trading name of the Seacare scheme).

The Seacare Authority's functions under the Seafarers Act (section 104) are to:

- monitor the operation of the Seafarers Act
- promote high operational standards of claims management and effective rehabilitation procedures by employers
- cooperate with other bodies or persons with the aim of reducing the incidence of injuries to employees
- publish material relating to the above functions
- formulate policies and strategies relating to the OHS of employees
- accredit OHS training courses for the purposes of section 47 of the OHS(MI) Act
- advise the Minister about anything relating to the Authority's functions and powers as well as other matters relating to the compensation and rehabilitation of employees
- perform such other functions as are conferred on the Authority by the Seafarers Act or any other Act.

The Seacare Authority's functions under the OHS(MI) Act (section 9) are to:

- ensure, in accordance with the OHS(MI) Act and Regulations, that the obligations imposed by or under the OHS(MI) Act are complied with
- advise operators, employees or contractors, either at its own initiative or upon being asked, on OHS matters
- collect, interpret and report information relating to OHS



- formulate policies and strategies relating to the OHS of employees
- accredit OHS training courses for the purposes of section 47 of the OHS(MI) Act
- liaise with other bodies concerned with OHS
- advise the Minister on:
  - the most effective means of giving effect to the objects of the OHS(MI) Act
  - the making of Regulations under the OHS(MI) Act
  - the approval of Codes of Practice under subsection 109(1) of the OHS(MI) Act.

The Seacare Authority also manages the maritime industry's Seafarers Safety Net Fund (the Fund) and administers the *Seafarers Rehabilitation and Compensation Levy Act 1992* (Levy Act) and the *Seafarers Rehabilitation and Compensation Levy Collection Act 1992* (Levy Collection Act) and Regulations made under these Acts.

Under the Levy Act the Authority must advise the Minister on:

- the need to ensure that the Fund has adequate financial reserves for the purposes of its prudential management
- reasonable estimates of the Fund's present and future liabilities under the Seafarers Act
- the cost of administering the Authority in connection with the performance or exercise of the Fund's functions, powers and obligations.

The Authority is responsible for ensuring that employers comply with their obligations under the Levy Collection Act and Regulations.

### 1.1.1 Seacare scheme coverage

The Seafarers Act applies to seafarers and trainees employed on prescribed ships that are engaged in intra-territorial or interstate trade or commerce, or trade or commerce to places, or between places, outside Australia. A prescribed ship is a ship to which Part II of the *Navigation Act 1912* (Navigation Act) applies but does not include a government ship. This includes certain ships registered in Australia, ships otherwise registered and engaged in the coasting trade, or ships of which the majority of the crew are Australian residents and which are operated by an entity with its principal place of business in Australia.

The OHS(MI) Act applies to all ship operators, employees, contractors and other persons working on a prescribed ship that is engaged in intra-territorial or interstate trade or commerce, or trade or commerce to places, or between places, outside Australia. The OHS(MI) Act also covers prescribed units, being certain offshore industry mobile units (a vessel or structure used in exploring or exploiting the natural resources of the seabed). The OHS(MI) Act does not cover ships that voyage within a state, or government ships or vessels to which the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* applies.

The Seafarers Act also applies to employment on prescribed ships where a section 8A (for offshore industry vessels) or 8AA (for trading ships) declaration under the Navigation Act is in force. Similarly, the OHS(MI) Act applies to offshore industry vessels where a section 8A declaration is in force and to trading ships where a section 8AA declaration is in force.

More detail on the coverage of the Seafarers Act, including application provisions and coverage tests, is provided at Appendix 3.

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## 1.2 Seacare Authority members

The Seacare Authority has seven members, six of whom are appointed by the Minister. The Minister appoints a Chairperson, Deputy Chairperson, two members representing employers and two members representing employees. The CEO of AMSA is a Member of the Authority.

Membership of the Authority as at 30 June 2009 was as follows:



### **Geoff Gronow Chairperson**

Mr Gronow ESM ED is a consultant who until recently worked with Middletons Lawyers in Melbourne. He is an Australian legal practitioner and is a barrister and solicitor of the High Court of Australia, the Supreme Court of Victoria and the Supreme Court of the Australian Capital Territory. Mr Gronow has served as Chairperson since September 1999 and was currently appointed until 31 August 2009.



### **Martin Dolan Deputy Chairperson**

Mr Dolan was Deputy Chairperson from 1 September 2006 until 31 August 2009. His appointment as CEO of Comcare finished on 30 June 2009.



### **Peter Bremner Member**

Mr Bremner is a consultant and was formerly General Manager Shipping, CSR Limited. He represents the interests of employers. Mr Bremner was appointed to the Authority in August 2004 and is currently appointed until 15 August 2010.



### **Malcolm Hearnden Member**

Mr Hearnden is Manager, Swire Pacific Ship Management (Australia) Pty Ltd. He represents the interests of employers. Mr Hearnden has been a Member of the Authority since December 2001 and is currently appointed until 7 April 2011.



### **John Wydell Member**

Mr Wydell is an Industrial Officer with the Australian Maritime Officers Union. He represents the interests of seafarers. He is currently appointed until 9 May 2012. Mr Wydell was formerly a Deputy Member of the Authority, since May 2003.



### **Mick Doleman Member**

Mr Doleman is the Assistant National Secretary of the Maritime Union of Australia. He represents the interests of seafarers. Mr Doleman was appointed as a Member in November 2004 and is currently appointed until 7 January 2011.



### **Graham Peachey Member**

Mr Peachey is the CEO of AMSA. He has been a Member since 4 May 2007.

## **1.2.1 Seacare Authority deputy members**

The Seafarers Act provides for employer and employee representative members of the Authority, with the approval of the Minister, to appoint a person to be the deputy of that member. As at 30 June 2009, the members had appointed the following deputy members:

- Mr Bremner appointed Ms Teresa Hatch
- Mr John Wydell appointed Mr Martin Byrne
- Mr Hearnden appointed Mr Tony Caccamo
- Mr Doleman appointed Mr Jamie Newlyn

The CEO of AMSA may appoint a person who is an officer or employee of AMSA to be his or her Deputy. At 30 June 2009, Mr Brad Groves was Mr Peachey's Deputy.

## 1.3 Membership changes during 2008–09

Mr John Wydell was appointed as a Member representing employees on 9 May 2009 for a period of three years. He appointed Mr Martin Byrne as Deputy Member on 9 May 2009.

## 1.4 Meeting attendance

The Seacare Authority met six times during 2008–09. Four of these meetings (August, November, February and May) were scheduled quarterly meetings as required by the Seafarers Act, while two special meetings were held by teleconference in August and October. The following table outlines attendance at those meetings:

Table 1: Seacare Authority meeting attendance

	Meeting 74	Meeting 75	Meeting 76	Meeting 77	Meeting 78	Meeting 79
	5 August 2008*	28 August 2008 Canberra	8 October 2008*	27 November 2008 Sydney	26 February 2009 Melbourne	28 May 2009 Sydney
<b>Members</b>						
Mr Geoff Gronow	✓	✓	✓	✓	✓	✓
Mr Martin Dolan	◆	✓	✓	✓	✓	✓
Mr Peter Bremner	✓	✓	✓	✓	✓	✓
Mr Mal Hearnden	◆	✓	◆	✓	✓	✓
Mr Martin Byrne	✓	✓	✓	◆	✓	na
Mr John Wydell	na	na	na	na	na	◆
Mr Mick Doleman	◆	◆	✓	◆	◆	✓
Mr Graham Peachey	◆	✓	✓	◆	✓	✓
<b>Deputy members</b>						
Ms Teresa Hatch	◆	ob	◆	◆	ob	◆
Mr Tony Caccamo	◆	◆	◆	◆	◆	◆
Mr John Wydell	◆	◆	ob	◆	◆	na
Mr Martin Byrne	na	na	na	na	na	✓
Mr Jamie Newlyn	◆	◆	ob	✓	✓	◆
Mr Brad Groves	✓	ob	ob	◆	ob	◆

- ✓ – attended meeting in full capacity
- ◆ – did not attend the meeting
- ob – attended meeting as an observer
- na – not applicable (no appointment)
- \* – special meeting (teleconference)



## 1.5 Seacare Authority working groups

Four Authority working groups operated in 2008–09. Membership as of 30 June 2009 was:

### OHS Standards Task Force

Employee representative  
Mr Martin Byrne (AIMPE)

Employer representative  
Ms Teresa Hatch (ASA)

AMSA representative  
Mr Brad Groves

### HSR Training Accreditation Panel

Employee representative  
Mr Jamie Newlyn (MUA)

Employer representative  
Ms Helen O'Donnell (AMMA)

AMSA representative  
Ms Clare Ellis

### Seacare Awards and Conference Steering Committee

Chairperson  
Mr Geoff Gronow

Employer representative  
Mr Peter Bremner

Employee representative  
Mr Mick Doleman (MUA)

### HSR Forum Working Group

Employer representative  
Mr Lee Azfar (ASA)

Employee representative  
Mr Martin Byrne (AIMPE)

AMSA representatives  
Mr Brad Groves and Ms Clare Ellis

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## 1.6 Public accountability

### 1.6.1 Consultancy services

In 2008–09, five service provision or consultancy arrangements were undertaken for the Seacare Authority. These were:

- Collection and analysis of data relating to workers' compensation insurance for input into the eleventh Comparative Performance Monitoring Report and the Seacare Authority Annual Report 2008–09.  
Consultant: Taylor Fry Consulting Actuaries  
Cost: \$15 000
- Provision of actuarial advice in relation to the operation of the Seafarers Safety Net Fund including the appropriate level of reserve for the Fund.  
Consultant: Taylor Fry Consulting Actuaries  
Cost: \$17 700
- Survey, data collection and analysis relating to return to work experiences of injured seafarers for inclusion in *Australia & New Zealand Return to Work Monitor 2007–08* and the Seacare Annual Report 2008–09.  
Provider: Campbell Research & Consulting  
Cost: \$13 764.92
- Provision of services in relation to the administration of the Seafarers Safety Net Fund and the management of the Seacare scheme claims database.  
Provider: Comcare  
Cost: \$70 000 (payment made from the Seafarers Safety Net Fund)
- Assessment and advice in relation to applications for health and safety representative training course accreditation.  
Provider: Australian Maritime College  
Cost: \$18 000

### 1.6.2 Fraud control

The Seacare Authority observes and adheres to the *Commonwealth Fraud Control Guidelines* to the extent these apply to the operations of the Authority. Actions in 2008–09 to ensure that appropriate measures and systems were in place included:

- preparation of risk assessments and control plans that comply with the *Commonwealth Fraud Control Guidelines*
- establishment of appropriate prevention, detection, investigation and reporting procedures and processes
- collection and reporting of annual data that complies with the *Commonwealth Fraud Control Guidelines*.

### 1.6.3 Report on legal services expenditure

Paragraph 11.1(ba) of the Legal Services Directions 2005, issued by the Attorney-General under the *Judiciary Act 1903*, requires chief executives of agencies subject to the *Financial Management and Accountability Act 1997* to ensure that their agency’s legal services purchasing, including expenditure, is appropriately recorded and monitored. The provision also requires that, by 30 October each year, the agencies make publicly available records of the legal services expenditure for the previous financial year.

Legal services expenditure  
1 July 2008–30 June 2009

Total external legal services expenditure	Nil
Total internal legal services expenditure	Nil
Total legal services expenditure	Nil

‘Internal’ legal expenditure for Seacare is provided by the Legal Services Section of Comcare, a *Commonwealth Authorities and Companies Act 1977* agency, pursuant to section 72A of the *Safety, Rehabilitation and Compensation Act 1988*.

### 1.6.4 Social justice

The objective of the Seafarers Act is to ensure that cost-effective and fair compensation is provided to injured seafarers and that they are returned to work as efficiently as possible. The Authority reinforces this purpose by monitoring the operation of the Act and promoting high operational standards of claims management and effective rehabilitation procedures by employers. The Authority also responds to requests for information about the scheme and its operation from seafarers, employers, operators, maritime unions, industry associations, insurance companies, insurance brokers, rehabilitation providers, and the legal and medical professions.

### 1.6.5 Access and equity

In 2008–09, the Authority maintained ready access to information on rights, entitlements and obligations under the Seafarers Act by:

- maintaining and updating its internet site ([www.seacare.gov.au](http://www.seacare.gov.au)), which includes information on the role and functions of the Authority, membership details, publications, official forms, accreditation of OHS training courses, exemptions from the application of the Seafarers Act, relevant legislation, links to related sites as well as the latest news on the scheme and contact details
- providing a separate email address ([seacare@comcare.gov.au](mailto:seacare@comcare.gov.au)) for general enquiries and correspondence for the Authority
- providing a dedicated phone line and voicemail service (02 6275 0070) to ensure that all enquiries are dealt with in an efficient and timely manner
- developing and distributing:
  - brochures to employers covered by the Seacare scheme and other interested parties
  - *Seacare News*, a regular newsletter distributed to all interested parties that provides information on scheme developments and Seacare Authority initiatives and activities within the jurisdiction
  - notices to maritime industry and other interested parties
- providing information and advice to interested parties and members of the public.

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### 1.6.6 Freedom of information, Commonwealth Ombudsman requests and Privacy Act matters

In 2008–09, the Authority received no requests for information under the *Freedom of Information Act 1982*, one request for information from the Commonwealth Ombudsman and no enquiries in relation to matters under the *Privacy Act 1988*.

### 1.6.7 Requests for information

Members of the public may obtain information about the Authority or advice on how to lodge a request for information under the *Freedom of Information Act 1982* by contacting:

Secretariat and Seacare Management Section,  
Comcare  
GPO Box 9905  
CANBERRA ACT 2601

Phone: (02) 6275 0070

Fax: (02) 6275 0067

Email: [seacare@comcare.gov.au](mailto:seacare@comcare.gov.au)

### 1.6.8 Service Charter

The Seacare Authority agreed to a Service Charter, taking into account the Government's Client Service Charter Principles, in May 2001. The Authority is committed to meeting the service standards set out in the Charter. In 2008–09 there were no complaints lodged with the Authority or Comcare regarding service standards.



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## 1.7 Administrative support

The Seacare Authority does not have its own staff. Comcare makes employees available to support the Seacare function and to form the Secretariat and Seacare Management Section (SSMS), which is comprised of two full-time staff. The SSMS has access to Comcare legal, financial management and communication services, and to other related corporate support services. The SSMS is responsible for supporting the Seacare Authority and for performing its day-to-day regulatory functions.

The SSMS, under the Authority's direction, is responsible for:

- provision of secretariat, policy and strategic support to the Seacare Authority, and for implementing its decisions
- administering Seacare scheme legislation and monitoring the operation of the legislation
- managing the annual appropriation for supporting the Seacare function
- managing the Seafarers Safety Net Fund and levy collection
- monitoring, and reporting on, Seacare scheme performance
- preparing an Annual Report to Parliament
- reporting to the Minister
- liaising and communicating with scheme stakeholders and other like regulators
- promoting the objectives of the Seacare scheme, particularly to reduce the human and financial costs of workplace injury in the Australian maritime industry.

## 1.8 The Portfolio Budget Statement for the Seacare function

The Seacare function is separately identified as an Output in the Portfolio Budget Statements (PBS) issued as part of the annual Commonwealth budgetary process. It forms part of the Comcare Budget Statements. In 2008–09, the Seacare Output, identified as Output 5, is to work to minimise the human and financial costs of workplace injury in the Australian maritime industry.

## 1.9 Other reporting requirements

The following annual reporting requirements relating to the Seacare function are detailed in the Comcare Annual Report 2008–09:

- corporate governance
- management of human resources
- purchasing
- assets management
- advertising and market research
- occupational health and safety
- ecologically sustainable development and environmental performance.

The *Comcare Annual Report 2008–09* is available at: [www.comcare.gov.au](http://www.comcare.gov.au)



Chapter 2:  
The Seacare Authority  
— performance of its  
statutory functions

# The Seacare Authority – performance of its statutory functions

## 2.1 Seacare Authority accountability framework

The table below details the Seacare Authority’s key accountabilities and provides an overview for matters covered in this chapter.

Table 2: Seacare Authority accountability framework

Element	Role	Result
Minister	Determines the Outcome and Output/s, and Parliament appropriates a budget	Seacare Authority and Comcare advise the Minister in achieving the Outcome and Output/s
Outcome	<i>Safe and healthy workplaces, and cost-effective and fair compensation</i>	Described in the Government’s Portfolio Budget Statements (PBS) and specifies what is expected from the Seacare function
Seafarers Safety, Rehabilitation and Compensation Authority (Seacare Authority)	Responsible for helping the Government achieve the Outcome by delivering Output/s within its legislative responsibilities	Advises the Minister on the performance of the functions assigned to it in the legislation it administers
Output	<i>Minimise the human and financial costs of workplace injury in the Australian maritime industry</i>	Specified in the PBS along with performance measures that are reported to the Government in the Seacare Authority Annual Report
Seacare Authority Strategic Objectives 2004–05 to 2009–10	The Authority develops Strategic Objectives to identify and prioritise its longer term goals in its delivery of the Output	The Strategic Objectives are overlaid by the mission: <i>To take a leading role in minimising the human and financial costs of workplace injury in the Australian maritime industry</i>
Seacare Authority Business Plan 2008–09	The Authority determines a Business Plan that details activities to deliver the PBS Outcome	Enables the Authority to prioritise actions within its budget and to measure progress and achievements
Secretariat and Seacare Management Section (SSMS)	The SSMS is responsible for supporting the Authority in undertaking its functions	Comcare provides SSMS staff as well as enabling services including information technology, financial management, legal advice, human resources support and office accommodation
Annual Report to the Minister and Parliament	The Seacare Authority reports to the Minister and Parliament on its Output, operations and on scheme performance	Performance is reported in the Annual Report



## 2.2 Outcome and output

During 2008–09, the Seacare Authority contributed towards the PBS outcome of *safe and healthy workplaces, and cost-effective and fair compensation*. The output required of the Seacare Authority in meeting the outcome was *to minimise the human and financial costs of workplace injuries in the Australian maritime industry*.

Three measures for assessing the performance of the Seacare Authority in delivering this output were identified in the PBS:

- (i) incidence of workplace injuries and diseases (target: 40 per cent reduction over the ten years to 30 June 2012)
- (ii) incidence of work-related fatalities (target: zero for the ten years to 30 June 2012)
- (iii) Seacare scheme performance meets Seacare Authority requirements (target: satisfactory or above).

Achievement of performance measure (i) requires an average reduction of four per cent in the injury incidence per year measured from a baseline taken from data for the three-year period of

2000–01 to 2002–03. The baseline incidence of injury in the maritime industry covered by the Seacare scheme is 39.9 per 1000 full-time equivalent (FTE) employees (see Section 4.5, Occupational health and safety outcomes).

In 2008–09, the Seacare injury and disease incidence rate was 30.9 per 1000 FTE seafarers. The target for 2008–09, in order to meet the interim target of a 20 per cent reduction by 30 June 2009, was 28.7.

Performance measure (ii) was not met as there were three work-related fatalities in the maritime industry covered by the Seacare scheme during 2008–09.

In respect of performance measure (iii) the Seacare Authority rated the performance of the Seacare scheme during 2008–09 as unsatisfactory based on the fact that three fatalities occurred in the jurisdiction and the scheme failed to meet the target for the reduction in the incidence of workplace injuries and diseases.

## 2.3 Seacare scheme national context

The Seacare scheme is one of ten rehabilitation and workers' compensation schemes in Australia and one of two such schemes operating under Commonwealth legislation (Comcare being the other). It is the only national, industry-based occupational health and safety (OHS), workers' compensation and rehabilitation scheme in the country. Seacare is one of eleven OHS jurisdictions and one of three operating under Commonwealth legislation (Comcare and the offshore oil and gas sector regulated by the National Offshore Petroleum Safety Authority (NOPSA) being the others).

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## 2.4 Relationship with national occupational health and safety and workers' compensation bodies and forums

### 2.4.1 Heads of Workers' Compensation Authorities

The Seacare Authority participates in Heads of Workers' Compensation Authorities (HWCA); a forum designed to facilitate information exchange and to develop initiatives in relation to scheme design and administration. Seacare contributes to the *Australia & New Zealand Return to Work Monitor* prepared for HWCA.

### 2.4.2 Heads of Workplace Safety Authorities

The Seacare Authority along with the Australian Maritime Safety Authority (AMSA) are signatories to a Memorandum of Understanding between OHS jurisdictions to facilitate investigations involving cross-border or cross-jurisdictional issues. This multi-jurisdictional MOU was facilitated by Heads of Workplace Safety Authorities (HWSA) in May 2005.

### 2.4.3 Workplace Relations Ministers' Council

The Workplace Relations Ministers' Council (WRMC) considers the performance of all schemes, including Seacare, primarily via annual Comparative Performance Monitoring (CPM) Reports. The Seacare Authority monitors and takes account of WRMC decisions where they may impact on the Seacare scheme and is guided by policy commitments made by the Minister at WRMC.

### 2.4.4 Safe Work Australia

The Seacare Authority is represented by the Department of Employment and Workplace Relations on Safe Work Australia (SWA), which has taken over much of the responsibilities of the former Australian Safety and Compensation Council (ASCC) and its committees. Key SWA activities where Seacare has a close involvement include:

- implementation of the National OHS Strategy 2002–12 and observance of the national OHS targets as endorsed by WRMC
- development of national OHS Standards and Codes of Practice that guide Seacare Authority adoption of Regulations and Codes applicable to the maritime industry
- coordination of data for the national CPM Report, where the Authority provides an annual data set on the Seacare scheme, as well as participation in CPM Reports on OHS and workers' compensation arrangements across jurisdictions in Australia and New Zealand
- coordination of national data standards for OHS and workers' compensation, which guides Seacare scheme data collection and reporting.

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## 2.5 Seacare Authority Strategic Objectives 2004–05 to 2009–10

In May 2004, the Seacare Authority adopted Strategic Objectives for the five-year period of 2004–05 to 2009–10. The Strategic Objectives are overlaid by the Authority's mission:

- *to take a leading role in minimising the human and financial costs of workplace injury in the Australian maritime industry.*

Having regard to the PBS Output Statement, the Authority's Strategic Objectives are shaped by its regulatory responsibilities in administering the scheme's legislation.

In administering the *Occupational Health and Safety (Maritime Industry) Act 1993* (OHS(MI) Act), the Authority's objective is:

- *to assist the Australian maritime industry to sustain a significant, continual reduction in the incidence of work-related injury and disease, and to avoid work-related fatalities.*

In administering the *Seafarers Rehabilitation and Compensation Act 1992* (Seafarers Act), the Authority's objective is:

- *to be an effective regulator for workers' compensation and rehabilitation/return to work in partnership with the Australian maritime industry, and to be recognised by the industry as effective.*

In administering the *Seafarers Rehabilitation and Compensation Levy Act 1992* (Levy Act) and *Seafarers Rehabilitation and Compensation Levy Collection Act 1992* (Levy Collection Act), the Authority's objective is:

- *to manage an efficient and effective Seafarers Safety Net Fund.*

Within this framework, the Seacare Authority places a high priority on policy development as well as practical initiatives to effectively perform its statutory functions, including:

- communicating with stakeholders
- publishing material relating to the operation of Seacare legislation, claims management, rehabilitation and RTW, and the incidence and prevention of injuries or illnesses at work
- monitoring the operation of the Seafarers Act
- promoting high operational standards of claims management and effective rehabilitation by employers
- maintaining and managing the scheme's claims database
- administering the Seafarers Safety Net Fund including levy collection, prudential financial management, setting of target reserves and recommending appropriate levy rates, and determination of claims on the Fund
- ensuring that the obligations imposed by the OHS(MI) Act and Regulations are complied with
- cooperating with other bodies or persons with the aim of reducing the incidence of injuries to employees
- formulating policies and strategies relating to the OHS of employees
- advising operators, employees or contractors on OHS matters
- collecting, interpreting and reporting information relating to OHS
- accrediting providers of training courses for health and safety representatives (HSRs)
- advising the Minister on matters relating to rehabilitation and compensation and on the most effective means of giving effect to the objects of the OHS(MI) Act, including on the making of Regulations and approved Codes of Practice.

