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The Hon Tony Abbott MP
Minister for Employment and Workplace Relations
Parliament House
CANBERRA ACT 2601

Dear Minister

Pursuant to subsection 125A(1) of the Seafarers Rehabilitation and Compensation Act 1992 (Seafarers Act) and subsection 34C(2) of the Acts Interpretation Act 1901 I am pleased to present the Annual Report on the activities of the Seafarers Safety, Rehabilitation and Compensation Authority for the financial year ended 30 June 2003.

The Report includes information on the operation of the Seafarers Safety Net Fund following your declaration under section 100 of the Seafarers Act on 10 April 2002 that the Authority have the functions, powers and obligations of the Fund from that date.

As that declaration also invoked the operation of the Seafarers Rehabilitation and Compensation Levy Act 1992 and Seafarers Rehabilitation and Compensation Levy Collection Act 1992, this Report addresses the operation of those Acts, and regulations made under those Acts, for the period to 30 June 2003.


Yours sincerely

Geoff Gronow ED
Chairperson

September 2003
The mission of the Seafarers Safety, Rehabilitation and Compensation Authority (Seacare Authority) is:

To take a leading role in minimising the human and financial costs of workplace injury in the Australian maritime industry.

In administering the Seafarers Act and Levy Acts, the Authority aims to:

• provide an efficient and effective scheme of workers’ compensation and rehabilitation for seafarers who are injured or contract an illness in the course of their employment; and

• efficiently administer the Seafarers Safety Net Fund.

The objects of the Occupational Health and Safety (Maritime Industry) Act 1993 are:

• to secure the health, safety and welfare at work of maritime industry employees;

• to protect persons at or near workplaces from risks to health and safety arising out of the activities of maritime industry employees at work;

• to ensure that expert advice is available on occupational health and safety matters affecting maritime industry operators, maritime industry employees and maritime industry contractors;

• to promote an occupational health and safety environment for maritime industry employees that is adapted to their health and safety needs; and

• to foster a cooperative consultative relationship between maritime industry operators and maritime industry employees on the health, safety and welfare of maritime industry employees at work.
Seacare Scheme Organisation Chart

Minister for Employment and Workplace Relations

- Provides policy advice
- Appoints members
- Advises and reports to

Department of Employment and Workplace Relations/Comcare

- Provides staff for
- Supports

Seafarers Safety, Rehabilitation and Compensation Authority

- Represented on
- Provides policy and strategy for

Seacare Management Group (formerly Seacare Authority Secretariat)

- Represented on

Australian Maritime Safety Authority (OHS Inspectorate)

- Represented on

Maritime Employers (shipping companies)

Employees (seafarers)

Other Stakeholders

(Employer and industry associations, trade unions, insurers, brokers, lawyers, medical profession, rehabilitation providers, OHS trainers)

Note: The Department of Employment and Workplace Relations provided operational support for the Seacare Authority from 1 July 2002 until 10 June 2003. From 11 June 2003 support for the Authority is provided by Comcare. From 11 June 2003 the former Seacare Authority Secretariat became the Seacare Management Group.
List of Seacare scheme legislation at 30 June 2003

Enactments administered by the Minister for Employment and Workplace Relations through the Seafarers Safety, Rehabilitation and Compensation Authority, at 30 June 2003:

- Seafarers Rehabilitation and Compensation Act 1992
- Seafarers Rehabilitation and Compensation Levy Act 1992
- Seafarers Rehabilitation and Compensation Levy Collection Act 1992
- Occupational Health and Safety (Maritime Industry) Act 1993
- Seafarers Rehabilitation and Compensation Regulations 1993
- Seafarers Rehabilitation and Compensation Levy Regulations 2002
- Seafarers Rehabilitation and Compensation Levy Collection Regulations 2002
- Seafarers Rehabilitation and Compensation Levy Collection Amendment Regulations 2003
- Occupational Health and Safety (Maritime Industry) Regulations 1995 (as amended)

Amendments to Seacare scheme legislation, including regulations

There were no substantive amendments to Seacare scheme legislation during 2002–03.


No amendments were made to Seacare Authority Code of Practice 1/2000 (of 6 June 2000) which adopts in identical terms AMSA’s The Australian Offshore Support Vessel Code Of Safe Working Practice and The Code Of Safe Working Practice For Australian Seafarers and which was made as a code of practice under section 109 of the OHS(MI) Act.
Related legislative matters arising in 2002–03

The *Workplace Relations Legislation Amendment Act 2002*, insofar as it amends Seacare scheme legislation (the *Seafarers Rehabilitation and Compensation Act 1992* and *Seafarers Rehabilitation and Compensation Levy Collection Act 1992*) commenced on 11 June 2003. The principal amendments give effect the transfer of the operational responsibility for the Seacare Authority from the Department of Employment and Workplace Relations (DEWR) to Comcare. Amendments were also made to the Financial Management and Accountability Regulations 1997 and the Seafarers Rehabilitation and Compensation Levy Collection Regulations 2002 relating to the transfer.

I am pleased to report on the activities of the Seafarers Safety, Rehabilitation and Compensation Authority (Seacare Authority) for the year ending 30 June 2003. This is my fourth annual report as Chairperson, having been appointed by the Minister for Employment and Workplace Relations (the Minister) in September 1999 and reappointed in September 2001 for a further three years.

The past year has undoubtedly been one of the busiest, and arguably the most important, in the life of the Authority, which has now been operating for just over 10 years. The Authority has presided over a number of important initiatives and developments during 2002–03.

The past year represented the first full year in which the Authority managed the Seafarers Safety Net Fund. The Fund provides a safety net for seafarers for whom there is no extant employer against which to make a claim. The collection of a levy from employers to support the Fund, the management of financial reporting in accordance with the Financial Management and Accountability Act 1997, the provision of regular advice to the Minister, the negotiations with the insurance market in seeking insurance for the Fund and consideration of claims received by the Fund, created a heavy demand on the Authority and staff.

During 2002-03, the formal transfer of support for the Authority from the Department of Employment and Workplace Relations to Comcare took place, following commencement of certain sections of the Workplace Relations Legislation Amendment Act 2002 on 11 June 2003. Although staff that support the Authority have been co-located with Comcare since 1 July 2002, the formalisation of the transfer provides new opportunities to establish cooperation and synergies with an expert regulator.

A highlight of the year was the conduct of the inaugural Sea Safe-Work Awards, and OHS Conference, held on 3 April 2003. I am pleased to report that the Awards presentation attracted strong participation and accolades from all sections of the maritime industry. The Minister for Employment and Workplace Relations, the Hon Tony Abbott MP, presented major awards and delivered the keynote address. His presence added to the prestige of the Awards. The Authority plans to conduct the next Awards program late next year, including a conjoint OHS conference.
Strategically, the Authority made strong headway in a number of areas. In November 2002 the Authority provided advice to the Minister on its stage one legislation review priorities. Stage two of the review of the Seafarers Rehabilitation and Compensation Act 1992 (Seafarers Act) and the Occupational Health and Safety (Maritime Industry) Act 1993 (OHS(MI) Act) has commenced. The review follows an invitation to the Authority by the Minister for advice on what changes to legislation might be required to improve the efficiency and effectiveness of the Seacare scheme.

In occupational health and safety, the Authority has committed to the national target date of 31 December 2003 for the prohibition on the use of asbestos in maritime industry workplaces. A regulation to give effect to the prohibition is being drafted. In addition, the Authority, under guidance of its OHS Standards Task Force, has committed to a program for adoption of all applicable national OHS standards.

I am pleased to report that the Authority has adopted OHS performance improvement targets for the maritime industry, consistent with the National OHS Strategy. The maritime industry target required a 4% reduction in the injury incidence rate in 2002–03 – the scheme achieved a reduction of 7%, which is outstanding. The target also aims for no work related fatalities during the year. Again, I can proudly report that the target was achieved, bringing to eight years the period without a work related fatality. These outcomes are a testament to the excellent injury prevention work being undertaken by all scheme stakeholders, though much more work remains to be done. Continuous vigilance remains the key to good injury prevention.

The Authority also published a new brochure on manual handling and body stressing hazards which has been well received.

Following release of a package of best practice guidance material on rehabilitation and return to work, the Authority’s Annual Report is reporting for the second year against a set of rehabilitation and return to work benchmarks. The data suggests that more work is required to improve scheme rehabilitation and return to work. As a result, this issue is a high priority on the 2003–04 Seacare Business Plan.

To assist in identifying return to work performance, the Authority once again participated in the Australasian Return to Work Monitor, a national survey of the rehabilitation and return to work experience of injured employees. The Seacare scheme also participated in the national Comparative Performance Monitoring (CPM) Report, which provides comparative data on occupational health and safety, workers’ compensation and return to work across Australian and New Zealand schemes.
Scheme costs remain an important focus for the Authority. Improved data on workers’ compensation insurance premiums, legal costs in the scheme and on long tail claims is now available and will form the basis for policy responses to cost drivers in the Seacare scheme in the coming year.

The Authority continues to place a high priority on its communications with the industry. During the year the Authority approved an upgrading of its previous Quarterly Report to a revamped and more informative Seacare News.

I would like to record my appreciation to all members of the Authority who continue to demonstrate a strong commitment to making the maritime industry a safer place to work, as well as recognising the importance of a robust system to assist seafarers who sustain an injury or contract a work-related disease. I also wish to acknowledge the important role played by the Australian Maritime Safety Authority as the OHS Inspectorate and AMICA as the Seacare scheme claims database manager, and partner with Seacare in administering the Seafarers Safety Net Fund.

Finally I wish to record the appreciation of the Authority to the dedicated staff of the Seacare Management Group who support the Authority, ably supported by Comcare, and to the Department which supported the smooth transition to Comcare.

**Geoff Gronow ED**

Chairperson
Seafarers Safety, Rehabilitation and Compensation Authority

September 2003
Seacare Authority — major initiatives in 2002–03

• Provision of advice to the Minister for Employment and Workplace Relations on a stage one package of legislative reform priorities, proposing amendments to the Seafarers Rehabilitation and Compensation Act 1992 (Seafarers Act) and Occupational Health and Safety (Maritime Industry) Act 1993 (OHS(MI) Act) and consequential amendments to the Seafarers Rehabilitation and Compensation Levy Act 1992 (Levy Act) and Seafarers Rehabilitation and Compensation Levy Collection Act 1992 (Levy Collection Act).

• Management of the Seafarers Safety Net Fund, including finalisation of a contract between the Seacare Authority and AMICA for joint Fund administration and levy collection arrangements.

• Adoption of OHS performance improvement targets for the maritime industry.

• Launch of an Employer Statement of Commitment to maritime industry OHS targets.

• Successful conduct of the inaugural Sea Safe-Work Awards and OHS Conference.

• Release of a hazards guidance booklet on manual handling and body stressing.

• Completion of stage two of a trial of OHS positive performance indicators in the Australian maritime industry and adoption by the Authority of positive performance indicators as a performance reporting methodology.

• Signing of a Memorandum of Understanding with AMSA aimed at improving the administration of the OHS(MI) Act.

• Management of the transition of support for the Authority from the Department of Employment and Workplace Relations to Comcare.

• Continued participation in Australasian comparative performance reporting projects – the national Comparative Performance Monitoring (CPM) Report and Australasian Return to Work Monitor (ARTW Monitor).
Overview of the Seacare Scheme 2002–03 — selected statistics

• There are 23 employers covered by the Seafarers Rehabilitation and Compensation Act 1992 (Seafarers Act), excluding employers which currently have a section 20A exemption for all seafarers (Source: Seacare Authority)

• There are 30 employers covered by the Occupational Health and Safety (Maritime Industry) Act 1993 (OHS(MI) Act) (Source: Seacare Authority)

• Four insurance companies wrote seafarer workers’ compensation business in 2002–03. In addition, some employers support their seafarer workers’ compensation insurance with protection and indemnity association (P&I Club) packages (Source: Seacare Authority)

• There are 3,355 employees, including casual and part-time employees, covered under the Seafarers Act (Source: Seacare Authority)

• There are 3,173 full-time equivalent employees covered under the OHS(MI) Act (Source: Seacare Authority)

• These employees are engaged on 138 ships covered by the Seafarers Act – 57 (41%) in the bluewater (merchant) sector and 81 (59%) in the offshore sector (Source: Seacare Authority)

• There are approximately 275 ships covered by the OHS(MI) Act (Source: Seacare Authority)

• The Seacare Authority injury frequency rate for 2002–03 (the benchmark injury frequency rate, being the number of accepted claims (injuries) per million hours worked, based on 24 hours per day) for seafarers is 17.5 (Source: Seacare Authority)

• There were no work-related fatalities in the Seacare scheme over 2002–03, bringing the fatality free period in the Seacare scheme to eight years (Source: Australian Maritime Industry Compensation Agency Ltd (AMICA))

• There were 78 accidents and dangerous occurrences (incidents) of which 65 were accidents and 13 were dangerous occurrences reported to the Australian Maritime Safety Authority (AMSA) over the year (Source: AMSA)

• There were 163 workers’ compensation claims reported to AMICA over the year, of which 145 were accepted by employers at the data extraction date (14 July 2003) (Source: AMICA)

• The cost of claims, or payments made to and on behalf of employees, in relation to claims lodged during the year is $2.01 million (Source: AMICA)

• The workers’ compensation premium pool is approximately $9.73 million in 2001–02 (Source: Seacare scheme insurers/Taylor Fry Pty Ltd)
• The premium pool is based on a wages/salary pool of approximately $273.3 million in 2001-02 (Source: Seacare scheme insurers/Taylor Fry Pty Ltd)

• The average unadjusted earned premium rate across the industry is 3.56% (Source: Seacare scheme insurers/Taylor Fry Pty Ltd)

• 173 seafarers successfully completed a Seacare Authority accredited OHS representatives training course (Source: Accredited training providers/Seacare Authority)

• The Seacare scheme incidence of injury rate of 24.1 for 2001-02 (injuries (excluding disease claims and journey claims) of one week or more compensated per 1000 employees) is for the first time lower than several other high risk industries – transport and storage (28), mining (25.1) and construction (25.1). (Source: 5th National Comparative Performance Monitoring Report)
Chapter 1: The operations of the Seafarers Safety, Rehabilitation and Compensation Authority
1.1 Functions of the Authority

The Seafarers Safety, Rehabilitation and Compensation Authority (Seacare Authority) is a statutory body established under the Seafarers Rehabilitation and Compensation Act 1992 (Seafarers Act). It is located within the portfolio responsibilities of the Minister for Employment and Workplace Relations. Members of the Authority (with the exception of the CEO, Australian Maritime Safety Authority, who is an ex officio member) are appointed by the Minister under the Seafarers Act.

