

What happens if the master is not on board?

The HSR should go to the officer responsible for the operation of the ship at the time. The OHS(MI) Act intentionally uses the term “person in command” rather than “master” to cover situations in port when the master may not be on board. The person in command is the master or the person on board responsible for the operation of the ship or unit.

What happens if the HSR is not satisfied after discussions with the person in command?

Every effort should be made by both parties to resolve the problem. If they cannot agree on an appropriate course of action, the HSR may issue a Provisional Improvement Notice (PIN). The instructions for filling out a PIN are set out in the notice – samples of a PIN are provided in the approved OHS training course. The instructions should be followed carefully.

The period specified in a PIN for fixing the problem must not be less than 7 days and must be reasonable. For example, if the ship is at sea or is operating in a remote area and spare parts or specialist services are required, the HSR must allow for this in the PIN.

The HSR may also specify in the PIN any temporary measures considered necessary until the problem can be fixed. When the PIN has been completed it must be given to the person in command and displayed in the area of the ship that is affected by the notice.

What happens if the person in command disagrees with the action specified in the PIN?

If the HSR and the person in command disagree on how and when a problem may be fixed, the person in command may ask for advice from an AMSA inspector (contact details at end).

If the ship is in an Australian port, or at sea heading for an Australian port, the person in command would generally contact the local AMSA office. In other circumstances, the person in command could contact either the AMSA office in the ship’s home port or AMSA’s head office in Canberra.

Once the person in command takes this step, the operation of the PIN is suspended. AMSA will arrange for an inspector to investigate the problem as soon as practicable and make a decision on an appropriate course of action.

Does the OHS inspector have to visit the ship before making a decision?

No. If it is practicable, the inspector would normally visit the ship to examine and discuss the problem. However, if this is inconvenient (eg because the ship is in a remote Australian port or is overseas) the inspector may deal with the matter by telephone, facsimile or email. Generally, the inspector will want to discuss the problem with both the HSR and the person in command, and any other relevant person,

before making a decision.

Alternatively, the inspector may arrange for someone with expertise to visit the ship and report back to the inspector, who will then make the decision.

Can an appeal be made against the inspector’s decision?

Yes. If the operator, person in command or HSR is unhappy with the inspector’s decision on a health and safety issue, an appeal can be made to the Australian Industrial Relations Commission.

Can a HSR call in a state OHS inspector or, if in an overseas port, a foreign government inspector instead of the AMSA inspector?

No. Any problem requiring the intervention of an inspector must be referred to AMSA.

What happens if an employee is working with an immediate threat to their health or safety?

If a HSR has reasonable cause to believe that there is an immediate threat to the health or safety of one or more employees in the DWG, they must inform a supervisor or if no supervisor can be contacted immediately, direct the employee(s) to stop, in a safe manner, performing the work, and as soon as practicable inform a supervisor.

Use of this Brochure

This brochure is intended as a guide to the operations of the OHS(MI) Act and is not definitive. This brochure should not be relied on as a complete statement of the law.

How can I contact the Australian Maritime Safety Authority (AMSA)?

AMSA contact offices for Ship Safety are divided geographically around Australia. To find the appropriate Manager Marine Services, visit the AMSA website at www.amsa.gov.au.

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)



Australian Government

Seafarers Safety, Rehabilitation
and Compensation Authority

OCCUPATIONAL HEALTH AND SAFETY (MARITIME INDUSTRY) ACT 1993

OCCUPATIONAL HEALTH AND SAFETY

This brochure provides an outline of occupational and safety for Seafarers under the *Occupational Health and Safety (Maritime Industry) Act 1993* (OHS(MI) Act).

What is the OHS(MI) Act about?

The OHS(MI) Act:

- imposes obligations on ship operators to secure the health, safety and welfare of maritime industry employees;
- imposes responsibilities on ship operators with respect to contractors and third parties;
- requires ship operators to provide employees with occupational health and safety training and to provide all necessary information so that employees can work in a healthy and safe environment;
- provides for ship operators and the maritime unions to foster cooperative consultative relationships on health and safety issues;
- provides a process for establishment of, and encourages employee participation through, a system of designated work groups and elected health and safety representatives;
- provides for the inspection and reporting of serious health or safety problems;
- provides for the adoption of Australian Safety and Compensation Council national standards and codes of practice, as well as other codes of practice designed specifically for the maritime industry, to reinforce the objectives of the Act.

Who is covered by the OHS(MI) Act?

The OHS(MI) Act applies to all ship operators and employees,

contractors and third parties where the ship (which is involved in trade or commerce) is:

- registered in Australia; or
- engaged in the coasting trade; or
- a ship of which the majority of the crew are Australian residents and the ship is operated by a person with a principal place of business in Australia.

The OHS(MI) Act also covers some offshore industry mobile units. It does not include ships that voyage within one state, government ships or vessels to which the *Petroleum (Submerged Lands) Act 1967* applies.