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## 2.6 Seacare Authority Business Plan 2008–09

The Seacare Authority agreed upon the Seacare Authority Business Plan 2008–09 in May 2008. The Business Plan details actions and key results that are aligned with the Authority's five-year Strategic Objectives, and that are expected to be achieved in order to meet the Government's outcome and output requirements. The Business Plan identifies three key result areas:

- working with the industry to provide safe and healthy workplaces
- promoting a fair, efficient and effective scheme of rehabilitation, return to work and compensation for maritime industry employees including managing efficiently the Seafarers Safety Net Fund
- providing advice to the Minister on issues relating to improving occupational health and safety, rehabilitation and workers' compensation.

The key result areas involve actions consistent with the statutory functions of the Seacare Authority including discharging the regulatory requirements of scheme legislation. Major actions, initiatives and programs under each key result area are described here.

### 2.6.1 Working with the industry to provide safe and healthy workplaces

#### The OHS Inspectorate

AMSA performs the OHS Inspectorate function as provided in section 82 of the OHS(MI) Act.

The functions of the Inspectorate are to:

- ensure, in accordance with the Act and Regulations, that the obligations imposed by or under the OHS(MI) Act or Regulations are complied with
- advise operators, employees or contractors on OHS matters
- provide the Authority with information.

AMSA marine surveyors are trained in OHS and are appointed as inspectors under the OHS(MI) Act. They perform a range of functions including advising employers and operators on their duty of care as well as on approaches to safety and effective injury prevention. They also investigate accidents and dangerous occurrences and issue prohibition and improvement notices.

AMSA issued seventeen improvement notices and four prohibition notices during 2008–09. The Inspectorate targeted ships where there were concerns that OHS performance was not adequate. This was in addition to the annual program of conducting proactive OHS inspections of all ships covered by Part II of the *Navigation Act 1912* (Navigation Act). AMSA also continued to implement OHS initiatives and to work with employers and operators to raise awareness. Campaigns during 2008–09 included manual handling and slip, trip and fall hazards, as well as a focus on raising awareness of reporting obligations.

## OHS Regulations and Codes of Practice

The Seacare Authority aims to adopt national OHS Standards and Codes of Practice (to the extent that they are applicable to the maritime industry) and to introduce appropriate Regulations under the OHS(MI) Act. Work has continued on the development of Regulations and a Code of Practice for safe work in confined spaces.

On 25 September 2008 the Minister approved the implementation for the Seacare jurisdiction of the *National Standard for Manual Tasks*, subject to consultation being undertaken. The National Standard, supported by the National Code of Practice for the Prevention of Musculoskeletal Disorders from Performing Manual Tasks (2007), sets out principles for the effective management of hazardous manual tasks to prevent musculoskeletal disorders. The National Standard provides a focus on tasks that are more likely to cause injury. During September 2008, the Seacare Authority undertook a consultation process and comments received were taken into consideration in the development of drafting instructions.

## Accreditation of health and safety representative training courses

A primary objective of the Seacare Authority with regard to health and safety representative (HSR) training is to ensure that accreditation of HSR training courses provides for competency standards equivalent to the highest national standards and that HSRs have the capabilities to perform their functions as set out in the OHS(MI) Act.

In 2008–09, the Seacare Authority reaccredited one HSR training course and accredited three new HSR training courses in accordance with its HSR training accreditation guidelines. The new courses were accredited against revised guidelines approved at the August 2008 meeting of the Seacare Authority. The revised guidelines allow for the accreditation of a bridging course and a full HSR training course. They provide clearer expectations for such courses and the course providers. The guidelines also seek to enable a participant to move toward an OHS qualification. The guidelines can be accessed from the Seacare website at <[www.seacare.gov.au](http://www.seacare.gov.au)>.

Table 3 summarises the training delivered over the last five years. It indicates that there has been a significant number of courses held and a large number of seafarers undertaking accredited HSR training each year. In 2008–09, courses were conducted for eight scheme employers by two accredited training providers.

**Table 3: Accredited health and safety representative training courses**

	2003–04	2004–05	2005–06	2006–07	2007–08	2008–09
Courses delivered	8	11	15	19	15	17
Completions	89	127	164	229	135	134

Source: Providers of Seacare scheme accredited HSR training courses

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## 2.6.2 Promoting a fair, efficient and effective scheme of rehabilitation, return to work and compensation for maritime industry employees including managing efficiently the Seafarers Safety Net Fund

### Rehabilitation and return to work

The Seacare Authority has identified rehabilitation and return to work (RTW) performance as an area requiring particular attention. However, the Authority recognises that RTW outcomes in the industry are affected by the limited availability of temporary suitable alternative duties for seafarers, given that reduced hours and modified duties are often not available on a ship at sea. Also, seafarers must satisfy strict 'fit-for-sea duty' requirements before returning to sea. In addition, where injured seafarers are returned to their home ports following an injury, the availability of suitable duties in some locations as well as access to skilled rehabilitation providers is limited. More detail on the scheme's rehabilitation and RTW performance is provided in section 4.9.

The Seacare Authority continued its involvement in the *Australian & New Zealand Return to Work Monitor*. The RTW Monitor is based on a survey of the experiences of injured workers across workers' compensation schemes in Australia and New Zealand in returning to work. Telephone interviews with all seafarers lodging a compensation claim in the seven to nine months prior to each survey are conducted. There are four Seacare surveys held each year in August, November, February and May.

In addition to surveying injured seafarers, the RTW Monitor analyses compensation payment details derived from the scheme's claims database to ascertain compensation costs per claim. Outcomes from the RTW Monitor provide data for four of the six Seacare Authority rehabilitation and RTW benchmarks. The RTW

Monitor is compiled by the consultancy firm, Campbell Research and Consulting Pty Ltd, on behalf of HWCA and Seacare has participated in it since 2000.

### Workers' compensation data collection

The Seacare Authority gathers and records workers' compensation data from duplicate copies of claim forms provided by employers. Scheme employers are required to forward to the Authority the duplicate copy of every claim lodged by an employee (using the claim forms approved by the Authority). As part of the claims data gathering process, the Authority seeks updated claims history information from employers through a six-monthly Claim Update Report.

The data collected is used to inform the Seacare Authority, and is the basis of data submitted to the SWA (for the national CPM Report and for the national OHS statistics collection), for the RTW Monitor and for actuarial analysis of the scheme's workers' compensation performance.

### Workers' compensation insurance costs

The Seacare Authority monitors workers' compensation insurance premiums paid by scheme employers and engages actuarial consultants, Taylor Fry Pty Ltd, to collect and analyse data from scheme insurers. A period of time is required before claim and insurance data is considered to provide a high degree of integrity and accuracy. Therefore, the latest premiums data collected relates to 2007–08. Taylor Fry also obtained comprehensive data on the insurance policy excesses negotiated by scheme employers and on the extent of 'burning cost' policies (where the premium may be adjusted over a specified contract period according to claims performance). It also gathered related data on scheme legal costs and long tail claims.

In the Seacare scheme, insurance premiums are primarily used to cover calls on policies for payment of weekly compensation, medical

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and other rehabilitation costs when the claim exceeds the policy excess. Premium income does not contribute towards the cost of scheme services, unlike arrangements in other centrally managed schemes where the premium or scheme income may contribute towards:

- provision of OHS services — in the Seacare scheme OHS services are provided by AMSA, which performs the OHS Inspectorate function under the OHS(MI) Act. AMSA incorporates the costs of this function into its ship safety regulatory functions funded through revenue raised from ship owners by the application of the *Marine Navigation (Regulatory Functions) Levy Act 1991*
- provision of other scheme regulatory services including the operation of the Seacare Authority — directly funded by the Australian Government
- dispute resolution costs — to the extent that dispute resolution rests with the Administrative Appeals Tribunal (AAT) in the Seacare scheme, this cost, leaving aside legal representation, is met by the Australian Government which supports the AAT through a budget appropriation.

In the case of some employers, it is noted that the Seafarers Act insurance premium also covers liabilities that may arise from the application of sections 128, 132 and 132A of the Navigation Act. These sections impose obligations on employers to meet expenses where a seafarer is left sick or injured on shore.

### Claims management

The Seacare Authority provides advice to employers and seafarers on obligations and rights under the legislation and on good claims management practice.

### Performance of statutory functions under delegation

As specified in subsection 125(1) of the Seafarers Act, the Seacare Authority may delegate all or any of its functions to the CEO of Comcare, who in turn may delegate these powers to the Deputy CEO and to members of Comcare staff (primarily those performing the functions of the Secretariat and Seacare Management Section (SSMS)). Delegations under the Seafarers Act include:

- section 3 — power to approve industry training courses
- section 20A — power to exempt employment from the operation of the Seafarers Act
- section 42 — power to prepare a *Guide to the Assessment of the Degree of Permanent Impairment*
- subsection 63(2) — power to approve a form or forms
- sections 72, 73 and 79 — power to extend time limits for the determination of the employer's liability
- section 95 — power to require an employer to provide evidence of an insurance policy under section 93
- section 98 — power to obtain information relating to the operation of the Seafarers Safety Net Fund
- section 106 — power to require employers to provide information to the Authority.

In 2008–09, the SSMS exercised its delegated powers in relation to applications for exemption, extensions to the period to determine employer's liability, provision of information on insurance and provision of information to the Authority.

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### Exemptions under section 20A of the Seafarers Act

An employer may apply to the Seacare Authority under section 20A for an exemption from the application of the Seafarers Act with respect to a particular employee, group of employees, or employees on a particular ship. The Authority has in place guidelines that describe the procedure for, as well as circumstances under which it will consider, granting an exemption.

Any request for an exemption must be accompanied by evidence showing that the employees will be covered by an alternate workers' compensation scheme (usually under state or territory workers' compensation legislation) for the duration of the period for which the request for exemption is made.

If a voyage falls within the scope of the Seafarers Act and the employer does not have a policy of insurance in place as required under the Seafarers Act, or an exemption from the application of the Act granted by the Seacare Authority, the employer risks loss of workers' compensation indemnification for employees on that voyage both under state or territory legislation as well as the Seafarers Act. The employer also runs the risk of prosecution for failing to have a policy of insurance in accordance with the Seafarers Act.

In 2008–09, the Authority granted to ten employers fifty-two exemptions in relation to forty-one vessels in accordance with its Exemption Guidelines, which can be accessed from the Seacare website. Four of the grants were made due to the Minister's direction to the Seacare Authority that its Exemption Guidelines provide for an employer to seek a section 20A exemption from the provision of the Seafarers Act where they are able to find workers' compensation insurance under a state or territory scheme at a cost lower than that available under the Seacare scheme.



Table 4: Section 20A exemptions granted

Employer	Vessel/s	Exemption granted	Reason	Exemption in force
Svitzer Australia Pty Ltd	<i>Wilga</i>	1 July 2008	Non-regular trading pattern (relocation voyage)	1/7/2008–15/7/2008
Captain Cook Cruises (NSW) Pty Ltd	<i>Aussie One</i>	16 July 2008	Non-regular trading pattern (relocation voyage)	18/7/2008–15/8/2008
International Maritime Services Pty Ltd	<i>Heron Spirit</i>	22 July 2008	Non-regular trading pattern (delivery voyage)	23/7/2008–5/8/2008
Defence Maritime Services Pty Ltd	<i>Seahorse Spirit</i>	4 August 2008	Non-regular trading pattern (relocation voyage)	4/8/2008–7/8/2008
Captain Cook Cruises (NSW) Pty Ltd	<i>Aussie One (operating as Fiji One)</i>	13 August 2008	Voyages between two places outside Australia over period of twelve months or more	17/8/2008–17/8/2009
International Maritime Services Pty Ltd	<i>Hormuz</i>	3 September 2008	Non-regular trading pattern (delivery voyage)	7/9/2008–30/9/2008
International Maritime Services Pty Ltd	<i>Cairo</i>	28 October 2008	Non-regular trading pattern (delivery voyage)	11/11/2008–15/12/2008
International Maritime Services Pty Ltd	<i>Riyadh</i>	29 October 2008	Non-regular trading pattern (delivery voyage)	9/11/2008–15/12/2008
Woodside Energy Ltd	<i>Nganhurra Facility</i>	7 November 2008	Insurance available at lower cost than Seacare scheme	7/11/2008–1/4/2009
CPC Services (NQ) Pty Ltd	<i>Oceanic Discoverer</i>	11 December 2008	Insurance available at lower cost than Seacare scheme	24/12/2008–3/4/2009
Capricorn Tug & Barge Pty Ltd	<i>Lydia</i>	16 January 2009	Non-regular trading pattern (relocation voyage)	16/1/2009–11/2/2009
Perkins Shipping Pty Ltd	<i>Halifax Bay</i>	21 January 2009	Operations within Northern Territory waters only	21/1/2009–31/3/2009
Perkins Shipping Pty Ltd	<i>Biquele Bay, Caledon Bay, Coral Bay, Fourcroy, Francis Bay</i>	23 January 2009	Operations within Northern Territory waters only	23/1/2009–31/3/2009
Perkins Shipping Pty Ltd	<i>Warrender</i>	23 January 2009	Operations within Queensland waters only	23/1/2009–31/3/2009
International Maritime Services Pty Ltd	<i>Wyong</i>	2 February 2009	Non-regular trading pattern (delivery voyage)	7/2/2009–1/3/2009
International Maritime Services Pty Ltd	<i>Jazan, Farsan</i>	27 February 2009	Non-regular trading pattern (delivery voyage)	6/3/2009–10/4/2009
Svitzer Australia Pty Ltd	Emergency Towage Vessels (ETVs) under contract to AMSA: <i>Taminga, Tarpan, Keera, Warringa, Wickham, Woona, Tom Tough, Austral Salvor, Tug Wonga, Wambiri</i>	6 March 2009	Non-regular trading pattern and size of vessel	6/3/2009–30/6/2009
Svitzer Australia Pty Ltd	<i>Mt Burra</i>	6 March 2009	Non-regular trading pattern (relocation voyage)	10/3/2009–21/3/2009
International Maritime Services Pty Ltd	<i>Bhagwan Mover</i>	10 March 2009	Non-regular trading pattern (delivery voyage)	13/3/2009–7/4/2009
CPC Services (NQ) Pty Ltd	<i>Coral Princess</i>	11 March 2009	Insurance available at lower cost than Seacare scheme	29/3/2009–6/10/2009
CPC Services (NQ) Pty Ltd	<i>Oceanic Discoverer</i>	11 March 2009	Insurance available at lower cost than Seacare scheme	5/4/2009–3/11/2009



Employer	Vessel/s	Exemption granted	Reason	Exemption in force
Svitzer Australia Pty Ltd	<i>Tusker</i>	11 March 2009	Non-regular trading pattern (relocation voyage)	17/3/2009–20/3/2009
Perkins Shipping Pty Ltd	<i>Biquele Bay, Caledon Bay, Fourcroy, Francis Bay, Halifax Bay</i>	11 March 2009	Operations within Northern Territory waters only	1/4/2009–31/3/2010
Perkins Shipping Pty Ltd	<i>Warrender</i>	11 March 2009	Operations within Queensland waters only	1/4/2009–31/3/2010
Nelson Yachts International Pty Ltd	<i>Nelson</i>	19 March 2009	Voyages between two places outside Australia over period of twelve months or more	22/3/2009–1/8/2009
Capricorn Tug & Barge Pty Ltd	<i>Lydia</i>	30 March 2009	Non-regular trading pattern (relocation voyage)	31/3/2009–30/4/2009
Woodside Energy Ltd	<i>Nganhurra Facility, Cossack Pioneer</i>	31 March 2009	Insurance available at lower cost than Seacare scheme	2/4/2009–1/4/2010
Svitzer Australia Pty Ltd	<i>Woonaa</i>	6 April 2009	Non-regular trading pattern (delivery voyage)	15/4/2009–19/4/2009
Capricorn Management Services Pty Ltd	<i>Aburri</i>	15 May 2009	Operations within Northern Territory waters only	1/6/2009–31/5/2010
International Maritime Services Pty Ltd	<i>Marina Pacific II</i>	22 May 2009	Non-regular trading pattern (delivery voyage)	24/5/2009–14/6/2009
International Maritime Services Pty Ltd	<i>Samson Supporter</i>	18 June 2009	Non-regular trading pattern (delivery voyage)	24/6/2009–10/7/2009
International Maritime Services Pty Ltd	<i>Miclyn Legend</i>	26 June 2009	Non-regular trading pattern (delivery voyage)	28/6/2009–4/7/2009
International Maritime Services Pty Ltd	<i>Reliance</i>	29 June 2009	Non-regular trading pattern (delivery voyage)	30/6/2009–31/7/2009

Source: Seacare Authority

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### Extension of time for consideration of compensation claims

Under section 73 of the Seafarers Act, employers may apply to the Seacare Authority for an extension of time to consider or reconsider a determination of a claim for compensation. During 2008–09, there were four requests, three of which were granted and one was not granted, being out of time. All requests were from one workers' compensation insurance provider representing three employers.

### Insurance arrangements

Under section 93 of the Seafarers Act, an employer must have a policy of insurance from an authorised insurer<sup>1</sup> or be a member of a protection and indemnity association (P&I Club) that is a member of the International Group of Protection and Indemnity Associations and is approved in writing by the Seacare Authority. Section 93 aims to ensure each employer is insured or indemnified for the full amount of their liability under the Seafarers Act for all seafarers employed by the employer.

Under sections 94 and 95 of the Seafarers Act an employer is required to provide the Seacare Authority with information relating to their insurance coverage within fourteen days of being issued with or renewing a policy of insurance or indemnity. During 2008–09, the Authority monitored compliance with section 94 and ensured that employers reported their insurance arrangements through the Authority's online reporting system, *Seacare Online*.

Based on the information provided by employers, there are five insurers providing workers' compensation policies under the Seafarers Act with the majority of insurance being written by two companies. While the Authority is able to approve arrangements for workers' compensation cover through P&I Clubs, ship owners report that the P&I Clubs are unwilling to provide cover for the full requirements of the Seacare scheme due to

the long tail nature of incapacity benefits and strict limitations on settlement of claims through cash redemptions under the Seafarers Act. Consequently, there are currently no employers with workers' compensation cover arranged through P&I Clubs, though they will still cover the pre-Seacare liabilities of extant employees.

### Scheme performance reporting and employers' requirement to provide information

The Seacare Authority works closely with employers to produce a range of scheme performance reports. Employers met their statutory obligations using the online reporting facility, *Seacare Online*, and submitted details of their operations under both the Seafarers and OHS(MI) Acts, including insurance arrangements and employee and ship details.

The Seacare Authority considers a range of performance data including standing reports on:

- (i) employee numbers and hours worked;
- (ii) compensation claims data including the status of claims;
- (iii) OHS incidents reported to AMSA and qualitative information on both reactive and proactive investigations;
- (iv) ships covered by Seacare scheme legislation;
- (v) employer insurance details;
- (vi) applications for extensions of time to determine claims and reconsiderations;
- (vii) applications for exemption from the Seafarers Act;
- (viii) AAT and court cases;
- (ix) incidence of injuries (claims per 1000 employees);
- (x) injury frequency rate (claims per 1 million hours worked); and
- (xi) RTW and rehabilitation outcomes.

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<sup>1</sup> Section 3 of the Seafarers Act defines 'authorised insurer' to mean a general insurer or Lloyd's underwriter under the *Insurance Act 1973* or an insurer that carries on state insurance (whether or not the state insurance extends beyond the limits of the state concerned).

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### 2.6.3 Providing advice to the Minister on issues relating to improving occupational health and safety, rehabilitation and workers' compensation

The Seacare Authority provides advice to the Minister on its powers and functions regarding scheme legislation and on matters including compensation, rehabilitation, the making of OHS Regulations and approved Codes of Practice, as well as the management of the Seafarers Safety Net Fund.

The Seacare Authority, through its Chairperson, maintains regular communication with the Minister for Employment and Workplace Relations on outcomes arising from its work and according to resolutions made at its meetings. During 2008–09, the Chairperson advised the Minister on matters including:

- an anomaly concerning vessels holding declarations under the Navigation Act and the application of the Seafarers Act and the OHS(MI) Act
- the outcomes of the inaugural Seacare Health and Safety Representatives Forum and the Seacare Awards and Conference 2008.





## 2.7 Seacare Health and Safety Representatives Forum 2008

The Seacare Authority, in association with AMSA, held its inaugural Seacare Health and Safety Representatives Forum 2008 on Thursday, 25 September 2008. The Forum, held at the Port of Melbourne Education Centre, was for Seacare scheme HSRs and other onboard employees and was part of the Authority's activities on Sea Safe Work Day. Forty-eight participants from around Australia heard presentations from unions, regulators and marine operator representatives, as well as HSR trainers. They also took part in a workshop to identify issues and challenges faced by HSRs and seafarers with the aim of identifying strategies that the Seacare Authority could consider to assist HSRs and seafarers in achieving better OHS outcomes.

The theme of the Forum was 'Involving HSRs and onboard employees in OHS'. The aim of the Forum was to raise the profile of HSRs in the Seacare jurisdiction, to emphasise their role as active and significant players in injury prevention, and to indicate the Seacare Authority's support for HSRs, and other seafarers, with regard to the part they play in improving OHS outcomes. The Forum had as its main objectives:

- improving operator/employer awareness of the workplace OHS consultative arrangement processes provided for by the OHS(MI) Act

- encouraging consultation between operators/employers and their onboard employees, including HSRs, regarding OHS matters
- encouraging greater onboard employee involvement in achieving improved OHS outcomes
- improving mechanisms for HSRs to share knowledge and information
- identifying key issues facing HSRs and the development of possible solutions.

A survey of participants and general feedback demonstrated overwhelming support for the initiative and for the Seacare Authority to facilitate further similar forums.

The Seacare Authority's HSR Handbook was launched at the inaugural Seacare Health and Safety Representatives Forum 2008. The Handbook aims to assist HSRs, and other seafarers, in understanding the role and responsibilities of a HSR. It also provides guidance and information on the Seacare legislative framework, OHS responsibilities in the Seacare jurisdiction, workplace OHS arrangements, powers and responsibilities of HSRs and the powers of the OHS Inspectorate.



## 2.8 Seacare Awards and Conference 2008

On 16 October 2008 in Sydney the Seacare Authority held its biennial Awards and Conference events as part of Safe Work Australia Week, a national initiative supported by all Australian OHS authorities. The Seacare Awards and Conference 2008 was supported by a range of industry sponsors. The events attracted participants and guests from industry employers (ship owners, operators and crewing agents), employees (seafarers, officers, onshore OHS and human resource staff), representatives of employer and employee organisations, government agencies, OHS and rehabilitation professionals, trainers and educators, insurance providers and legal professionals.

The theme of the 2008 Seacare Conference was 'Best Practice OHS in the Australian Maritime Industry'. The program included presentations by experts with experience in improving OHS outcomes in other high-risk industries. The Facilitator for the Conference was Dr Steve Cowley (Senior Lecturer, University of Ballarat). The Seacare update presentations were by Ms Teresa Hatch (Executive Director, Australian Shipowners Association (ASA)) and Mr Henning Christiansen (Federal Secretary, Australian Institute of Marine and Power Engineers (AIMPE)) and addressed 'Developments, issues and opportunities for the scheme and maritime industry'. The key note presentation was by Professor Dennis Else (General Manager —

Sustainability, Safety and Health, Brookfield Multiplex) who spoke on 'High risk industries and improving OHS — organisational culture, leadership and creativity'.

A panel discussion was also held on the topic of 'Cost-effective risk management — safe design and ships' featuring presentations and discussion by Mr Allan Schwartz (Manager, Ship Inspections Group, AMSA), Mr Rodney Humphrey (Head of Approval, Sydney Maritime Centre, Det Norske Veritas), Dr Michelle Grech (Maritime Platforms Division, Defence Science and Technology Organisation (DSTO), Department of Defence) and Captain Neil Butt (Health, Safety, Quality and Environment Manager, Farstad Shipping (Indian Pacific) Pty Ltd). Ms Kay Cottee AO, 1988 Australian of the Year, provided the special address on 'How ordinary people can set and achieve extraordinary goals' focusing on her experiences sailing solo and non-stop around the world.

A survey of participants and general feedback indicated that the Seacare Conference continues to be well received and considered to be of real benefit to the industry. Speaker presentations can be accessed from the Seacare website.

The 2008 Seacare Awards Presentation Dinner was held following the Conference. The finalists and winners are listed below.