The Seacare Authority is not a body corporate and does not employ its own staff. To enable it to perform its functions and exercise its powers, the Safety, Rehabilitation and Compensation Act 1988 requires Comcare to give the Seacare Authority such secretarial and other assistance and to make available to the Authority the services of such members of Comcare’s staff as the Authority reasonably requires for the performance of its functions and exercise of its powers. The Minister for Employment and Workplace Relations has advised the maritime industry that the Authority will maintain its autonomy whilst being supported by Comcare.

The Seacare Authority performs functions under the Seafarers Act as well as functions conferred on it by the Occupational Health and Safety (Maritime Industry) Act 1993 (the OHS(MI) Act) and associated regulations.

The Seacare Authority’s functions under the Seafarers Act are to:

- monitor the operation of the Act;
- promote high operational standards of claims management and effective rehabilitation procedures by employers;
- cooperate with other bodies or persons with the aim of reducing the incidence of injuries to employees;
- publish material relating to these functions;
- formulate policies and strategies relating to the occupational health and safety of employees;
- accredit occupational health and safety training courses for the purposes of section 47 of the OHS(MI) Act;
- advise the Minister for Employment and Workplace Relations about issues relating to the Authority’s functions and powers and other matters relating to the compensation and rehabilitation of employees; and
- such other functions as are conferred on the Authority by the Seafarers Act or any other Act.

The Seacare Authority’s functions under the OHS(MI) Act are to:

- ensure, in accordance with the OHS(MI) Act and regulations, that the obligations imposed by or under the OHS(MI) Act are complied with;
- advise operators, employees or contractors, either on its own initiative or on being asked, on occupational health and safety matters;
• collect, interpret and report information relating to occupational health and safety;

• formulate policies and strategies relating to the occupational health and safety of employees;

• accredit occupational health and safety training courses for the purposes of section 47 of the OHS(MI) Act;

• liaise with other bodies concerned with occupational health and safety; and

• advise the Minister on:
  - the most effective means of giving effect to the objects of the OHS(MI) Act;
  - the making of regulations under the OHS(MI) Act; and
  - the approval of codes of practice under subsection 109(1) of the OHS(MI) Act.

The Seacare Authority also manages the Seafarers Safety Net Fund for the maritime industry (when such a declaration has been made by the Minister). During such times the Authority also administers the Seafarers Rehabilitation and Compensation Levy Act 1992 (Levy Act) and the Seafarers Rehabilitation and Compensation Levy Collection Act 1992 (Levy Collection Act) and regulations made under the Acts. Under the Levy Act the Authority must advise the Minister on request on:

• the need to ensure the (safety net) Fund has adequate financial reserves for the purposes of its prudential management;

• reasonable estimates of the Fund’s present and future liabilities under the Seafarers Act; and

• the cost of administering the Authority in connection with the performance or exercise of the Fund’s functions, powers and obligations under that Act.

The Authority is responsible for ensuring that employers comply with their obligations under the Levy Collection Act and regulations.

Given these legislative functions, the Seacare Authority is the regulator of workers’ compensation, rehabilitation and OHS in the Australian maritime industry. The scheme of workers’ compensation, rehabilitation and OHS for the maritime industry is generally known as the Seacare scheme, or Seacare (being the trade mark or trading name of the Seacare scheme).

Seacare scheme coverage

Detailed information on the coverage of Seacare scheme legislation is included at Appendix 3. General information on coverage is outlined below.

The Seafarers Act applies to seafarers and trainees employed on a ‘prescribed ship’ that is engaged in intra-territorial, interstate or trade or commerce to places, or between places, outside Australia. A ‘prescribed ship’ is a ship to which Part II of the Navigation Act 1912 applies. This includes certain 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.
The OHS(MI) Act applies to all ship operators, employees, contractors and other persons working on a ‘prescribed ship’ that is engaged in intra-territorial, interstate or trade or commerce to places, or between places, outside Australia. The OHS(MI) Act also covers some offshore industry mobile units (a vessel or structure used in exploring or exploiting the natural resources of the seabed, including barges used in connection with structures for living quarters). It does not include ships that voyage within one state, government ships or vessels to which the Petroleum (Submerged Lands) Act 1967 applies.

1.2 Membership of the Authority in 2002–03

The Seacare Authority has seven members, six of whom are appointed by the Minister. The Minister appoints a Chairperson, Deputy Chairperson, two members representing employers and two members representing employees. The Chief Executive Officer of the Australian Maritime Safety Authority (AMSA) is an ex officio appointee to the Authority. Membership of the Authority as at 30 June 2003 was as follows:

Mr Gronow is a consultant with the Melbourne law firm Middletons Lawyers. He is a solicitor and barrister with the High Court of Australia, the Supreme Court of Victoria and the Supreme Court of the Australian Capital Territory. Mr Gronow’s current three year appointment commenced on 1 September 2001. He has now served as Chairperson since September 1999.

Mr Swails is Deputy Chief Executive Officer of Comcare. Mr Swails was appointed as Deputy Chairperson from 23 October 2002 to 31 August 2004.

Captain Norman is Manager and Chief Executive, RightShip Pty Ltd. He represents the interests of employers. Capt Norman’s current three year appointment commenced on 23 August 2001. He has been a member since August 1996.
Mr Hearnden is Manager, Pacific Manning Company Pty Ltd. He represents the interests of employers. Mr Hearnden’s three year appointment commenced on 11 December 2001. He has been a member since December 2001.

Mr Crumlin is the National Secretary of the Maritime Union of Australia. He represents the interests of seafarers. Mr Crumlin’s current three year appointment commenced on 20 October 2001. He has been a member since June 1993.

Mr Byrne is the Assistant Federal Secretary of the Australian Institute of Marine and Power Engineers. He represents the interests of seafarers. Mr Byrne’s current three year appointment commenced on 7 September 2001. He has been a member since August 1996.

Mr Davidson is the Chief Executive Officer of the Australian Maritime Safety Authority. He has been a member since May 1998.
1.3 Deputy Members of the Authority

The Seafarers Act provides for employer and employee members of the Authority, with the approval of the Minister, to appoint a person to be the deputy of that member. At 30 June 2003, the following employer and employee members had, with the approval of the Minister, appointed a deputy member:

• Mr Paddy Crumlin appointed Mr Mick Doleman.

• Capt Warwick Norman appointed Mr Trevor Griffett.

• Mr Mal Hearnden appointed Mr John Flood.

• Mr Martin Byrne appointed Mr John Wydell.

The Chief Executive Officer of AMSA may appoint a person who is an officer or employee of AMSA to be his or her deputy. Mr Clive Davidson appointed Mr Bob Evans to act as his deputy on one occasion during 2002–03.

1.4 Recent Membership Changes

Mr Noel Swails was appointed as Deputy Chairperson of the Authority on 23 October 2002 to replace Mr John Rowling, who resigned from the Authority on 30 September 2002. This change in appointment reflected the transfer of support for the Authority from the Department of Employment and Workplace Relations (DEWR) to Comcare.

1.5 Meeting Attendance

The Seacare Authority met five times during 2002–03. Four of those meetings were scheduled meetings as required by the Seafarers Act, while one was a special meeting conducted by teleconference to deal with a particular issue. The following table outlines attendance at those meetings:
Table 1: Seacare Authority members/deputies meeting attendance 2002-03

<table>
<thead>
<tr>
<th>Members</th>
<th>20/8</th>
<th>11/9</th>
<th>19/11</th>
<th>19/2</th>
<th>21/5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mr Geoff Gronow (Chairperson)</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Mr John Rowling (Deputy Chairperson)</td>
<td>✓</td>
<td>✓</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Mr Noel Swails (Deputy Chairperson)</td>
<td>ob</td>
<td>ob</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Capt Warwick Norman</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Mr Mal Hearnden</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Mr Martin Byrne</td>
<td>✓</td>
<td>✓</td>
<td>x</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Mr Paddy Crumlin</td>
<td>x</td>
<td>✓</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Mr Clive Davidson</td>
<td>x</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Deputy Members</th>
<th>20/8</th>
<th>11/9</th>
<th>19/11</th>
<th>19/2</th>
<th>21/5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mr Trevor Griffett (deputy to Capt Norman)</td>
<td>N/A</td>
<td>N/A</td>
<td>ob</td>
<td>ob</td>
<td>ob</td>
</tr>
<tr>
<td>Mr John Flood (deputy to Mr Hearnden)</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>x</td>
<td>ob</td>
</tr>
<tr>
<td>Mr Mick Doleman (deputy to Mr Crumlin)</td>
<td>✓</td>
<td>x</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Mr Bob Evans (deputy to Mr Davidson)</td>
<td>✓</td>
<td>ob</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
</tbody>
</table>

✓ – attended meeting in full capacity
x – did not attend the meeting
ob – attended meeting as an observer
NA – not applicable (no appointment)
1.6 Seacare Authority sub-committees

During 2002–03 there were three Authority sub-committees. These were as follows:

**Standards Task Force**
- Employer member: Mr Trevor Griffett
- Employee member: Mr Martin Byrne
- AMSA member: Mr Bob Evans

**Safety Performance Indicators for the Shipping Industry Committee (SPISIC)**
- Employer member: Mr Trevor Griffett
- Employee member: Mr Sean Chaffer
- AMSA member: Mr Bob Evans

**Sea Safe-Work Awards Judging Panel**
- Employer member: Capt Warwick Norman
- Employee member: Mr Sean Chaffer
- Government member: Mr Noel Swails

1.7 Public Accountability

Consultancy Services

In 2002–03 the Seacare Authority commissioned five consultancies:

- Taylor Fry Pty Ltd was engaged to collect and analyse Seacare scheme workers’ compensation insurance premiums, scheme liabilities, scheme legal costs and related data to assist the Authority provide inputs to the National Comparative Performance Monitoring Report and the Authority’s Annual Report. The cost of the consultancy is $16 000. No payments against this contract were made during 2002–03;

- Campbell Research and Consulting Pty Ltd was engaged to include Seacare scheme data in the 2002–03 Australasian Return to Work Monitor which surveys and reports on the return to work experience of injured workers, the outcomes of which are used in the National Comparative Performance Monitoring Report and the Authority’s annual report. The cost of the consultancy is $11 768, of which $5 884 were paid during 2002–03;

- The Australian Maritime College (AMC Search Pty Ltd) was engaged on a retainer basis as the Authority’s OHS representatives training course accreditation adviser. The contract price is $3 000 per accredited course. In 2002–03, one course was part accredited, resulting in no fees being paid during the year;

- Marsh Pty Ltd was engaged to provide brokerage services in assisting the Authority, as manager of the Seafarers Safety Net Fund, to arrange insurance for the Fund as required by the Seafarers Act. The contract price is $12 920, although no payments were made during 2002–03. The costs of this consultancy will be met from levy receipts for the Fund; and

- The Australian Maritime Industry Compensation Agency Ltd was contracted to provide Seafarers Safety Net Fund administration services for the Authority. The contract price is $55 400 per annum, of which $41 550 was paid during 2002–03. The costs of this consultancy are met from levy receipts for the Fund.
A total of $81,908 was paid for consultancies in 2002–03, comprising $18,392 for remaining payments from consultancies commissioned in previous years and $63,516 for consultancies commissioned in 2002–03 (of which $57,365 was repaid from levy collected for the Seafarers Safety Net Fund).

External Scrutiny

There were no external reviews into the functions of the Seacare Authority during 2002–03.

Social Justice

A social objective of the Seafarers Act is to ensure that seafarers are not unfairly disadvantaged because of work-related injuries. The Authority reinforces this objective by providing information about the scheme to seafarers, employers, maritime unions, industry associations, insurance companies, insurance brokers and the legal and medical professions.

In 2002–03, the Authority improved access to information on rights, entitlements and obligations under the Seafarers Act by:

- maintaining its internet site (www.seacare.gov.au). The website contains information on the role and functions of the Authority, membership details, publications/forms, accreditation of OHS training courses, exemption from the application of the Seafarers Act, contact details, relevant legislation, related sites as well as the latest news of the scheme;
- maintaining a separate email address for the Authority (seacare@comcare.gov.au) for general enquiries and correspondence;
- maintaining a dedicated voicemail service to ensure that all inquiries are dealt with in an efficient and timely manner; and
- developing and distributing:
  - brochures to employers covered by the Seacare scheme and to other interested parties; and
  - Notices to Maritime Industry and Other Interested Parties when required.

Access and Equity

The Seacare Authority provides information to members of the public. Information on accessing a telephone interpreter service is provided in all recent Seacare Authority publications.

Freedom of Information/Commonwealth Ombudsman requests, and Privacy Act matters

In 2002–03, the Authority received no requests for information under the Freedom of Information Act 1982, nor any inquiries from the Commonwealth Ombudsman or in relation to matters under the Privacy Act 1988.
Requests for Information

Members of the public may obtain information about the Authority or advice on how to lodge a request for information under the Freedom of Information Act by contacting:

Manager
Seacare
Seafarers Safety, Rehabilitation and Compensation Authority
GPO Box 9905
CANBERRA ACT 2601
Phone: (02) 6275 0070
Fax: (02) 6275 0067
Email: seacare@comcare.gov.au

Service Charter

The Seacare Authority agreed to an Authority Service Charter for publication in January 2001. The Service Charter has been updated in harmony with the Government’s Client Service Charter Principles as published by the Department of Finance and Administration in June 2000 as well as to reflect the concerns of those in the maritime industry. Members endorsed the revised Service Charter to commence from 1 July 2001 in May 2001.

The Authority continues to place a high value on meeting the service standards set out in the Charter. In 2002–03 there were no complaints lodged with the Authority, DEWR or Comcare regarding Authority service standards.

1.8 Administrative Support

The Authority does not have its own staff. From 1 July 2002 to 10 June 2003 support for the Seacare Authority was provided by DEWR and the cost of administering the Authority was met through the DEWR annual appropriation. The Workplace Relations Legislation Amendment Act 2002 received Royal Assent on 12 December 2002 and commenced on 11 June 2003. This Act transferred support for the Seacare Authority from the DEWR to Comcare.

The staff made available by Comcare to support the Seacare function, known as the Seacare Management Group (SMG), are responsible for supporting the Seacare Authority and for performing the day to day regulatory functions of the Seacare Authority.

The SMG, under direction of the Authority, is responsible for:

• provision of secretariat, policy and strategic support to the Seacare Authority, and for implementing its decisions;
• administering Seacare scheme legislation and monitoring the operation of such legislation;
• managing the annual appropriation for supporting the Seacare function;
• monitoring, and reporting on, Seacare scheme performance;
• preparing an annual report to Parliament;
• reporting to the Minister; and
• promoting the objects of the Seacare scheme, particularly to reduce the human and financial costs of workplace injury in the Australian maritime industry.