What are the duties of care for a ship operator?

An operator of a prescribed ship (or prescribed unit) must take all reasonable steps to protect the health and safety at work of employees. This duty includes ensuring:

- the working environment (including the ship and a safe way of getting to and from that workplace) is properly equipped and maintained to provide a safe and healthy working environment for everyone;
- reasonable facilities are provided for all employees' welfare at work;
- shipboard working arrangements are safe and do not risk health;
- appropriate action is taken to monitor employee's health, maintain records and provide appropriate medical and first aid services;
- that the necessary information, instruction and training are provided to ensure job safety; and
- that all on board are properly supervised as appropriate.

What are the duties of care for an employee?

An employee must do their work in a way that does not risk personal health and safety, or the health and safety of others.

Some examples would be:

- Use any protective clothing and equipment provided (such as protective shoes, eye/ear/sun protection) appropriate for the job;
- In the galley, be alert to the potential for cuts, burns and scalds;
- Do not distract shipmates when working in potentially hazardous situations;
- Immediately report all accidents or near misses;
- If in doubt about whether a situation is hazardous, ask a supervisor or your Health and Safety Representative (HSR);

Under the OHS(MI) Act, employees must also help others, including the ship operator, to meet their responsibilities. If an employee notices something is hazardous, they should not ignore it just because they did not create the hazard.

Who else has duties of care on a ship?

Contractors, suppliers and everyone involved in the operation of the ship

must work in a way that does not risk the health or safety of the crew.

What is a Designated Work Group?

A "designated work group" (DWG) is a grouping of employees that enables the interest of employees in relation to occupational health and safety to be safeguarded.

The OHS(MI) Act provides for involved unions and operators to consult on the formation of a DWG on each ship. DWG's can be formed around the classification of employees on the ship (eg. Mates, Engineers, Integrated ratings, Catering staff). Ships with a small crew may only need one DWG.

Each DWG may select one of its members to represent them on health and safety matters.

How is a Health and Safety Representative (HSR) selected?

The members of the DWG may agree among themselves as to who will be their HSR. However, if more than one member of the DWG wants the job, the relevant union must arrange an election.

When the HSR has been selected the person in command of the vessel should be advised in writing.

Each crew swing will need to make arrangements for the selection of a HSR.

Do HSR's get any training?

The HSR for a DWG must undertake a course of training relating to OHS that is accredited by the Seacare Authority. An operator must permit the HSR to take such time off work, without loss of remuneration or other entitlements, as is necessary to undertake an approved OHS course.

All members of a crew are encouraged to attend OHS training.

What powers does the HSR have?

The OHS(MI) Act confers on the HSR powers to represent and protect DWG members in health and safety matters. The HSR has powers to:

- inspect a workplace;
- request an investigation;
- accompany an inspector during an investigation;
- investigate complaints about health and safety at work made by members of their DWG;
- examine the records of the health and safety committee;
- represent the work group in consultations with the employer on measures to ensure health and safety at work;
- be present at any interview about health and safety between an inspector, employer or consultant;
- issue provisional improvement notices;

- initiate emergency stop work procedures in certain circumstances.

What is a Health and Safety Committee?

The OHS(MI) Act provides that a health and safety committee may be established on the ship. A health and safety committee would generally include the HSR's on board and the person in command of the vessel representing management. It can be a way for employees to provide feedback to whoever is in command of the vessel and/or the ship operator.

A health and safety committee is responsible for broader OHS issues, such as:

- ensuring HSR's are appropriately trained;
- preventative OHS issues;
- strategies to increase health and safety awareness among crew members;
- acting as a think-tank to develop proposals to assist the ship operator in making improvements in occupational health and safety.

Does every ship have a Health and Safety Committee?

It may be company policy that all ships in the company fleet have a health and safety committee. If not, it is up to the crew members on individual ships to decide whether they want to establish a committee.

It is quite likely that crews on smaller ships may not see the need for a committee. Where a number of small vessels in the same company operate from one port, the crews might decide to have an informal health and safety committee covering several ships.

What should an employee do if there is a problem that could affect health or safety?

While it is good practice to fix things that are hazardous (if safe to do so), the employee should ensure the problem is reported to a supervisor so it can be fixed appropriately. If you prefer, you can get your HSR to report it.

For example, you notice oil leaking on to the deck from a crane, you should immediately report the problem to your supervisor so the leak can be repaired.

If you are not satisfied the supervisor is taking the necessary action to fix a problem, you should take the matter up with the HSR. If the HSR agrees with you, the HSR will take up the matter with your supervisor.

What happens if the HSR and the supervisor cannot resolve the problem?

If the parties cannot agree on a solution to a health or safety problem, or if the problem is too complex to be fixed on the spot, the HSR should then take the matter up with the person in command.