#### Category 1:

##### Best Workplace Health and Safety Management System

Highly Commended

- ASP Ship Management and Rio Tinto Marine — Risk Register
- Offshore Marine Services and Reliance Risk Management — Injury Management Systems

Encouragement

- Inco Ships — Safety Quality System

Finalist

- Teekay Shipping (Australia) — Marine Operations Management System



#### Category 2:

##### Best Solution to an Identified Workplace Health and Safety Issue

Winner

- Toll Shipping and Health by Design — Work Well Live Well TM Program

Highly Commended

- Farstad Shipping (Indian Pacific) — Rotating Head and Piston Stand
- Rio Tinto Marine — Shelving Back Strain



#### Category 3:

##### Best Rehabilitation and Return to Work Program

Winner

- MP Safety Management and TT Line Company

Highly Commended

- Farstad Shipping (Indian Pacific)
- MP Safety Management and Inco Ships
- Offshore Marine Services and Reliance Risk Management



#### Category 4:

##### Individual Contribution to Workplace Health and Safety

Winner

- Mr Aaron Schubert, Teekay Shipping (Australia)

Highly Commended

- Mr Dominic Panetta, Australian Maritime Safety Consultants

Finalist

- MV Alltrans crew, ASP Ship Management

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Three Seacare awards categories are aligned with the National Safe Work Australia Awards. Two Seacare Awards winners were eligible and were accepted as finalists for the following award categories:

Category 2: Best Solution to an Identified Workplace Health and Safety Issue

- Toll Shipping and Health by Design

Category 5: Best Individual Contribution to Workplace Health and Safety

- Mr Aaron Schubert, Teekay Shipping (Australia)

## 2.9 Communications

The quarterly meetings of the Seacare Authority for 2008–09 were held in Canberra, Sydney and Melbourne.

One of the communications activities of the Seacare Authority is the promotion of Sea Safe Work Day. This occasion provides a focus on OHS initiatives and activities and is aligned with the International Maritime Organisation’s World Maritime Day held in September each year.

The Seacare Authority’s periodic newsletter, *Seacare News*, provides information on developments in the jurisdiction for scheme stakeholders as well as on initiatives, programs and events. In 2008–09, the Authority published one issue of *Seacare News*.

The Seacare Authority maintains its own website <[www.seacare.gov.au](http://www.seacare.gov.au)>. The site presents information about the Seacare scheme, the Seacare Authority and its activities, and provides access to publications, forms and other relevant materials. The Seacare Authority’s secure, online reporting facility, *Seacare Online*, is also available to employers via the Seacare website.

The Seacare Authority’s website contains information about the scheme including:

- the Seacare Authority — its mission, membership, contact details, functions, strategic objectives, business plans, OHS strategy and service charter
- relevant legislation and scheme coverage
- latest news, notices and events
- Seacare forms, including secure employer access to online reporting
- workers’ compensation
- rehabilitation and return to work
- occupational health and safety
- Seacare events
- Seacare Authority publications including the Annual Report
- links to related sites and a search function.

Chapter 3:  
The operation of the  
Seafarers Safety  
Net Fund

# The operation of the Seafarers Safety Net Fund

## 3.1 The Seafarers Safety Net Fund

The Seafarers Safety Net Fund (the Fund) is a 'safety net employer' to stand in place of the employer if a default event occurs, enabling injured seafarers to lodge a claim even when there is no extant employer against whom a claim can be made. A default event is defined in the *Seafarers Rehabilitation and Compensation Act 1992* (Seafarers Act) (section 3) as occurring when:

- (a) the employer:
- becomes bankrupt or insolvent
  - applies to take the benefit of any law for the relief of insolvents
  - compounds with the employer's creditors for their benefit
  - if the employer is a body corporate — is wound up, or, ceases to exist
  - no longer engages in trade or commerce in Australia.
- (b) the employer is unable to meet the employer's liabilities under the Seafarers Act.

In such circumstances, the Fund will determine any claim and may accept liability for any eligible benefits. Where there was a workers' compensation insurance policy covering the employee under the Seafarers Act, the Fund has the same rights as the employer who took out the policy to recover benefits from that insurance.

## 3.2 Background and developments

In 1993, under section 96 of the Seafarers Act, the Australian Maritime Industry Compensation Agency Ltd (AMICA) was approved by the Minister for Employment and Workplace Relations to be the trading corporation responsible for management of the Fund. AMICA managed the Fund by making financial calls on employers as required to meet the annual costs of administration and to recover the costs of any claims liabilities.

In 2002, the Minister revoked the approval of AMICA as the trading corporation responsible for management of the Fund and declared the Seacare Authority to have the Fund's functions, powers and obligations under the Seafarers Act. The Minister took these actions because a policy of reinsurance for the Fund, as required under the Seafarers Act, was no longer available to AMICA.

Consequently, the *Seafarers Rehabilitation and Compensation Levy Act 1992* (Levy Act) and the *Seafarers Rehabilitation and Compensation Levy Collection Act 1992* (Levy Collection Act) came into force on 10 April 2002. These Acts provide for a levy to be put in place to support administration of the Fund and to establish the reserves necessary to meet the cost of any claims on the Fund. The levy is collected quarterly from all employers of seafarers on prescribed ships operating under the Seafarers Act.



Between August 2002 and January 2007, AMICA provided Fund administration services support to the Seacare Authority, including levy collection and advice on any claims lodged against the Fund. AMICA withdrew from its service provision contract with the Authority in January 2007 and Comcare has since provided services to support the Authority in administering the Fund. In June 2007, a Memorandum of Understanding was signed between the Seacare Authority and Comcare that formalised the service provision arrangement and established a fee for service payable to Comcare from the Fund.

### 3.3 Fund administration

Comcare, on behalf of the Seacare Authority, undertakes levy collection for the Fund, provides claims advice to the Authority, administers any accepted claims on the Fund, and manages the scheme's claims database. This includes coordinating claims update processes and preparing claims data reports to the Authority as well as to a range of other key stakeholders such as the Workplace Relations Ministers' Council (WRMC) and Safe Work Australia (SWA).

### 3.4 Reserves to underwrite claims on the Fund

The Fund is maintained through the collection of monies from scheme employers under the Levy Act and Levy Collection Act. In May 2007, the Seacare Authority set an overall target reserve level for the Fund after considering reasonable estimates of present and future liabilities and what might constitute a prudent level of adequate reserves for the Fund, including injuries Incurred But Not Recorded (IBNR) and asbestos reserves. The current reserve target is \$879 000. Throughout 2008–09 the Fund's total available assets have remained above the target reserve level.

### 3.5 Rate of levy

The Minister, as required by section 7 of the Levy Act, consults the Seacare Authority on the appropriate rate of levy payable by employers before making a recommendation to the Governor-General that a Regulation be made prescribing the levy rate. In advising the Minister, the Seacare Authority must consider prudential obligations as set out in the Levy Act, namely, that it have regard to:

- the need to ensure that the Fund has adequate financial reserves for the purposes of its prudential management
- reasonable estimates of the Fund's present and future liabilities under the Seafarers Act
- the cost of administering the Authority in connection with the performance or exercise of the Fund's functions, powers and obligations under the Seafarers Act.

The current levy rate of \$15 per berth took effect on 1 April 2008.

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## 3.6 Levy collection

In 2008–09, \$146 275 was collected in levy receipts from Seacare scheme employers. Levy payments were made by thirty-five employers throughout the course of the year. The total number of seafarer berths declared by employers each quarter ranged from 2320 to 2609. Levy collection results for the last five years based on reports to the Seacare Authority are set out in Table 5.

Table 5: Levy collection summary

	Number of employers paying levy	Average berths per quarter declared by employers	Levy rate	Levy collected
2003–04	22	1610	\$53	\$354 305
2004–05	23	1709	\$53	\$359 075
2005–06	27	1804	\$53/\$35	\$327 279
2006–07	28	1851	\$35	\$255 925
2007–08	32	2134	\$35/\$15	\$289 005
2008–09	35	2420	\$15	\$146 275

Source: Seacare Authority

## 3.7 Claims on the Fund

There were no accepted claims on the Fund during 2008–09.

## 3.8 Fund financial statements

Details of income and costs associated with the Fund are detailed in the audited financial statements for the Seacare Authority at Appendix 1.

# Chapter 4: Seacare scheme performance

# Seacare scheme performance

## 4.1 Scheme performance overview

The Seacare scheme performance in 2008–09 can be measured by way of a range of key indicators including the following:

- there were three work-related fatalities during the year, representing an unacceptable outcome and ending a period of over fourteen consecutive fatality-free years in the Seacare scheme
- the Seacare scheme is on target to meet its National OHS Strategy injury incidence reduction target of 24 per cent from the base period to 2007–08 as measured by Safe Work Australia. Seacare’s recorded reduction for the period is 38 per cent
- the number of compensation claims reported to the Seacare Authority has increased indicating a deterioration in performance compared to the previous two years
- the number of disputed claims in 2008–09 continues the trend of fewer applications for review being lodged with the Administrative Appeals Tribunal (AAT) compared with previous years
- the number of injured seafarers commencing a rehabilitation program has improved significantly. However, the overall number of claimants being assessed for their capacity to undertake rehabilitation is low
- the durable return to work (RTW) rate for 2008–09 declined to a level more consistent with past performance
- adjusted insurance premium rates paid by scheme employers have decreased in 2007–08 (the latest year that data is available) and have returned to levels similar to those experienced in 2001–02.

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## 4.2 Data sources

### 4.2.1 Workers' compensation claims data

The primary source of data used for reporting on Seacare scheme performance, including occupational health and safety (OHS) performance, is workers' compensation claims data. Compensation claims data is nationally recognised as the most reliable, available proxy for reporting OHS performance outcomes.

Seacare claims data is derived from duplicates of claims forms forwarded to the Seacare Authority by scheme employers, irrespective of whether the claim is covered by the employer's insurance policy. There is no obligation on an injured seafarer to lodge a Seacare *Claim for Workers' Compensation* form (Seacare Form 03) therefore, it is acknowledged that not every injury results in a claim. Further, it may be the case that not all claims made by employees are advised to the Seacare Authority by employers, or to the employer's insurer, although it is considered that the majority probably are. Part of the increase in the number of claims lodged in 2008–09 could be attributed to greater compliance with this obligation by employers.

In most cases the claims data used for reporting Seacare OHS performance is all claims accepted in the year resulting in one week or more compensation. While this excludes claims that are pending, in dispute, withdrawn or rejected, it includes claims lodged in previous years that have been accepted in this reporting year. This approach provides for consistency and stability in reporting from year to year. Accepted claims are further adjusted by excluding 'journey claims' and 'property only claims'. Therefore, the data best reflects claims where there was an injury at work (or in training, including both on and off duty).

### 4.2.2 Accident and incident data

The Seacare Authority monitors data on accidents and dangerous occurrences (incidents) that is reported by employers and operators to the OHS Inspectorate, the Australian Maritime Safety Authority (AMSA). Accidents that result in a death or a serious injury to any person (that requires immediate medical treatment or could result in incapacity for five days or more) or dangerous occurrences must be reported to AMSA. Operators and employers covered by the *Occupational Health and Safety (Maritime Industry) Act 1993* (OHS(MI) Act) and its Regulations are required to notify AMSA of any accidents or dangerous occurrences within four hours by submitting an OHS Incident Alert. They must then report in detail on those notified accidents and dangerous occurrences within 72 hours by providing an OHS Incident Report.

The Seacare *Employer's Determination of a Claim for Workers' Compensation* form (Seacare Form 12) collects data on whether the injury arose from a notifiable incident and if a report was lodged with AMSA. This mechanism provides a means of monitoring and comparing the number of incidents reported against the number of claims made.

During 2008–09, the Authority has closely examined employers' compliance with OHS reporting requirements under the OHS(MI) Act and has undertaken a range of awareness-raising activities to ensure that employers understand their reporting obligations.



### 4.2.3 Employee and ship details

The Seacare Authority collects information from employers on a six-monthly basis. Employee ship details (ESD) reports are submitted via the Authority's *Seacare Online* reporting system in January and July each year.

Employee numbers as well as full-time equivalent (FTE) employee values and hours worked data is used in calculating injury frequency and incidence rates (the denominator data that is combined with workers' compensation claims data). Ship details including ships covered by the scheme, the number of days a ship is operational under the scheme's legislation over the year and standard crew numbers are also recorded.

### 4.2.4 Comparative Performance Monitoring Report data

The Comparative Performance Monitoring (CPM) Report, prepared for the Workplace Relations Ministers' Council (WRMC), compares performance data across Australian OHS and workers' compensation schemes, as well as New Zealand. The latest published CPM Report (tenth CPM Report published August 2008) provides details up to 30 June 2007. CPM Reports are accessible from the Australian Workplace website at <[www.workplace.gov.au](http://www.workplace.gov.au)>.

### 4.2.5 Return to Work Monitor data

The RTW data used in this report is derived in large part from the RTW Monitor 2008–09 Report. The RTW Monitor establishes national benchmarks for measuring RTW outcomes and durability across Australian and New Zealand workers' compensation schemes. In 2008–09, the RTW Monitor compiled the findings of a survey of forty-four seafarers receiving compensation benefits.

RTW Monitor Reports are prepared for the Heads of Workers' Compensation Authorities (HWCA). They are accessible from the HWCA website at <[www.hwca.org.au](http://www.hwca.org.au)>.



## 4.3 Performance reports methodology

### 4.3.1 Employee numbers

Employee data presented in this report includes a ‘head count’ of seafarers covered by the Seafarers Act derived from the declared number of seafarers employed by each employer. While this may be an accurate reflection of the absolute number of seafarers covered by the scheme throughout the year, it is not an ideal figure to use in calculating the incidence rate of injuries (injuries per 1000 seafarers), particularly in seeking to compare injury rates in the maritime industry with other jurisdictions.

Since 2003, the Seacare Authority has used a FTE employee value as a seafarer number denominator for calculating incidence of injury rates. Seacare FTEs are calculated using the following formula:

*The standard complement of seafarers engaged on each ship at any one time (for example, ship berths), multiplied by the number of days the vessel operated under the Seafarers Act during the reporting period, multiplied by the usual weekly shift hours worked on the vessel, divided by the average weekly working hours (assumed to be 40.4 hours).*

Example 1: On a trading ship with a crew complement of 17, where the ship operated for 160 days in the reporting period (184 days) and the weekly shift hours were 84 per week (12 hours each shift for seven days), the inputs using the formula would be:  $17 \times 160 / 184 \times 84 / 40.4 = 30.7$  FTE employees. Note: This FTE value may equate to a ‘head-count’ of employees of forty, made up of two swings of seafarers (2 x 17) plus six replacement seafarers.

### 4.3.2 Hours worked

Hours worked data is based on a formula agreed upon by the Seacare Authority and was first applied in 2003–04. The formula takes into account the continuous nature of Seafarers Act coverage during a voyage where seafarers, who are generally on board a ship for twenty-four hours a day, are exposed to the risk of injury for the entire time on board a vessel, whether on or off duty. The formula is:

*The standard complement of seafarers engaged on each ship at any one time (for example, ship berths), multiplied by the number of hours (on average) per day the crew are on board whether at work or not, multiplied by the number of days the vessel operated under the Seafarers Act in the reporting period.*

Example 1: On a trading ship with a crew complement of 17, where the ship operates 24 hours per day throughout each year and the reporting period is six months (184 days), the inputs using the formula would be:  $17 \times 24 \times 184 = 75\,072$  hours worked.

Example 2: On an offshore sector vessel, with a crew of 11, and the ship completes a contract part way through the reporting period so that it operates for 142 days from the total available days of 184, the inputs using the formula would be as follows:  $11 \times 24 \times 142 = 37\,488$  hours worked.

## 4.4 Workers' compensation claims data relative to previous years

Workers' compensation claims data reported by scheme employers to the Seacare Authority, pursuant to the Seafarers Act, is summarised in Table 6 below.

Table 6: Seacare aggregated claims data

Claim type	2004–05	2005–06	2006–07	2007–08	2008–09
CLAIMS LODGED					
Claims accepted	136	153	132	137	188
Claims rejected	16	18	13	12	12
Claims pending	12	13	28	30	7
<b>TOTAL</b>	<b>164</b>	<b>184</b>	<b>173</b>	<b>179</b>	<b>207</b>
CLAIMS ACCEPTED					
Claims accepted — on duty	125	142	127	124	178
Claims accepted — off duty	6	6	4	13	5
Journey claims	3	3	1	0	4
Property claims	0	0	0	0	0
Claims while studying	1	0	0	0	0
Other	1	2	0	0	1
<b>TOTAL</b>	<b>136</b>	<b>153</b>	<b>132</b>	<b>137</b>	<b>188</b>
Claims accepted — excluding property claims	136	152	132	137	188
Claims accepted — excluding journey claims and property only claims	133	149	131	137	184
Claims accepted — one week or more duration (excluding journey claims)	77	121	94	116	141
Claims accepted — four weeks or more duration (excluding journey claims)	69	67	69	97	111
Claims accepted — twelve weeks or more duration (excluding journey claims)	60	78	44	49	50
Medical claims only (no lost time)	27	26	33	16	40
Claims accepted at workplace involving lost time	84	126	98	121	145
Claims accepted — work-related fatalities	0	0	0	0	0

Source: Seacare Authority

The total number of claims lodged in 2008–09 (207) represents a 15.6 per cent increase compared with the previous year (179) and is well above the average of 181 for the last five years. The number of accepted claims (188) increased significantly relative to the previous year (137) and is well above the five-year average of 149. Claims accepted of one week or more duration represent 77 per cent of all accepted claims, close to the average rate across the last five years at 74 per cent.

During 2008–09, three work-related fatalities occurred in the Seacare scheme. Prior to this there had been over fourteen consecutive years without a work-related fatality in the maritime industry covered by Seacare scheme legislation. The table above is based on workers' compensation claims lodged in the year. Two of the fatalities are covered by the Seafarers Act (for workers' compensation) and are potentially compensable. No claims had been notified to Seacare for these fatalities as at 30 June 2009. The other fatality is covered by the OHS(MI) Act but not by the Seafarers Act and is therefore not compensable under the Seacare scheme.

**Table 7: Seafarers Act – employee numbers and hours worked**

Seafarer numbers and hours worked	2004–05	2005–06	2006–07	2007–08	2008–09
Employees (head count)	4260	4912	5690	6105	6255
FTE employee value	3459	3670	3544	4185	4692
Hours worked	15 016 800	15 895 012	16 577 060	18 696 570	21 012 117

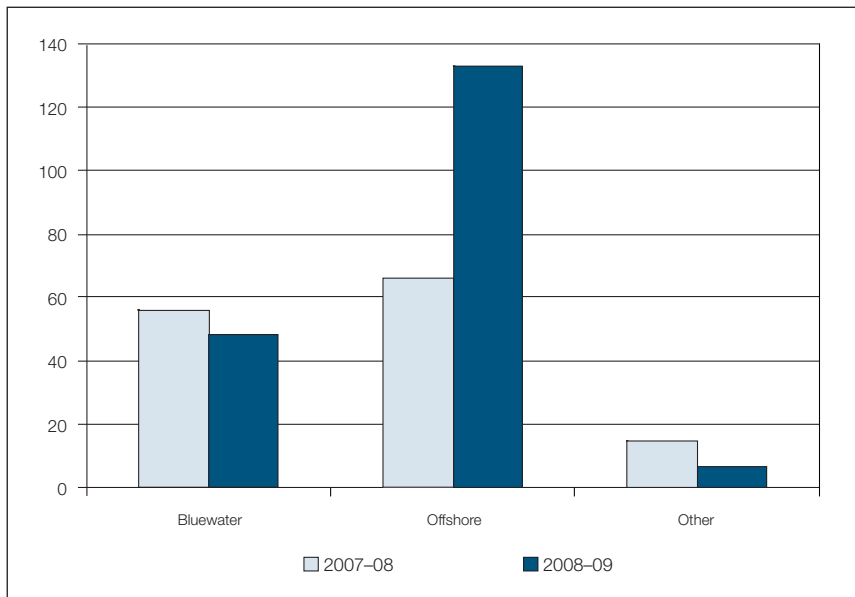
Source: Seacare Authority

The total number of employees ('head count') covered by the Seafarers Act in 2008–09 increased significantly compared with the previous year. The head count figure includes full-time and part-time employees as well as those who may have worked on limited term contracts and for multiple employers at different times throughout the year. However, the FTE employee value for 2008–09 increased significantly (by 12.1 per cent). The number of hours worked also increased significantly (12.4 per cent).

Based on FTE figures, 32 per cent of the jurisdiction is employed in the Bluewater sector, 59 per cent in the Offshore sector and nine per cent in other sectors (Passenger and Tourism, Dredging and Aquaculture), compared with 35 per cent, 52 per cent and 13 per cent in 2007–08, respectively.

### 4.4.1 Claims by sector

Figure 1: Accepted claims by sector



Source: Seacare Authority

The number of accepted claims in the Bluewater sector has decreased in 2008-09 relative to the previous year, whereas claims in the Offshore sector have doubled.

Based on the above, the claim rate (claims accepted per 1000 FTE) for the Bluewater sector for 2008-09 is 31.0, compared to 50.8 for the Offshore sector and 20.2 for the other sectors.

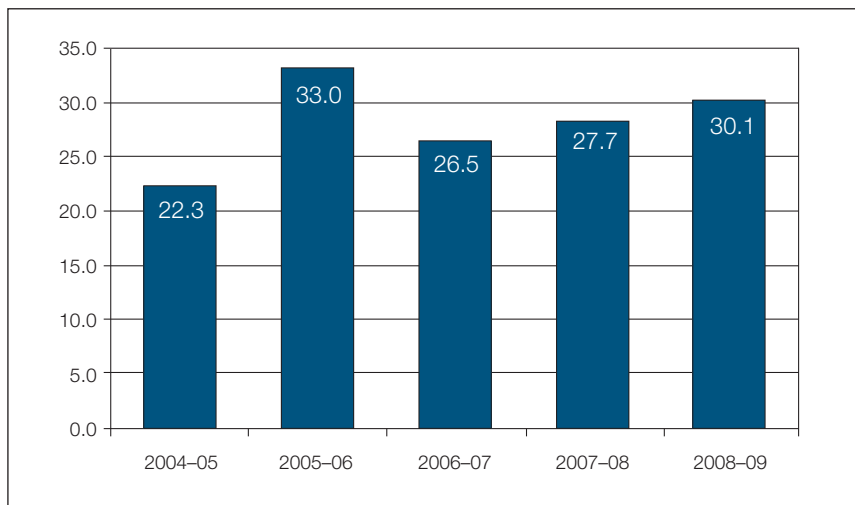
## 4.5 Occupational health and safety outcomes

### 4.5.1 Occupational health and safety performance

The injury and disease incidence and frequency rates are two nationally recognised, high-level OHS outcome indicators. The incidence rate is derived from the number of compensation claims (accepted claims, excluding journey claims, which result in one week compensation) per 1000 FTE employees, while the frequency rate is based on accepted claims per one million hours worked.

The frequency rate is calculated from the hours worked data collected from employers using the formula outlined in Section 4.3.2. This method reflects the 24-hour-a-day nature of seafaring work and the fact that injuries occurring at any time while on board are potentially compensable. In addition, most employers generally use a 24-hour divisor in calculating enterprise OHS performance indicators such as lost time injury frequency rates. Therefore, the injury frequency rate data provided in this Report is generally comparable with indicators used by many scheme employers.

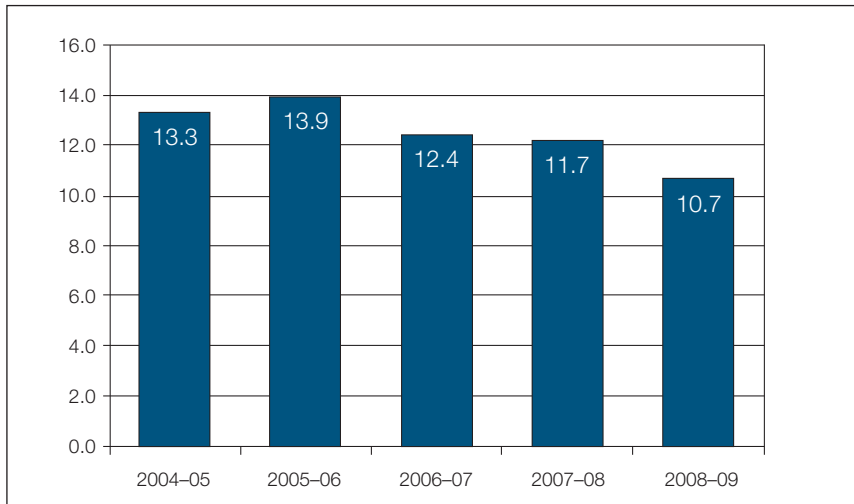
Figure 2: Incidence rate of compensated injury and disease resulting in one week or more compensation



Source: Seacare Authority

In 2008-09, there were 30.1 accepted claims per 1000 FTE employees, the incidence rate having increased over the past two years.