1.9 The Portfolio Budget Statement for the Seacare function

The Seacare function is separately identified as an Output in the Portfolio Budget Statements (PBS), issued as part of the annual Commonwealth budgetary process. In 2002–03 the Seacare Output (2.1.2), identified as Administration of the Seafarers Rehabilitation and Compensation Act 1992, contributed to the Government Outcome higher productivity, higher pay workplaces. This high level Outcome is one of two Outcomes which fall within the responsibility of DEWR.

As the Seacare function formally transferred to Comcare administrative management on 11 June 2003, under a machinery of Government change, it is the receiving agency which formally reports on performance of the Output. Accordingly, readers are referred to the Comcare Annual Report 2002–03, available at www.comcare.gov.au for a report on Output 2.1.2, translated to Comcare Output 1.5. This Seacare Authority annual report also provides comprehensive performance information on the Output, at Chapters 2, 3 and 4. Financial statements associated with the operation of the Seacare function are reported in the DEWR Annual Report 2002–03, available at www.dewr.gov.au.

1.10 Other reporting requirements

As the Seacare Authority does not have its own staff, the following annual reporting requirements are reported in the DEWR Annual Report 2002–03:

• Corporate governance;
• Management of human resources;
• Purchasing;
• Assets management;
• Advertising and market research;
• Occupational health and safety; and
• Ecologically sustainable development and environmental performance.

Chapter 2: The Seacare Authority – Performance of its statutory functions
Table 2 below provides a schematic picture of the Seacare Accountability Framework, and provides an overview of the matters covered in this chapter.

### 2.1 The Seacare Authority Accountability Framework

**Table 2: Seacare Accountability Framework 2002–03**

<table>
<thead>
<tr>
<th>Element</th>
<th>Role</th>
<th>Result</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Minister</strong></td>
<td>Agrees to the Outcome and Output/s, and Parliament appropriates financial resources to enable the Authority to deliver the expected Output/s</td>
<td>Seacare and Comcare advise the Minister in establishing the Outcome and Output/s</td>
</tr>
<tr>
<td><strong>Outcome</strong></td>
<td></td>
<td>Captured in the Portfolio Budget Statement (PBS). It specifies what the Government is expecting from its annual budget appropriation to the function — <em>&quot;higher productivity, higher pay workplaces&quot;</em></td>
</tr>
<tr>
<td><strong>Seafarers Safety, Rehabilitation and Compensation Authority (Seacare Authority)</strong></td>
<td>Responsible for helping the Government achieve the Outcome by implementing the Output within its legislative responsibilities</td>
<td>Advises the Minister on the performance of its functions as specified in the legislation it administers – to support the Government’s specified Outcome</td>
</tr>
<tr>
<td><strong>Output</strong></td>
<td></td>
<td>Captured in the PBS. It contains performance measures which are reported in the Seacare Authority Annual Report</td>
</tr>
<tr>
<td><strong>Seacare Authority Strategic Plan 2002–03 to 2003–04</strong></td>
<td>Authority develops a Strategic Plan to plan and prioritise initiatives and actions, and to measure implementation progress in working towards delivery of the Output</td>
<td>The Strategic Plan is overlayed by a Mission, which is: &quot;To take a leading role in minimising the human and financial costs of workplace injury in the Australian maritime industry&quot;</td>
</tr>
</tbody>
</table>
2.2 The Outcome and Output for 2002–03

During 2002–03 the Authority contributed towards the Government’s Outcome higher productivity, higher pay workplaces. The Output expected of the Seacare Authority in assisting meet this Government Outcome was to administer the Seafarers Rehabilitation and Compensation Act 1992 (and other scheme legislation).

The performance measures for this Output are: (i) the level of satisfaction of the Minister with policy advice on the seafarers workers’ compensation arrangements; and (ii) the level of satisfaction of stakeholders (Seacare Authority, insurers, relevant maritime industry parties and employers) with the administration of the Seafarers workers’ compensation arrangements.

DEWR advised the Seacare Authority that on a scale of one to five (five being the highest), the Minister’s satisfaction with the Seacare Authority’s performance was rated as three. A stakeholder satisfaction survey conducted independently by the Authority found a level of satisfaction of 79%, or 4.2 on a five point rating scale.

<table>
<thead>
<tr>
<th>Element</th>
<th>Role</th>
<th>Result</th>
</tr>
</thead>
<tbody>
<tr>
<td>Seacare Management Group (SMG)</td>
<td>Staff in the Seacare Management Group are responsible for supporting the Authority and carrying out its strategic plan, supported by an annual Business Plan</td>
<td>Comcare provides staff which form the Seacare Management Group. Comcare also provides secretarial assistance and enabling services to the SMG eg computer support, financial management support, human resource support, accommodation</td>
</tr>
<tr>
<td>Seacare Management Group Business Plan 2002-03</td>
<td>SMG sets detailed priorities and a program of work through an annual Business Plan, signed off by the Authority</td>
<td>The Business Plan identifies the specific actions and activities which the SMG is required to deliver in the financial year</td>
</tr>
<tr>
<td>Annual Report to Parliament</td>
<td>Seacare Authority reports to Parliament on the operation of the Authority and on scheme performance — how has it delivered the Output and contributed to the Outcome</td>
<td>Performance is reported in the annual report</td>
</tr>
</tbody>
</table>
2.3 Strategic directions

The Seacare scheme is one of ten rehabilitation and workers’ compensation schemes in Australia and one of two such schemes operating under Commonwealth legislation (Comcare being the other). It is one of eleven OHS schemes and one of three operating under Commonwealth legislation (Comcare and the offshore oil and gas sector, regulated by the OHS schedule to the Petroleum (Submerged Lands) Act 1967 being the others). As a Commonwealth statutory authority the Seacare Authority is guided by Commonwealth Government policy.

2.4 Seacare Authority Strategic Plan 2002–03 to 2003–04

The Authority adopted a two year Strategic Plan (2002–03 to 2003–04) in August 2002. The Strategic Plan was established around the Authority’s mission to take a leading role in minimising the human and financial costs of workplace injury in the Australian maritime industry.

Having regard to the Output specified in the Portfolio Budget Statements, the Authority’s Strategic Plan is built around its responsibility to administer scheme legislation. In relation to administration of the Occupational Health and Safety (Maritime Industry) Act 1993, the Authority’s objective is: to secure the health, safety and welfare at work of maritime industry employees; in relation to administration of the Seafarers Rehabilitation and Compensation Act 1992, the Authority’s objective is:

- to promote an efficient and effective scheme of rehabilitation, return to work and compensation for maritime industry employees; and in relation to the administration of the Seafarers Rehabilitation and Compensation Levy Act 1992 and Seafarers Rehabilitation and Compensation Levy Collection Act 1992 the Authority’s objective is: to efficiently administer the Seafarers Safety Net Fund and supporting levy collection arrangements.

Within this framework the Strategic Plan places a high priority on policy development and practical initiatives aimed at:

- monitoring the operation of the Seafarers Act;
- ensuring that the obligations imposed by the OHS(MI) Act and regulations are complied with;
- promoting high operational standards of claims management and effective rehabilitation procedures by employers;
- cooperating with other bodies or persons with the aim of reducing the incidence of injuries to employees;
- publishing material relating to the operation of the Act, to claims management and rehabilitation and relating to the incidence of injuries;
- formulating policies and strategies relating to the occupational health and safety of employees;
- advising operators, employees or contractors on OHS matters;
• collecting, interpreting and reporting information relating to OHS;
• liaising with other bodies concerned with OHS;
• accrediting OHS representatives training courses;
• advising the Minister on rehabilitation, compensation and in relation to OHS, on the most effective means of giving effect to the objects of the OHS(MI) Act, on the making of OHS regulations and on approval of codes of practice; and

2.5 Seacare Business Plan 2002–03

The Seacare Business Plan for 2002–03 was endorsed in August 2002. The Business Plan disaggregated the Government Output into two sub-outputs:

• Sub-Output 1: Support for the Seacare Authority and performance of regulatory functions under Seacare scheme legislation; and
• Sub-Output 2: Implementation of Seacare Authority decisions arising from performance of its statutory functions.

The key initiatives and actions under each sub-output included:

2.5.1 Support for the Seacare Authority and performance of regulatory functions under Seacare scheme legislation

 Provision of support for the Seacare Authority

Since 1998, support for the Seacare Authority has been provided by DEWR (from the Authority’s establishment in 1993, until 1998, support was provided by the Department of Transport and Regional Services). From 11 June 2003, following commencement of relevant sections of the Workplace Relations Legislation Amendment Act 2002, support for the Seacare Authority has been provided by Comcare.

DEWR, and now Comcare, make available staff to support the Authority. Over the past five years there have generally been two staff supporting the Authority. The support unit, which has been known as the Seacare Authority Secretariat, is now called the Seacare Management Group (SMG). Staff have been co-located with Comcare since 1 July 2002.

The Authority’s objective is that the Authority functions efficiently and effectively. In 2002–03 there were five meetings of the Authority – four regular scheduled meetings and one special meeting held by teleconference to approve the draft 2001–02 Seacare Authority Annual Report. Papers were provided to each meeting in accordance with the seven-day rule in all cases, except by prior agreement.
Provision of interpretative and policy advice for the Authority

During 2002–03 the SMG produced approximately 50 papers for consideration by the Authority at its five meetings, as well as providing a range of advice and assistance to the Chairperson, Deputy Chairperson, members and deputy members between meetings. Some of the key matters on which advice has been provided to the Authority include:

- Seacare scheme legislation and issues associated with reform of the legislation;
- the establishment and operation of the Seafarers Safety Net Fund, including the rate of levy, levy collection, and claims on the Fund;
- Seacare scheme performance, including Seacare input into the national Comparative Performance Monitoring (CPM) Report and Australasian Return to Work Monitor (ARTW Monitor), as well as the Seacare Authority annual report;
- advice to the Minister;
- the transfer to Comcare, including new Authority delegation arrangements;
- Strategic and Business Plans including sub plans covering OHS;
- the establishment of the inaugural Sea Safe-Work Awards and OHS Conference;
- adoption of national OHS standards and codes of practice;
- contracts with consultants and a Memorandum of Understanding with AMSA;
- Seacare scheme insurance, legal costs and long tail claims;
- national inquiries such as the HIH Royal Commission and Productivity Commission Inquiry into Occupational Health and Safety (OHS) and Workers’ Compensation frameworks; and
- accreditation of OHS representatives training courses.

In addition, the SMG obtained, and advised on, a range of legal advice to assist Authority decision making. Legal advice was provided to the SMG by DEWR and Comcare. In some cases DEWR obtained legal advice from the Australian Government Solicitor (AGS).

Coverage

An important issue on which advice was provided to the Authority is coverage, or the application of Seacare scheme legislation. While the Authority provides guidance to stakeholders and government agencies on whom and what is covered by scheme legislation, it has always advised stakeholders to seek their own legal advice.

On becoming the manager for the Seafarers Safety Net Fund in 2002, the Authority has been required to decide on whether the Levy Act applies to particular employers, as levy can be collected only from those employers with a statutory liability to pay the levy.
In a number of cases this has required detailed legal consideration of issues such as whether there is employment (some operators claim to engage crew under partnership or independent contractor arrangements), whether a ship or ships are prescribed ships (for example, legal advice was obtained on the interpretation of the term “coasting trade”) and whether there are seafarer berths on ships.

The Authority has continued to ensure the application of the Seafarers and OHS(MI) Acts to employers and operators where it becomes aware of a new employer or operator, or of a new ship, or new voyage pattern that would bring the company or ship/employees under the Seafarers and/or OHS(MI) Acts. Following a decision of the Federal Court in Tiwi Barge Services Pty Ltd v Julie Anne Stark [1997] 874 FCA (the Tiwi Barge case) that confirmed a wider application of the Seafarers Act, some tourism ship operators in northern Australia and some fishing/aquaculture industry operators, have been brought into the operation of the Seacare scheme.

However, as some operators captured by this wider application of the Act prefer State or NT workers’ compensation coverage, the Authority endorsed a new section 20A exemption policy which has applied from 3 May 2002. As a result the Authority is now able to consider applications for exemption from operators of vessels undertaking intra-Territorial voyages (particularly in the Northern Territory) and for fishing vessels and fishing fleet support vessels.

The adoption of new section 20A exemption guidelines resulted in the Authority writing to all State and Territory workers’ compensation and OHS authorities advising on the new guidelines and on the interaction of Seafarers and State/Territory legislation. The result was the production of a guidance publication on coverage, which is included in this report at Appendix 3.

The Authority has recommended to the Minister that the application provisions of the Seafarers Act be revised.

The Authority continues to provide advice regarding the application of the Seafarers and OHS(MI) Acts to those operators servicing the offshore oil and gas industry that had previously been considered to have been marginally connected to the legislation by virtue of their industrial agreements. Many industrial agreements applying in the maritime industry specify that the Seafarers Act shall apply to the employees of these companies. Such industrial provisions establish an industrial requirement to apply the provisions of the Seafarers Act, which would be enforceable under the Workplace Relations Act 1996, but they do not impose statutory obligations under the Seafarers Act.

A survey of maritime industry shipping operators has confirmed that due to voyage patterns, i.e. the operator’s ships are voyaging to places outside Australia, many of the ships which were considered to have only an industrial connection to the Seafarers Act arising from industrial arrangements applying in the industry are in fact clearly covered by the Seafarers and OHS(MI) Acts.
Performance of statutory functions under delegation

On 10 September 2001 the Chairperson of the Authority, acting in accordance with a resolution of Seacare Authority meeting 36 of 14 August 2001, revoked all previous delegations made by the Authority except for the delegation of the Authority's powers and functions in relation to section 20A (exemptions).

In place of previous delegations, the Authority delegated powers to specified officials (of DEWR) as specified in section 125(1) of the Seafarers Act in relation to the following:

- Section 3 — power to approve industry training courses;
- Section 63(2) — power to approve a form or forms;
- Sections 72, 73 and 79 — power to determine further period/s for the determination of the employer’s liability;
- Section 95 — power to require an employer to provide evidence of an insurance policy under section 93;
- Section 98 — power to obtain information relating to the operation of the Seafarers Safety Net Fund; and
- Section 106 — power to require employers to provide information to the Authority.

On 20 September 2002 the Chairperson of the Authority, acting in accordance with a resolution of the Seacare Authority meeting 46, delegated the Authority's powers and functions in relation to section 20A (exemptions).

On 21 May 2003, in accordance with a resolution of Seacare Authority meeting 46, the Chairperson revoked all previous delegations made by the Authority and delegated all such functions and powers to the CEO Comcare with effect from 11 June 2003.

Exemptions under section 20A of the Seafarers Act

An employer may, by applying to the Authority using the approved form, seek an exemption under section 20A from the application of the Seafarers Act with respect to a particular employee, group of employees, or employees on a particular ship. The Authority has in place guidelines identifying procedural requirements as well as circumstances under which it will consider granting an exemption.

