



Australian Government

Seafarers Safety, Rehabilitation
and Compensation Authority

What's in this issue

- 2 Assessment of permanent impairment
- 2 Seacare Safety Forum
- 2 Seafarers safety net levy return and payment
- 2 National Safe Work Australia Awards
- 3 Seacare 2015 Plan
- 3 Scheme performance
- 4 Maritime Labour Convention
- 4 Publication of current s20A exemptions
- 4 Seacare notices
- 4 Seacare Authority membership and contact details

SEACARE NEWS

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Chairperson's comments

This year is shaping up to be a momentous one for the Australian maritime industry. A number of reform agenda will come together during the year with the potential to reshape the industry for years to come. Front and centre are the plans of the Australian Government to revitalise the Australian shipping industry with the announcement of the reform package by the Minister for Infrastructure and Transport on 1 December 2010.

The reform package is linked to other initiatives dealing with the move to a single maritime safety regulator and the rewrite of the Navigation Act.

As the work health and safety and workers' compensation regulator for the maritime industry, the Seacare Authority has an important part to play in supporting the Government's plans for the shipping industry. The Authority's role in protecting the health, safety and welfare of seafarers, providing injury management and rehabilitation support when they are injured and maintaining a sustainable scheme is critical in this context.

It is timely therefore that the Seacare Authority is developing its strategic plan for the next five years (the Seacare 2015 Plan) while the various reforms are taking place. The Seacare 2015 Plan will provide strategic direction to the Authority and the scheme moving towards 2015.

The Seacare Authority is currently seeking the views of stakeholders on issues of interest to the scheme to inform the development of the Seacare 2015 Plan. As part of this process the Authority has recently released an Issues Paper providing background to the various impacts on the scheme and posing a series of questions around three strategic themes. Further information on the Issues Paper and the questions may be found later in this newsletter.

I urge all scheme stakeholders and interested parties to read the Issues Paper and provide comment on the questions raised. Your views are important to the Authority and will help shape the future direction of the Authority's activities.

David Sterrett
Chairperson

Assessment of permanent impairment

Claims for permanent impairment under the *Seafarers Rehabilitation and Compensation Act 1992* (Seafarers Act) are assessed using the Seacare Guide to Assessment of the Degree of Permanent Impairment, Second Edition (Seacare Guide), which in turn is based on a Comcare Guide. Both guides are based on the fifth edition of the American Medical Association's Guide to the Evaluation of Permanent Impairment (AMA Guide).

On 22 September 2010, the Federal Court of Australia handed down a decision in *Broadhurst v Comcare* [2010] FCA 1034 (*Broadhurst*) which brought into question the applicability of parts of some tables in the Guide. While the *Broadhurst* matter related to the Comcare scheme it is relevant to the Seacare scheme as both schemes effectively use the same guide.

The Federal Court found that the Comcare Guide was inapplicable as the table in the Guide used did not provide criteria for a 10 per cent impairment rating. Under both the Seacare and Comcare schemes, an employee must suffer a permanent impairment of at least 10 per cent in order to receive compensation.

Aspects of the decision were appealed by both parties and the appeal was handed down on 18 February 2011. The Full Federal Court upheld the Comcare appeal and directed the Administrative Appeals Tribunal to assess the degree of impairment using the fifth edition of the AMA Guide.

The Seacare Management Section has provided advice to the jurisdiction on how to assess permanent impairment for those tables in the Seacare Guide that don't have a 10 per cent rating.

In the meantime the Seacare Authority will be preparing a revised version (edition 2.1) of the Seacare Guide to amend the tables affected by the Federal Court decision and to correct a number of minor drafting errors. The revised draft will be circulated to the jurisdiction for comment shortly.

Seacare Safety Forum

The Seacare Authority will hold a safety forum in Western Australia on Wednesday 23 November 2011.

The aim of the forum is to improve safety performance by focusing on injury prevention. A variety of presentations from safety experts and industry representatives will be given.

Further details on the safety forum will be provided on the Seacare web site as planning for the event evolves.

Seafarers safety net levy return and payment

The Seafarers Safety Net Fund is a safety net "employer" that stands in the place of an employer where it has become bankrupt, insolvent or ceases to engage in trade and commerce in Australia. This enables injured seafarers to make a claim against the Fund where there is no employer or insurer against whom a claim can be made.

The Fund is managed by the Seacare Authority and funded by a levy on seafarer berths in the Seacare scheme. All employers in the Seacare scheme are subject to pay a levy each quarter. The current rate is \$15 per seafarer berth on prescribed vessels operating in the Seacare scheme on the first day of each quarter.

Levy return dates are the first of January, April, July and October. It is requested employer's keep the Seacare Authority updated with any changes in contact officers to enable efficient levy collection.

National Safe Work Australia Awards

The National Safe Work Australia Awards for 2010 will be presented on Thursday 28 April. The National Awards recognise outstanding contributions to work health and safety from each Commonwealth, state and territory OHS jurisdiction. The winners of three Seacare Awards categories for 2010 have been selected as finalists.

- > Best workplace health and safety management system—Farstad Shipping (India Pacific)
- > Best solution to an identified workplace health and safety issue—Offshore Marine Services and Reliance Workplace Solutions
- > Best individual contribution to workplace health and safety by an individual—Stuart King, Teekay Shipping.

Seacare 2015 Plan

The Seacare Authority is currently developing a five-year plan, the Seacare 2015 plan. The plan will provide strategic direction to the scheme and the Authority. As part of the planning process the Authority is seeking the views of stakeholders and interested parties on the current state of the scheme and how the scheme could be improved.