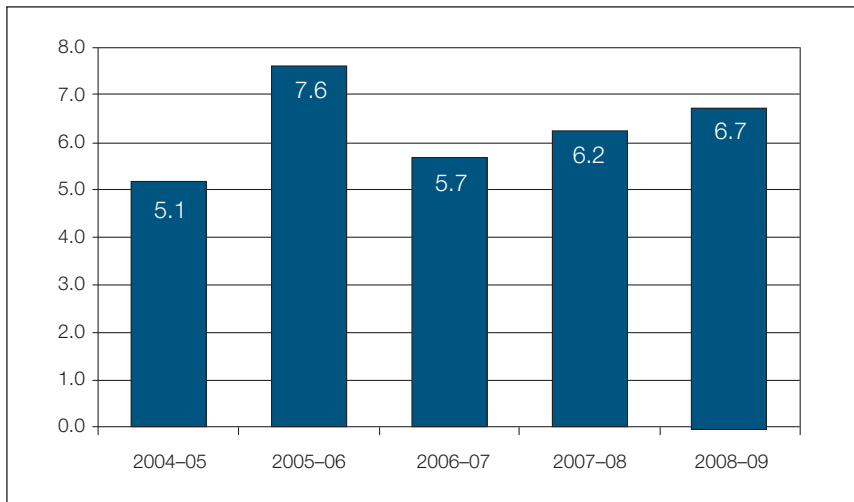
Figure 3: Incidence rate of compensated injury and disease resulting in 12 weeks or more compensation



Source: Seacare Authority

Figure 3 indicates the number of injuries and diseases resulting in longer term incapacity for each 1000 FTE employees. In 2008-09 there were 10.7 accepted claims injuries for each 1000 FTE employees covered by the Seafarers Act.

Figure 4: Frequency rate of injury and disease resulting in one week or more incapacity



Source: Seacare Authority

Figure 4 shows that in 2008-09 there were 6.8 accepted claims for every one million hours worked, an increase of 21.4 per cent over 2007-08.

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## 4.5.2 Occupational health and safety performance improvement targets

In May 2002, the National OHS Strategy 2002–12 committed all Australian Governments to achieving reduction targets for workplace fatalities and injury incidence over a ten-year period. In November 2002, the Seacare Authority approved an OHS Strategy for the Australian maritime industry covered by the OHS(MI) Act that set OHS improvement targets based on the targets established by the National OHS Strategy.

In July 2007, the Seacare Authority introduced a new OHS Strategy for the three-year period to June 2010 which continues the targets set in 2002.

The Seacare injury target, measured against the base period of 2000–01 to 2002–03, requires at least a 20 per cent reduction in the injury incidence rate by 2006–07 (after five years) and at least a 40 per cent reduction by 2011–12 (after ten years). The Seacare target for workplace fatalities is zero.

The Seacare Authority has two measures of injury incidence in place for assessing performance against the injury reduction target. One measure is provided by Safe Work Australia (SWA), formerly the Australian Safety and Compensation Council (ASCC), based on its data set parameters and injury definitions. SWA calculates the performance of all jurisdictions against the national targets using data provided to the National Data Set. It then reports on how each jurisdiction is progressing towards the injury target as part of CPM reporting. As indicated above, CPM Reports lag by over a year. Therefore, the SWA measure of performance against the injury target also lags.

The second measure of injury incidence uses a broader definition and is calculated directly by the Seacare Authority. This measure is available when data for the year is finalised and provides an earlier indication of performance.

The two injury incidence rate measures are based on claims data. However, each is based on a different definition of injury.

### Safe Work Australia injury incidence rate

The SWA definition of ‘injury incidence rate’ includes all accepted workers’ compensation claims made in the reference financial year and lodged by 31 November following the reporting year that resulted in a fatality, permanent or temporary disability where there was at least one week or more incapacity determined (excluding journey claims). Claims in this case exclude disease claims except those coded as musculoskeletal diseases.

### Seacare injury incidence rate

The Seacare definition of ‘injury incidence rate’ includes all accepted workers’ compensation claims determined in the reference financial year that resulted in a fatality, permanent disability or temporary disability where there was any time off work (excluding journey claims).

Table 8: Incidence rates against five and ten year injury reduction targets

Injury incidence rate	2000–01 to 2002–03 (base period)	2004–05	2005–06	2006–07	2007–08	2008–09	Five-year target (20 per cent reduction)
							Ten-year target (40 per cent reduction)
SWA definition	36.7	25.2	32.2	27.1	22.9 (projected)	na	27.9 (2007–08 target) 22.0 (2011–12 target)
Seacare definition	39.9	23.4	33.5	27.7	28.9	30.9	28.7 (2008–09 target) 23.9 (2011–12 target)

Source: Safe Work Australia and Seacare Authority

The incidence rate measures continue to indicate a downward trend. In terms of the target based on the Seacare definition, the 2008–09 incidence rate of 30.9 is significantly worse than the target for this year of 28.7. However, the Seacare incidence rate of 22.9 projected for 2007–08, according to the SWA definition, is significantly better than the target of 27.9. Both rates continue to demonstrate significant improvement from the base year measure.

Fluctuations in rates, clearly seen between 2004–05 and 2005–06, illustrate the inherent statistical volatility of these rates given the small numbers involved (that is, claims and seafarer numbers).

Figure 5: Seacare injury incidence rate – progress against targets



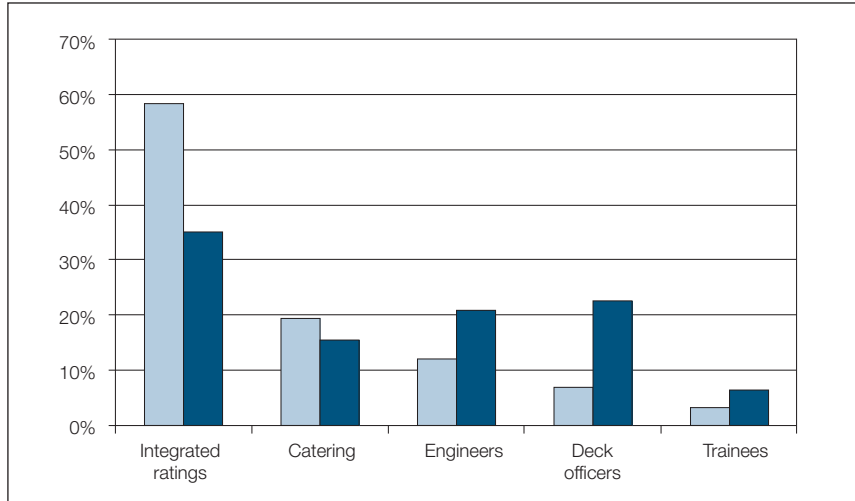
Source: Seacare Authority

Figure 5 illustrates that Seacare has achieved its six-year injury incidence reduction target of 24 per cent by 2007–08 based on SWA definitions and measures. Seacare achieved a 38 per cent reduction over this period. However, Seacare incidence data for 2008–09 indicates that there may be an increase in the SWA incidence measure for 2008–09.

### 4.5.3 Analysis of injuries

The following section presents claims data disaggregated in various ways to provide greater insight into the nature and origin of injuries.

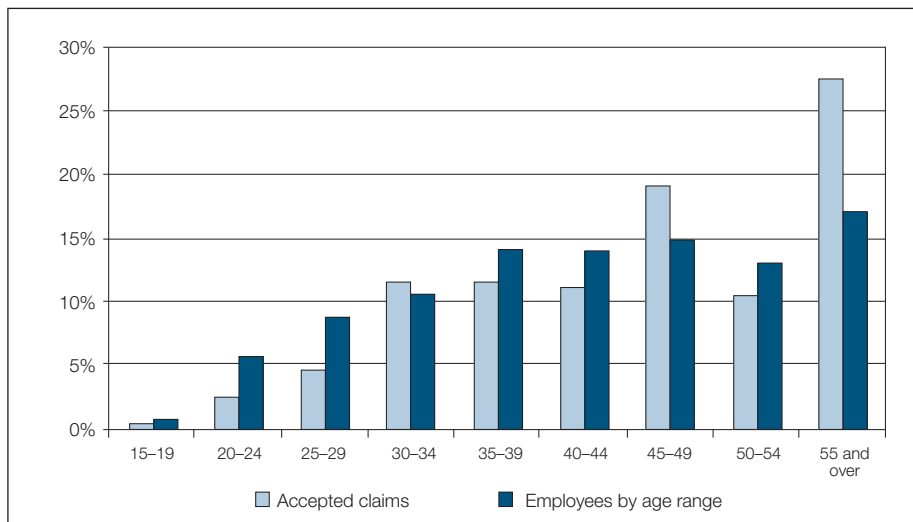
Figure 6: Proportion of accepted claims by occupational grouping



Source: Seacare Authority

Figure 6 compares the proportion of accepted claims in 2008–09 across the four key occupational groupings. Integrated ratings account for 35 per cent of the workforce, yet their proportion of accepted claims is 59 per cent.

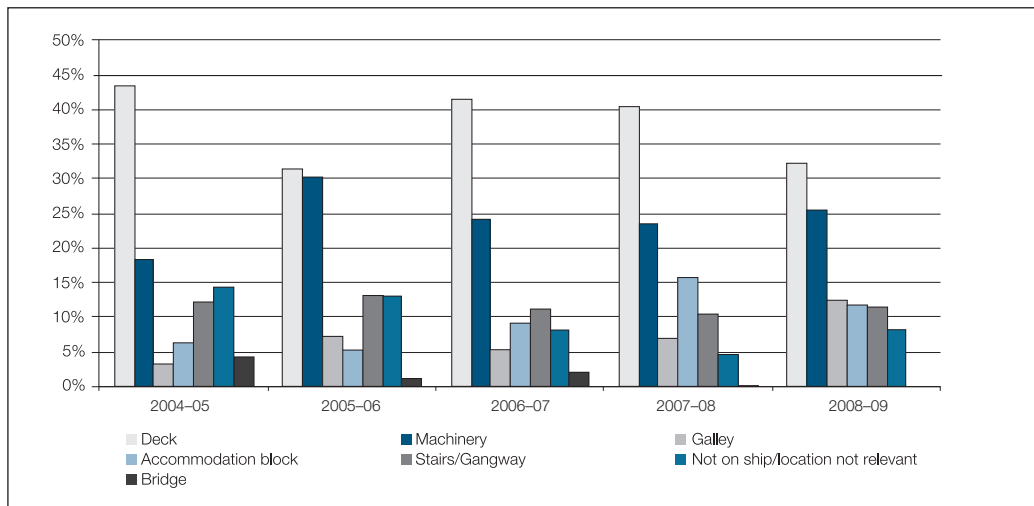
Figure 7: Proportion of accepted claims by age range



Source: Seacare Authority

Figure 7 shows that 45 per cent of seafarers are aged 45 years or older and that this cohort made 58 per cent of the claims accepted in 2008–09.

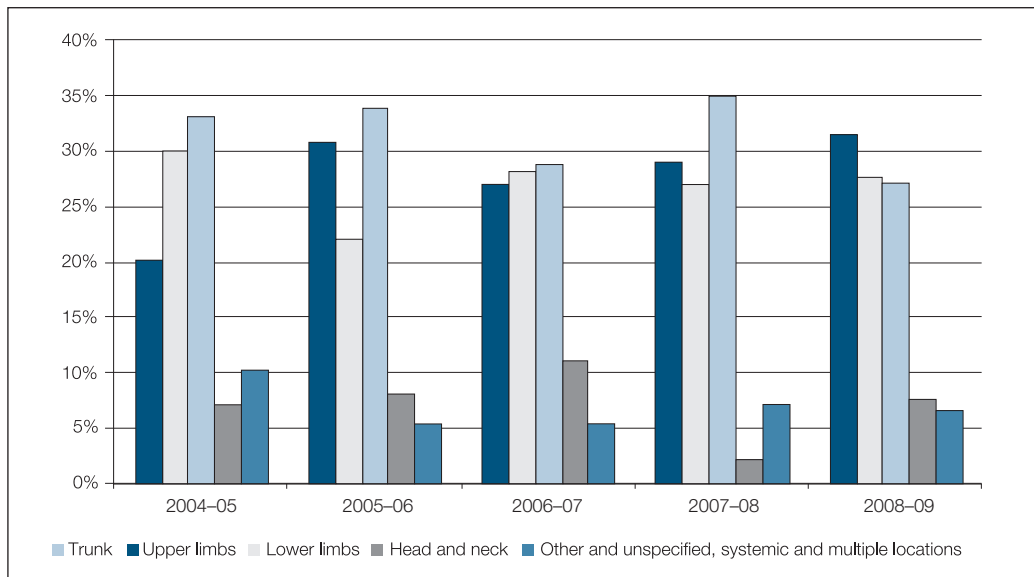
Figure 8: Proportion of accepted claims by location on the ship



Source: Seacare Authority

Figure 8 indicates that one-third of claims occur on deck spaces and a quarter in machinery spaces.

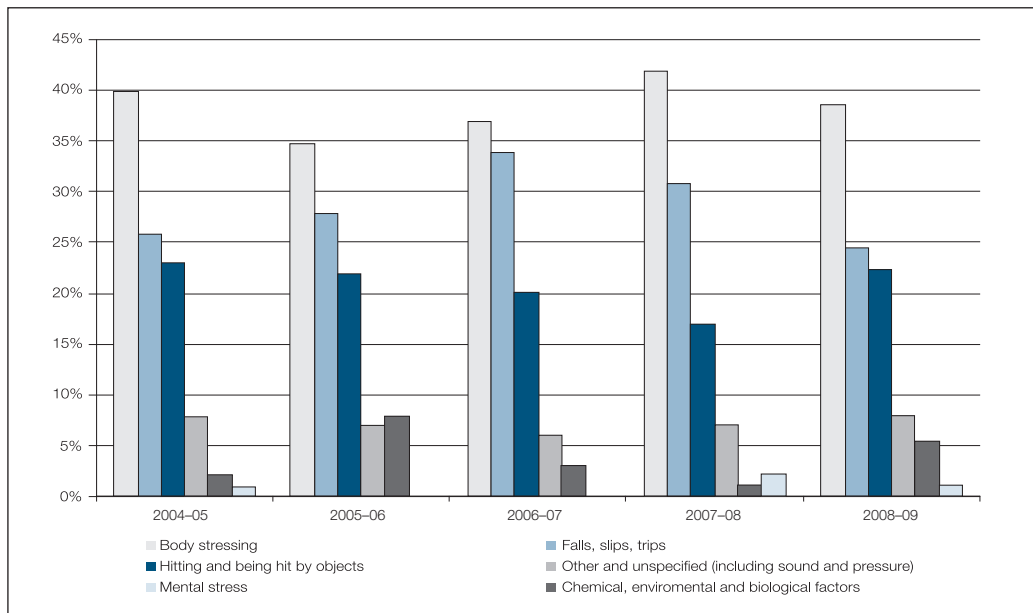
Figure 9: Proportion of accepted claims by bodily location



Source: Seacare Authority

Figure 9 indicates that the most likely bodily locations to be injured are the upper and lower limbs and the trunk.

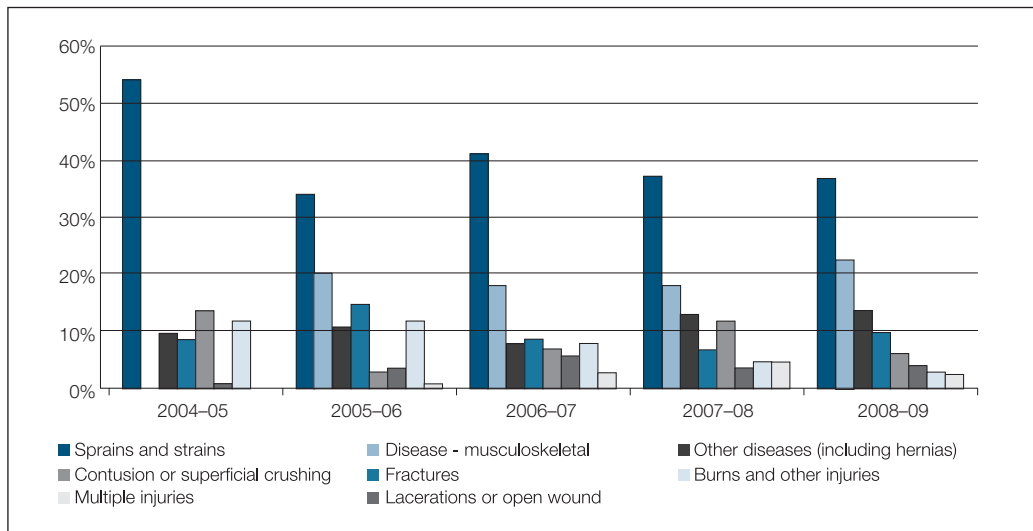
Figure 10: Proportion of accepted claims by mechanism of incident



Source: Seacare Authority

Figure 10 indicates that body stressing continues to be the most prevalent mechanism of incident over the period, followed by falls, trips and slips.

Figure 11: Proportion of accepted claims by nature of injury/disease



Source: Seacare Authority

Figure 11 data shows that sprains and strains continue to be the major injury type, followed by musculoskeletal diseases.

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## 4.6 Occupational health and safety compliance and the activities of the Inspectorate

AMSA performs the OHS Inspectorate function under the OHS(MI) Act. It has responsibilities to:

- ensure, in accordance with the Act and Regulations, that the requirement to report serious personal injuries, deaths and dangerous occurrences, as well as other obligations imposed by or under the OHS(MI) Act and Regulations, are complied with
- advise operators, employees or contractors on OHS matters
- provide the Authority with information.

AMSA marine surveyors are trained in OHS hazard management as well as the requirements of the OHS(MI) Act. They are appointed as inspectors under the OHS(MI) Act and perform a range of functions including: investigations of accidents and dangerous occurrences; issuing of prohibition and improvement notices; and, advising employers on their duty of care as well as on approaches to safety and effective injury prevention.

Incident reporting continues to be an area of concern and particular focus. To date, the OHS Inspectorate emphasis has been on the requirement to notify incidents. However, the timelines for lodgment of notifications is also an area for improvement. The OHS Inspectorate continues to work with operators to ensure reporting obligations are met. Participation in industry and AMSA seminars has included presentations covering OHS obligations and performance. During 2008–09, the information regarding OHS and incident reporting on the AMSA website and the procedures, processes and instructions under which the Inspectorate operates were reviewed and updated.

Table 9: OHS Inspectorate activity summary

	2004–05	2005–06	2006–07	2007–08	2008–09
INCIDENTS REPORTED (section 107)					
Deaths	0	0	0	0	2
Serious personal injuries	9	10	13	13	11
Employees incapacitated for a period of five successive days or more	39	40	42	34	26
Dangerous occurrences	1	1	10	4	2
<b>TOTAL</b>	<b>49</b>	<b>51</b>	<b>65</b>	<b>51</b>	<b>41</b>
INVESTIGATIONS (section 87)					
Reactive investigations	3	5	11	23	12
Proactive investigations	42	44	27	31	38
<b>TOTAL</b>	<b>45</b>	<b>49</b>	<b>38</b>	<b>54</b>	<b>50</b>
NOTICES ISSUED					
Prohibition Notices (section 93)	9	6	4	3	4
Improvement Notices (section 98)	6	19	17	16	17
<b>TOTAL</b>	<b>15</b>	<b>25</b>	<b>21</b>	<b>19</b>	<b>21</b>
PROSECUTIONS (section 116)					
Commenced	1	1	2	1	1
Completed	0	1	2	0	0
OTHER					
Marine Notices/Orders relevant to OHS	na	na	na	na	12
AMSA staff appointed as OHS inspectors (section 84)	54	52	48	37	37
Taking possession of plant, substances or things (section 91)	0	0	0	0	0
Directions given (section 92)	1	0	0	0	0
Appeals instituted against inspectors' decisions (section 100)	0	0	0	0	0

Source: AMSA

Table 9 indicates that the number of incidents reported to AMSA has continued to reduce in 2008–09 and is below the average for the last four years. However, two of those incidents involved fatalities, the first in the Seacare scheme in over fourteen years. AMSA reviews all reported incidents and when considered necessary conducts an investigation pursuant to its powers under section 87 of the OHS(MI) Act. Consequently, twelve reactive investigations were undertaken in 2008–09. Also, AMSA carried out thirty-eight OHS specific audits as part of a program of proactive investigations, which aims to inspect all ships to which the OHS(MI) Act applies. This regulatory action resulted in a number of Prohibition and Improvement Notices being issued.

Prosecution action was also taken against INCO Ships Pty Ltd following an incident in June 2007 on the vessel, *ANL Bass Trader*, where a crew member lost an arm. The operator pleaded guilty to breaches of sections 11 and 13 of the OHS(MI) Act. The Magistrate's decision of 29 April 2009 fined INCO Ships \$100 000 plus costs. INCO Ships have appealed to the Supreme Court of Tasmania on the severity of the fine. Three other prosecutions against operators are being considered.

At the end of 2008–09 there were thirty-seven inspectors appointed under section 84 of the OHS(MI) Act. The procedures, processes and instructions under which the Inspectorate operates were reviewed and updated during 2008–09.

There were no directions given in 2008–09 by the Minister to the Authority under section 10 of the OHS(MI) Act concerning the performance of its functions and the exercise of its powers.

**Table 10: Ratio of reported incidents to seafarers**

	2004–05	2005–06	2006–07	2007–08	2008–09
Number of seafarers (FTE) under the OHS(MI) Act	3371	3426	3351	4230	4312
All Incidents reported	49	51	65	51	41
Ratio (incidents per 1000 seafarers)	14.5	14.9	19.4	12.1	9.5
Incidents reported involving an incapacity of five or more days	47	50	55	47	39
Ratio (incidents involving five or more days incapacity per 1000 seafarers)	13.9	14.6	16.4	11.1	9.0

Source: Seacare Authority and AMSA

Table 10 indicates that the reported incident ratio in 2008–09, measured using all incidents reported to AMSA as a proportion of seafarers, has reduced significantly over the last five years. The incident rate for 2008–09 based on reported incidents resulting in incapacity of five or more successive days has also reduced.

## 4.7 Workers’ compensation outcomes

### 4.7.1 Insurance premiums

Scheme employers are required to have insurance arrangements in place indemnifying them for the cost of workers’ compensation claims made under the Seafarers Act. Typically, this involves employers paying an annual premium to an insurer to fund the future costs of all claims incurred in that year, including estimates of injuries not yet reported. Policies generally contain a claim excess or deductible. The excess amount serves to lower the premium payable but requires the employer to meet the costs of claims up to the deductible amount.

The Seacare Authority arranges for an actuary to report on these insurance premium arrangements annually. The consulting actuary, Taylor Fry Pty Ltd, made the following findings on Seacare scheme insurance arrangements in 2007–08, being the latest year that data is currently available.

In 2007–08, \$15.483 million in premiums was paid by scheme employers to insurers against declared total remuneration of \$472.891 million, yielding an effective average premium rate of 3.27 per cent. However, it should be noted that this premium income and rate includes the employers’ deductibles which vary considerably from policy to policy.

Standardising the level of deductibles to the equivalent of approximately five days incapacity (\$1900) would have the effect of requiring a combined premium income of some \$24.233 million, or a premium rate of 5.12 per cent.

Table 11: Seacare insurance premium rates

	2003–04	2004–05	2005–06	2006–07	2007–08
Premium collected, or premium income (unadjusted premium income) (million)	\$13.656	\$13.870	\$13.344	\$14.293	\$15.483
Average raw premium (unadjusted premium rate)	5.19%	4.43%	3.34%	3.39%	3.27%
Average five-day deductible premium income (adjusted premium Income) (million)	\$24.257	\$25.155	\$25.776	\$24.784	\$24.233
Average five-day deductible premium equivalent rate (adjusted premium rate)	9.21%	8.04%	6.46%	5.88%	5.12%
Wages pool (remuneration) (million)	\$263.400	\$313.001	\$399.090	\$421.846	\$472.891

Source: Taylor Fry

Table 11 shows that remuneration increased by 12.1 per cent between 2006–07 and 2007–08, while premiums increased by 8.3 per cent in the same period. This resulted in a 3.5 per cent reduction in the unadjusted premium rate.