Any request for an exemption must be accompanied by evidence which identifies that the employees will be covered by an alternative valid workers’ compensation policy (usually under State or NT workers’ compensation legislation) for the duration of the voyage or period of the requested exemption.
If a voyage undertaken falls within the jurisdiction of the Seafarers Act and the employer does not have an insurance policy under the Seafarers Act or a certificate from the Seacare Authority exempting the employees on the particular ship for a particular voyage or voyages from the application of the Act, the employer risks prosecution. A possible prosecution action could arise for failure to have a policy of insurance in accordance with the Seafarers Act. Additionally, an employer may be liable for payment of all costs associated with any claims under the Seafarers Act that arise in the course of the particular voyage where no seafarer insurance policy was current.

During 2002–03 the Authority received applications for exemption for employment on 155 vessels. Exemptions in relation to 147 vessels were granted as set out in Table 3 below. Exemptions were granted in accordance with the Seacare Authority exemption guidelines. The purpose of the voyages for which an exemption was granted was usually a one-way delivery voyage interstate, or from a place outside Australia, or an intra-Territorial voyage. For example, in 2002–03 the Authority agreed to exempt employment on the majority of ships operated by a pearling company due to the nature of the operations and the types of ships involved.

### Table 3: Section 20A exemptions approved by the Seacare Authority in 2002–03

<table>
<thead>
<tr>
<th>Employer</th>
<th>Ship</th>
<th>Date exemption granted</th>
<th>Dates of exemption</th>
</tr>
</thead>
</table>

*Source: Seacare Authority*
Extension of time for consideration of compensation claims

Employers may request an extension of time to consider or reconsider a claim for compensation on application to the Authority. During 2002–03 the Authority received no requests for an extension of time under sections 72, 73, 73A or 79 of the Seafarers Act.

Reviewable decisions under the Seafarers Act

The Seafarers Act entitles an aggrieved person or organisation to seek a review of a decision by the Administrative Appeals Tribunal (AAT) in a number of circumstances. Two such circumstances are where: (i) an employer seeks an AAT review of a decision by the Authority where it refuses to grant an extension of time to determine a compensation claim; and (ii) a claimant requests an AAT review of a decision by an employer regarding a negative outcome of a request for a reconsideration of a claim. Applicants to the AAT may appeal a decision of the AAT to the Federal Court on a point of law.

The Seacare Authority reviews the AAT and Federal Court decisions to determine if there are any significant court judgments and any implications for Seacare scheme legislation. In 2002–03 there were no significant court or tribunal decisions.

Insurance arrangements

Under section 93 of the Seafarers Act, an employer must have a policy of insurance from an authorised insurer or be a member of a protection and indemnity association (a P&I Club) that is approved in writing by the Authority and is a member of the International Group of Protection and Indemnity Associations. This section of the Seafarers Act aims to ensure the employer is insured or indemnified for the full amount of the employer’s liability for all employees employed by the employer.

Under sections 94 and 95 of the Seafarers Act an employer is required to provide the Authority with information relating to their insurance coverage within 14 days of being issued with or renewing a policy of insurance or indemnity. During 2002–03 the Authority has worked to ensure employers provide the information required for compliance with section 94 of the Seafarers Act within the statutory time limit.

From the information provided to the Seacare Authority on insurance arrangements, there are four insurers providing policies under the Seafarers Act. There remains only one protection and indemnity association approved by the Seacare Authority – the Standard Steamship Owners’ Protection and Indemnity Association (Bermuda) Ltd.

1. Section 4 of the Seafarers Act defines authorised insurer to mean a general insurer or Lloyds underwriter under the Insurance Act 1973 or an insurer that carries on State insurance.
Seacare scheme workers’ compensation data collection

The Australian Maritime Industry Compensation Agency Ltd (AMICA), the trustee to the Australian Maritime Industry Compensation Foundation (AMICF), is responsible for the collection, storage and reporting of workers’ compensation data for the Seacare scheme. A copy of each workers’ compensation claim lodged with an employer by an employee (using a form approved by the Authority) is required to be forwarded to AMICA for data recording.

AMICA performs this function in a voluntary capacity (in that there is no legislative requirement for it to do so) and as a service to the maritime industry. As part of the claims data gathering process, AMICA also seeks updated claims history information from employers through a six monthly Claim Update Report. Statistics maintained in the database are provided to the Seacare Authority and the National Occupational Health and Safety Commission (NOHSC) for scheme and national OHS reporting purposes.

The board of directors of AMICA Ltd at 30 June 2003 is:

• Mr David Sterrett (Chairman of Directors), Deputy Chairman, ASP Ship Management Pty Ltd;
• Mr John Campbell (Director), Fleet General Manager, Teekay Shipping (Australia) Pty Ltd;
• Mr Peter Beekman (Director), General Manager, Stolt (NYK) Australia Pty Ltd; and
• Mr Robert Bird (Director), Chief Operating Officer, ASP Ship Management Pty Ltd.

There are 16 member companies of AMICF at 30 June 2003.

Scheme Performance Reporting

The Authority worked closely with employers, AMICA, AMSA and scheme insurers to produce and disseminate a range of performance reports on the Seacare scheme during 2002–03. The Authority now analyses a package of scheme statistics and performance reports at each quarterly meeting. The key reports are published in the Authority’s Quarterly Report, now known as Seacare News.

The standing reports include statistics on:
(i) employee numbers and hours worked in relation to employees covered by the Seafarers Act; (ii) compensation claims data reported to AMICA, including a breakdown of the status of claims; (iii) data on OHS incident reports to AMSA; (iv) ships covered by Seacare scheme legislation; (v) employer insurance details (section 94); (vi) applications for extensions of time and reconsiderations (relating to compensation claims made under the Seafarers Act); (vii) applications for exemption from the Seafarers Act (section 20A); (viii) AAT and Court cases; (ix) incidence of injuries per 1 000 employees; (x) lost time injury frequency rate; (xi) return to work and rehabilitation outcomes; (xii) scheme costs data; and (xiii) Seacare Authority client contact statistics.
The Authority again engaged Taylor Fry Pty Ltd (Taylor Fry), an actuarial firm, to obtain from insurers and AMICA a range of employer insurance data for aggregation and reporting. Taylor Fry collect data on Seacare scheme workers’ compensation insurance premiums and related data such as scheme legal costs and long tail claims. The Taylor Fry reports of May 2003 provide comprehensive and reliable data of premium costs in the industry, which are analysed in Chapter 4 of this report.

The Authority also participated in the 5th national CPM report, due for publication early in the new financial year, and participated in the ARTW Monitor 2002–03.

**Communications**

During 2002–03 the Seacare Authority released a Guidance Note on Manual Handling and Body Stressing in the Australian Maritime Industry. The guidance note was designed to provide practical guidance on reducing the injuries from body stressing and manual handling. The guidance note has been distributed widely throughout the maritime industry. Like all Seacare Authority brochures and publications, the guidance note is available from the Seacare Authority free of charge in hard copy, as well as being available from the Seacare website.

The Seacare Authority maintains its own website at www.seacare.gov.au. The primary purpose of this site is to provide access to information about the Seacare Authority, the Seacare scheme, the Seacare Authority’s activities and publications/forms, as well as news on current events impacting on the operation of the Seacare scheme.

The Seacare Authority’s website contains sections on:

- the Seacare Authority including its membership, contact details, legislation, functions and strategic/business plans;
- latest news, where new initiatives and projects are reported;
- Seacare forms, including secure employer access to on-line reporting forms;
- workers’ compensation;
- rehabilitation;
- occupational health and safety;
- Seacare Authority publications; and
- links to related sites.

There have been continual improvements made to the website throughout the year, including easier accessibility of information.
Seacare Authority forms

The Authority currently has nine approved forms under the Seafarers Act and two approved forms under the OHS(MI) Act. Seacare Authority forms and their issue date are listed in Appendix 2. Copies of all forms are available on the Seacare Authority website.

Seacare Authority stakeholder satisfaction survey

The Authority undertook for the third year, during May and June 2003, a stakeholder satisfaction survey. The purpose of the survey was to explore how Authority stakeholders, including all scheme employers, employer associations, insurers and members of the Authority, view the Seacare Authority’s performance. The survey, which received a response rate of over 71%, indicated that stakeholders rated the Authority’s performance at 79% satisfied, the same as in 2000-01 (79% satisfied) and marginally lower than in 2001-02 (80% satisfied).

The main outcomes of the survey are:

- **Publications**
  - 83% of respondents use Seacare Authority publications;
  - 69% were satisfied or very satisfied with the content of the annual report and 58% with the content of the quarterly report;
  - publications most used (in order) are: the annual report, the quarterly report (now Seacare News), brochures, Notices and guidance material (eg rehabilitation and return to work).

- **Website**
  - 69% of respondents use the Seacare website, and on about a monthly basis;
  - 69% were satisfied or very satisfied with the information on the website;
  - the most used section of the website is the Forms section, followed by the workers’ compensation and OHS sections, then rehabilitation, News and legislation.

- **Secretariat**
  - The majority of respondents were either satisfied or very satisfied with the performance of the Secretariat;
  - 83% were satisfied or very satisfied with the expertise of the staff, 79% were satisfied or very satisfied with the helpfulness of the response from the Secretariat, and 86% were satisfied or very satisfied with the timeliness of the response from the Secretariat.

- **Reporting on Seacare scheme performance**
  - 72% of respondents use Seacare scheme performance reports; with 69% using the annual report and 45% using the national CPM report;
  - 51% indicated the reports were useful or very useful.

- **Seacare Authority meeting papers**
  - 78% of respondents (members and deputy members) were satisfied or very satisfied with the timeliness of Seacare Authority meeting papers;
- 100% were satisfied or very satisfied with the quality of papers presented to Seacare Authority meetings.

- Seacare Authority focus
  - 78% of respondents were satisfied or very satisfied with the focus of the Authority (i.e. the mix between managing today’s business and strategic planning/policy development), although 22% were either dissatisfied or mostly dissatisfied.

Advice to the Minister

The Authority, through the Chairperson, maintained regular communication with the Minister for Employment and Workplace Relations, the Hon Tony Abbott MP, during 2002–03. The Chairperson wrote to the Minister following each meeting of the Authority, and in addition, advised him on Seacare Authority stage one priorities for legislative reform.

The Minister was guest speaker and presenter at the inaugural Sea Safe-Work Awards in April 2003, providing an opportunity for all sections of the industry to raise issues with the Minister.

2.5.2 Implementation of Seacare Authority decisions arising from performance of its statutory functions

Advice on Seacare scheme legislation

In November 2002 the Chairperson wrote to the Minister advising on stage one Seacare Authority priorities for reform of Seacare scheme legislation. DEWR has been consulting with the Seacare Authority in clarifying some features of the Authority’s proposals before seeking policy approval from the Minister for preparation of a Bill.

Most amendments proposed by the Authority follow from amendments to the Safety Rehabilitation and Compensation Act 1988 (on which the Seafarers Act is based) as a result of the Safety Rehabilitation and Compensation and Other Legislation Amendment Act 2001, and are of a technical nature. However, several substantive reforms have been proposed, including:

- a change to the application provisions;
- a definition of remuneration for calculation of insurance;
- provision for operators/employers to apply to opt into the scheme; and
- clarification that exemption under section 20A will only result in the application of the Seafarers Safety Net Fund levy under certain circumstances.

Occupational Health and Safety

The Seacare Authority Strategic Plan places a strong emphasis and importance on the Authority’s occupational health and safety functions. Under this framework the Authority responded to its OHS responsibilities during 2002–03 by taking the following actions:
• recommending to the Minister the introduction of a regulation prohibiting the use of chrysotile and other forms of asbestos in maritime industry workplaces (ships) from 31 December 2003;

• completing a trial of positive performance indicators (PPIs) in three maritime companies under the auspices of the Authority’s Safety Performance Indicators for the Shipping Industry Committee (SPISIC) which includes employer, trade union and AMSA representation;

• staging the inaugural Sea Safe-Work Awards to recognise industry leadership in OHS and rehabilitation;

• delivering a half-day conference on Best Practice OHS in the Australian maritime industry;

• publishing an OHS hazards publication aimed at reducing manual handling injuries;

• finalising a memorandum of understanding with AMSA;

• considering OHS legislative proposals in the context of the Authority’s legislation review; and

• implementing the joint Seacare Authority/AMSA OHS education and awareness-raising program.

More than 100 members of the Australian maritime industry gathered in Melbourne on 3 April for the inaugural 2003 Seacare Authority Sea Safe-Work Awards. The Awards were presented at the Melbourne Aquarium by the Minister for Employment and Workplace Relations, the Hon Tony Abbott MP. The award winners were:

Category: Best Solution to a Major OHS Risk

Winner: Teekay Shipping (Australia), Team Gemini for their Lockout System

Category: Small Employer OHS Achievement Award

Winner: Mermaid Marine Australia

Encouragement: Trident Shipping Services

Category: Large Employer OHS Achievement Award

Winner: Teekay Shipping (Australia), Team Gemini

Encouragement: CSR Shipping

Category: Offshore Employer OHS Achievement Award

Winner: Mermaid Marine Australia

Category: Best OHS training program

Winner: P&O Maritime Services for “Roger’s Story”

Highly Commended: Dominic Panetta from Australian Maritime Safety Consultants

Encouragement: CSR Shipping
Category: Seafarer OHS Achievement Award

Highly Commended: Capt Kirk Whiteman and Capt David Kemp

In November 2002, the Seacare Authority endorsed an OHS Strategy for the period 2002–03 to 2003–04. The Authority’s OHS strategy is aligned with the National OHS Strategy developed by NOHSC and endorsed by Workplace Relations Ministers’ Council. Central to the Authority’s OHS Strategy is the adoption of OHS improvement targets for the maritime industry, which are:

- for fatalities, zero for the five years to 2007 and zero for the 10 years to 2012; and
- for injury incidence, a 20% reduction over five years to 2007 and a 40% reduction over 10 years to 2012.

In addition to the focus on fatality and injury incidence targets, the Seacare Authority undertook several initiatives to address the national priorities and OHS improvement targets contained in the National OHS Strategy, including:

- identifying the major OHS hazards in the maritime industry in consultation with maritime industry employers, employee representatives and AMSA;
- initiating a Seacare Authority OHS Statement of Commitment signed by Chief Executive Officers/General Managers/Managing Directors committing maritime employers to work towards achievement of the Seacare Authority OHS targets;
- participating in NOHSC programs by providing comprehensive OHS data;
- developing performance indicators for the Seacare scheme including outcome and process indicators; and
- implementing a program for adopting NOHSC standards and codes to the extent that they are applicable to the maritime industry.
The Australian Maritime Safety Authority (AMSA) performs the occupational health and safety inspectorate function as provided in Section 82 of the OHS(MI) Act. The functions of the inspectorate are:

- to ensure, in accordance with the Act and regulations, that the obligations imposed by or under the OHS(MI) Act or the regulations are complied with;
- to advise operators, employees or contractors, on occupational health and safety matters; and
- to provide the Authority with information.

