

Seacare HSR Forum 2009 presentation

How AMSA can assist HSRs

Reza Vind, Manager MOD West, Australian Maritime Safety Authority

Good Morning and thank you for giving me the opportunity to discuss AMSA and its role in terms of health and safety representatives.

In June 2007 a vessel was replacing a heavy wire rope that was used in connection with one of that vessel's cranes. The old rope was attached to a new rope by means of two stainless steel cable socks, and was being used to pull the new rope into position. On two occasions, the socks parted and the end of one rope fell from a great height to the wharf below. On the first occasion, the falling wire rope narrowly missed an employee of the vessel who was working on the wharf. On the second occasion, two employees and a contractor were working on the wharf, performing duties associated with the replacement of the old wire rope, when the cable socks parted. They were all in danger of being struck by the falling wire rope, but only one of the three men, an employee of the company, was hit by it. His left arm was injured. It had to be amputated at the shoulder as a result.

The judge fined the company nearly maximum allowable amount even though the company pleaded guilty. This is indicative of how much emphasis courts put on these matters.

On that note my main aim today is to inform the delegates the role of AMSA and what AMSA can do for Health and Safety Representatives and the issues they might like to see resolved, investigated and for want of a better word – “fixed”.

But first let us see what is the relationship between AMSA and OH&S (MI) Act?

- **Under section 82 of the Occupational Health and Safety Maritime Act 1993 [OH&S(MI) Act] AMSA is the inspectorate**

AMSA performs the Inspectorate role under the OHS(MI) Act for the Seafarers' Safety, Rehabilitation and Compensation Authority (Seacare).

- **AMSA surveyors have been trained and are appointed as inspectors under section 84**

AMSA marine surveyors are trained in occupational health and safety as well as the requirements of the Act. As Inspectors appointed under the Act, they perform a range of functions, including investigation of accidents and dangerous occurrences, issuing improvement and prohibition notices and advising employers on their duty of care, approaches to safety and effective injury prevention.

- **OH&S(MI) Act describes responsibilities of operators, masters, employees, HSRs and the regulators (Inspectorate & Inspectors)**

So what is AMSA's role?

- Ensuring that the requirement to report serious personal injuries, deaths and dangerous occurrences and other obligations imposed by or under the Act and the regulations are complied with;
- Investigate the reported above incidents;
- Advise operators, employees and contractors on OH&S matters
- Provide the Seacare Authority with information;
- Ensure the health and safety of employees on ships and prescribed units as defined under the Act;
- Work with the Seacare Authority to improve awareness of OH&S issues on ship; and
- Encourage a safety culture aimed at preventing death or injury in the maritime industry.

HSR and their role

The *Occupational Health and Safety (Maritime Industry) Act* or as we refer to it the OHS(MI) Act enables employees to elect health and safety representatives (HSRs) and gives those HSRs considerable powers and rights to represent the employees in relation to matters which may affect their health and safety.

- **HSRs play a vital role in keeping workplaces safe;**

As you will know, HSRs have the power to issue Provisional Improvement Notices (PINs) and to stop unsafe work. These powers are important, as operators are obliged to take actions to address the concerns raised by HSRs. AMSA can be called out to investigate and confirm or overturn these PINs.

- **HSRs provide a means for the seafarers to raise OH&S issues within their workplace and follow a process to resolve them with employers;**

It is important to note that the OH&S(MI) Act is very prescriptive in relation to the procedures which must be followed for the selection of a HSR. These are set out in OH&S(MI) Regulations. The HSR may only exercise her or his considerable statutory powers for the purposes of promoting or ensuring the health and safety at work of the employees in the Designated Working Group - if one has been set-up.

- **Have the power to issue Provisional Improvement Notices (PINs);**

More commonly referred to as 'PINs'. The OH&S(MI) Act empowers a HSR, who believes that a person is in breach of the Act or the regulations, to issue a PIN to the "person in command". OH&S (MI) requires the HSR to consult with the person supervising the relevant work prior to issuing a PIN. If the HSR and the supervisor fail to reach an agreement, the HSR must consult the person in command. Only then, if an agreement has not been reached "within a reasonable

time” may the HSR issue a PIN. The person in command must comply with the PIN “to the extent that it relates to any matter over which the person in command has control”.

A person to whom a PIN has been issued may, within 7 days of being issued the PIN, request the Inspectorate or an inspector to investigate “the subject of the disagreement”.

- **Have the right to accompany an inspector in an investigation;**

The Act requires a disputed PIN to be investigated as soon as possible after the request is made. The purpose of an investigation is “to investigate the subject of the disagreement”. During such investigation HSR’s may accompany the inspector. I would like to point out that AMSA can only do this if we are contacted and made aware of the issues after the correct consultation has taken place.

- **Anywhere these issues are resolved successfully we avoid the human and financial costs of workplace injuries.**

AMSA encourages HSRs to contact it if a PIN has been disputed or if HSRs are seeking information on what they can do.

What else is AMSA doing?

- **Promoting dialog and cooperation between operators, HSR and employees through forums such as this;**
- **Inclusion of HSRs in OH&S audit processes;**

Currently we conduct audits on Australian prescribed ships are on an annual basis.

- **Establishing direct contact with industry to enhance process of OH&S audits;**
- **Endeavour to Improve OH&S performance that will be measurable;**

AMSA in its revised audit scheme has incorporated a higher level of compliance to the OHS(MI) Act. In the new scheme a closer inspection of risk assessment, hazard identification and review processes and awareness/education programs for ships, operators and owners are envisaged.

- **To Target ships for breaches of OHS(MI) Act and regulations including non reporting of incidents;**

The Inspectorate has included within the revised audit scheme a mechanism that allows for targeted inspections. Initially this will encompass education and awareness of the issues that are commonly faced on board ships. Ship operators and owners will be contacted to inform them of the proposals for a targeted

inspections and changes to the OH&S (MI) inspection regime. This will enable the Inspectorate to have greater contact with the maritime industry.

- **To clarify boundaries between the Maritime Industry and the Offshore Industry;**

Engagement of the Offshore Industry has been a recent focus. AMSA has been dealing with companies that operate standby vessels, supply ships, seismic vessels and some ships though are not primarily for the offshore industry but are still operated by an offshore company.

AMSA appreciates that workplace safety is not achievable through disciplinary action, but through education and the application of appropriate systems and practices. No one sets out to create situations that produce workplace injuries, but it is an unfortunate fact that there will always be workplace injuries, no matter how good the safety systems in place.

Therefore it is imperative that we strive to achieve the highest possible safety outcome by adopting world best practices.

After all who drives OH&S? We do, the community does – it is not acceptable that people are going to work and not coming home.

So what must we change? The culture at work, the way people think about safety. We must avoid being complacent or fall in false sense of security.

Finally I wish to bring to the attention of the delegates that they need to report the incidents, including near misses, as required by law. I am aware that there are confusions out there in terms of jurisdiction (is it AMSA or the state?) but my advise is that if in doubt forward the reports to all parties and let us to worry about the jurisdictional issues.

I wish you all luck and safe operation.

Thank you.