The adjusted premium rate for 2007–08 has reduced considerably from the rate calculated for 2006–07. The effect of standardising the premium rate resulted in an increase in the adjusted premium rate for 2007–08 of 156 per cent (3.27 per cent to 5.12 per cent), the corresponding ratio for 2006–07 was 173 per cent (3.39 per cent to 5.88 per cent). The reduction in the ratio of adjusted to unadjusted premium rate is due in part to the different excess levels. On average the 2007–08 policies have lower excess levels than those of 2006–07.

Premium rates have reduced considerably over the past five years to 2007–08 and are now at levels experienced in 1999–2000. The reductions in premium rates are due in part to changes in claims experience and therefore calculated risk, and are consistent with decreases in premium rates among a number of workers' compensation and liability classes.

## 4.7.2 Claim payments

A summary of total claim payments during 2008–09 indicates that weekly benefits to injured seafarers (time off work) accounts for around two-thirds of total claims costs. Rehabilitation represents just two per cent of total claims costs, while legal-related payments are recorded as five per cent of all costs.

Table 12: Claims payment summary – costs type by amount

Payment group	2004–05	2005–06	2006–07	2007–08	2008–09
Weekly compensation	\$5 779 882	\$3 103 023	\$4 513 746	\$4 384 666	\$6 501 579
Lump sums	\$676 964	\$867 000	\$663 345	\$12,632	\$450 500
Rehabilitation services	\$167 183	\$165 524	\$198 847	\$150 388	\$289 099
Medical & like (excluding rehabilitation services)	\$1 081 117	\$701 352	\$1 024 524	\$980 415	\$1 356 740
Legal costs	\$107 467	\$162 732	\$388 081	\$77 768	\$223 199
Medical reports	\$9 245	\$26 101	\$32 196	\$40 520	\$36 031
Investigations	\$31 015	\$19 293	\$25 812	\$17 653	\$29 409
Other	\$233 109	\$105 040	\$171 652	\$96 628	\$272 605
<b>TOTAL CLAIM COSTS</b>	<b>\$8 085 981</b>	<b>\$5 150 064</b>	<b>\$7 018 204</b>	<b>\$5 760 671</b>	<b>\$9 159 162</b>

Source: Seacare Authority

## 4.7.3 Claims management

Duration indicators provide an insight into the performance of employers in claims management processes. Duration data can also provide an indication of RTW outcomes.

Table 13: Injury occurrence to claim lodgment

From date of injury, claims lodged	Claims received in financial year				
	2004–05	2005–06	2006–07	2007–08	2008–09
within first month	93%	53%	56%	51%	53%
between one and three months	4%	25%	29%	31%	30%
between four and twelve months	2%	19%	12%	13%	9%
after twelve months	1%	2%	3%	6%	9%

Source: Seacare Authority

Early lodgment of claims is generally regarded as a prerequisite for early intervention by the employer. The data indicates that in general, around half of claims made are lodged within a month.

Table 14: Date of injury to assessment of capability of undertaking rehabilitation

Date of injury to date assessed	2004–05	2005–06	2006–07	2007–08	2008–09
One to seven days	52%	33%	16%	14%	13%
Eight to fourteen days	0%	10%	0%	3%	11%
Fifteen to twenty-one days	4%	13%	16%	14%	3%
Twenty-two to thirty-one days	0%	15%	12%	6%	8%
One to three months	22%	13%	32%	42%	13%
Four to twelve months	13%	15%	12%	19%	53%
Unknown	9%	0%	12%	3%	0%

Source: Seacare Authority

The data for 2008–09 indicates that a third of the assessments carried out by employers of an injured employee’s capability of undertaking rehabilitation occurred within the time frame of thirty-one days from the date of injury, about half within three months.

Table 15: Receipt of claim to end of compensation

	2004–05	2005–06	2006–07	2007–08	2008–09
Zero to fourteen days	28%	36%	42%	19%	6%
Fifteen to thirty-one days	6%	15%	16%	14%	6%
One to three months	29%	30%	25%	46%	18%
Four to twelve months	37%	19%	16%	21%	70%

Source: Seacare Authority

The end of compensation can be viewed as a proxy for RTW. In 2008–09, compensation had ceased within one month of the date of a claim being received by the employer in 12 per cent of cases, within three months in 30 per cent of cases and within 12 months in 70 per cent of cases.

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## 4.8 Dispute resolution in the Seacare scheme

### 4.8.1 Reconsiderations by employers

Under subsection 78(4) of the Seafarers Act an employer must, upon receipt of a written request from an employee for a reconsideration of a claim determination, arrange for an industry panel or a Comcare officer to assist in reconsidering the determination. This review is tier one of a two-tier review process under the Seafarers Act. As there is no industry panel in place, pursuant to section 78 of the Seafarers Act, Comcare conducts all reviews requested by employers for assistance to reconsider a determination. In 2008–09, twenty-eight determinations were reviewed on behalf of fourteen employers. Comcare made recommendations to vary the determinations in eight cases.

Table 16: Reconsiderations

	2004–05	2005–06	2006–07	2007–08	2008–09
Determinations reviewed	38	33	30	27	28
Recommendations varying determination	4	1	8	6	8
Recommendations affirming determination	34	33	26	21	20
Number of employers	17	19	13	13	14

Source: Comcare

### 4.8.2 Reviewable decisions by the Administrative Appeals Tribunal

The Administrative Appeals Tribunal (AAT) is the second tier of review for disputed claims. The AAT review process usually begins with a conference to enable applicants to discuss with their employer, in the presence of an AAT official, the reasons for challenging the employer's determination of their claim. The conference provides an opportunity for the parties to agree on a decision. If following the conference process the matter has not been settled, a compulsory conciliation conference will be listed. If the matter fails to settle at the conciliation conference, it will proceed to a hearing unless both parties and the AAT agree that mediation should be held.

Table 17: Outcome of Administrative Appeals Tribunal review of decisions

	2004–05	2005–06	2006–07	2007–08	2008–09
APPLICATIONS LODGED	62	53	50	29	32
APPLICATIONS FINALISED					
Applications finalised by consent of the parties					
Decision of employer affirmed in accordance with terms of agreement lodged by the parties under sections 34D or 42C of the AAT Act	21	16	26	12	14
Decision of employer varied in accordance with terms of agreement lodged by the parties under sections 34D or 42C of the AAT Act	2	1	2	3	3
Decision of employer set aside in accordance with terms of agreement lodged by the parties under sections 34D or 42C of the AAT Act	20	13	22	12	6
Application dismissed by consent of the parties under section 42A(1) of the AAT Act	8	0	0	1	1
Application withdrawn by the applicant under section 42A(1A) of the AAT Act	15	11	11	6	8
Subtotal	66	41	61	34	32
Applications heard and determined by the Tribunal under section 43 of the AAT Act					
Decision of employer affirmed by decision of the Tribunal following a hearing	0	3	1	0	0
Decision of employer varied by decision of the Tribunal following a hearing	1	0	0	0	0
Decision of employer set aside by decision of the Tribunal following a hearing	2	5	1	2	0
Subtotal	3	8	2	2	0
Other					
Application dismissed by the Tribunal under section 42A(2)(a) of the AAT Act because applicant failed to appear	1	1	0	0	0
Application dismissed for lack of jurisdiction under section 42A(4) of the AAT Act or by determination of the Tribunal following a hearing	0	0	0	0	0
Application dismissed under section 42A(5) of the AAT Act because applicant failed to comply with a direction or to proceed with application	0	1	0	0	0
Application dismissed under section 42B(1) of the AAT Act as frivolous or vexatious	0	0	0	0	0
Extension of time to lodge application refused under section 29(7) of the AAT Act	0	0	0	0	0
Not specified	0	0	0	0	0
Subtotal	1	2	0	0	0
TOTAL	70	51	63	36	32
TIMEFRAMES					
Average time take from lodgment to finalisation (days)	293	312	363	314	327

Source: AAT

The number of applications lodged with the AAT in 2008–09 (32) is slightly higher than 2007–08 and well below the number in previous years. All applications finalised in 2008–09 were by consent of the parties with no matters proceeding to a hearing.

The number of applications to the AAT relative to the claims lodged indicates the propensity of seafarers and their representatives to seek a review of their claim. This ratio provides a means of determining disputation rates. In 2008–09, the apparent disputation rate was 15 per cent. This represents a slight reduction from 2007–08 and a significant reduction from previous years.

**Table 18: Seacare scheme dispute rate**  
(number of applications to the Administrative Appeals Tribunal as a proportion of total claims lodged)

	2004–05	2005–06	2006–07	2007–08	2008–09
Dispute rate	38%	28%	29%	16%	15%

Source: Seacare Authority and AAT

## 4.9 Rehabilitation and return to work performance

### 4.9.1 Rehabilitation and return to work — using claims data

**Table 19: Rehabilitation and return to work outcomes**  
(percentage against claims of 28 days or more)

	2004–05	2005–06	2006–07	2007–08	2008–09
Accepted claims	138	153	132	137	188
Claims of twenty-eight days or more	69	67	69	97	111
Number of claimants assessed for a rehabilitation program	44%	61%	36%	30%	32%
Number of claimants assessed commencing a rehabilitation program	38%	54%	28%	93%	60%
Number of claimants commencing a rehabilitation program who returned to work	17%	31%	17%	67%	57%

Source: Seacare Authority

Table 19 indicates that in 2008–09, 111 (59 per cent) claims lasted for 28 days or more. Of these, just 32 per cent were assessed for a rehabilitation program with 60 per cent of these then commencing a rehabilitation program. About 57 per cent of claimants who commenced a rehabilitation program in 2008–09 returned to work.

Table 20: Nature of duties on return to work

	2004–05	2005–06	2006–07	2007–08	2008–09
Number of workers returned to work during the period	104	105	76	88	142
Full duties	93%	96%	89%	97%	96%
Light duties	7%	4%	11%	3%	4%
Same position	95%	98%	89%	98%	97%
Other position	5%	2%	11%	2%	3%
Full-time	95%	97%	91%	99%	97%
Part-time	5%	3%	9%	1%	3%
Ship	95%	98%	97%	98%	96%
Land	5%	2%	3%	2%	4%

Source: Seacare Authority

When seafarers return to work after injury, the vast majority return to the same position on full duties. However, graduated RTW opportunities (for example, in supernumerary positions or on shore-based duties) may assist returning seafarers as part of a RTW program.

## 4.9.2 Rehabilitation and return to work — using Return to Work Monitor data

The RTW Monitor 2008–09 reports on a survey of injured workers who have had ten days or more compensation paid. The survey is undertaken by an independent research company, Campbell Research and Consulting, across all Australian and New Zealand workers' compensation jurisdictions, except Western Australia and the Australian Capital Territory (private sector). It aims to establish benchmarks for measuring RTW and the durability of RTW across these workers' compensation schemes. In 2008–09, 2965 injured Australian workers were surveyed by confidential interview of which 44 were receiving compensation benefits under the Seafarers Act.

The RTW Monitor survey methodology includes a range of questions to ascertain injured workers' perceptions about the way their compensation claim was managed, as well as their rehabilitation and RTW experience.

Some key Seacare performance indicators, in comparison with national outcomes and across time, are detailed below:

- the Seacare RTW rate of 76 per cent indicates a decline in performance. Seacare has the lowest RTW rate and does not compare well to the national average at 83 per cent. Over the last five years Seacare's average rate is 79.4 per cent
- the durable RTW rate of 67 per cent represents a considerable decline in performance. Again this is both the lowest durable RTW rate and worse than the national average of 72 per cent. Over the last five years Seacare's average rate is 69.2 per cent. The length of time back at work for durable RTW continues to decline and is now 143 days, which is close to the national average of 146 days
- seventeen per cent of Seacare scheme employees were still receiving weekly workers' compensation payments at the time of the interview, which was better than the national average of 23 per cent

- 
- the number of seafarers returning to work with the same employer was 86 per cent, a little above the national average of 84 per cent and consistent with Seacare's five-year average. However, overall there has been a decline in continuity of employer over the past five years
  - ninety-three per cent of seafarers returned to the same duties following injury compared to the national average of 77 per cent.

In terms of rehabilitation process measures and seafarers' perceptions, the RTW Monitor reported that:

- Seacare scheme employees placed high value on the importance of the work, work satisfaction and feeling valued by their employer. In addition, seafarers had the highest rate of agreement in regard to the proposition that their employer had clear policies and procedures concerning returning injured employees to work
- eighty per cent of Seacare scheme employees indicated their agreement that it was easy to access information on making a compensation claim (81 per cent nationally) and 80 per cent thought the process of putting in a claim was simple (74 per cent nationally)
- thirty-four per cent of Seacare scheme employees had a RTW plan developed, which was a slight decline from the previous year. While this was higher than the five-year average of 31.6 per cent, it is well below the national rate of 53 per cent. Of those with a RTW plan in place, 79 per cent reported that they had been involved in the development of the plan. While this is slightly better than the national average of 76 per cent, it does represent a decline from the previous year and is now close to the five-year average of 74.8 per cent.

The RTW Monitor collects demographic and claim characteristics of the survey population. Features to note are:

- ninety-six per cent of Seacare survey respondents were male (64 per cent nationally) and the average age was 47 years (42 was the national average)
- the mean number of days compensation paid to injured seafarers was 99, which is significantly higher than the national figure of 55 days. Consequently, the average Seacare claim cost of \$23 783 is also significantly higher than the Australian average of \$13 336 and close to the five-year average of \$23 870
- Seacare recorded a participation rate in rehabilitation of nine per cent compared to the national average of 46 per cent. After a number of years of increasing participation rates, this year's rate has dropped significantly
- the mean cost of rehabilitation of seafarers was \$1272 compared with the Australian mean of \$1588.

Table 21: Seacare return to work compared to national performance

	Seacare	National
RTW OUTCOMES		
RTW rate	76%	83%
Durable RTW rate	67%	72%
Non-durable RTW rate	9%	11%
Mean length of durable RTW (average days)	143	141
Compensation payment status at time of interview (still receiving weekly payments)	17%	23%
Full RTW (income from employment only)	65%	59%
Partial RTW (income from employment and other source at the time of interview)	6%	14%
Non-durable RTW/no RTW (income from all other sources except employment)	29%	27%
Continuity of employer	86%	84%
Returned to same duties by time of interview	93%	77%
RTW/CLAIM PROCESS MEASURES		
Work importance; Work satisfaction; Feeling valued at work (rating of agreement out of five)	4.5, 4.4, 3.6	4.5, 4.3, 3.9
Ease of claim information; Ease of claim lodgment (simple)	96%; 80%	81%; 74%
Development of RTW plan	34%	53%
Involvement in RTW plan	79%	76%
DEMOGRAPHICS/CLAIM CHARACTERISTICS		
Proportion males; Mean age	96%; 47	64%; 42
Mean days compensation paid	99	55
Average claim cost	\$23 783	\$13 336
Participation in rehabilitation	9%	46%
Mean rehabilitation costs	\$1272	\$1588

Source: RTW Monitor

The next table shows Seacare’s RTW performance over time based on RTW Monitor data. However, the small survey numbers involved may mean that year to year variations in performance are due to statistical volatility rather than indicating any particular improvement or deterioration.

Table 22: Seacare return to work trend data

	2004–05	2005–06	2006–07	2007–08	2008–09
RTW OUTCOMES					
RTW rate	75%	81%	83%	82%	76%
Durable RTW rate	62%	64%	71%	82%	67%
Non-durable RTW rate	25%	17%	12%	0%	9%
Mean length of durable RTW (average days)	193	170	171	164	143
Compensation payment status at time of interview (still receiving weekly payments)	25%	13%	24%	17%	17%
Full RTW (income from employment only)	56%	60%	73%	74%	65%
Partial RTW (income from employment and other source at the time of interview)	9%	15%	9%	7%	6%
Non-durable RTW/no RTW (income from all other sources except employment)	35%	25%	18%	19%	29%
Continuity of employer	93%	90%	74%	85%	86%
Returned to same duties by time of interview	85%	93%	89%	91%	93%
RTW/CLAIM PROCESS MEASURES					
Ease of claim lodgment (simple) (mean rating)	84	76	76	71	80%
Development of RTW	20%	30%	37%	37%	34%
Involved in development of RTW plan	49%	73%	86%	87%	79%
DEMOGRAPHICS/CLAIM CHARACTERISTICS					
Mean days compensation paid	92	143	100	127	99
Average claim cost	\$23 827	\$25 652	\$29 015	\$17 075	\$23 783
Participation in rehabilitation	18%	22%	32%	12%	9%
Mean rehabilitation costs	\$2279	\$1145	\$1094	\$1624	\$1272

Source: RTW Monitor

Chapter 5:  
Significant court  
judgments and  
Administrative Appeals  
Tribunal decisions

# Significant court judgments and Administrative Appeals Tribunal decisions

There are five matters arising during 2008–09 that may be considered of significance in applying and interpreting scheme legislation. Section 5.3 lists all judgments and decisions relating to Seacare legislation in 2008–09.

## 5.1 Federal Court of Australia judgments

### *Stateships v Lawson* [2009] FCA 59 (9 February 2009)

Before the court was an appeal from a decision of the Administrative Appeals Tribunal (the Tribunal) made on 23 July 2008. The Tribunal determined that Stateships (the Applicant) was liable, pursuant to sections 24 and 26(1) of the *Seafarers Rehabilitation and Compensation Act 1992* (the Act), to pay compensation in accordance with the Act to Mr Lawson (the Respondent) in respect of a psychiatric disorder which he contracted in or about June 2006.

Mr Lawson (the Respondent) suffered a compensable injury to his right knee in July 1991 and has been receiving ongoing compensation since 1994. The Respondent later suffered a psychiatric disorder which, according to expert medical opinion, had deteriorated since the Applicant made an appointment for the Respondent to attend a vocational assessment with an injury management consultant in April 2006.

The Tribunal found that:

*The medical evidence before the Tribunal supports the proposition that the applicant has been suffering from a mental ailment since June 2006, or, alternatively, that he has been suffering from a mental ailment since 1996 which was aggravated in June 2006.*

*There is no medical evidence before the Tribunal which is inconsistent with either of those alternative propositions. Accordingly, the Tribunal finds, on the basis of the medical evidence before it, that the applicant suffers from a mental ailment and has been so suffering since at least June 2006.*

The Applicant's Notice of Appeal contained four questions of law, including:

*(a) whether there was any evidence before the Tribunal on which the Tribunal could find that the respondent contracted a psychiatric disorder in or about June 2006 and that he continued to suffer from a psychiatric disorder;*

The Applicant also argued that the question of law was whether 'injury' as defined in section 3 of the Act permits regard be had to whether the injury has 'arisen out of' the employee's employment and whether 'disease' as defined in section 3 of the Act encompasses mental ailment in the absence of a close connection between the mental ailment and the employment in which the employee is engaged or whether causal connection is sufficient.

When discussing the question of law relating to evidence before the Tribunal, Gilmour J held that in the Tribunal hearing, the General Practitioner, Dr Knight, gave advice which, '

... whether intended or not, wrongly conveyed the impression that the respondent had been diagnosed by a specialist psychiatrist, Dr Wu, as suffering from major depression attended by a high suicide risk.’

Gilmour J also considered the probative value of evidence that Ms Cattalini, a registered psychologist, gave to the Tribunal. Gilmour J summarised the findings by stating:

*In the circumstances where there is positive evidence that Dr Wu did not diagnose depression in the case of the respondent the hearsay evidence of Ms Cattalini that Dr Wu prescribed medication for depression carries no weight.*

*In my opinion, the finding by the Tribunal that the respondent contracted a psychiatric disorder involving depression in or about June 2006 and which continued to the date of the hearing in May 2008 was not founded on probative evidence. Indeed it was contrary to the evidence which was probative. The evidence of Dr Knight concerning the question whether the respondent suffered depression or any injury involving depression was, with due respect to her, overstated and her reports misstated the involvement and diagnosis of Dr Wu. Her evidence in this respect was at odds with what Dr Wu had stated even on her account. It was not probative of the existence of a psychiatric disorder involving depression either as at or about June 2006 or since then. (Paragraphs 46 and 47).*

Gilmour J conceded that the Tribunal is not bound by the rules of evidence. However, Gilmour J emphasised that the Tribunal is not free to make a decision based on evidence, ‘which lacks rational probative force’.

In essence, Gilmour J held that there was no probative evidence that the respondent contracted a psychiatric disorder involving depression. Given this finding, Gilmour J held that it was unnecessary to consider the other questions of law raised in the application.

Accordingly, the court ordered that the appeal be allowed and that the decision of the

Tribunal, dated 23 July 2008, be set aside. The matter was remitted to the Tribunal, differently constituted, for determination according to law.

### *Cook v ASP Ship Management Pty Ltd* [2008] FCA 1345 (13 August 2008)

Mr Cook (the Applicant) had an accepted claim under the *Seafarers Rehabilitation and Compensation Act 1992* in respect of cellulitis contracted in 1993.

Before the court was an appeal from a decision of the Administrative Appeals Tribunal (the Tribunal) made on 29 May 2006. The Tribunal rejected an application for review of decisions made by the Respondent on 10 July 1995 and 13 June 2000 in respect of further impairments.

The Appellant argued that the question of law was whether he had been denied procedural fairness by the refusal of the Tribunal to adjourn the hearing of the application. The Appellant contended that the Tribunal had failed to comply with its obligation under section 39(1) which required the Tribunal to:

*... ensure that every party to a proceeding before the Tribunal is given a reasonable opportunity to present his or her case ...*

The Tribunal failed to take account of the effect of the refusal of the adjournment; namely, that he would not be able to lead his own evidence or cross-examine the Respondent’s witnesses on the days fixed for hearing.

The Judge did not accept that the Tribunal breached section 39(1) of the Act, finding that it was reasonable for the Tribunal to offer the Appellant a phone directions hearing in view of the circumstances of the case. It was found that the Tribunal was not obliged to simply accept the Appellant’s assertions in favour of an adjournment without further elaboration. Further, the Judge determined that there was nothing to suggest that the Tribunal failed to take into account the consequences of proceeding in the absence of the Appellant. The application was therefore dismissed.

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## 5.2 Administrative Appeals Tribunal decisions

### *Lawson and Stateships* [2008] AATA 643 (23 July 2008)

Mr Lawson (the Applicant) suffered a compensable injury to his right knee in July 1991 and has been receiving ongoing compensation since 1994. The Applicant is now suffering a psychiatric disorder, which according to expert medical opinion, has deteriorated since the Respondent made an appointment for the Applicant to attend a vocational assessment with an injury management consultant in April 2006.

The main issue for decision by the Tribunal is whether the Applicant's psychiatric disorder arose from the Applicant's employment and is therefore compensable under sections 24 and 26(1) of the *Seafarers Rehabilitation and Compensation Act 1992* (the Act), as argued by the Applicant. Alternatively, did the Applicant's mental ailment arise from the compensation litigation and rehabilitation processes which were subsequent and extraneous to the Applicant's employment, as argued by the Respondent.

The Tribunal accepted the Applicant's arguments that he was suffering a psychiatric disorder and that the disorder arose from the Applicant's employment. It rejected the contention that the litigation and rehabilitation process was subsequent and extraneous to the Applicant's employment.

The Tribunal found that the Applicant's psychiatric disorder involving depression:

*was precipitated by his (the Applicant's) perception that the Respondent had dealt with the matter of his vocational rehabilitation, following his work-related knee injury sustained in 1991, in an apparently arbitrary and inconsistent manner which indicated a malicious disregard for his wellbeing.*

The Tribunal ordered that the Respondent, pursuant to sections 24 and 26(1) of the Act, to pay compensation, in accordance with the Act, to the Applicant in respect of the psychiatric disorder which he contracted in or about June 2006.

### *Rana and Military Rehabilitation and Compensation Commission* [2008] AATA 558 (1 July 2008)

The case involved an Applicant who had applied unsuccessfully for compensation on numerous occasions. When the Applicant applied to the Tribunal for review of one of the decisions made, the MRCC requested an order dismissing the application on two grounds. The MRCC firstly argued that the doctrines of *res judicata* or issue estoppel meant that the Tribunal had already considered the matter and could not do so again. Alternatively, the MRCC sought an order under section 42B of the *Administrative Appeals Tribunal Act 1975* (AAT Act) dismissing the application on the basis that it was frivolous and vexatious.