OHS inspections are undertaken as part of a program of flag state control (FSC) inspections and International Safety Management (ISM) audits. In addition to its regular program of FSC inspections and ISM audits, AMSA conducted an OHS audit of a ship in Hobart in November 2002 and two targeted OHS inspections of ships in Melbourne in March and May 2003. These represent the forerunners of future focussed OHS inspection campaigns.

AMSA marine surveyors, who are trained in OHS, are appointed as inspectors under the OHS(MI) Act and as required perform a range of functions under the Act, including investigations of accidents and dangerous occurrences, issuing prohibition notices, issuing improvement notices and advising employers of their duty of care as well as on approaches to safety prevention.

AMSA has developed an OHS checklist intended for use by its inspectors during regular inspections but more particularly intended for use during focussed OHS inspections.

During 2002–03 AMSA issued or re-issued a number of Marine Notices that reminded industry of important OHS issues that must be taken into consideration. In January 2003 a new Marine Notice on working at heights was issued and in February 2003 a new Marine Notice dealing with the hazards of carbon dioxide was issued.

During 2002–03 The Australian Offshore Support Vessel Code of Safe Working Practice was partly reviewed and a new version re-issued. The Code of Safe Working Practice for Australian Seafarers is currently under review. It is anticipated that this review, with the assistance of the Seacare Authority and industry, will be completed in the coming year.

Rehabilitation and return to work

Following the launch of a package of best practice guidance material on rehabilitation and return to work in early 2002, and the establishment of rehabilitation and return to work (RTW) benchmarks against which performance was reported for the first time in the Authority’s 2001–02 Annual Report, the Authority maintained a monitoring role during 2002–03.

Rehabilitation and RTW performance reported in Chapter 4 of this report suggests that performance is yet to reach satisfactory levels. As a result the Authority has requested that this issue be given priority attention in the 2003–04 Business Plan.
The Seacare Authority continued to participate in the ARTW Monitor during 2002–03. The ARTW Monitor is an Australian and New Zealand survey of the return to work experience of injured workers, including seafarers.

All workers’ compensation schemes in Australia (and including New Zealand), with the exception of Western Australia and the Northern Territory, participate in the survey. The ARTW Monitor is managed by a private consultancy firm, Campbell Research and Consulting Pty Ltd, with whom the Authority has an annual contract. The Seacare Authority commenced participation in 1999–00.

The ARTW Monitor surveys all seafarers who lodged a compensation claim in the seven to nine months prior to each survey period – for the Seacare scheme there are four surveys each year in August, November, February and May. Each survey involves approximately 10 to 20 seafarers.

In addition to interviewing injured seafarers, the ARTW Monitor analysed compensation payments data provided by AMICA relating to the interviewed seafarers, to ascertain compensation costs per claim. Seacare scheme performance arising from the ARTW Monitor surveys is reported in Chapter 4 of this report. The ARTW Monitor results contribute the data for four of the six Seacare Authority rehabilitation and RTW benchmarks.

Workers’ compensation

In 2002–03 the Authority’s main focus in relation to workers’ compensation was to monitor workers’ compensation insurance premiums and develop better workers’ compensation data collection arrangements for scheme performance reporting.

In November 2002 the Seacare Authority again engaged Taylor Fry, actuarial consultants, to collect comprehensive Seacare scheme insurance premium data from Seacare scheme insurers for 2001–02 (the late extraction date for premiums data enables claims and insurance data to mature before collection). Taylor Fry also obtained comprehensive data on the insurance policy excesses negotiated by Seacare scheme employers in seafarer workers’ compensation insurance policies, and on the extent of identified burning cost policies (policies where the premium is adjusted over a specified premium contract period according to claim performance).

In the Seacare scheme, premiums, or income derived from the premium, contributes primarily to payment of weekly compensation, medical and other rehabilitation costs, when the claim exceeds the insurance policy excess. Premium income does not contribute towards the cost of scheme services such as those listed below, unlike the arrangements in some of the centrally managed schemes in Australia, where for example the premium or scheme income contributes towards:
• provision of occupational health and safety services – in the Seacare scheme OHS services are provided by the AMSA, which performs the OHS Inspectorate function under the OHS(MI) Act. AMSA incorporates the costs of this function into its ship safety regulatory functions funded through revenue raised from employers by the application of the Marine Navigation (Regulatory Functions) Levy Act 1991;

• provision of other scheme regulatory services including the operation of the Authority which is directly funded by Government;

• dispute resolution costs – to the extent that dispute resolution rests with the AAT in the Seacare scheme, this cost, leaving aside legal representation, is met by the Commonwealth Government which supports the AAT through a budget appropriation; and

• claims administration costs – in the Seacare scheme these are largely met by employers and insurers (though insurers include claims and premiums administration costs in the cost of the policy).

However, Seafarers Act workers’ compensation insurance premium covers some employers, at their request, for liabilities which may arise from the application of Section 132 of the Navigation Act 1912. That section imposes obligations on employers to pay the wages of seafarers where the seafarer is left on shore sick or injured.

**Claims Management**

The Authority continued to provide advice to employers and seafarers on obligations and rights under the legislation and on good claims management practice. Due to other priorities, the Authority did not achieve its objective to produce best practice guidance material during 2002–03, but this will remain a priority in 2003–04. Communication with stakeholders on claims management practices is revealing that communication between employers and claimants is one of the causes of the high claim dispute rate in the scheme, and is flowing through to less than satisfactory rehabilitation and return to work performance.

**Accreditation of OHS courses**

The Authority’s objective for OHS training was to ensure that accreditation of OHS representatives training courses promotes competency standards equivalent to the highest national standards.

There are three occupational health and safety representatives training courses approved by the Seacare Authority, sponsored by three organisations. The courses and course sponsors are:

• Maritime Industry Health and Safety Representatives Distance Learning Course, sponsored by the Australian Centre for Work Safety (this course is also now redesigned to be delivered in face to face mode);
• CSR Shipping Health and Safety Representatives Training Course, sponsored by CSR Shipping (only delivered in house at this stage); and
• Australian Maritime Safety Consultants Health and Safety Representatives Training Course, sponsored by Australian Maritime Safety Consultants Pty Ltd.

Table 4 below summarises the aggregate outcome of training delivered over 2002–03 under each of the three Seacare Authority accredited courses.

Compared to 2001–02, fewer courses were delivered, primarily because of the drop in the numbers commencing a distance learning course. However, there were more face to face courses delivered and more seafarers commenced face to face courses than in 2001–02. Importantly, the completion rate of 92.5% is a marked improvement over 2000–01 and 2001–02 where the completion rate was 66.7% and 83% respectively.

<table>
<thead>
<tr>
<th>Courses delivered</th>
<th>Commencements</th>
<th>Completions</th>
<th>Completion rate %</th>
<th>Certificates issued</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2001-02</td>
<td>2002-03</td>
<td>2001-02</td>
<td>2002-03</td>
</tr>
<tr>
<td>Face to face courses</td>
<td>11</td>
<td>13</td>
<td>153</td>
<td>167</td>
</tr>
<tr>
<td>Distance course</td>
<td>59</td>
<td>22</td>
<td>59</td>
<td>22</td>
</tr>
<tr>
<td>Total</td>
<td>70</td>
<td>35</td>
<td>212</td>
<td>187</td>
</tr>
</tbody>
</table>
2.6 Relationships with national OHS and workers’ compensation bodies

Heads of Workers’ Compensation Authorities (HWCA)

During 2002–03 the Authority was represented at meetings of HWCA, a forum for Australia’s ten workers’ compensation schemes to exchange information and develop initiatives in relation to scheme design and scheme administration. In addition, the Seacare Authority provided Seacare scheme input into the HWCA Comparison of Workers’ Compensation Arrangements in Australia and New Zealand. The HWCA Comparisons document is available at www.hwsca.org.au.

Workplace Relations’ Ministers Council (WRMC)

The Authority continued to take account of WRMC decisions which impact on the Seacare scheme, during 2002–03. The key WRMC decisions impacting on the Authority revolved around national OHS standards and implementation of the National OHS Strategy, of which the most important were:

- endorsement of a set of five national Priority Action Plans that support the National OHS Strategy. Seacare will report to NOHSC annually on progress against scheme initiatives aimed at supporting the national priorities;
- endorsement of the National List of Exemptions from the prohibition on the use of chrysotile asbestos, and the declaration of a prohibition on the use of actinolite, anthophyllite and tremolite asbestos, to apply from 31 December 2003. Seacare is assisting DEWR in preparation of a regulation to prohibit asbestos in maritime industry workplaces; and
- the arrangements for a Productivity Commission inquiry into workers’ compensation and occupational health and safety frameworks in Australia.

The Authority continues to be guided by policy commitments made by the Commonwealth Minister at WRMC.

The Hon Tony Abbott MP, Minister for Employment and Workplace Relations is the Chair of WRMC.
National Occupational Health and Safety Commission (NOHSC)

The Authority maintains scheme contact with NOHSC in relation to four areas of NOHSC activity:

• implementation of the National OHS Strategy – where the Seacare Authority is required to report progress against the national targets and on support for the National Action Plans endorsed by WRMC;

• the development of OHS standards and codes of practice which guide Seacare Authority adoption of standards and codes applicable to the maritime industry;

• NOHSC coordination of data for the national CPM report, where the Authority provides an annual data set on the Seacare scheme; and

• NOHSC coordination of national data standards for OHS and workers’ compensation, which influence Seacare scheme data collection and reporting.

2.7 Outlook for 2003–04

Key priorities for the Seacare Authority in 2003–04 will be:

• progressing reform of Seacare scheme legislation to ensure its currency and effectiveness;

• implementing the Seacare Authority OHS Strategy in support of the National OHS Strategy;

• adopting declared NOHSC OHS standards and codes of practice to the extent that they are applicable to the maritime industry;

• examining key scheme costs drivers to determine opportunities for reducing cost pressures in the scheme; and

• efficiently managing the Seafarers Safety Net Fund; working with the maritime industry to return the Fund from Seacare Authority to industry management; and working with the maritime industry to identify options for the long term management of the Fund.

A new initiative to be implemented in 2003–04 will be the Seacare Leaders Program, similar in concept to Comcare’s Leadership and Accountability Strategy. Central to the Seacare Leaders Program is a program of engagement with Seacare scheme employers on ways to improve:

• injury prevention;

• injury data and injury performance reporting;

• rehabilitation and return to work (injury management) approaches;

• claims management;

• workers’ compensation insurance premiums; and

• commencement of direct Seacare communication with on board safety committees and OHS representatives.
Chapter 3: The operation of the Seafarers Safety Net Fund (the Fund)
3.1 The Seafarers Safety Net Fund

The Seafarers Safety Net Fund is a safety net “employer” to stand in the place of an extant employer if a default event occurs, enabling injured seafarers to make a claim against the Fund when there is no employer against whom a claim can be made. A default event is defined in the Seafarers Act as happening when the employer:

- becomes bankrupt or insolvent;
- applies to take the benefit of any law for the relief of insolvents;
- compounds with the employer’s creditors for their benefit;
- if the employer is a body corporate – is wound up, or, ceases to exist;
- no longer engages in trade or commerce in Australia;

and when the employer is unable to meet the employer’s liabilities under the Seafarers Act.

3.2 Recent history of the Seafarers Safety Net Fund

On 10 April 2002, the Minister for Employment and Workplace Relations, the Hon Tony Abbott MP, revoked the appointment of the Australian Maritime Industry Compensation Agency Ltd (AMICA) as the approved trading corporation responsible for management of the Fund, and declared the Seacare Authority to have the Fund’s functions, powers and obligations under the Seafarers Act.

The Minister’s action was necessary because from 31 January 2002, AMICA was no longer able to obtain a policy of insurance for the Fund as required under the Seafarers Act. In such circumstances the Minister had no legal alternative other than to declare the Seacare Authority as the Fund manager.

As a result the Seafarers Rehabilitation and Compensation Levy Act 1992 (Levy Act) and Seafarers Rehabilitation and Compensation Levy Collection Act 1992 (Levy Collection Act) came into force on 10 April 2002. Up to April 2002, AMICA made financial calls upon AMICA participants to meet annual Fund costs.

The AMICA cost recovery arrangements contrast to those applying when the Levy Act and Levy Collection Act (and associated regulations) are in force. These Acts provide for a premium-based levy to be collected from all employers engaging seafarers on prescribed ships, each quarter, thereby spreading the costs of the compulsory levy across all Australian shipping companies. The levy, under statutory arrangements, is equivalent to a premium in that it is providing for workers’ compensation cover.
3.3 Setting the rate of levy on commencement of levy collection on 1 July 2002

In the lead up to commencement of levy collection under Seacare Authority management, the Minister, as required by section 7 of the Levy Act, consulted the Seacare Authority on the rate of levy before making a recommendation to the Governor-General that a regulation be made establishing the levy rate. In advising the Minister, the Seacare Authority had to consider its prudential obligations as set out in the Levy Act, namely, that it have regard to:

- the need to ensure that the Fund has adequate financial reserves for the purposes of its prudential management;
- reasonable estimates of the Fund’s present and future liabilities under the Seafarers Act; and
- the cost of administering the Authority in connection with the performance or exercise of the Fund’s functions, powers and obligations under the Seafarers Act.

The Authority obtained actuarial advice from Taylor Fry to assist the preparation of advice to the Minister. The actuarial advice quantified the risk of a default event occurring and provided options on funding models to meet the costs of the Fund. The model agreed was a premium equivalent model. In addition, the Authority sought advice from AMICA on its Fund administration costs and from other sources in establishing the likely costs of administering the Fund under Seacare Authority management.

The Authority also sought the views of the Australian Mines and Metals Association (AMMA) and Australian Shipowners Association (ASA). Both AMMA and ASA advised the Authority of their qualified and cautious acceptance of the premium-based levy in the context of there being no alternative.

Having regard to actuarial advice, estimated Fund administration costs and the view of employers, the Authority recommended to the Minister that a levy rate of $53 per berth per quarter be set for the commencement of the 2002–03 year. The Minister accepted this advice.

The Seafarers Rehabilitation and Compensation Levy Regulations 2002 commenced on 1 July 2002, setting the rate of levy at $53 per berth per quarter. The Levy Act requires all employers who employ or engage seafarers on prescribed ships to pay the levy.

3.4 Quarterly review of the rate of levy

At the time of advising the industry of the new Fund management arrangements in June 2002, the Minister undertook to review the levy quarterly to ensure the levy rate reflected actual administration costs (some administration costs on establishment were, by necessity, estimates). The Minister also asked the Seacare Authority to advise him after six months operation of the Fund under Seacare Authority management, on its future administrative arrangements.
The intention of the Government, which is supported by the Authority, is that management of the Fund be returned to industry as soon as possible. At the time of transfer back to industry, any reserves accumulated to the Fund while under Seacare Authority management will be passed over to the industry trading corporation approved as the Fund, along with any liabilities on the Fund.

