

What happens if my employer goes bankrupt?

If a default event occurs eg your employer becomes insolvent or bankrupt and there is no insurance cover for your claim, the Seafarers Safety Net Fund becomes your employer and is responsible for managing your claim. You must provide the Safety Net Fund a copy of all information associated with your claim. Contact the Authority for advice on the Seafarers Safety Net Fund.

How much compensation will I receive?

Most benefit levels are adjusted from time to time and published in *Notices to Maritime Organisations and other interested parties*, which are available on the Authority's website. A separate brochure on *Entitlements under the Seafarers Act* is available through the Authority.

If you are incapacitated for work as a result of a work-related injury or disease and you receive a superannuation lump sum or pension, the amount of compensation payable to you will be adjusted in accordance with the Seafarers Act.

When will my weekly incapacity payments end or change?

If you are eligible for weekly incapacity payments, you will continue to receive compensation until you return to work, are otherwise rehabilitated or retire. The amount payable to you may be reduced depending on your capacity to undertake suitable alternative employment including partial duties. Your weekly incapacity payment (consisting of normal weekly earnings minus earnings in suitable employment) is payable for the first 45 weeks of incapacity after the date on which you were left on shore or returned to your home port. After 45 weeks, incapacity payments are payable at between 75% and 100% of normal weekly earnings depending on the number of hours being worked.

Do I have to go back to work?

Your employer has an obligation to assist you to safely return to work as early as possible after recovering from the injury or illness. If your injury lasts, or is expected to last, 28 days or more, your employer must arrange for an assessment of your capacity to undergo rehabilitation. Rehabilitation may include vocational rehabilitation and retraining.

If you are undergoing or have completed a rehabilitation program, your employer must take all reasonable steps to help you find suitable employment.

An outline of your rights to rehabilitation is contained in a separate brochure on *Rehabilitation and Return to Work*.

Can I commence a common law action against my employer for compensation for my injuries?

You may elect in writing to take a common law action against your employer with respect of an injury or disease, and your employer may be liable for damages for non-economic loss.

Once you furnish a written election to your employer, the election is irrevocable and you cannot claim compensation under the Seafarers Act. The maximum amount of damages that can be awarded to you is \$138,570.52.

What will happen if I make a false statement in relation to my claim?

If you make a false statement in relation to your claim, you can be prosecuted under the relevant State or Territory Crimes Act.

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

SEAFARERS REHABILITATION AND COMPENSATION ACT 1992

EMPLOYEE RIGHTS AND RESPONSIBILITIES

This brochure provides an outline of seafarers' rights and responsibilities concerning workers' compensation.

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 should I do if I am injured at work or involved in a work-related accident that results in loss or damage to my property?

You must notify your employer in writing of your injury or disease, loss of, or damage to, property or medical expenses incurred by you. This must be done as soon as you become aware of the injury, loss or damage. In the case of death, the employer should be notified as soon as practicable after the employee's death.

Will I be entitled to compensation?

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

- work-related injuries resulting in incapacity for work, permanent impairment or death;
- property loss or damage sustained in employment-related accidents; and
- reasonable medical expenses incurred as a result of a work related injury.

You may be denied compensation for injuries which are intentionally self inflicted, or are caused by serious and wilful misconduct on your part, including whilst under the influence of alcohol or other drug not used in accordance with a prescription issued to you by a legally qualified medical practitioner.

How do I claim compensation?

As soon as practicable after the injury, you must give your employer:

- a completed Claim for Compensation form;

- a medical certificate stating the nature of your injury of illness; and
- a notice setting out the name and address of any other employer you have given or intend to give a claim, and the name and address of any other employer whose employment may have materially contributed to your injury.

In the event of death, your representative may progress your claim.

Where can I obtain a claim form?

You can obtain a Claim for Compensation form from your employer (on board or on shore), union, or the Authority on 02 6275 0070. A claim form is also available at the Authority's website at www.seacare.gov.au.

What can my employer ask me to do to progress my claim?

Your employer can, in writing, ask for any information or documents relevant to your claim, including a copy of a document in your possession as to the name and address of each employer with whom you were employed before the day on which your injury happened.

In addition, your employer may require you to undertake a medical examination. They will, however, be responsible for costs associated with the examination, including reasonable travel.

Your employer may refuse to deal with your claim until you have provided the documents or undergone the medical examination.

When must my employer make a decision on my claim?

Your employer must decide on your claim for compensation no later than:

- 12 days after the day on which it receives a claim for incapacity for work, of loss or damage to property or cost of medical treatment; or
- 30 days after the day on which it receives a claim for permanent impairment; or
- 60 days after the day on which it receives a claim in the case of death; or
- in all cases, within an extended time period allowed by the Authority and notified to the employer in writing.

The 12, 30 and 60 day time limits above may be extended where, within that time limit, your employer notifies you in writing that further information is required.

If the relevant time limit has expired and your employer has not accepted your claim for compensation, your employer will be taken to have rejected it. You may then ask your employer to reconsider the decision.

How will I know whether my claim has been accepted?

After deciding your claim, your employer must, within the required time frame, provide you with:

- a notice in writing setting out the terms of the decision;
- the reasons for the decision; and
- a statement indicating that you can request a reconsideration of the decision.

What if I am dissatisfied with my employer's decision on my claim?

You can write to your employer to request a reconsideration of the decision. You must do this within 30 days of the date of the decision. Your request must set out your reasons for asking your employer to reconsider the decision.

When must my employer reconsider its decision on my claim?

Your employer must reconsider your claim within 60 days of receiving your claim, or within a longer time frame set by the Authority.

What happens when I ask for a reconsideration?

As soon as practicable after the reconsideration, your employer must provide you with:

- a notice in writing setting out the terms of, and reasons for, the decision; and
- a statement to the effect that you may apply to the Administrative Appeals Tribunal (AAT) for review of the decision.

What is the role of the AAT?

The AAT is responsible for reviewing the merits of decisions made under the Seafarers Act. Decisions of the AAT are legally binding and enforceable.

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.