The issues before the Tribunal were whether the doctrines of *res judicata*, cause of action estoppel, Anshun estoppel and issue estoppel apply to the Tribunal; and do the facts of the case support an order under section 42B of the AAT Act dismissing the application on the grounds that it is frivolous and vexatious.

The Tribunal considered the issue of estoppel. In doing so, the Tribunal referred to a statement from the Privy Council, which listed the three essential elements that must exist if the doctrine is to apply. The essential elements are: '(1) that the same question has been decided; (2) that the judicial decision which is said to create the estoppel was final; and, (3) that the parties to the judicial decision or their privies were the same persons as the parties to the proceedings in which the estoppel is raised.'

However, the Tribunal also referred to section 25(4) of the AAT Act which provides that, 'The Tribunal has power to review any decision in respect of which application is made to it under any enactment.' Accordingly, the Tribunal felt obliged to find that the Tribunal has power to review the reviewable decision. The Tribunal held that the principles of *res judicata* or issue estoppel, although well established

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and beneficial, cannot stand in the way of the statutory provisions giving the Tribunal the power to review it.

The Tribunal also declined to dismiss the application on the basis that it was frivolous and vexatious. Established precedent has determined that the pertinent tests to apply include whether the application is: ‘so obviously

untenable that it cannot possibly succeed’ or that the application is ‘manifestly groundless’. These tests are extremely difficult to meet and the Tribunal held that the facts before it did not satisfy these tests. The Tribunal subsequently held that there were insufficient grounds to dismiss the application under section 42B of the AAT Act.

## 5.3 Industrial Relations Commission decisions

### *Total Marine Services Pty Ltd and the Maritime Union of Australia* [2008] AIRC 477 (3 June 2008)

Total Marine Services Pty Ltd (Total Marine) applied for an order under section 496(1) of the *Workplace Relations Act 1996* (the Act) against alleged industrial action by some crew of the *Akademic Fersman*. The crew, who were Maritime Union of Australia (MUA) members, threatened to strike and prevent the vessel from sailing, and refuse to provide cooking or cleaning services should the ship sail.

Mr Llewellyn of Total Marine gave evidence that he had spoken to the State Secretary of MUA, Mr Cain, about issues concerning a hard lying allowance for employees on the vessel and about the quality of water available on the vessel. There were concerns as to whether the water on the vessel available to the crew was potable and suitable for cooking and ablutions.

Mr Llewellyn stated that since Total Marine had been providing manning for the vessel there had never been an issue reported regarding any illnesses that could be attributed to water on board, nor were any health or safety issues

raised. Mr Edmonds, on behalf of MUA, submitted that there had been genuine concerns raised about the quality of the water on the vessel.

The MUA submitted that the action by the employees was based on a reasonable concern about an imminent risk to their health or safety. Subsequently, the actions by the employees were covered by the exception in section 420(1)(g) to the definition of industrial action contained in the Act. Under section 420(4) of the Act, the MUA in this matter bore the burden of proving section 420(1)(g) applied. The Judge was not satisfied that the MUA had discharged that onus in this case.

Having considered all the evidence, the Judge was satisfied that industrial action within the meaning of section 420(1)(a) of the Act was threatened or possible, and that as such he was required by section 496(1) of the Act to make an order that the industrial action not occur. The Judge ordered that both the MUA and those employees who were members of the MUA working for the applicant on the relevant vessel would be bound by the order.

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## 5.4 Judgments and decisions relevant to Seacare scheme legislation 2008–09

*Inco Ships Pty Ltd* [2009] Magistrates Court Tasmania 92101/2008  
(29 April 2009)

*Statships v Lawson* [2009] FCA 59 (9 February 2009)

*Cook v ASP Ship Management Pty Ltd* [2008] FCA 1345 (13 August 2008)

*Lawson and Statships* [2008] AATA 643 (23 July 2008)

*Rana and Military Rehabilitation and Compensation Commission* [2008]  
AATA 558 (1 July 2008)

*Total Marine Services Pty Ltd and the Maritime Union of Australia* [2008]  
AIRC 477 (3 June 2008)

A list of all judgments and decisions since 1994 is available on the Seacare website under legislation at <[www.seacare.gov.au](http://www.seacare.gov.au)>.

Appendix 1:  
Seacare Authority  
financial statements



## INDEPENDENT AUDITOR'S REPORT

### To the Minister for Education, Employment and Workplace Relations, and for Social Inclusion

#### Scope

I have audited the accompanying financial statements of the Seafarers Safety, Rehabilitation and Compensation Authority (Seacare Authority) for the year ended 30 June 2009, which comprise: a Statement by the Chairperson and Chief Financial Officer; Income Statement; Schedule of Administered Items and Notes to and forming part of the Financial Statements, including a Summary of Significant Accounting Policies.

#### *The Responsibility of the Chairperson and Chief Executive for the Financial Statements*

The Seacare Authority's Acting Chairperson and Chief Executive is responsible for the preparation and fair presentation of the financial statements in accordance with the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, including the Australian Accounting Standards (which include the Australian Accounting Interpretations). This responsibility includes establishing and maintaining internal control relevant to the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

#### *Auditor's Responsibility*

My responsibility is to express an opinion on the financial statements based on my audit. I have conducted my audit in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards. These auditing standards require that I comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Seacare Authority's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Seacare Authority's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the Seacare Authority's Chairperson and Chief Executive, as well as evaluating the overall presentation of the financial statements.

GPO Box 707 CANBERRA ACT 2601  
19 National Circuit BARTON ACT  
Phone (02) 6203 7300 Fax (02) 6203 7777

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

***Independence***

In conducting the audit, I have followed the independence requirements of the Australian National Audit Office, which incorporate the requirements of the Australian accounting profession.

**Auditor's Opinion**

In my opinion, the financial statements of the Seacare Authority:

- (a) have been prepared in accordance with the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, including the Australian Accounting Standards; and
- (b) give a true and fair view of the matters required by the Finance Minister's Orders including the Seacare Authority's financial position as at 30 June 2009 and its financial performance and cash flows for the year then ended.

Australian National Audit Office



Puspita Dash  
Executive Director

Delegate of the Auditor-General

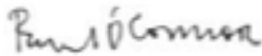
Canberra  
21 September 2009

**SEAFARERS SAFETY, REHABILITATION AND COMPENSATION  
AUTHORITY (SEACARE AUTHORITY)**

**Financial Statements  
For the Year Ended 30 June 2009**

**Statement by the Chairperson and Chief Financial Officer**

In my opinion, the attached financial statements for the year ended 30 June 2009 are based on properly maintained financial records and give a true and fair view of the matters required by the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, as amended.



Paul O'Connor  
Acting Chairperson and Chief Executive  
21 September 2009



Dermot Walsh  
Chief Financial Officer  
21 September 2009

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**SEACARE AUTHORITY  
INCOME STATEMENT***For the year ended 30 June 2009*

	<b>Notes</b>	<b>2008/09</b>	<b>2007/08</b>
		<b>\$</b>	<b>\$</b>
<b>INCOME</b>	<b>3</b>		
<b>Revenue</b>			
Resources received free of charge		<b>438,000</b>	440,000
<i>Total Revenue</i>			
<b>Gains</b>			
Audit services received free of charge		<b>11,200</b>	11,500
<i>Total Gains</i>			
<b>TOTAL INCOME</b>		<b>449,200</b>	<b>451,500</b>
<b>EXPENSES</b>			
Suppliers	<b>4</b>	<b>449,200</b>	451,500
<b>TOTAL EXPENSES</b>		<b>449,200</b>	<b>451,500</b>
<b>OPERATING RESULT</b>		<b>-</b>	<b>-</b>

The above statement should be read in conjunction with the accompanying notes.

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<b>SEACARE AUTHORITY</b>				
<b>SCHEDULE OF ADMINISTERED ITEMS</b>			<b>2008/09</b>	<b>2007/08</b>
	<b>Notes</b>		<b>\$</b>	<b>\$</b>
<b>Income administered on behalf of Government</b>				
<i>For the year ended 30 June 2009</i>				
<b>Non-taxation revenue</b>				
Levies			<b>146,275</b>	289,005
<b>Total Revenues administered on behalf of Government</b>			<b>146,275</b>	289,005
<b>Expenses administered on behalf of Government</b>				
<i>for the year ended 30 June 2009</i>				
Supplier expenses			<b>77,500</b>	80,136
Workers compensation claims expenses (movement in Provision)			<b>(54,064)</b>	-
<b>Total Expenses administered on behalf of Government</b>	<b>5</b>		<b>23,436</b>	80,136
<b>Assets administered on behalf of Government</b>				
<i>as at 30 June 2009</i>				
<b>Financial Assets</b>				
Cash and cash equivalents	<b>6</b>		-	1,710
Receivables	<b>7</b>		<b>1,304,297</b>	1,233,632
<b>Total Assets administered on behalf of Government</b>			<b>1,304,297</b>	1,235,342
<b>Liabilities administered on behalf of Government</b>				
<i>as at 30 June 2009</i>				
<b>Payables</b>				
Suppliers	<b>8</b>		<b>16,500</b>	16,500
Income received in advance			<b>2,325</b>	2,144
<b>Total Payables</b>			<b>18,825</b>	18,644
<b>Provisions</b>				
Workers compensation claims	<b>9</b>		<b>164,936</b>	219,000
<b>Total Provisions</b>			<b>164,936</b>	219,000
<b>Total liabilities administered on behalf of Government</b>				
			<b>183,761</b>	237,644
<b>Current assets</b>			<b>1,304,297</b>	1,235,342
<b>Non-current assets</b>			-	-
<b>Current liabilities</b>			<b>18,825</b>	18,644
<b>Non-current liabilities</b>			<b>164,936</b>	219,000
This schedule should be read in conjunction with the accompanying notes.				

<b>SEACARE AUTHORITY</b>			
<b>SCHEDULE OF ADMINISTERED ITEMS</b>		<b>Notes</b>	
		<b>2008/09</b>	<b>2007/08</b>
		<b>\$</b>	<b>\$</b>
<b>Administered Cash Flows</b>			
<i>For the year ended 30 June 2009</i>			
<b>Operating Activities</b>			
<b>Cash Received</b>			
Levies		<b>159,299</b>	289,495
Other – GST received from the Australian Taxation Office		<b>4,681</b>	9,837
<b>Total cash received</b>		<b>163,980</b>	299,332
<b>Cash Used</b>			
Suppliers		<b>101,810</b>	70,000
<b>Total cash used</b>		<b>101,810</b>	70,000
<b>Net cash from/(used by) operating activities</b>		<b>62,170</b>	229,332
<b>Net increase/(decrease) in cash held</b>		<b>62,170</b>	229,332
Cash at the beginning of the reporting period		<b>1,710</b>	-
Cash from Official Public Account – Special Account		<b>101,810</b>	70,000
Cash to the Official Public Account – Special Account		<b>(165,690)</b>	(297,622)
<b>Cash at the end of the reporting period</b>		<b>-</b>	1,710
This schedule should be read in conjunction with the accompanying notes.			

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**SEACARE AUTHORITY  
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2009**

<b>Note</b>	<b>Description</b>
1	Summary of Significant Accounting Policies
2	Events after Balance Sheet date
3	Income
4	Operating Expenses
5	Expenses Administered on behalf of Government
6	Assets Administered on behalf of Government - Cash
7	Assets Administered on behalf of Government - Receivables
8	Liabilities Administered on behalf of Government - Payables
9	Liabilities Administered on behalf of Government - Provisions
10	Administered Reconciliation Table
11	Administered Financial Instruments
12	Aged Analysis of Receivables
13	Remuneration of Auditors
14	Administered Special Account
15	Outcomes and Outputs
16	Remuneration of Members

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**SEACARE AUTHORITY  
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2009**

**1 Summary of Significant Accounting Policies**

**1.1 Objectives of the Seacare Authority**

The objective of the Seacare Authority is to take a leading role in minimising the human and financial costs of workplace injury in the Australian maritime industry.

The Authority is structured to meet the following outcome:

Outcome 1: Minimise human and financial costs of workplace injury under schemes administered by Comcare and ensure that claimants receive compensation in accordance with Commonwealth obligations.

The Seacare Authority has not reported a departmental Balance Sheet as it does not control assets or incur liabilities in its own right. The Seacare Authority has not reported a departmental Statement of Cash Flows as it did not have departmental cash flows during the 2008-2009 financial year. The administration of the Seacare Authority is performed by Comcare. The associated financial transactions are reported in the Comcare financial statements under Output 1.5: Regulation of the Seacare scheme for workers compensation, rehabilitation and occupational health and safety. The Seacare Authority has no departmental commitments or departmental contingent liabilities as at 30 June 2009.

Other Seacare Authority activities contributing toward Outcome 1 are classified as administered activities. Administered activities involve the management or oversight by the Authority, on behalf of the Government, of items controlled or incurred by the Government.

The administered activities concern the Seafarer's Safety Net Fund (the Fund) which was established in October 1992. It was established for the purpose of providing through its contracted agent, Australian Maritime Industry Compensation Agency Ltd (AMICA), a safety net under Section 96 of the *Seafarers Rehabilitation and Compensation Act 1992* (Seafarers Act) for the compensation and rehabilitation of injured seafarers not otherwise covered by an employer. The safety net fund provides coverage to persons when undergoing industry training, attending the seafarers' engagement system and any seafarer or company trainee in situations where the original employer is insolvent or no longer traceable.

As AMICA was unable to obtain insurance, the then Minister for Employment and Workplace Relations declared on 10 April 2002 that the Seacare Authority is to have the Fund's powers and obligations under Section 100 of the Seafarers Act.

Section 102 of the Seafarers Act requires the Seacare Authority to obtain insurance cover with an authorised insurer for any amount of a claim made by an eligible person that would exceed \$1m. Despite the efforts of the Authority, it was not possible to obtain this cover as at 30 June 2009.

A Special Account called the 'Seafarers Rehabilitation and Compensation Account' was established on the 9th of August 2002 under section 20 of the *Financial Management and Accountability Act 1997* (FMA Act) to operate as the Fund to receive levies under the Seafarers Act and to make payments arising from liabilities under the Seafarers Act. The activities accounted for in these financial statements represent:

- 
- (a) the receipt into the Administered Official Receipts Account of levies collected under the *Seafarers Rehabilitation and Compensation Levy Collection Act 1992* (Levy Collection Act);
  - (b) the transfer of these receipts to the Official Public Account in accordance with Australian Government requirements;
  - (c) the drawdown of Special Appropriation into the Administered Official Payments Account representing the return of the funds from the Official Public Account to meet payments (if any) under the Seafarers Act; and
  - (d) the payment of expenses from the Administered Official Payments account.

Administered revenues, expenses, assets, liabilities and cash flows are disclosed in the Schedule of Administered Items and related notes.

Except where stated otherwise below, administered items are accounted for on the same basis and using the same policies as for Seacare Authority items, including the application of Australian Accounting Standards.

Levies collected by the Seacare Authority on behalf of the Australian Government rather than the Seacare Authority are Administered Revenues. Collections are transferred to the Official Public Account (OPA) maintained by the Department of Finance and Deregulation. Conversely, cash is drawn from the OPA to make payments under Parliamentary appropriation on behalf of the Government. These transfers to and from the OPA are adjustments to the administered cash held by the Authority on behalf of the Government and reported as such in the Schedule of Administered Cash Flows. Thus the Schedule of Administered Items largely reflects the Government's transactions, through the Seacare Authority, with parties outside the Government.

Administered revenue for 2008-2009 represents levies collected in accordance with the Levy Collection Act. The levies collected by the Seacare Authority are paid into the Seacare Official Receipts Account and then transferred into the OPA. These receipts represent monies available for the operation of the Seafarers' Safety Net Fund. These monies are drawn down as an Administered Special Appropriation to meet expenses of the Fund.

Administered revenues transferred or transferable to the OPA are not reported as administered expenses or payables. These transactions or balances are internal to the Administered entity and are not required to be reported in the Schedule of Administered Items.

Levies are imposed under the *Seafarers Rehabilitation and Compensation Levy Act 1992* (Levy Act) on seafarer berths (a berth on a prescribed ship that is normally used by a seafarer). The levies are payable by an employer who employs or engages seafarers on a prescribed ship.

## **1.2 Basis of Preparation of the Financial Statements**

The financial statements are required by section 49 of the FMA Act and are a general purpose financial report.

The statements have been prepared in accordance with:

- Finance Minister's Orders (or FMOs) for reporting periods ending on or after 1 July 2008; and
- Australian Accounting Standards and Interpretations issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

The Departmental Income Statement has been prepared on an accrual basis.

The Schedule of Administered Items has been prepared on an accrual basis and these are in accordance with historical cost convention. No allowance is made for the effect of changing prices on the items.

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Assets and liabilities are recognised in the Schedule of Administered Items when and only when it is probable that future economic benefits will flow and the amounts of the assets or liabilities can be reliably measured. Revenues and expenses are recognised in the Schedule when and only when the flow or consumption or loss of economic benefits has occurred and can be reliably measured.

All amounts in the financial statements are presented in Australian dollars.

The Seacare Authority had no administered contingent assets or liabilities as at 30 June 2009.

### **1.3 Significant Accounting Judgements and Estimates**

The only significant accounting judgement which has been made in these financial statements relates to the provision for workers compensation claims. The value of the provision is an estimate which is based on advice received from an independent consulting actuary, Taylor Fry Pty Ltd.

### **1.4 Changes in Australian Accounting Standards**

#### ***Adoption of new Australian Accounting Standard requirements***

No accounting standard has been adopted earlier than the application date as stated in the standard. Of the new standards, amendments to standards and interpretations issued by the Australian Accounting Standards Board that are applicable to the current period, the Seacare Authority has determined that they will not have a material financial impact.

#### ***Future Australian Accounting Standard requirements***

Of the new standards, amendments to standards and interpretations issued by the Australian Accounting Standards Board that are applicable to future periods, the Seacare Authority has determined they will not have a material financial impact.

### **1.5 Claims Provision**

The liability for workers compensation claims is determined in accordance with the requirements of AASB 137 *Provisions, Contingent Liabilities and Contingent Assets*. Provisions for claims are recognised when: the Seacare Authority has a present legal or constructive obligation as a result of past events; it is probable that an outflow of resources will be required to settle the obligation; and the amount has been reliably estimated.

Where there are a number of similar obligations for each claim type, the likelihood that an outflow will be required in settlement is determined by considering the class of obligations as a whole. A provision is recognised even if the likelihood of an outflow with respect to any one item included in the same claim type may be small.

The value of the claims provision is measured at the present value of expected future payments against claims incurred at the reporting date plus an allowance for the significant uncertainty in estimating future claim payments. The expected future payments are discounted to present value using a risk adjusted rate.

The expected future payments include those for claims incurred but not reported (IBNR), asbestos related disease claims and anticipated claims handling costs. Claims handling costs include costs that can be associated directly with individual claims, such as legal and other professional fees, and costs that can only be indirectly associated with individual claims, such as claims administration costs.

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## 1.6 Revenue/Gain

### ***Resources Received Free of Charge***

Resources received free of charge are recognised as revenue or gain when, and only when, a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense.

Contributions of assets at no cost of acquisition or for nominal consideration are recognised as gains at their fair value when the asset qualifies for recognition, unless received from another Government agency or authority as a consequence of a restructuring of administrative arrangements.

Resources received free of charge are recorded as either revenue or gains depending on their nature.

## 1.7 Cash

Cash and cash equivalents includes notes and coins held and any deposits in bank accounts with an original maturity of 3 months or less that are readily convertible to known amounts of cash and subject to insignificant risk of changes in value. Cash is recognised at its nominal amount.

## 1.8 Financial assets

The Seacare Authority classifies its administered financial assets in the following categories: cash at bank, levies outstanding and GST receivable.

The classification depends on the nature and purpose of the financial asset and is determined at the time of initial recognition. Financial assets are recognised and derecognised upon 'trade date' where applicable.

### ***Receivables***

Trade receivables and other receivables that have fixed or determinable payments that are not quoted in an active market are classified as 'receivables'. They are included in current assets, except for maturities greater than 12 months after the balance sheet date. These are classified as non-current assets.

## 1.9 Financial liabilities

Financial liabilities are classified as either financial liabilities 'at fair value through profit or loss' or other financial liabilities. Financial liabilities are recognised and derecognised upon 'trade date'.

### ***Financial liabilities at fair value through profit or loss***

Financial liabilities at fair value through profit or loss are initially measured at fair value. Subsequent fair value adjustments are recognised in profit or loss. The net gain or loss recognised in profit or loss incorporates any interest paid on the financial liability.

### ***Other financial liabilities***

Supplier and other payables are recognised at amortised cost. Liabilities are recognised to the extent that the goods or services have been received (and irrespective of having been invoiced).

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## **1.10 Compensation and Debt Relief in Special Circumstances**

During the financial year ended 30 June 2009, the Seacare Authority made no special payments in the form of:

- Act of Grace payments;
- Ex-Gratia payments;
- payments under the Scheme for Compensation for Detriment caused by Defective Administration; or
- payments under section 73 of the *Public Service Act 1999*.

The Seacare Authority did not waive any debts during 2008-09 pursuant to a determination under of Section 34 (1) (a) of the FMA Act (2008: nil).

## **2 Events After Balance Sheet date**

No significant events have occurred since the reporting date requiring disclosure in the financial statements.

### 3 Income

The value of income represents the services provided free of charge by the ANAO (\$11,200) and Comcare (\$438,000). These services are recognised as revenue.

### 4 Operating Expenses

The value of suppliers represents the cost of services provided free of charge by the ANAO (\$11,200) and Comcare (\$438,000). These services are recognised as expenses.

The Seacare Authority does not employ staff. Comcare pays the expenses associated with the management of the Seacare Authority.

### 5 Expenses Administered on behalf of Government

<b>SEACARE AUTHORITY SCHEDULE OF ADMINISTERED ITEMS</b>	<b>2008/09 \$</b>	<b>2007/08 \$</b>
<b>Supplier Expenses</b>		
<i>Rendering of services</i>		
Seafarers Safety Net Fund administration	77,500	80,136
Total Suppliers	77,500	80,136
<b>Workers compensation expenses</b>	(54,064)	-
<b>Total Expenses Administered on Behalf of Government</b>	<b>23,436</b>	<b>80,136</b>

### 6 Assets Administered on behalf of Government - Cash

<b>SEACARE AUTHORITY SCHEDULE OF ADMINISTERED ITEMS</b>	<b>2008/09 \$</b>	<b>2007/08 \$</b>
Cash represents:	-	1,710
<b>Special Accounts</b>		
Amounts temporarily held in the Administered Official Receipts Account prior to being transferred to the Official Public Account.	-	1,710
<b>Total cash held as at 30 June 2009</b>	<b>-</b>	<b>1,710</b>

**7 Assets Administered on behalf of Government - Receivables**

<b>SEACARE AUTHORITY SCHEDULE OF ADMINISTERED ITEMS</b>	<b>2008/09 \$</b>	<b>2007/08 \$</b>
Receivables represent:		
Monies held in the Official Public Account. These funds are available to be drawn down to fund expenses payable under the <i>Seafarers Rehabilitation and Compensation Act 1992</i> .	<b>1,293,201</b>	1,229,320
Levies outstanding	<b>4,845</b>	1,130
GST receivable	<b>6,251</b>	3,182
<b>Total receivables administered on behalf of government</b>	<b>1,304,297</b>	1,233,632

No indicators of impairment were found for Cash or Receivables.

**8 Liabilities Administered on behalf of Government - Payables**

<b>SEACARE AUTHORITY SCHEDULE OF ADMINISTERED ITEMS</b>	<b>2008/09 \$</b>	<b>2007/08 \$</b>
<b>Payables</b>		
Suppliers – Comcare for fund administration	<b>16,500</b>	16,500
Income received in advance – Seacare levies	<b>2,325</b>	2,144
<b>Total Suppliers administered on behalf of Government</b>	<b>18,825</b>	18,644
Payables are with entities of the Australian Government and the terms are 30 days from date of invoice (2008: 30 days).		