The Seacare Authority kept under review levy receipts and Fund costs each quarter during 2002–03. Following each quarterly review at the scheduled Seacare Authority meetings in August and November 2002, and February and May 2003, the Authority wrote to the Minister advising that the levy rate of $53 per seafarer berth per quarter should be retained for the following quarter.

At its February 2003 meeting, following consultation with employer stakeholders on the Seacare Authority, the Authority reviewed the operation of the Fund following six months of operation. It was agreed to recommend to the Minister that Seacare management of the Fund continue until at least 30 June 2003, given that the Seacare Authority itself had been unable to obtain a policy of insurance for the Fund to that time. The Minister accepted the Seacare Authority advice.

### 3.5 Fund administration

To help maintain industry continuity in the management of the Fund, and to draw on AMICA’s past experience in administering the Fund, the Minister agreed that the Seacare Authority contract with AMICA to undertake Fund administration services for the Authority. A contract for performance on such services was executed in August 2002, to apply from 1 July 2002.

Under the contract AMICA administers Seacare levy collection on behalf of the Australian Government, manages the employer reporting arrangements by receiving and recording employer returns, provides Fund reconciliation reports to Seacare and provides advice to the Seacare Authority on claims against the Fund. AMICA has continued to manage the Seacare scheme claims database function.

### 3.6 Levy collection

In 2002–03 $293,461 was collected in levy receipts from 21 employers. These employers reported an average (per quarter) of 1,438 berths, on an average (per quarter) of 104 ships. An overview of levy collection details is set out in Table 5 below.
### Table 5: Levy collection 2002–03 — key data

<table>
<thead>
<tr>
<th>2002–03</th>
<th>No of employers required to pay the levy</th>
<th>No of berths</th>
<th>No of ships</th>
<th>Levy rate</th>
<th>Levy collected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Quarter 1</td>
<td>21</td>
<td>1,429</td>
<td>109</td>
<td>$53</td>
<td>$75,737</td>
</tr>
<tr>
<td>Quarter 2</td>
<td>21</td>
<td>1,400</td>
<td>99</td>
<td>$53</td>
<td>$74,200</td>
</tr>
<tr>
<td>Quarter 3</td>
<td>21</td>
<td>1,443</td>
<td>102</td>
<td>$53</td>
<td>$76,479</td>
</tr>
<tr>
<td>Quarter 4</td>
<td>21</td>
<td>1,479</td>
<td>106</td>
<td>$53</td>
<td>$67,045</td>
</tr>
<tr>
<td>Average over 2002–03</td>
<td>21</td>
<td>1,438</td>
<td>104</td>
<td>$53</td>
<td>$73,365</td>
</tr>
<tr>
<td>Total</td>
<td>21</td>
<td></td>
<td></td>
<td></td>
<td>$293,461</td>
</tr>
</tbody>
</table>

Source: Seacare

### Table 6: Estimated and actual Fund costs, and Fund expenditure — 2002–03

<table>
<thead>
<tr>
<th>Cost item</th>
<th>Estimated Fund costs 2002–03 in setting levy rate at July 2002</th>
<th>Estimated/actual Fund costs at 30 June 2003 (*indicates estimate)</th>
<th>Actual Fund expenditure</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Insurance for Fund (premium [incl GST], broker fees, actuarial advice)</td>
<td>$171,000</td>
<td>$179,858*</td>
<td>$16,938</td>
<td>Insurance policy not settled at 30 June 2003</td>
</tr>
<tr>
<td>Professional fees (legal, accountancy, audit) and charges</td>
<td>$35,500</td>
<td>$21,725</td>
<td>$15,255</td>
<td>Broker services not completed at 30 June 2003 Not all fees due at 30 June 2003</td>
</tr>
<tr>
<td>Insurance for partner organisation (public liability, professional indemnity)</td>
<td>$20,000</td>
<td>Nil</td>
<td>Nil</td>
<td>Not applicable</td>
</tr>
<tr>
<td>Fund administration contract fee</td>
<td>$55,400</td>
<td>$55,400</td>
<td>$41,550</td>
<td>Fourth quarter due in 2002-03 payment due in 2003-04</td>
</tr>
<tr>
<td>Claims administration costs</td>
<td>Not estimated</td>
<td>$32</td>
<td>$32</td>
<td>costs re claims</td>
</tr>
<tr>
<td>Accumulation of reserve – year one</td>
<td>$22,500</td>
<td>$22,500</td>
<td></td>
<td>Only expended on claims as they arise – no claims in 2002-03</td>
</tr>
<tr>
<td>Total of expenditure items</td>
<td>$304,400</td>
<td>$293,515</td>
<td>$96,275</td>
<td></td>
</tr>
<tr>
<td>Total receipts</td>
<td></td>
<td></td>
<td></td>
<td>$293,461</td>
</tr>
</tbody>
</table>

Source: Seacare

Note 1: Estimated berths/quarter in setting levy = 1,442
Note 2: Actual average berths per quarter = 1,438
As can be seen from examining Tables 5 and 6, estimated Fund costs (administration costs and accumulation of annual reserve) and actual levy receipts are evenly matched, thereby vindicating maintenance of the levy rate at $53 per berth per quarter throughout the year. However, the tables also show that actual levy expenditure fell considerably short of levy receipts. The key explanation is that some accrued costs did not fall due in 2002–03.

Table 6 also shows that a reserve of $22,500 was accumulated in 2002–03, as the year one contribution towards a reserve of $270,000 determined by the Seacare Authority actuary as being necessary to build over 12 years.

3.7 Claims on the Fund

Since 10 April 2002, there has been only one claim on the Fund, received in May 2003. At 30 June 2003, no decision on liability had been made. As a consequence, no claim payments have been made from the Fund during 2002–03.

3.8 A policy of insurance for the Fund

In August 2002, the Seacare Authority engaged Marsh Pty Ltd, an insurance broker, to provide brokerage services to the Authority. Its brief was to prepare a submission for obtaining insurance for the Fund as required by the Seafarers Act and to consult the insurance market. In February 2003, Marsh advised that an insurer was interested in quoting on the insurance. From March until June 2003, detailed negotiations have taken place with the insurer, resulting in the insurer providing an initial quotation and a draft policy to the Authority. The Authority continues to be assured by its broker that a policy of insurance can be finalised by the interested insurer.

Subject to the insurer offering the same or similar policy that it offers to the Seacare Authority, to a trading corporation, the key precondition for a return of the Fund to industry management will have been achieved. It is the Authority’s objective to see the Fund returned to industry management as soon as possible.

3.9 Future arrangements for management of the Fund

The next phase in the future management of the Fund is to return it to industry under the current legislative framework. The Minister recognised at the time he revoked AMICA and declared the Seacare Authority as the Fund manager that the changed circumstances provided an ideal opportunity to consider the appropriateness of the current legislative requirements for the Fund, in the longer term.
Some in the industry consider that the current scheme structure was relevant in an era of industry employment but is not now compatible with current company employment practices.

In May 2003 the Authority commenced a review of the long term arrangements for management of the Fund by consideration of an options paper. The options will be further developed and considered during 2003–04.

### Table 7: Seafarers Rehabilitation and Compensation Levy Act 1992 — Special Account

<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal Authority: Financial Management and Accountability Act 1997; s20</td>
<td>$</td>
</tr>
<tr>
<td>Purpose: for the expenditure in connection with payments on behalf of the government</td>
<td></td>
</tr>
<tr>
<td>Balance carried from previous year</td>
<td></td>
</tr>
<tr>
<td>Appropriations for reporting period</td>
<td></td>
</tr>
<tr>
<td>Receipts from other sources</td>
<td>293 461</td>
</tr>
<tr>
<td>Other receipts - Industry contributions</td>
<td></td>
</tr>
<tr>
<td>GST credits (FMA s30A)</td>
<td>6 709</td>
</tr>
<tr>
<td>Available for payments</td>
<td>300 170</td>
</tr>
<tr>
<td>Payments made to suppliers</td>
<td>74 434</td>
</tr>
<tr>
<td>Balance carried to next year</td>
<td>225 736</td>
</tr>
<tr>
<td>Represented by:</td>
<td></td>
</tr>
<tr>
<td>Cash</td>
<td>225 736</td>
</tr>
<tr>
<td>Total</td>
<td>225 736</td>
</tr>
</tbody>
</table>
Chapter 4: Seacare scheme performance 2002-03
4.1 Seacare scheme performance highlights 2002–03

The Seacare scheme continues to demonstrate improved performance on nearly all key indicators, relative to previous years. Its performance relative to other schemes and other industries with high injury risk profiles has also improved. The highlights of Seacare scheme performance reported in this annual report include:

- the number of workers’ compensation claims reported to AMICA in 2002–03 has again fallen in aggregate and fallen relative to the number of seafarers — resulting in an improved claim rate. Similarly, accepted claims have also fallen;

- improved reporting saw more incidents reported to AMICA relative to the previous year:
  - incident reports are critical to enable AMSA to effectively perform its investigation role as the Inspectorate under the OHS(MI) Act;

- Seacare scheme OHS performance, measured by Seacare scheme injury incidence rates and injury frequency rates, continues to improve relative to previous years:
  - based on several approaches to measuring injury frequency, the frequency rate has once again fallen relative to the previous year;

- Seacare scheme OHS performance, measured by the CPM injury incidence and injury frequency rates, continues to improve relative to previous years, relative to other schemes, relative to the national average and relative to other industries with high injury risk factors:
  - but there is still significant opportunity for improvement;

- the scheme has completed another year without a work-related fatality;

- days lost per seafarer have declined significantly in 2002–03;

- the increase in Seacare scheme premium rates reported in previous years has appeared to ease and there appears to be a greater degree of stability and consistency in the approach to premium setting by insurers which may be assisting to stabilise premium rates under the Seafarers Act;

- the dispute rate is declining;

- the scheme is characterised by a large number of long tail claims, though the duration of long tail claims is less than might be expected in a continuing benefits scheme;

- legal costs in the scheme remain high; and

- rehabilitation and return to work performance remains problematic.
4.2 Data sources used in this Chapter

The primary source of data used for reporting on Seacare scheme performance, including OHS performance, is workers’ compensation claims data. The workers’ compensation claims data used in this report is derived from claim forms lodged by employers with AMICA, irrespective of whether the claim is covered by the employer’s insurance policy. As there is no statutory obligation on an injured seafarer to lodge a workers’ compensation claim form if injured, it is recognised that not every injury results in a claim being made on the employer. Further, not all claims lodged by employees with employers are forwarded to AMICA by the employer, or to the employer’s insurer.

It is nationally recognised that compensation claims data is the most reliable available data for outcomes reporting on both occupational health and safety, as well as compensation and rehabilitation, performance.

4.2.1 Compensation claims data

Compensation claims data used in this report is collected and recorded by the AMICA, which operates under the auspices of the Australian Shipowners Association (ASA). AMICA receives data on claims lodged with an employer by employees, irrespective of whether the claim is lodged with an insurer, subject to the employer forwarding a copy of the claim form to AMICA.

The significant insurance excesses, which are a feature of workers’ compensation insurance policies under the Seafarers Act, mean that employers are often directly liable for the initial costs of the claim. Employer excesses range from zero to $100 000 or more (majority in the range $5 000 to $25 000). Where the claim cost falls within the excess, the employer generally maintains responsibility for managing the claim, rather than the insurer. However, increasingly, employers are advising insurers on claims at an early stage, as part of improved claims management and injury management practice.

The claims data used in most tables and figures in this report are accepted claims, which excludes claims which are pending, in dispute, withdrawn or rejected. As some pending, disputed or rejected claims from previous years become accepted during the following year, they are reported the following year as accepted claims. This explains the variations in accepted claims in the tables reporting claims each financial year.

4.2.2 Occupational health and safety incident data

Compensation claims data used in this report is complemented by data on accidents and dangerous occurrences collected and recorded by AMSA in its capacity as the OHS inspectorate under the OHS(MI) Act. Incidents are reported to AMSA where there is an accident that causes the death of, or serious personal injury to, any person, or where an accident causes an employee to be incapacitated from performing work for a period of five successive days or more.
Shipping operators covered by the OHS(MI) Act are required by the OHS(MI) Act and regulations to notify an accident or dangerous occurrence to AMSA within four hours and to report in detail on those notified accidents and dangerous occurrences within 72 hours. The initial notification is known as the OHS incident alert and the follow up report as the OHS incident report.

4.2.3 Seacare Authority data

The Seacare Authority maintains responsibility for collecting and recording data on the number of employees covered by Seacare scheme legislation (sometimes also referred to as the population or exposure data) and on hours worked by employees. Employee numbers and hours worked data is collected quarterly through the Authority’s Employee and Ships Details (ESD) on-line reporting system. Annual employee numbers are derived by adding the four quarter totals and dividing by four, while hours worked are aggregated each quarter to arrive at an annual total.

The employee data collected through ESD reporting seeks to record all employees who worked for the employer during the year, irrespective of the period of employment or hours worked by the employee (this data is not adjusted to a full time equivalent). This methodology was chosen because each employee is potentially a workers’ compensation (or injury) statistic. The hours worked data used in this report is based on adjusted data – adjusted to 12 hours for the blue water sector and 14 hours for the offshore sector for each day the seafarer is on board.

The Authority also collects ship details, for example, the number of days a ship is operational over the year, and ship berth details.

4.2.4 Comparative Performance Monitoring report data

Comparative performance data used in this report is extracted directly from the 5th national Comparative Performance Monitoring (CPM) report, which reports up to and including the 2001-02 financial years, i.e. it is one year behind this report in its data sets. The CPM report is published by DEWR, under the auspices of Workplace Relations Ministers’ Council (WRMC).

4.2.5 Australasian Return to Work Monitor data

Some return to work data used in this report is derived from the ARTW Monitor 2002-03. The ARTW Monitor establishes a national benchmark for measuring RTW and durability of RTW across Australian and New Zealand (NZ) workers’ compensation schemes. In 2002-03 the ARTW Monitor summarises the findings of a survey of 30 injured seafarers.
4.3 Methodology behind performance reports

4.3.1 Coverage

In some previous years the Authority’s annual report has recorded employee numbers in two parts. Part A represented the total of all Australian seafarers where the employer conformed with the provisions of the Seafarers Act, while Part B represented the number of seafarers on ships which were, at the time, thought to be specifically covered by the Seafarers Act. The seafarers included in Part A were described as seafarers serving on ships where the entitlements and benefits of the Seafarers Act are applied through an industrial award or agreement. These seafarers, wholly in the offshore sector, were considered, up until the 1998–99 annual report, to be excluded from coverage by the Seafarers Act. In each year up until 1998–99 the higher figure or Part A figure was nevertheless used as the basis of reporting in the annual report.

