

In some circumstances you may be entitled to recurrent payments after payment of a lump sum. In addition, a determination revoked by the employer or set aside by a tribunal or court will not effect certain payments of compensation.

Notwithstanding this, there may be occasions where your compensation may be reduced by an amount paid to you by your employer as salary or wages after your incapacity but before your compensation payments.

Suitable employment

You are entitled to suitable employment, and your employer is under a duty to find you suitable employment, as defined in the Seafarers Act.

Accrual of long service leave during your compensation leave

Your long service leave entitlements continue to accrue in accordance with the applicable award, determination or certified agreement during any period of compensation leave.

Compensation where State compensation is payable

If State compensation is paid to, or for the benefit of, anyone for an injury suffered by an employee or deceased employee or for the loss or damage to property used by the employee, the compensation payable under the Act is calculated using the formula provided under the Seafarers Act.

Compensation is not payable in certain circumstances

If at the time you suffer an injury you have not reached the age of 64 years, incapacity payments will not be payable to you after your 65th birthday.

If you have reached 64 and you suffer a compensable injury, your compensation will continue for a period 12 months starting from the day the injury occurred. Medical and other compensation mentioned in this brochure is not affected by your age.

Compensation is not payable in respect of a period during which the employee is imprisoned for committing an offence.

Compensation is not payable for an intentionally self-inflicted injury, or an injury that is caused by the serious and wilful misconduct of the employee, unless the injury results in death, or serious and permanent impairment.

If I am eligible for compensation, when will I receive payment?

Your employer must pay you compensation within 30 days of your eligibility being decided. If your employer does not pay your

compensation within 30 days, your employer is required to pay you interest on the compensation amount from the end of the 30 day period until the day the compensation is paid.

Can I appeal about a decision made on my entitlements?

If your employer makes a decision in relation to your entitlements that you disagree with, you may ask your employer in writing to reconsider that decision. The brochure *Employee Rights and Responsibilities* and *Employer Rights and Responsibilities* provides further information on the appeal process.

How can I contact the Seacare Authority?

You can contact the Authority by:

Telephone: 02-6275 0070
Facsimile: 02-6275 0067
Email: seacare@comcare.gov.au
Website: www.seacare.gov.au
Post: Seacare Authority
GPO Box 9905
CANBERRA ACT 2601
Visit: Level 1, 14 Moore St
CANBERRA ACT (appointments essential)

Issues relating to rehabilitation are covered in the brochure *Rehabilitation and Return to Work*.

* The Seafarers Act provides for the amount of benefits to be indexed on 1st July of each year, based on variations in the Consumer Price Index (CPI) for the previous December to December period. These changes are published in *Notices to Maritime Organisations and other interested parties*, available on the Authority's website.



Australian Government

Seafarers Safety, Rehabilitation
and Compensation Authority

SEAFARERS REHABILITATION AND COMPENSATION ACT 1992

ENTITLEMENTS UNDER THE SEAFARERS ACT

This brochure provides an outline and brief summary of seafarers' entitlements available under the Seafarers Act

What is Seacare?

Seacare is a national scheme of occupational health and safety (OHS), workers' compensation and rehabilitation arrangements which applies to defined seafaring employees, and in relation to OHS, to defined third parties such as contractors on ships, who are covered by the *Seafarers Rehabilitation and Compensation Act 1992* (Seafarers Act) and *Occupational Health and Safety (Maritime Industry) Act 1993* (OHS(MI) Act).

The Seacare scheme is overseen by the Seafarers Safety, Rehabilitation and Compensation Authority (Seacare Authority), a statutory authority comprising a Chairperson, Deputy Chairperson, two employer representatives and two employees representatives appointed by the Minister for Employment and Workplace Relations, as well as the CEO of the Australian Maritime Safety Authority (AMSA), an ex-officio appointment.

As the regulator of workers' compensation in the maritime industry, the Seacare Authority performs a range of functions under the Seafarers and OHS(MI) Acts.

Am I covered by the Seafarers Act?

You are covered by the Seafarers Act if you are a seafarer (employed in any capacity on the ship on the business of the ship) or a trainee on a 'prescribed ship' that is engaged in trade or commerce on inter-State or intra-Territorial voyages, or voyages to a place or places outside Australia (more than 12 nautical miles), or between two places outside Australia, or, if the prescribed ship is declared under s8A or 8AA of the *Navigation Act 1912* (Navigation Act).