9 Liabilities Administered on behalf of Government - Provisions

SEACARE AUTHORITY SCHEDULE OF ADMINISTERED ITEMS	2008/09 \$	2007/08 \$
<b>Provision for workers compensation claims</b>		
<i>Carrying amount at beginning of period</i>	<b>219,000</b>	219,000
Release of provision during the period	<b>(54,064)</b>	-
<b><i>Carrying amount at the end of period</i></b>	<b>164,936</b>	219,000
<p>The safety net fund provides coverage to persons when undergoing industry training, attending the seafarers' engagement system and any seafarer or company trainee in situations where the original employer is insolvent or no longer traceable. As such, the Seacare Authority has a financial exposure to all eligible workers' compensation claims that cannot be met by the original employer.</p> <p>The value of workers compensation claims expenses was estimated by management using available information including independent actuarial advice provided by Taylor Fry Pty Ltd. The provision for claims incurred but not yet reported (IBNR) includes an allowance for uncertainty of 55%. Management considers the inclusion of an allowance for uncertainty in the provision to be appropriate on the basis that no successful claims have been made on the Seafarer's Safety Net Fund since it has been managed by the Seacare Authority and thus a greater level of variability exists in relation to its estimation.</p> <p>The key assumptions underlying the valuation were:</p>		
Average claim size	<b>\$24,000</b>	\$22,000
Inflation rate	<b>4.00%</b>	4.25%
Discount rate	<b>4.75%</b>	6.00%
Claims handling costs	<b>8.00%</b>	6.00%

## 10 Administered Reconciliation Table

	2008/09 \$	2007/08 \$
Opening administered assets less administered liabilities at 1 July	997,698	788,829
Plus administered revenues	146,275	289,005
Less administered expenses	23,436	80,136
<b>Closing administered assets less administered liabilities at 30 June</b>	<b>1,120,537</b>	997,698

## 11 Administered Financial Instruments

	2008/09 \$	2007/08 \$
<b>Financial assets</b>		
Cash at bank	-	1,710
<b>Carrying amount of financial assets</b>	<b>-</b>	<b>1,710</b>

## 12 Aged Analysis of Receivables

	2008/09 \$	2007/08 \$
Current	1,304,297	1,233,632
Overdue less than 30 days	-	-
Overdue 30 to 60 days	-	-
Overdue 61 to 90 days	-	-
Overdue more than 90 days	-	-
<b>Total Receivables</b>	<b>1,304,297</b>	<b>1,233,632</b>

## 13 Remuneration of Auditors

The Australian National Audit Office did not charge a fee for the audit of the 2008-09 financial statements. The notional amount of \$11,200 was brought to account in the 2008-09 financial year as services provided free of charge (2008: \$11,500). No other services were provided by the Auditor - General.

## 14 Administered Special Account

A Special Account called the 'Seafarers Rehabilitation and Compensation Account' was established by the Financial Management and Accountability (Establishment of Special Account) Determination 2002/06 on the 9<sup>th</sup> of August 2002. The determination was made under section 20 of the FMA Act by the Minister for Finance and Administration.

<b>Seafarers Rehabilitation and Compensation Account (Administered)</b>	<b>2008/09 \$</b>	<b>2007/08 \$</b>
Legal Authority: Levy Act; s4 Legal Authority (Refunds): Levy Collection Act; s16 Appropriation: FMA Act; s20 Purpose: for the receipt of all levies, the payment of expenses incurred in administering the Special Account and the payment of claims under the Seafarers Act. This account is non-interest bearing.		
Balance carried from previous period	<b>1,231,031</b>	1,001,699
GST receipts (FMAA s30A)	<b>4,681</b>	9,837
Other receipts – Levy receipts	<b>159,299</b>	289,495
Available for payments	<b>1,395,011</b>	1,301,031
Payments made	<b>(101,810)</b>	(70,000)
Balance carried to the next period	<b>1,293,201</b>	1,231,031
<i>Represented by:</i>		
Cash – transferred to the Official Public Account	<b>1,293,201</b>	1,229,321
Cash – held by the entity	-	1,710
Total per balance carried to the next period	<b>1,293,201</b>	1,231,031

The account has the following purposes:

- (a) the payment of claims, or other amounts payable by the Authority under or by virtue of the Seafarers Act, being amounts payable because of the declaration of the Authority as the Seafarers Safety Net Fund (the Fund);
- (b) the payment of expenditure incurred in, or attributable to, the administration of the Fund,
- (c) payment to persons from whom the levy was collected under the Levy Collection Act;
- (d) the payment of any premium for a policy of insurance or indemnity for any amount of the Authority's liability under the Seafarers Act;
- (e) any departmental purpose or administered purpose of the Department administering the Seafarers' Act, but only up to an amount which had previously been expended by the Department for other purposes of the Account; and
- (f) payment to any trading corporation which may be approved under section 96 of the Seafarers Act to be the Fund for the purposes of that Act of an amount not exceeding the amount of the levy collected under the Levy Act less any payments made from the Account.

## 15 Outcomes and Outputs

### Note 15A Outcome

Outcome 1: Minimise human and financial costs of workplace injury under schemes administered by Comcare and ensure that claimants receive compensation in accordance with Commonwealth obligations.

### Note 15B Net Cost of Outcome Delivery

	Outcome 1		Total	
	2008/09	2007/08	2008/09	2007/08
	\$	\$	\$	\$
Administered expenses	23,436	80,136	23,436	80,136
Departmental expenses	449,200	451,500	449,200	451,500
<b>Total expenses</b>	<b>472,636</b>	<b>531,636</b>	<b>472,636</b>	<b>531,636</b>
<i>External revenues</i>				
Administered revenues	146,275	289,005	146,275	289,005
Departmental revenues	449,200	451,500	449,200	451,500
<b>Total external revenues</b>	<b>595,475</b>	<b>740,505</b>	<b>595,475</b>	<b>740,505</b>
<b>Net cost/(contribution) of outcome</b>	<b>(122,839)</b>	<b>(208,869)</b>	<b>(122,839)</b>	<b>(208,869)</b>

### Note 15C Departmental Revenues and Expenses by Output Groups

Outcome 1	Output		Total	
	2008/09	2007/08	2008/09	2007/08
	\$	\$	\$	\$
Departmental expenses				
Suppliers	449,200	451,500	449,200	451,500
<b>Total departmental expenses</b>	<b>449,200</b>	<b>451,500</b>	<b>449,200</b>	<b>451,500</b>
Funded By:				
Resources received free of charge	449,200	451,500	449,200	451,500
<b>Total departmental revenues</b>	<b>449,200</b>	<b>451,500</b>	<b>449,200</b>	<b>451,500</b>

### Note 15D Assets and Liabilities by Outcome

Assets and Liabilities by Outcome table has not been reported as there is only one outcome.

## 16 Remuneration of Members

The aggregate amount of remuneration received by the part time members of the Seacare Authority, not employed by the Australian Government, but paid by Comcare (on behalf of the Seacare Authority) during the period was \$4,103 (2008: \$17,200).



Appendix 2:  
Seacare Authority  
publications

# Appendix 2: Seacare Authority publications

The following Seacare Authority publications were available during 2008–09.

## Notices to maritime industry organisations and other interested parties

- 06/2009 *Amendments to the Seafarers Act re Same-Sex Relationships* (9 June 2009)
- 05/2009 *Revised Indexation of Compensation Benefits* (5 June 2009)
- 04/2009 *Increased Death Benefits* (5 June 2009)
- 03/2009 *Maximum Level of Benefits* (25 May 2009)
- 02/2009 *Maximum Level of Benefits* (2 March 2009)
- 01/2009 *Indexation of Compensation Benefits* (2 March 2009) —  
REVOKED by Seacare Notice 05/2009
- 06/2008 *Maximum Level of Benefits* (13 November 2008)
- 05/2008 *Maximum Level of Benefits* (14 August 2008)

## Brochures

- Brochure 1 *Employee Rights and Responsibilities* (May 2007)
- Brochure 2 *Employer Rights and Responsibilities* (May 2007)
- Brochure 3 *Entitlements under the Seafarers Act* (April 2006)
- Brochure 4 *Occupational Health and Safety* (April 2006)
- Brochure 5 *Rehabilitation and Return to work* (April 2006)

## Seacare News

- Issue 17 (September 2008)

## Forms

Name of Form	Form number	Date
Claim for Workers' Compensation	03	April 2007
Claim for Permanent Impairment and Non-Economic Loss and/or Related Aids	04	April 2007
Claim for Compensation by Dependents of Deceased Employees	05	April 2007
OHS Incident Alert	06 (AMSA 18)	April 2004
OHS Incident Report	07 (AMSA 19)	July 2005
Claim Update	08	April 2007
Section 20A application for exemption from the application of the <i>Seafarers Rehabilitation and Compensation Act 1992</i>	10	August 2007
Levy and Berths Return	11	December 2006
Employer's Determination of a Claim for Workers' Compensation	12	April 2007

## Other publications

- *Health and Safety Representatives Handbook — A guide for HSRs in the Australian maritime industry* (September 2008)
- *Health and Safety Representatives Handbook — A guide for HSRs in the Australian maritime industry* (Short version) (September 2008)
- *Guidance Note — Coverage under the Seafarers Rehabilitation and Compensation Act 1992* (Seafarers Act) (February 2008)
- *A Best Practice Guide — Seafarers Rehabilitation and Return to work* (October 2007)
- *A Best Practice Guide — Seafarers Rehabilitation and Return to work* (Short Version) (October 2007)
- *OHS Strategy for the Australian Maritime Industry 2007–08 to 2009–10*
- *Seacare Conference 2006 — Improving Rehabilitation and Return to work Outcomes — Summary*
- *Approved Code of Practice for Manual Handling (Maritime Industry)* (September 2006)
- *Guide to the Assessment of the Degree of Permanent Impairment (Second Edition)* (January 2006)
- *Guidelines for the Accreditation of Health and Safety Representatives Training Courses* (November 2004)
- *Guidance on the Prohibition on the Use of Asbestos in Australian Maritime Industry Workplaces Version 4* (September 2004)
- *Guidance Note on Manual Handling and Body Stressing in the Australian Maritime Industry* (December 2002)
- *Seafarers Safety, Rehabilitation and Compensation Authority Service Charter* (July 2001)
- *Seacare Authority Code of Practice 1/2000* (April 2000)

All Seacare publications are available free of charge by contacting the Secretariat and Seacare Management Section and via the Seacare website at <[www.seacare.gov.au/publications](http://www.seacare.gov.au/publications)>.



Appendix 3:  
Seacare scheme coverage  
– guidance notes

# Appendix 3: Seacare scheme coverage — guidance notes

## Coverage under the *Seafarers Rehabilitation and Compensation Act 1992* (Seafarers Act)

Seafarers Safety, Rehabilitation and Compensation Authority (Seacare Authority)

February 2008

### **Advice on the application of the Seafarers Act may be obtained from:**

Secretariat and Seacare Management Section  
Seafarers Safety, Rehabilitation and Compensation Authority  
Phone: 02 6275 0070  
Email: [seacare@comcare.gov.au](mailto:seacare@comcare.gov.au)

### Disclaimer

This guidance note is not intended to be a legal document or to provide legal advice. This document is intended to be a guide only as to the application of the *Seafarers Rehabilitation and Compensation Act 1992*. This document should not be relied on as a complete statement of the law. Persons who may be affected by the application of the Seafarers Act should seek their own legal advice.

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## Guidance notes

Coverage under the *Seafarers Rehabilitation and Compensation Act 1992* (Seafarers Act)

The application provisions of the *Seafarers Rehabilitation and Compensation Act 1992* (section 19)

- (1) This Act applies to the employment of employees on a prescribed ship that is engaged in trade or commerce:
  - (a) between Australia and places outside Australia; or
  - (aa) between 2 places outside Australia; or
  - (b) among the States; or
  - (c) within a Territory, between a State and a Territory or between 2 Territories.
- (1A) In addition, this Act applies to the employment of employees on any prescribed ship that is:
  - (a) an offshore industry vessel in relation to which a declaration under subsection 8A(2) of the Navigation Act is in force; or
  - (b) a trading ship in relation to which a declaration under subsection 8AA(2) of that Act is in force.
- (2) This Act also has the effect it would have if:
  - (a) a reference to an employer were limited to a reference to a trading corporation formed within the limits of the Commonwealth; and
  - (b) a reference to an employee were limited to a reference to an employee employed by a trading corporation formed within the limits of the Commonwealth.
- (3) This Act also has the effect it would have if:
  - (a) a reference to an employer were limited to a reference to a financial corporation formed within the limits of the Commonwealth; and
  - (b) a reference to an employee were limited to a reference to an employee employed by a financial corporation formed within the limits of the Commonwealth.
- (4) This Act also has the effect it would have if:
  - (a) a reference to an employer were limited to a reference to a foreign corporation; and
  - (b) a reference to an employee were limited to a reference to an employee employed by a foreign corporation.
- (5) Subsection (3) does not have the effect of applying this Act with respect to:
  - (a) State banking that does not extend beyond the limits of the State concerned; or
  - (b) State insurance that does not so extend.

Note: The application provisions of the Occupational Health and Safety (Maritime Industry) Act 1993 (OHS(MI) Act) (section 6) and the *Seafarers Rehabilitation and Compensation Levy Act 1993* (Levy Act) (section 6) are set out at Attachment 1.

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# Seafarers Act — coverage tests

## Test 1: Is there employment of employees<sup>i</sup>?

*[That is, is there an employer–employee relationship? Must independent contractor and partnership arrangements be genuine to fail the employment test?]*

Note: Section 19 of the Seafarers Act limits references to employers to trading, financial and foreign corporations and references to employees employed by trading, financial and foreign corporations<sup>ii</sup>.

## Test 2: Is the ship<sup>iii</sup> a prescribed ship?

Section 3 of the Seafarers Act provides that a prescribed ship means a ship to which Part II of the *Navigation Act 1912* (Navigation Act) applies but does not include a Government ship<sup>iv</sup>.

Part II of the Navigation Act (section 10) generally applies to<sup>v</sup>:

- (a) a ship registered<sup>vi</sup> in Australia; or
- (b) a ship (other than a ship registered in Australia) engaged in the coasting trade<sup>vii</sup>; or
- (c) a ship (other than a ship registered in Australia or engaged in the coasting trade) of which the majority of the crew are residents of Australia and which is operated<sup>viii</sup> by any of the following (whether or not in association with any other person, firm or company, being a person, firm or company of any description) namely:
  - (i) a person who is a resident of, or has his principal place of business in, Australia
  - (ii) a firm that has its principal place of business in Australia; or
  - (iii) a company that is incorporated, or has its principal place of business, in Australia.

## Test 3: Is the prescribed ship engaged in trade or commerce<sup>ix</sup>?

- (a) between Australia and places outside Australia<sup>x</sup>;
- (b) between two places outside Australia;
- (c) among the States (inter-State);
- (d) within a Territory (intra-Territorial);
- (e) between a State and Territory; or
- (f) between two Territories.

*[If the ship is engaged in any of the voyage types described in a–f above, it meets test 3.]*

**If the answer to test 1, test 2 and test 3 is in the affirmative, then the ship is covered by the Seafarers Act.**

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**Test 4:** Is the prescribed ship an offshore industry vessel to which a declaration under subsection 8A(2) of the Navigation Act is in force?

*[A check of the AMSA website at [www.amsa.gov.au](http://www.amsa.gov.au) will provide a guide as to whether the ship is so declared.]*

**Test 5:** Is the prescribed ship a trading ship to which a declaration under subsection 8AA(2) of the Navigation Act is in force?

*[A check of the AMSA website at [www.amsa.gov.au](http://www.amsa.gov.au) will provide a guide as to whether the ship is so declared.]*

**If the answers to tests 1 and 2 are in the affirmative AND also either tests 4 or 5 are answered in the affirmative, then the ship will be covered by the Seafarers Act irrespective of whether it meets test 3 above.**

(That is, irrespective of whether it is engaged in trade or commerce between Australia and places outside Australia, or between two places outside Australia, among the states, within a territory, between a state and territory or between two territories).

In summary, a ship that is declared under sections 8A or 8AA must also be a prescribed ship to be covered by the Seafarers Act.

## Exemptions from the operation of the Seafarers Act

Section 20A of the Seafarers Act provides that the Seacare Authority may exempt the employment on a particular ship of all employees, or a particular group or groups of employees, or a particular employee or particular employees, from the operation of the Seafarers Act. Regard should be had to the Exemption Guidelines issued by the Authority which are available from the Seacare website when considering an application for exemption.

An exemption granted under section 20A of the Seafarers Act, which exempts some or all employment from the application of the Seafarers Act, does not provide any exemption from the application of the *Occupational Health and Safety (Maritime Industry) Act 1993* (OHS(MI) Act) or the *Seafarers Rehabilitation and Compensation Levy Act 1992* (Levy Act). An employer who is granted a section 20A exemption for a particular vessel and its employee/s must still comply with the provisions of the OHS(MI) Act and Levy Act.

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## Interpretations

<sup>i</sup> **Employee** is defined in section 4 of the Seafarers Act to mean a seafarer or trainee or a person other than a trainee, although ordinarily employed or engaged as a seafarer, that is not so employed or engaged but is required under an award to attend a Seafarers Engagement Centre for the purposes of registering availability for employment or engagement on a prescribed ship (the Seafarers Engagement Centres were phased out in 1998).

A **seafarer** means a person employed in any capacity on a prescribed ship for the business of the ship, other than: (a) a pilot; (b) a person temporarily employed on the ship in port; or (c) a person included in the class of persons defined as 'special personnel' in section 283 of the Navigation Act.

The meaning of 'special personnel', as defined in section 283 of the Navigation Act, is linked to the definition of 'special purpose ship' as prescribed by *Marine Orders — Part 50: Special purpose ships, Issue 4 (Order No. 2 of 2007)*. **Special personnel** are persons carried on the ship in connection with the special purpose of the ship or related special work performed on board the ship. The master and the other members of the crew of the ship are not special personnel and therefore fall within the definition of 'seafarer'.

The Marine Orders give examples of the kinds of ships that would normally be regarded as **special purpose** ships. These are: (a) ships engaged in research, expeditions and survey; (b) ships for training of marine personnel; (c) fish factory ships not engaged in catching; (d) ships processing other living resources of the sea, not engaged in catching; (e) other ships which the Manager, Ship Inspections, considers have similar design features and modes of operation.

<sup>ii</sup> Section 3 of the Seafarers Act defines a **financial corporation** to mean a financial corporation within the meaning of paragraph 51(xx) of the Commonwealth Constitution and includes a body that is incorporated in an external Territory, and a **trading corporation** to mean a trading corporation within the meaning of paragraph 51(xx) of the Constitution.

<sup>iii</sup> Section 6 of the Navigation Act defines a **ship** to mean any kind of vessel used in navigation by water, however propelled or moved, and includes:

- (a) a barge, lighter or other floating vessel (that is self-propelled — see below for the types of ships to which Part II of the Navigation Act does not apply);
- (b) an air cushion vehicle, or other similar craft, used wholly or primarily in navigation by water; and
- (c) an offshore industry mobile unit (with the exception of those that are not self-propelled, and where self-propelled, only when being moved).

<sup>iv</sup> Section 3 of the Seafarers Act defines a **government ship** to mean a ship:

- (a) that belongs to the Commonwealth or a State or Territory;
- (b) the beneficial interest in which is vested in the Commonwealth or a State or Territory; or
- (c) that is for the time being demised or sub-demised to, or in the exclusive possession of, the Commonwealth, a State or a Territory.

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It includes a ship that belongs to an arm of the Defence Force, but does not include a ship:

- (d) that belongs to a trading corporation that is an authority or agency of the Commonwealth or a State or Territory; or
- (e) the beneficial interest in which is vested in such a trading corporation; or
- (f) that is for the time being demised or sub-demised to, or in the exclusive possession of, a trading corporation; or
- (g) that is operated by seafarers supplied (directly or indirectly) by a corporation under a contract with the Commonwealth or a State or Territory.

v **Part II of the Navigation Act does not apply to** inland waterway vessels, pleasure crafts and barges, lighters or other floating vessels which are not self-propelled.

vi A ship registered in Australia is defined by section 7A of the Navigation Act, which provides that a reference to a ship registered in Australia shall be read as a reference to a ship registered under the *Shipping Registration Act 1981* and as including a reference to a ship that is required to be registered under that Act but is not so registered. Reference should also be made to section 8B (ships imported into Australia) and section 283G (off-shore industry vessels and mobile units) of the Navigation Act which deems certain ships to be registered in Australia where there are no declarations to the contrary.

vii To determine if a ship is engaged in the **coasting trade** reference should be made to the definition of 'coasting trade' in section 7 of the Navigation Act, which in turn will assist in determining whether a ship is a 'prescribed ship' for the purposes of the Seafarers Act. A ship which has a licence to engage in the coasting trade will be a prescribed ship for the purposes of the Seafarers Act. However, an **unlicensed** ship which has been issued with a permit or permission under section 286 of the Navigation Act, whilst engaged in the activities covered by the permit or permission, would not be 'engaged in the coasting trade' for the purposes of subsection 10(b) of the Navigation Act.

viii **Operated by** is not defined in the Seafarers Act or Navigation Act and needs to be given its ordinary meaning.

ix **Trade or commerce** has a wide meaning. It will be a question of fact in each case as to whether a ship engages in trade or commerce. For example, the interstate transportation of goods or persons for any purpose when done for profit or reward (such as would be involved in tourism operations) would come within the scope of interstate trade or commerce.

x **Australia** includes offshore areas to the outer limit of the territorial sea (see section 15B of the *Acts Interpretation Act 1901*). The outer limit of the territorial sea was established by proclamation under section 7 of the *Seas and Submerged Lands Act 1973* as 12 nautical miles seaward of baselines, also established by proclamation under section 7 of the *Seas and Submerged Lands Act 1973*.

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## The application provisions of the *Occupational Health and Safety (Maritime Industry) Act 1993* (section 6)

- (1) This Act applies in relation to a prescribed ship or prescribed unit that is engaged in trade or commerce:
  - (a) between Australia and places outside Australia; or
  - (aa) between 2 places outside Australia; or
  - (b) between the States; or
  - (c) within a Territory, between a State and a Territory or between 2 Territories.
- (2) Without limiting the operation of subsection (1), this Act applies to:
  - (a) the operator of a prescribed ship or prescribed unit described in subsection (1); and
  - (b) employees employed on a prescribed ship or prescribed unit described in subsection (1); and
  - (c) contractors and other persons working on a prescribed ship or prescribed unit described in subsection (1); and
  - (d) manufacturers, suppliers and importers of plant used, or substances used or handled, on a prescribed ship or prescribed unit described in subsection (1).
- (3) This Act also applies in relation to:
  - (a) an offshore industry vessel in relation to which a declaration under subsection 8A(2) of the *Navigation Act 1912* is in force; and
  - (b) a trading ship in relation to which a declaration under subsection 8AA(2) of that Act is in force.
- (4) Without limiting the operation of subsection (3), this Act applies to:
  - (a) the operator of a vessel or ship described in subsection (3); and
  - (b) employees employed on a vessel or ship described in subsection (3); and
  - (c) contractors and other persons working on a vessel or ship described in subsection (3); and
  - (d) manufacturers, suppliers and importers of plant used, or substances used or handled on, a vessel or ship described in subsection (3).
- (5) Without prejudice to its effect apart from this subsection, this Act also has effect as provided by subsections (6), (7) and (8).

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- (6) This Act has, by force of this subsection, the effect it would have if:
- (a) a reference to an operator were limited to a reference to a trading corporation formed within the limits of the Commonwealth; and
  - (b) a reference to an employee were limited to a reference to an employee of a trading corporation formed within the limits of the Commonwealth; and
  - (c) a reference to a contractor were limited to a reference to a contractor working for a trading corporation formed within the limits of the Commonwealth; and
  - (d) a reference to a manufacturer were limited to a reference to a manufacturer that is a trading corporation formed within the limits of the Commonwealth; and
  - (e) a reference to a supplier were limited to a reference to a supplier that is a trading corporation formed within the limits of the Commonwealth; and
  - (f) a reference to a person in sections 22, 23 and 24 were limited to a reference to a person working for a trading corporation formed within the limits of the Commonwealth.
- (7) This Act has, by force of this subsection, the effect it would have if:
- (a) a reference to an operator were limited to a reference to a financial corporation formed within the limits of the Commonwealth; and
  - (b) a reference to an employee were limited to a reference to an employee of a financial corporation formed within the limits of the Commonwealth; and
  - (c) a reference to a contractor were limited to a reference to a contractor working for a financial corporation formed within the limits of the Commonwealth; and
  - (d) a reference to a person in sections 22, 23 and 24 were limited to a reference to a person working for a financial corporation formed within the limits of the Commonwealth.
- (8) This Act has, by force of this subsection, the effect it would have if:
- (a) a reference to an operator were limited to a reference to a foreign corporation; and
  - (b) a reference to an employee were limited to a reference to an employee of a foreign corporation; and
  - (c) a reference to a contractor were limited to a reference to a contractor working for a foreign corporation; and
  - (d) a reference to a manufacturer were limited to a reference to a manufacturer that is a foreign corporation; and
  - (e) a reference to a supplier were limited to a reference to a supplier that is a foreign corporation; and
  - (f) a reference to a person in sections 22, 23 and 24 were limited to a reference to a person working for a foreign corporation.
- (9) This Act does not apply with respect to:
- (a) State banking that does not extend beyond the limits of the State concerned; or
  - (b) State insurance that does not so extend.