An Issues Paper has been released and is available from the Seacare web site at <http://www.seacare.gov.au>

The Issues Paper is seeking views on questions framed around three strategic priorities of:

- > Injury prevention
- > Injury management and rehabilitation, and
- > Scheme effectiveness and efficiency.

The questions are:

Injury Prevention

- Q 1 Can changes be made to the OHS regulatory arrangements (ie NOPSA model) to improve workplace health and safety outcomes for seafarers?
- Q 2 How can workplace health and safety for seafarers be improved (ie enhanced training, etc)?

Injury Management and Rehabilitation

- Q 3 Do Seacare scheme benefits need to be refreshed to align with benefits available to workers under the Safety Rehabilitation and Compensation Act?
- Q 4 What can be done to encourage best practice in injury management and rehabilitation and improve return to work outcomes?
- Q 5 Is there a role for industry panels to play in reducing the level of claim disputation in the scheme?
- Q 6 What can be done to reduce disputation in the Seacare scheme?

Scheme effectiveness and efficiency

- Q 7 How can the Seacare Authority contribute to improving the viability of the Australian maritime industry?
- Q 8 Does the existing scheme funding and service delivery model provide the most efficient and effective outcome for employers?
- Q 9 Should other funding and service delivery models (including central funding, self-insurance arrangements, centralised claims management, and P&I Clubs) be explored?
- Q 10 Should other benefit options (cash redemptions, common law) be explored?

The Authority is seeking responses to the above questions by 30 April 2011. A response template is available from the Seacare web site at <http://www.seacare.gov.au>

Scheme performance

The Seacare scheme's performance for the first half of the 2010-11 financial year is summarised below:

- > 114 claims lodged for the first half of 2010-11 compared to 124 lodged in the first half of the 2009-10 financial year
- > injury incidence rate per 1000 full time employees of 29.9 compared to 41.4 for the first of half of 2009-10 and the target of 29.4 for 2010-2011
- > injury frequency rate per 1 million hours worked of 7.0 compared to 9.8 for the first half of 2009-10
- > employees covered by the scheme increased by 8% to 7,033 while full-time employees increased to 4,183
- > the number of hours worked by employers increased to 10,715,710 compared to 10,473,062 for the same stage the previous year
- > there were 29 employers of seafarers and 258 ships in the scheme
- > 19 safety incidents were reported to AMSA compared to 20 in the same period of 2009-10
- > AMSA commenced 48 investigations compared with 51 in the same period of 2009-10
- > 16 OHS notices were issued by AMSA compared to 14 for the same period of 2009-10.

Maritime Labour Convention

The Maritime Labour Convention (MLC) sets minimum requirements for seafarers to work on a ship and contains provisions on conditions of employment, hours of work and rest, accommodation, recreation facilities, food and catering, occupational health and safety protection, medical care, welfare and social security protection. The MLC was adopted by the International Labour Office in 2006 and is now in the process of being ratified by member countries.

The MLC contains a number of articles that establish rights and obligations in relation to workplace health and safety and compensation of injured seafarers. The *Seafarers Rehabilitation and Compensation Act 1992* and the *Occupational Health and Safety (Maritime Industry) Act 1993* have both been examined to ensure compliance with the provisions of the MLC. Both Acts comply and no amendments are required.

The MLC is currently being examined by the Joint Standing Committee on Treaties and a report is expected shortly. A copy of the MLC and other relevant documents can be found on the Committee's web site at <http://www.aph.gov.au/house/committee/jsct/24november2010/tor.htm>

Publication of current s20A exemptions

The granting of exemptions under s20A of the Seafarers Act has implications for the workers compensation entitlements of the seafarers employed on exempt vessels.

The Seacare Authority is now maintaining an update to date list of the current s20A exemptions in the Seacare scheme on the Seacare website to ensure that exemption information is readily available to all interested parties. The list of current exemptions complements the list of exemptions granted in the financial year published in the Seacare Annual Report.

Seacare notices

Seacare notices are issued to scheme employers and published on the Seacare website. Current notices include:

06/2010—Maximum level of benefits (effective 18 November 2010)

01/2011—Maximum level of benefits (effective 24 February 2010)

Seacare Authority membership and contact details

Members

Chairperson

Mr David Sterrett

Deputy Chairperson

Mr Paul O'Connor—Comcare CEO

Employee representative

Mr John Wydell—Industrial Officer, Australian Maritime Officers Union (AMOU)

Employee representative

Mr Mick Doleman—Assistant National Secretary, Maritime Union of Australia (MUA)

Employer representative

Mr Peter Bremner—Consultant, Strategic Marine Group

Employer representative

Mr Mal Hearnden—Manager, Swire Pacific Ship Management (Australia) Pty Ltd

AMSA CEO

Mr Graham Peachey—CEO, Australian Maritime Safety Authority (AMSA)

Deputy Members

Deputy to Mr Wydell

Mr Martin Byrne—Assistant Federal Secretary, Australian Institute of Marine & Power Engineers (AIMPE)

Deputy to Mr Doleman

Mr Jamie Newlyn—Branch Secretary, South Australia, MUA

Deputy to Mr Bremner

Ms Teresa Hatch—Executive Director, Australian Shipowners Association (ASA)

Deputy to Mr Hearnden

Mr Tony Caccamo—General Manager, Operations, Australian Mines & Metals Association (AMMA)

Deputy to Mr Peachey

Mr Mal Larsen—Manager Strategic Relations, AMSA

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