A 'prescribed ship' is a ship to which Part II of the Navigation Act applies. This includes ships registered in Australia, ships otherwise registered and engaged in the coasting trade, and 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.

What entitlements can I claim?

If you suffer an injury or illness (or aggravation of such a condition) arising out of, or in the course of, your employment, you may be able to claim compensation for:

- incapacity for work, permanent impairment or death;
- property loss or damage;
- medical and related expenses;
- funeral expenses;
- maintenance in hospital;
- interim payments of compensation;
- non-economic loss;
- household and attendant care services;
- recurrent payments;
- rehabilitation[#];

Other potential entitlements include:

- suitable employment for injured seafarers;
- accrual of long service leave during your compensation leave; and
- State compensation if the death, injury, or loss or damage happens after 8 March 1997.

What do these entitlements cover?

A brief description of each entitlement is as follows:

Work related injuries resulting in incapacity for work

Compensation (consisting of normal weekly earnings minus earnings in suitable employment) is payable for the first 45 weeks

of incapacity after the date on which the seafarer is left on shore at, or returned to, his or her proper port. After this time period, incapacity is payable between 75% and 100% of the normal weekly earnings depending on the number of hours being worked.

Work related injuries resulting in permanent impairment (PI)

Compensation is payable for an injury resulting in PI. To determine whether an impairment is permanent the employer must have regard to:

- the duration of the impairment;
- the likelihood of improvement in the employee's condition;
- whether the employee has undertaken all reasonable rehabilitative treatment for the impairment; and
- any other relevant matters.

An employer must then determine the degree of PI and it must be expressed as a percentage. Employers should use the *Guide to the Assessment of the Degree of Permanent Impairment (Second Edition)* located on the Authority's website for assessing the degree of permanent impairment.

For the maximum amount payable for PI, refer to the Authority's website*.

Work related injuries resulting in death

Subject to compensation for medical expenses and funeral expenses, if an employee dies without leaving dependants, compensation is not payable for the injury.

If the employee dies leaving dependants who were at the date of death wholly dependent, then further compensation may include a lump sum and weekly payments for each dependent child*.

Property loss or damage

Where an employee has a work-related accident then compensation may be payable for an amount equal to the expenditure reasonably incurred by the employee in the necessary repair or replacement of the property.

Medical and related expenses

Compensation is payable for the appropriate cost of medical treatment reasonably obtained in relation to a work-related injury.

Funeral expenses

If an employee's injury results in their death, compensation is payable for the cost of the employee's funeral to the person who paid the cost of the funeral or, if that cost has not been paid, to the person who carried out the funeral.

The amount of compensation must not exceed the statutory rate*, the employer determining what is reasonable having regard to charges made for funerals in the place where the funeral is carried out and any amount paid in respect of the cost of the funeral under any other law of the Commonwealth.

Maintenance in hospital

Compensation is payable to an employee if you have been maintained as a patient in a hospital, nursing home or similar place and have been maintained there for a continuous period of not less than one year and there are no prescribed persons or prescribed children who are dependent on you.

Interim payments of compensation

If an employer makes a determination that you are suffering from a permanent impairment as a result of an injury and is satisfied that the degree of impairment is equal to or more than 10%, but has not made a final determination of the degree of impairment, an employer may make an interim determination of the degree of permanent impairment and assess an amount of compensation payable to you.

Non-economic loss

If compensation for an injury causing permanent impairment is payable, the employer is liable to pay additional compensation for non-economic loss by using the formula provided for in the Seafarers Act.

For the maximum amount payable for PI, refer to the Authority's website*.

Household and attendant care services

If as a result of an injury you obtain household services that you reasonably require, compensation is payable at a reasonable rate*.

Redemption of compensation

Where you are incapacitated for work and you are in receipt of weekly payments as a result of your incapacity or you are in receipt of a superannuation pension and you:

- receive a lump sum benefit; or
- roll over part of a lump sum benefit; or
- roll over all of the lump sum benefit; and
- the amount of those payments per week is no more than the statutory rate, and the employer is satisfied that the degree of your incapacity is unlikely to change,

the employer must make a determination that any liability to make further payment be redeemed and paid as a lump sum.