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## The application provisions of the *Seafarers Rehabilitation and Compensation Levy Act 1992* (section 6)

### Who pays levy?

Levy on seafarer berths is payable by an employer who employs or engages seafarers on a prescribed ship.

The *Seafarers Rehabilitation and Compensation Levy Act 1992* and the *Seafarers Rehabilitation and Compensation Levy Collection Act 1992* apply to employers who employ or engage seafarers on prescribed ships which are subject to the application of the Seafarers Act by reason of section 19 of that Act.

Appendix 4:  
Seacare scheme  
employers, operators  
and ships

# Appendix 4: Seacare scheme employers, operators and ships

There were forty-one employers of seafarers and sixty-three operators in the Seacare scheme in 2008–09. There were 272 ships engaged in the scheme throughout 2008–09 based on details declared by scheme employers.

It should be noted that in some circumstances where the *Seafarers Rehabilitation and Compensation Act 1992* (Seafarers Act) applies, the *Occupational Health and Safety (Maritime Industry) Act 1993* (OHS(MI) Act) may not apply and vice versa. However, for the majority of vessels operating under the scheme both Acts apply.

Employer	Operator	Ship
ANL Container Line Pty Ltd	ANL Container Line	ANL Warringa
	ANL Container Line	ANL Windarra
ASP Ship Management Pty Ltd	Alcoa	Lindesay Clarke
	Alcoa	Portland
	BP Shipping	British Fidelity
	BP Shipping	British Loyalty
	Jebsens	Spirit of Esperance
	Jebsens	Vigsnes
	Queensland Alumina	Endeavour River
	Queensland Alumina	Fitzroy River
	Queensland Alumina	River Boyne
	Queensland Alumina	River Embley
Rio Tinto Marine	Rio Tinto Marine	Alltrans
	Rio Tinto Marine	RTM Wakmatha
TT Line	TT Line	Spirit of Tasmania 1 <sup>1</sup>
	TT Line	Spirit of Tasmania 2 <sup>1</sup>
Bhagwan Marine Pty Ltd	Bhagwan Marine	Bhagwan-K
	Bhagwan Marine	Bhagwan Mover
	Bhagwan Marine	Enrybo-Kae
	Bhagwan Marine	Kimberly Escape
	Bhagwan Marine	Lauri J
	Bhagwan Marine	Lobo
	Bhagwan Marine	Loligo
	Bhagwan Marine	Samson Explorer
	Bhagwan Marine	Stenella

Employer	Operator	Ship
Bhagwan Marine Pty Ltd	Bhagwan Marine	Wauri
BHP Billiton Petroleum Ltd	BHP Billiton Petroleum	Griffin Venture <sup>2</sup>
Boskalis Pty Ltd	Boskalis	BKA Adventure
	Boskalis	BKA Discovery
	Boskalis	BKA Reliance
	Boskalis	CSD Ursa
	Boskalis	TSHD Cornelis Zonen
	Boskalis	TSHD Queen of the Netherlands
	Boskalis	Prins der Nederlanden
Capricorn Tug & Barge Pty Ltd	Capricorn Tug & Barge	Lydia
Captain Cook Cruises (NSW) Pty Ltd	Captain Cook Cruises (NSW)	Aussie One/Fiji One
Carpentaria Management Services	Carpentaria Management Services	Aburri
Coastal Tug and Barge Pty Ltd	Coastal Tug and Barge	Capel
	Coastal Tug and Barge	Marrakai
	Coastal Tug and Barge	Wyong
Coral Princess Cruises Pty Ltd	Coral Princess Cruises	Coral Princess
	Coral Princess Cruises	Oceanic Discoverer
CSL Australia Pty Ltd	CSL Australia	Alcem Lugait
Farstad Shipping (Indian Pacific) Pty Ltd	Farstad Shipping	Far Fosna
	Farstad Shipping	Far Grip
	Farstad Shipping	Far Saltire
	Farstad Shipping	Far Scandia
	Farstad Shipping	Far Scimitar
	Farstad Shipping	Far Sky
	Farstad Shipping	Far Sound
	Farstad Shipping	Far Strait
	Farstad Shipping	Far Stream
	Farstad Shipping	Far Supplier
	Farstad Shipping	Far Sword
	Farstad Shipping	Lady Astrid
	Farstad Shipping	Lady Audrey
	Farstad Shipping	Lady Caroline
	Farstad Shipping	Lady Christine <sup>3</sup>
	Farstad Shipping	Lady Dawn
	Farstad Shipping	Lady Gerda
	Farstad Shipping	Lady Grace
	Farstad Shipping	Lady Kari Ann
	Farstad Shipping	Lady Melinda
	Farstad Shipping	Lady Sandra
	Farstad Shipping	Lady Valisia

Employer	Operator	Ship
Gardline Australia Pty Ltd	Gardline Australia	ACV Ashmore Guardian
	Gardline Australia	ACV Triton
	Gardline Australia	Oceaneer
Go Offshore Pty Ltd	BOS APS	Bos Atlantic
	CGG Veritas	Geowave Voyager
	Go Offshore	Ark Sydney
	Go Offshore	Crest Radiant 3
	Go Offshore	GO 4 IT
	Go Offshore	GO ACAMAR
	Go Offshore	Neptune Trident
	Go Offshore	Sanco Chaser
	Go Offshore	Toisa Serenade
	Go Offshore	Toisa Solitaire
	TS Marine	Havila Harmony <sup>4</sup>
	TS Marine	REM Etive
Inco Ships Pty Ltd	Adelaide Brighton Cement	Accolade II
	ANL Container Line	ANL Bass Trader
	CSL Australia	Cementco
	CSL Australia	CSL Atlantic
	CSL Australia	CSL Pacific
	CSL Australia	CSL Thevenard
	CSL Australia	Goliath
	CSL Australia	Iron Chieftain
	CSL Australia	Stadacona
International Maritime Services Pty Ltd (crewing of vessels relate to delivery voyages)	International Maritime Services	Bhagwan Mover
	International Maritime Services	Capel
	International Maritime Services	Farasan
	International Maritime Services	Jazan
	International Maritime Services	Marina Pacific II
	International Maritime Services	Miclyn Legend
	International Maritime Services	Reliance
	International Maritime Services	Samson Supporter
Mermaid Marine Australia Ltd	Mermaid Marine Asia	Crest Diamond <sup>5</sup>
	Mermaid Marine Australia	Mermaid Achiever <sup>5</sup>
	Mermaid Marine Australia	Mermaid Arrow
	Mermaid Marine Australia	Mermaid Boss
	Mermaid Marine Australia	Mermaid Carver <sup>5</sup>
	Mermaid Marine Australia	Mermaid Chieftan <sup>5</sup>
	Mermaid Marine Australia	Mermaid Commando
	Mermaid Marine Australia	Mermaid Eagle <sup>5</sup>

Employer	Operator	Ship
Mermaid Marine Australia Ltd	Mermaid Marine Australia	Mermaid Endeavour <sup>5</sup>
	Mermaid Marine Australia	Mermaid Guardian <sup>5</sup>
	Mermaid Marine Australia	Mermaid Investigator <sup>5</sup>
	Mermaid Marine Australia	Mermaid Provider <sup>5</sup>
	Mermaid Marine Australia	Mermaid Raider <sup>5</sup>
	Mermaid Marine Australia	Mermaid Resource <sup>5</sup>
	Mermaid Marine Australia	Mermaid Searcher <sup>5</sup>
	Mermaid Marine Australia	Mermaid Sentinel <sup>5</sup>
	Mermaid Marine Australia	Mermaid Sound <sup>5</sup>
	Mermaid Marine Australia	Mermaid Spirit
	Mermaid Marine Australia	Mermaid Storm <sup>5</sup>
	Mermaid Marine Australia	Mermaid Supplier <sup>5</sup>
	Mermaid Marine Australia	Mermaid Supporter <sup>5</sup>
	Mermaid Marine Australia	Mermaid Titan <sup>5</sup>
	Mermaid Marine Australia	Miclyn Glory <sup>5</sup>
	Mermaid Marine Australia	Swissco Sovereign <sup>5</sup>
	Mermaid Marine Australia	Posh Star 2
MISC Agencies (Australia) Pty Ltd	MISC Australia	Sinotrans Shanghai
	MISC Australia	Theodor Storm
	MISC Australia	Northern Victory
Nelson Yachts International Pty Ltd	Nelson Yachts International	Nelson
North Star Cruises Australia Pty Ltd	North Star Cruises Australia	True North
Offshore Marine Services Pty Ltd	Aibel	FPSO Front Puffin
	Britoil	Britoil 61
	Canyon Offshore	Seacor Canyon
	CGG Veritas	CGG Duke
	Ensco	Ensco 7500
	Fugro	Geo Atlantic
	Gardline	Ocean Endeavour
	Jan de Nul	Leonardo Da Vinci
	Nor Offshore	Nor Captain
	Nor Offshore	Nor Sun
	Nor Offshore	Nor Supporter
	Offshore Marine Services	7 Seas
	Offshore Marine Services	CGC Symphony
	Offshore Marine Services	Coral
	Offshore Marine Services	Marsol Hauler
	Offshore Marine Services	OMS Discovery
	Offshore Marine Services	OMS Endurance
	Offshore Marine Services	OMS Quest
	Offshore Marine Services	OMS Terra Nova

Employer	Operator	Ship
Offshore Marine Services Pty Ltd	Offshore Marine Services	OMS Voyager
	Offshore Marine Services	Pearl
	Offshore Marine Services	Sea Witch
	Offshore Marine Services	Toisa Dauntless
	Offshore Marine Services	Toisa Defiant
	Offshore Marine Services	Tourmaline
	Offshore Marine Services	Veritas Voyager
	Saipem	Castoro Otto
	Sea Trucks	Jascon 25
	Tananger	Tanux 1
	Technip	Rockwater 2
	Technip	Venturer
	TS Marine	Havila Harmony <sup>4</sup>
	TUCF	Petra Pioneer
	Western Geco	Geco Searcher
	Western Geco	Geco Triton
	Western Geco	Western Trident
P&O Maritime Services Pty Ltd	P&O Maritime Services	Aurora Australis
	P&O Maritime Services	MV Wunma
	P&O Maritime Services	Oceanic Viking
	P&O Maritime Services	Southern Supporter
	P&O Maritime Services	Southern Surveyor
Paspaley Pearling Co. Pty Ltd	Paspaley Pearling Co. Pty Ltd	Christine
	Paspaley Pearling Co. Pty Ltd	Clare II
	Paspaley Pearling Co. Pty Ltd	Paspaley 3
	Paspaley Pearling Co. Pty Ltd	Paspaley 4
Perkins Shipping Pty Ltd	Lennard Shelf	Shelf Explorer
	Perkins Gulf Freight Services	Warrender
	Perkins Shipping	Caledon Bay
	Perkins Shipping	Coral Bay
	Perkins Shipping	Fourcroy
	Perkins Shipping	Frances Bay
	Perkins Shipping	Halifax Bay
	Perkins Singapore	Biquele Bay
Port of Brisbane Corporation Ltd	Port of Brisbane Corporation	Brisbane
PTTEP Australasia (Ashmore Cartier) Pty Ltd, formerly Coogee Resources	PTTEP Australasia (Ashmore Cartier)	Challis Venture
	PTTEP Australasia (Ashmore Cartier)	Jabiru Venture
Samson Maritime Pty Ltd	Samson Maritime	Alert
	Samson Maritime	Adrenalin Sprint
	Samson Maritime	AMS 23
	Samson Maritime	Cape Mac

Employer	Operator	Ship
Samson Maritime Pty Ltd	Samson Maritime	Fine Time
	Samson Maritime	Lady Christine <sup>3</sup>
	Samson Maritime	Marina Pacific 2
	Samson Maritime	Miclyn Legend
	Samson Maritime	Ocean Eagle
	Samson Maritime	Samson 101
	Samson Maritime	Seahorse Quenda
	Samson Maritime	Top Cat
	Samson Maritime	Vigilant
Sea Corporation Pty Ltd	Sea Corp Coastal Shipping	Kimberley Rose <sup>6</sup>
SeaRoad Shipping Pty Ltd	SeaRoad Shipping	Searoad Mersey
Southern Shipping Company Pty Ltd	Southern Shipping	Matthew Flinders III
Svitzer Offshore Pty Ltd	Maersk	Maersk Asserter
	Maersk	Maersk Promoter
	Svitzer Offshore	Karawa
	Svitzer Offshore	Karinya
	Svitzer Offshore	Latrobe
	Svitzer Offshore	Maersk Responder
	Svitzer Offshore	Osprey
	Svitzer Offshore	Pelsaert
	Svitzer Offshore	Wyola
	Svitzer Offshore/Maersk	Maersk Champion
	Svitzer Offshore/Maersk	Maersk Server
	Svitzer Offshore/Maersk	Maersk Supporter
Swire Pacific Ship Management (Australia) Pty Ltd	Swire Pacific	Pacific Ariki
	Swire Pacific	Pacific Battler
	Swire Pacific	Pacific Buccaneer
	Swire Pacific	Pacific Challenger
	Swire Pacific	Pacific Frontier
	Swire Pacific	Pacific Protector
	Swire Pacific	Pacific Ranger
	Swire Pacific	Pacific Responder
	Swire Pacific	Pacific Rover
	Swire Pacific	Pacific Sword
	Swire Pacific	Pacific Titan
	Swire Pacific	Pacific Valkyrie
	Swire Pacific	Pacific Wrangler
	Swire Pacific	Pacific Wrestler
Teekay Shipping (Australia) Pty Ltd	AGR	Basker Spirit
	AGR	Crystal Ocean
	Anglo Eastern	Lowlands Prosperity

Employer	Operator	Ship
Teekay Shipping (Australia) Pty Ltd	Apache Energy	Dampier Spirit
	Apache Energy	Karatha Spirit
	BHP Billiton	Iron Yandi
	BHP Billiton	Pacific Triangle
	BlueScope Steel	Iron Monarch
	Caltex	Palmerston
	Caltex Australia	Barrington
	Koppers	Seakap
	Sugar Australia	Pioneer
	Tidewater Marine Australia Pty Ltd	Tidewater Marine
Tidewater Marine		Day Tide
Tidewater Marine		Leonard Tide
Tidewater Marine		Oil Valour
Tidewater Marine		OSA Vigilant
Tidewater Marine		Sam S Allgood
Tidewater Marine		Sutton Tide
Tidewater Marine		William E Bright
Tiwi Barge Services Pty Ltd	Tiwi Barge Services	Tiwi Islander
	Tiwi Barge Services	Tiwi Trader
Toll Shipping Pty Ltd	Toll Shipping	Tasmanian Achiever
	Toll Shipping	Victorian Reliance
Total Marine Services Pty Ltd	Aceryg	Toisa Proteus
	Allseas	Audacia
	Allseas	Spliethoff
	Allseas	Togmor
	AMS	Jan de Nul
	BHP Billiton	Griffin Venture <sup>2</sup>
	Dalmarine	Dalmarine
	DOF Subsea	Geo Bay
	DOF Subsea	Geo Sea
	DOF Subsea	Geo Sounder
	EMAS Offshore	Lewek Ebony
	EMAS Offshore	Lewek Emerald
	EMAS Offshore	Lewek Kea
	EMAS Offshore	Lewek Petrel
	EMAS Offshore	Lewek Snipe
	EMAS Offshore	Lewek Swift
	EMAS Offshore	Lewek Trogan
	Four Vanguard Services	Vanguard Four
	Fugro	Markab
Gulf Marine	Highland Navigator	

Employer	Operator	Ship
Total Marine Services Pty Ltd	Helix	Helix Express
	Jan De Nul	DN30
	Jan De Nul	DN57
	Lamnalco	Lamnalco Mallard
	Lamnalco	Lamnalco Maribo
	McDonnell Dowell	PB Snowy
	Mermaid Marine Australia	Crest Diamond <sup>5</sup>
	Mermaid Marine Australia	Ena Jade
	Mermaid Marine Australia	Mermaid Achiever <sup>5</sup>
	Mermaid Marine Australia	Mermaid Carver <sup>5</sup>
	Mermaid Marine Australia	Mermaid Chieftan <sup>5</sup>
	Mermaid Marine Australia	Mermaid Eagle <sup>5</sup>
	Mermaid Marine Australia	Total Endeavour/Mermaid Endeavour <sup>5</sup>
	Mermaid Marine Australia	Mermaid Guardian <sup>5</sup>
	Mermaid Marine Australia	Mermaid Investigator <sup>5</sup>
	Mermaid Marine Australia	Total Provider/Mermaid Provider <sup>5</sup>
	Mermaid Marine Australia	Mermaid Raider <sup>5</sup>
	Mermaid Marine Australia	Total Resource/Mermaid Resource <sup>5</sup>
	Mermaid Marine Australia	Mermaid Searcher <sup>5</sup>
	Mermaid Marine Australia	Mermaid Sentinel <sup>5</sup>
	Mermaid Marine Australia	Mermaid Sound <sup>5</sup>
	Mermaid Marine Australia	Mermaid Storm <sup>5</sup>
	Mermaid Marine Australia	Mermaid Supplier <sup>5</sup>
	Mermaid Marine Australia	Mermaid Supporter <sup>5</sup>
	Mermaid Marine Australia	Mermaid Titan <sup>5</sup>
	Mermaid Marine Australia	Star 2
	Mermaid Marine Australia	Swissco Sovereign <sup>5</sup>
	Mermaid Marine Australia	Swissco Superior
	Mermaid Marine Australia	Total Supporter
	Miclyn Offshore	Miclyn Glory <sup>5</sup>
	Nordic Explorer	Orient Explorer
	PGS	Nordic Explorer
	Sea Corporation	Kimberley Rose <sup>6</sup>
	Stena Drilling (Australia)	Stena Clyde
	Tek Ocean	Yarabah
	Total Harbour	Cape Don
Trident Shipping Services Pty Ltd	Trident LNG Shipping Services	Northwest Sanderling
	Trident LNG Shipping Services	Northwest Sandpiper
	Trident LNG Shipping Services	Northwest Snipe
	Trident LNG Shipping Services	Northwest Stormpetrel
	Trident Shipping Services	Mt Helcion

Employer	Operator	Ship
Trident Shipping Services Pty Ltd	Trident Shipping Services	Mt Helix
TT Line Pty Ltd	TT Line	Spirit of Tasmania I <sup>1</sup>
	TT Line	Spirit of Tasmania II <sup>1</sup>
Van Oord (Australia) Pty Ltd	Van Oord	Volvox Asia
	Van Oord Australia/NZDGW	TSHD Pelican
Woodside Energy Ltd	Woodside Energy	Cossack Pioneer
	Woodside Energy	Nganhurra Facility

Source: Seacare Authority

1 Crewing responsibility shared by ASP Ship Management Pty Ltd and TT Line Pty Ltd

2 Crewing responsibility shared by BHP Billiton Ltd and Total Marine Services Pty Ltd

3 Crewing responsibility shared by Farstad Shipping (Indian Pacific) Pty Ltd and Samson Maritime Pty Ltd

4 Crewing responsibility shared by Go Offshore Ltd and Offshore Marine Services Pty Ltd

5 Crewing responsibility shared by Mermaid Marine Australia Ltd and Total Marine Services Pty Ltd

6 Crewing responsibility shared by Sea Corporation Pty Ltd and Total Marine Services Pty Ltd

# Glossary

# Glossary

AAT	Administrative Appeals Tribunal
AMICA	Australian Maritime Industry Compensation Agency Ltd (the trustee for AMICF)
AMICF	Australian Maritime Industry Compensation Foundation
AMSA	Australian Maritime Safety Authority
ASCC	Australian Safety and Compensation Council (formerly NOHSC)
CPM	Comparative Performance Monitoring
ESD	Employee and Ship Details — report required from scheme employers every six months and submitted via <i>Seacare Online</i>
FMA Act	<i>Financial Management and Accountability Act 1997</i>
FPSO	Floating production storage and offloading facility
FSO	Floating storage and offloading facility
FTE	Full-time equivalent — the formula for calculating a FTE employee number in this report is the standard complement of seafarers engaged on each ship at any one time (for example, ship berths), multiplied by the proportion of the reporting period that the vessel was operational and/or the seafarers were covered under the Seafarers Act, multiplied by the usual weekly shift hours worked on the vessel (according to the relevant industrial agreement), divided by the average weekly working hours. (Note: the latest available [2004] Australian Bureau of Statistics average hours worked per week by persons employed full-time is 40.4)
Hours worked (adjusted)	A reference to the method for adjusting hours worked data used in Seacare Authority Annual Reports prior to 2003–04, where hours were adjusted by employers at the time of reporting to the Seacare Authority to reflect a 12-hour working day in the Bluewater sector and a 14-hour working day in the Offshore sector, for data comparability purposes
Hours worked	The formula for calculating hours worked is the standard complement of seafarers engaged on each ship at any one time (for example, ship berths), multiplied by the number of hours (on average) per day the crew are on board, whether at work or not, multiplied by the number of days the ship was operational (and was operating under the Seafarers Act) in the reporting period, equals hours worked. The formula aims to reflect a 24-hour working day for each day a seafarer is on board
HWCA	Heads of Workers' Compensation Authorities (formerly Heads of Workplace Safety and Compensation Authorities (HWSCA)) — a national consultative forum comprising the heads of all Australian workers' compensation agencies
HWSA	Heads of Workplace Safety Authorities — a national consultative forum comprising the heads of all Australian OHS agencies
IBNR	Incurred But Not Recorded

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Injury frequency rate	An outcome indicator of OHS performance — denoted as the number of lost time workers' compensation claims per million hours worked
Injury incidence rate	A recognised outcome indicator of OHS performance — denoted as the number of lost time workers' compensation claims per 1 000 employees (seafarers)
Inspectorate	The OHS Inspectorate provided by AMSA under the OHS(MI) Act
Levy Act	<i>Seafarers Rehabilitation and Compensation Levy Act 1992</i>
Levy Collection Act	<i>Seafarers Rehabilitation and Compensation Levy Collection Act 1992</i>
MOU	Memorandum of Understanding
NDS	National Data Set — a set of nationally agreed data specifications for the supply of workers' compensation data to ASCC for CPM reporting and other data reporting purposes
Navigation Act	<i>Navigation Act 1912</i>
NOHSC	National Occupational Health and Safety Commission
NOPSA	National Offshore Petroleum Safety Authority
OHS	Occupational health and safety
OHS(MI) Act	<i>Occupational Health and Safety (Maritime Industry) Act 1993</i>
OPGGS Act	<i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i>
P&I Club	Protection and indemnity association
PBS	Portfolio Budget Statement
RTW	Return to work
RTW Monitor	Return to Work Monitor — an annual report prepared on behalf of HWCA
SSMS	Secretariat and Seacare Management Section. The unit in Comcare supporting the Seacare Authority and the Seacare function
SWA	Safe Work Australia (formerly ASCC)
Seacare News	The Seacare Authority's periodic newsletter to stakeholders
Seafarers Safety Net Fund	The Safety Net Fund (the Fund) was established by Division 2 of Part 7 of the Seafarers Act
Seacare	The trading name or abbreviation to describe the Seacare scheme
Seacare Authority	Seafarers Safety, Rehabilitation and Compensation Authority
Seacare scheme	The scheme of workers' compensation, rehabilitation and RTW established by the Seafarers Act, as well as the arrangements for OHS under the OHS(MI) Act
Seacare Online	Online facility for scheme employers to submit ESD and insurance arrangement reports.
Seafarers Act	<i>Seafarers Rehabilitation and Compensation Act 1992</i>
Seacare Awards	The Seacare Authority Awards program, held biennially, recognising outstanding OHS and rehabilitation performance
Seacare Awards & Conference	The Seacare Authority's premier events held biennially
Taylor Fry	Actuarial consultant Taylor Fry Pty Ltd
WRMC	Workplace Relations Ministers' Council

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