At the time of preparation of the 1998–99 annual report, legal advice on the implications of the Tiwi Barge decision in the Federal Court for Seafarers Act coverage was not conclusive. Nevertheless, a decision was taken that the 1998–99 annual report should only report on employees who were considered to be clearly covered by the Seafarers Act. As a result, the lesser (Part B) figure was used in the 1998–99 annual report.

This meant that some employees on ships in the offshore sector were excluded for reporting purposes. However, to maintain the time series data for comparative purposes, the 1998–99 annual report included an Appendix 4 which sought to maintain time series data using the higher (or offshore included) employee figure.

As the legal advice on the Tiwi Barge decision now indicates that employees on ships in the offshore sector are potentially covered by the Seafarers Act, the pre 1998–99 time series tables were restored in 1999–00, without the need to qualify the data. It also means that only one employee figure was necessary for the 1999–00 and subsequent annual reports. This pattern continues in this report.

4.3.2 Employee numbers

Up until and including the 1999–00 annual report, the methodology used to obtain employee numbers data was as follows. The Authority obtained a quarterly written return from each employer identifying its ships, the number of crewed berths on each ship and the days the ship was operational over the quarter. The berth details were then multiplied by the percentage of the year the ship operated which was then multiplied by the crew to berth ratio (CBR — obtained from the Bureau of Transport Economics — BTE) multiplied by the number of ships. This calculation revealed an annual employee figure. In the case of the 1999–00 annual report data, the crew to berth ratio was the average of the figures provided by the BTE for the September and December quarters 1999–00, after which the BTE discontinued production of the CBR.
Following the change to company-based employment from 1998, the basis for reporting on employee numbers has changed. Employee and hours worked data used in the 2000–01 and 2001–02 annual reports, and in this report, is an aggregation of the quarterly data provided to the Authority in the ESD report by Seacare scheme employers, which represents the actual number of seafarers employed by each employer covered by the Seafarers Act.

Seafarers engaged on Floating Production Storage and Offloading Facilities (FPSOs) are included in the employee numbers because there are short periods when the operations of such ships clearly falls within the application provisions of the Seafarers and OHS(MI) Acts e.g. when delinked from the riser to avoid a cyclone or when in transit — noting that for the majority of the time the operations of such ships generally fall outside the application of Seacare scheme legislation. A very small number of claims made by employers of seafarers on FPSOs are included in claims data in this report.

Seafarers engaged on dredges, while the dredge is working inshore (within 12 nautical miles) will not generally be covered by the Seafarers Act unless the ship is the subject of a section 8A or section 8AA declaration under the Navigation Act. Workers’ compensation claims reported to AMICA which occurred on dredges operating inshore are not included in claims statistics in this report.

### 4.3.3 Compensation claims data

Readers should note that the explanation for different compensation claims figures applying to previous years and used in this annual report when compared to previous annual report data is that some claims which were accepted at the extraction date in previous years have since been rejected, withdrawn or are in dispute. They are therefore now either included or excluded. For example, this report identifies the 2001–02 total claims accepted figure at 152 whereas it was reported as 147 in the 2001–02 annual report — five claims have since been accepted.

### 4.4 Date of extraction of 2002–03 data

The date of extraction for 2002–03 claims data from the AMICA database is 14 July 2003. This date of extraction means that employers were given until 14 July 2002 to lodge a copy of 2002–03 claim forms received by employers during 2002–03, with AMICA for data recording purposes. AMICA worked closely with employers to ensure that a copy of all claims lodged by employees in 2002–03 was forwarded to AMICA and included in the database by the extraction date to ensure a high degree of reliability of the claims data.

The date of extraction for AMSA incident data is 30 August 2003. AMSA data includes those accidents and dangerous occurrences (incidents) notified and reported to AMSA by 30 August 2002. Any accidents and dangerous occurrences which occurred in the financial year but which were not notified or reported to AMSA by 30 August 2002 are not included.
Comparative data used in this report is obtained from the 5th CPM report. The CPM report covered the period up to and including 2001–02. The date of extraction for the 2001–02 year in the CPM report is 30 November 2002. In other words, compensation schemes, including the Seacare scheme, had five months to make adjustments to data, for example, to include pending or rejected claims, for CPM reporting purposes, in contrast to the two week period (i.e. to 14 July 2003) for 2002–03 data used in most sections of this report. The longer adjustment period available for CPM reporting purposes makes only marginal difference to AMICA figures reported for the Seacare scheme because of the high quality of data base management under AMICA.

4.5 Seacare scheme performance relative to previous years

4.5.1 The workers’ compensation (claims) data

Workers’ compensation claims data reported to AMICA pursuant to the Seafarers Act is summarised in Table 8 below.

Table 8 indicates that total claims reported to AMICA in 2002–03 have once again fallen relative to the previous year (a decrease of 3.6% over 2001–02) and are now at an historic low. This is significant given the continuing rise in the number of employees covered by the Seafarers Act (an increase of 3.3% over 2001–02). A similar pattern is evident in relation to accepted claims, where there has been a decrease of 4.6% in accepted claims over 2001–02.

One explanation for the increase in employee numbers is that employers have reported increased shipping activity among companies servicing the offshore oil and gas sector over the past two years.

Three other important observations can be made from Table 8. First, the Seacare scheme has recorded no work related fatality in the five years to 30 June 2003 – in fact there have now been eight successive years without a work related fatality (this compares to 315 work related fatalities in the transport and storage industry as a whole over the five years 1997–98 to 2001–02). Second, the hours worked (adjusted) by seafarers in 2002–03 have increased over 2001–02 (by approximately 11%), and thirdly, in 2002–03, 93 or 63.1% of accepted claims were lodged with the employer’s insurer (compared to 71 claims or 46.7% in 2001–02). An employer decision to lodge a claim with the insurer does not necessarily mean it is a claim to be managed or paid for by the insurer – good claims management practice results in an employer notifying the insurer of a claim at an early stage, as it may later become a claim under the insurance policy.
### Table 8: Seacare scheme — aggregated claims data for reporting purposes
1998–99 to 2002–03

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Claims reported to AMICA</td>
<td>221</td>
<td>182</td>
<td>204</td>
<td>169</td>
<td>163</td>
</tr>
<tr>
<td>Accepted claims</td>
<td>211</td>
<td>157</td>
<td>180</td>
<td>152</td>
<td>145</td>
</tr>
<tr>
<td>Claims rejected</td>
<td>10</td>
<td>25</td>
<td>24</td>
<td>17</td>
<td>16</td>
</tr>
<tr>
<td>Claims pending</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>Claims accepted — on duty</td>
<td>180</td>
<td>143</td>
<td>167</td>
<td>138</td>
<td>126</td>
</tr>
<tr>
<td>Claims accepted — off duty</td>
<td>27</td>
<td>7</td>
<td>10</td>
<td>10</td>
<td>15</td>
</tr>
<tr>
<td>Journey claims</td>
<td>2</td>
<td>5</td>
<td>2</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Claims while studying</td>
<td>2</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Claims accepted — 5 or more days duration</td>
<td>181</td>
<td>131</td>
<td>145</td>
<td>120</td>
<td>118</td>
</tr>
<tr>
<td>Claims accepted — excluding property claims</td>
<td>208</td>
<td>156</td>
<td>180</td>
<td>150</td>
<td>145</td>
</tr>
<tr>
<td>Claims accepted — lodged with insurer</td>
<td>6</td>
<td>65</td>
<td>67</td>
<td>71</td>
<td>93</td>
</tr>
<tr>
<td>Work related fatality</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

**Employee numbers and hours worked**

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Employees (Seafarers Act)</td>
<td>3 530</td>
<td>2 800</td>
<td>2 895</td>
<td>3 152</td>
</tr>
<tr>
<td>Hours worked (Seafarers Act)</td>
<td>6 302 787</td>
<td>5 897 548</td>
<td>5 986 832</td>
<td>6 529 685</td>
</tr>
</tbody>
</table>

**Source:** AMICA and Seacare Authority

**Note:** The employee numbers and hours worked relate to employees covered by the Seafarers Act. The hours worked data is adjusted to a 12 or 14 hour day.

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**Variable contractor requirements in the offshore sector pose unique risks, necessitating constant risk assessment and hazard reduction strategies to maintain strong OHS performance.**
Figure 1: Numbers of employees and accepted claims 1998–99 to 2002–03

Source: Seacare and AMICA

Figure 1 graphically represents the downward movement in the number of claims reported to AMICA over the last three years and the upward movement in the number of seafarers reported to the Seacare Authority in the Seacare scheme in 2002–03, continuing the pattern commenced in 2000–01. The historically low number of claims in 2002–03 suggests that notwithstanding the increase in claims in 2000–01 over the 1999–00 claims figure, the downward movement over time in the number of claims being made and reported to AMICA is continuing.
Figure 2: Claim rate (accepted claims reported as a proportion of seafarers) 1998–99 to 2002–03

Source: Seacare and AMICA

Figure 2 shows the claim rate using accepted claims reported to AMICA. The claim rate of 4.32% shows a continuing downward movement in the claims rate since 2000–01, using this measure. The claim rate of 4.32% in 2002–03 is a decrease of 10.4% over 2001–02 and indicates that the claim rate, based on accepted claims, has continued to fall over the past two years.
Figure 3: Claims lodged rate (all claims reported as a proportion of seafarers) 1998–99 to 2002–03

Source: Seacare and AMICA

Figure 3 shows the claim rate using all claims reported to AMICA. Reported claims include claims that have been rejected, or could in the future be rejected, those that are currently in dispute and those that are pending a decision. The claim rate of 4.86% shows a continuing downward movement in the claims rate since 2000–01, using this measure. The claim rate of 4.86% in 2002–03 is a decrease of 9.3% over 2001–02.

Employers and employees are adopting a range of strategies and techniques to minimise the risk of injury in the maritime industry.
4.5.2 The OHS (incident) data

The OHS incident data reported to AMSA pursuant to the OHS(MI) Act and regulations is summarised in Table 9.

Table 9: Seacare scheme – core OHS incident data and data on the operation of the OHS Inspectorate under the OHS(MI) Act – 1998–99 to 2002–03

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Incidents reported to AMSA(^1)</td>
<td>69</td>
<td>78</td>
<td>69</td>
<td>61</td>
<td>78</td>
</tr>
<tr>
<td>Dangerous occurrences notified(^2)</td>
<td>5</td>
<td>8</td>
<td>8</td>
<td>5</td>
<td>13</td>
</tr>
<tr>
<td>Incidents minus dangerous occurrences</td>
<td>64</td>
<td>70</td>
<td>61</td>
<td>56</td>
<td>65</td>
</tr>
<tr>
<td>Investigations under S.87 (re compliance with, or contravention of Act or regulations; accidents and dangerous occurrences)</td>
<td>NA</td>
<td>23</td>
<td>12</td>
<td>14</td>
<td>12</td>
</tr>
<tr>
<td>Prohibition Notices issued under S.93</td>
<td>0</td>
<td>3</td>
<td>0</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Improvement Notices issued under S.98</td>
<td>8</td>
<td>7</td>
<td>0</td>
<td>3</td>
<td>0</td>
</tr>
<tr>
<td>Taking possession of plant, substances or things S91</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Directions given S.92</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Appeals instituted against inspectors’ decision S.100</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
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<tr>
<td>Directions given by the Minister S.114</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>AMSA surveyors trained in enhanced OHS investigation techniques during the year</td>
<td>15</td>
<td>15</td>
<td>0</td>
<td>21</td>
<td>40</td>
</tr>
<tr>
<td>Prosecutions commenced</td>
<td>4</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Prosecutions completed</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Number of full time equivalent employees [OHS(MI) Act](^3)</td>
<td>2 890</td>
<td>2 797</td>
<td>NA</td>
<td>NA</td>
<td>3 173</td>
</tr>
<tr>
<td>Hours worked [OHS(MI) Act](^4)</td>
<td>NA</td>
<td>5 936 119</td>
<td>NA</td>
<td>NA</td>
<td>8 294 547</td>
</tr>
</tbody>
</table>

Source: AMSA and Seacare Authority

\*NA = not available

Table 9 indicates that the total number of incidents reported to AMSA in 2002–03 increased to 78 compared to 61 reported in 2001–02. This is a significant increase of 28%. The number of dangerous occurrences reported to AMSA also increased from five in 2001–02 to 13 in 2002–03, an increase of 160%.

1. Incidents reported to AMSA include where the employee is incapacitated for five or more successive working days; where the employee sustains a serious personal injury; or a dangerous occurrence.

2. A dangerous occurrence is where there is an incident at the workplace and resulted from operations that arose from an undertaking conducted by or for the operator of the workplace and could have caused death or serious personal injury or incapacity of an employee for five or more successive working days.

3. Full time equivalent employees as reported by employers under the OHS(MI) Act.

4. Hours worked as reported by employers under the OHS(MI) Act. Note however that the seafarer numbers on which the Tables and Figures in sections 4.5.4 to 4.5.8 and at Appendix 1 are based are those reported under the Seafarers Act set out in Table 8, unless otherwise stated.
AMSA reviews all incidents reported and when considered necessary conducts an investigation pursuant to its investigation powers under the OHS(MI) Act. The number of investigations conducted by AMSA decreased in 2002–03 to 12 compared to 14 in 2001–02. Given that the number of investigations decreased a possible reason for the increase in incidents reported may be the active encouragement by AMSA surveyors and auditors to ship operators to report incidents.

During 2002–03 AMSA conducted a number of minor incident investigations and two serious incident investigations. One serious incident investigation involved a seafarer falling from a height. The other serious incident investigation involved a seafarer injured during buoy recovery operations. The Inspectorate’s investigations of incidents resulted in a range of hazard solutions being proposed for implementation by operators.

The 78 incidents reported to AMSA included 54 incidents where the employee was incapacitated for five or more successive days. AMICA reported 118 workers’ compensation claims of one week or more days duration under the Seafarers Act, the majority of which would be expected to have arisen at the workplace from the operator’s undertaking. Seacare, AMICA and AMSA are continuing to work together to identify any under-reporting of OHS incidents using workers’ compensation claims data, and to provide robust explanations for the different reporting results under the Seafarers and OHS(MI) Acts.

Table 10: Incident rate (incidents as a proportion of seafarers) 1998–99 to 2002–03

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of incidents</td>
<td>69</td>
<td>78</td>
<td>69</td>
<td>61</td>
<td>78</td>
</tr>
<tr>
<td>Number of seafarers</td>
<td>3 530</td>
<td>2 800</td>
<td>2 895</td>
<td>3 152</td>
<td>3 173</td>
</tr>
<tr>
<td>Incident rate (%)</td>
<td>1.95%</td>
<td>2.78%</td>
<td>2.38%</td>
<td>1.90%</td>
<td>2.45%</td>
</tr>
</tbody>
</table>

Source: AMSA and Seacare Authority

Note: The denominator used for 2002-03 (number of seafarers) is the full time equivalent (FTE) reported by employers under the OHS(MI) Act – in all previous years it is the Seafarer Act employee figure, due to the unavailability of a FTE figure.

Table 10 indicates that the incident rate, measured using incidents reported as a proportion of seafarers (full time equivalents), increased significantly in 2002–03 compared to 2001–02. There is no way of determining from the statistics whether this increase is due to more incidents occurring or better reporting of incidents to AMSA.
Figure 4: Accepted claims and incidents reported (accidents and dangerous occurrences) 1998–99 to 2002–03

Figure 4 indicates that the convergence of claims and incidents reported over the past five years continues, notwithstanding a slight variation in 2000–01.

Source: AMICA and AMSA
4.5.3 Selected incident reports (reporting accidents and dangerous occurrences)

Figures 5 and 6 which follow provide an overview of selected trends and patterns from OHS incident data.

**Figure 5: Number of incidents by location 1998–99 to 2002–03**

Source: AMSA

Figure 5 indicates that most incidents are continuing to occur in the deck/cargo spaces. Incidents occurring in the machinery spaces and accommodation areas also contribute to a significant number of incidents. There have been significant increases in 2002–03 of reported incidents occurring in the deck/cargo spaces and the accommodation block compared to 2001–02.
Figure 6: Incidents reported by mechanism of injury 2002–03

Figure 6 shows that in 2002–03 most reported incidents were body stressing injuries, accounting for 34% of incidents. Falls from the same level and falls from a height contributed to 22% of incidents followed by being hit by objects (moving, falling and stationary).

Source: AMSA

The nature of on-board work combined with the type of equipment in use provides many challenges to seafarers to avoid the key injury mechanisms such as body stressing, falls and being hit by or hitting objects.
4.5.4 OHS performance – the injury incidence and injury frequency rate

The incidence of injury and frequency of injury (based on compensation claims data) are two nationally recognised high-level outcome indicators which provide a useful analysis of OHS performance and can provide a helpful indicator of trends in a scheme’s OHS performance. The incidence and frequency rates recorded in this part of the report are, unless otherwise indicated, based on accepted claims as reported to AMICA through compensation claims data. They should not be confused with the incident and frequency rates reported in section 4.6 which relate to claims involving one week or more compensated, and which, until 2000–01 in the case of the Seacare scheme, excluded disease claims.

A new injury frequency series is being commenced in this annual report. It uses unadjusted hours worked data as the divisor, i.e. it uses all hours worked as reported by employers for all seafarers employed over the year – it is not adjusted to 12 hours and 14 hours for the bluewater and offshore sectors respectively. Generally the employer reported hours worked data assumes 24 hours per day while on board. The need for this new data series has emerged from comments made by employers that the divisor used by most employers in calculating the enterprise Lost Time Injury Frequency Rate (LTFIR) for seafarers is generally 24 hours. It is hoped that inclusion of the new series will provide frequency rate data at the industry level which is more meaningful to employers.
Figure 7: The Seacare injury incidence rate (accepted claims per 1000 employees) 1998–99 to 2002–03

Source: Seacare Authority and AMICA

Figure 7 shows that the number of injuries per 1000 employees in 2002–03 (43.15) remains high. However, the incidence of injuries based on accepted claims has decreased over the previous year by 10.6% and is the lowest ever recorded in the Seacare scheme. The significant reduction in the incidence rate suggests that OHS performance has improved since 2001–02.
Figure 8 illustrates the Seacare injury frequency rate using three different measures. The first column for each year shows the injury frequency rate using all accepted claims and adjusted hours worked data (adjusted to 12 or 14 hours for the blue water and offshore sectors respectively). The second column for each year shows the injury frequency rate using all accepted claims but uses non adjusted (higher) hours worked data. The third column for each year uses accepted claims of one week or more compensated, combined with non adjusted hours worked data. This measure is chosen because it more closely coincides with the injury frequency specifications which result in the frequency rate reported in the national CPM report.

The data confirms the pattern identified in Figure 7. It similarly shows that (using column one data, which can be compared with data previously published in Seacare Authority annual reports) the frequency rate in 2002–03 remains high (19.99 injuries for every one million hours worked). However, it also shows that the injury frequency rate has reduced by 14.17% over 2001–02. The frequency rate for 2002–03 is the lowest frequency rate recorded in the Seacare scheme.
4.5.5 Analysis of injuries

The following sections disaggregate claims data, enabling a more detailed analysis of injuries.

Table 11: Nature of claims 1998–99 to 2002–03

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Death</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Aids or appliances</td>
<td>0</td>
<td>18</td>
<td>21</td>
<td>22</td>
<td>20</td>
</tr>
<tr>
<td>Lost wages</td>
<td>186</td>
<td>122</td>
<td>137</td>
<td>119</td>
<td>106</td>
</tr>
<tr>
<td>Medical expenses</td>
<td>23</td>
<td>138</td>
<td>163</td>
<td>140</td>
<td>146</td>
</tr>
<tr>
<td>Non-economic loss</td>
<td>0</td>
<td>7</td>
<td>7</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Property loss</td>
<td>3</td>
<td>3</td>
<td>5</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>Rehabilitation</td>
<td>0</td>
<td>57</td>
<td>51</td>
<td>57</td>
<td>50</td>
</tr>
<tr>
<td>Travel expenses</td>
<td>0</td>
<td>65</td>
<td>61</td>
<td>63</td>
<td>56</td>
</tr>
<tr>
<td>Household and attendant care</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>Permanent impairment</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>8</td>
<td>4</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>212</strong></td>
<td><strong>410</strong></td>
<td><strong>445</strong></td>
<td><strong>420</strong></td>
<td><strong>389</strong></td>
</tr>
</tbody>
</table>

Source: AMICA

Note: Up to 1998–99 the claim form contained fewer options for identification of all types of compensation. The lack of data against some categories does not mean that the claim did not involve this category but no disaggregated data is available. From 1999–00 data includes disaggregation of the categories of compensation — in many cases the seafarer claimed more than one category of compensation.

Two key observations can be derived from Table 11. First, it shows that there is a consistent pattern of claim types over time, and second, it confirms the analysis provided in other sections of the report that participation in rehabilitation programs is low in the Seacare scheme.
Figure 9 identifies the number of claims and trends across the four key occupational groupings. This figure shows a decrease in the percentage of claims for deck officers and integrated ratings and an increase in the percentage of claims for catering staff and a slight increase for engineers.

Source: AMICA

Safety training is a key method for preventing injuries on vessels
Figure 10: Percent claims compared to percent seafarers per age range 2002–03

Source: Seacare and AMICA

Figure 10 shows that nearly 60% of seafarers are over the age of 40 and contribute to 73% of claims. The age groups with the highest proportion of claims are the 40 – 44 and 50 – 54 age groups. Each has 21% (totalling 42%) of the total claims whereas they only make up 29% of total seafarers. The graph also indicates the 55+ age group has the highest number of seafarers (17%) supporting the anecdotal evidence of the ageing workforce in the maritime industry.
Table 12: Location of person at time of injury 1998–99 to 2002–03

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>On Duty on the ship</td>
<td>180</td>
<td>135</td>
<td>164</td>
<td>135</td>
<td>122</td>
</tr>
<tr>
<td>On Duty on the ship on break</td>
<td>0</td>
<td>4</td>
<td>2</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>On Duty away from the ship</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Off Duty on the ship</td>
<td>27</td>
<td>4</td>
<td>7</td>
<td>9</td>
<td>14</td>
</tr>
<tr>
<td>Off Duty away from the ship</td>
<td>0</td>
<td>3</td>
<td>3</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Travelling to or from a ship</td>
<td>1</td>
<td>4</td>
<td>2</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Travelling to or from a training facility</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>Study</td>
<td>2</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Other</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>211</td>
<td>157</td>
<td>180</td>
<td>152</td>
<td>145</td>
</tr>
</tbody>
</table>

Source: AMICA

Table 12 indicates that 130 or 89.7% of accepted claims occurred on duty (including journey claims and claims while studying) and that 15 or 10.3% of accepted claims occurred off duty in 2002–03. Of the 130 claims occurring on duty, three were journey claims and one occurred during study. The number of off duty claims in 2002–03 represents an increase in the proportion of off duty claims relative to 2001–02, from 7% to 10%.
Figure 11 shows that during 2002–03 there has been a decrease in injuries in deck spaces, reversing a pattern of increase in injuries in these areas of ships over previous years. However, there is a corresponding increase in injuries in the machinery spaces, galley, gangway/pilot and stairs areas of ships.

Source: AMICA
Figure 12 indicates that the parts of a seafarer’s body most likely to be subject to injury are the trunk, upper limbs and lower limbs. In 2002–03 most injuries occurred to the lower limbs of seafarers, with a corresponding decline in injuries in the upper limbs compared to previous years.

Source: AMICA
Figure 13: Accepted claims by mechanism of injury 1998–99 to 2002–03

Figure 13 shows that falls, slips and trips injuries were the most prevalent mechanism of injury in 2002–03, and that this type of injury has risen since 2001–02. Falls, slips and trips is followed by body stressing and being hit by moving object, both of which have declined relative to 2000–1 and 2001–02. Biological factors (for example, fungal invasions, viral infections) were a less significant cause of injuries in 2002–03 relative to 2001–02, as was mental stress.

Source: AMICA

Maritime employers are adopting better methods to minimise injury in circumstances involving heavy lifting in confined spaces.
Sprains and strains continue to be the major injury type and have risen relative to 2001–02. However, most other injury types have declined relative to 2001–02.

Falls, slips and trips remain one of the highest causes of workplace compensable injuries in the Australian maritime industry.
4.5.6 Claims and injury management performance

Table 13: Period of incapacity for time lost claims (accepted claims) 1998–99 to 2002–03

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>3 months or less</td>
<td>156</td>
<td>115</td>
<td>127</td>
<td>103</td>
<td>101</td>
</tr>
<tr>
<td></td>
<td>73.9%</td>
<td>73.2%</td>
<td>70.6%</td>
<td>70.1%</td>
<td>69.6%</td>
</tr>
<tr>
<td>3-6 months</td>
<td>28</td>
<td>20</td>
<td>23</td>
<td>19</td>
<td>24</td>
</tr>
<tr>
<td></td>
<td>13.3%</td>
<td>12.7%</td>
<td>12.8%</td>
<td>12.9%</td>
<td>16.5%</td>
</tr>
<tr>
<td>6-12 months</td>
<td>12</td>
<td>6</td>
<td>18</td>
<td>14</td>
<td>6</td>
</tr>
<tr>
<td></td>
<td>5.7%</td>
<td>3.8%</td>
<td>10%</td>
<td>9.5%</td>
<td>4.1%</td>
</tr>
<tr>
<td>Greater than 12 months</td>
<td>13</td>
<td>14</td>
<td>11</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>6.2%</td>
<td>8.9%</td>
<td>6.1%</td>
<td>2.7%</td>
<td>0.7%</td>
</tr>
<tr>
<td>Continuing incapacity</td>
<td>2</td>
<td>2</td>
<td>1</td>
<td>12</td>
<td>13</td>
</tr>
<tr>
<td></td>
<td>0.9%</td>
<td>1.3%</td>
<td>0.6%</td>
<td>8.2%</td>
<td>9.0%</td>
</tr>
<tr>
<td>Total</td>
<td>211</td>
<td>157</td>
<td>180</td>
<td>147</td>
<td>145</td>
</tr>
<tr>
<td></td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
</tbody>
</table>

Source: AMICA

Table 13 indicates that there is a continuing modest decline in the proportion of seafarers whose incapacity lasts for less than three months, falling from 73.9% in 1998–99 to 69.6% in 2002–03, suggesting that the period of incapacity is on the increase. Given that the date of extraction for 2002–03 data is 14 July 2003, it is not possible to reliably use 2002–03 data in relation to incapacity beyond three months. Care should be taken when comparing past years’ data with the current year because it is not clear what may emerge in relation to claims lodged in the last three to six months of the current year. Noting the data reliability issue, and examining the years prior to 2002–03, Table 13 shows that the proportion of claimants who are incapacitated from three to six months is high at around 13%, a figure which appears relatively constant over time. Again, excluding 2002–03 data, the 2000–01 and 2001–02 data shows a higher number of claims (around 10%) are lasting from six to 12 months. The low number of continuing claims in a scheme which is designed to provide continuing benefits suggests that claims are being settled as a means of minimising long tail claims.

One conclusion which can be drawn from the preceding data is that while the total number of seafarer compensation claims is decreasing, the period of incapacity appears to be increasing, over the reporting period. This may add significant costs to the Seacare workers’ compensation scheme.

There are 30 claimants who lodged a claim over the past five years who were in receipt of incapacity payments at 30 June 2003.
Table 14: Seafarer days lost 1998–99 to 2002–03

<table>
<thead>
<tr>
<th>Year</th>
<th>1998-99</th>
<th>1999-00</th>
<th>2000-01</th>
<th>2001-02</th>
<th>2002-03</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998-99</td>
<td>11 069</td>
<td>16 657</td>
<td>18 117</td>
<td>19 134</td>
<td>19 643</td>
</tr>
<tr>
<td></td>
<td>(5 588)</td>
<td>(1 460)</td>
<td>(1 017)</td>
<td>(509)</td>
<td></td>
</tr>
<tr>
<td>1999-00</td>
<td>8 996</td>
<td>14 861</td>
<td>17 571</td>
<td>18 642</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(5 865)</td>
<td>(2 710)</td>
<td>(1 071)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2000-01</td>
<td>11 324</td>
<td>16 018</td>
<td>17 036</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(4 694)</td>
<td>(1 018)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2001-02</td>
<td>11 877</td>
<td>16 623</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(4 746)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2002-03</td>
<td></td>
<td>7 995</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>11 069</td>
<td>14 584</td>
<td>18 649</td>
<td>20 298</td>
<td>15 339</td>
</tr>
<tr>
<td>Seafarers</td>
<td>3 530</td>
<td>2 800</td>
<td>2 895</td>
<td>3 152</td>
<td>3 355</td>
</tr>
<tr>
<td>Days lost per seafarer in each year</td>
<td>3.14</td>
<td>3.21</td>
<td>3.91</td>
<td>3.77</td>
<td>2.38</td>
</tr>
<tr>
<td>Days lost per seafarer (cumulative)</td>
<td>3.14</td>
<td>5.21</td>
<td>6.44</td>
<td>6.44</td>
<td>4.57</td>
</tr>
</tbody>
</table>

Source: AMICA
Note: The figures across the table are cumulative. The actual days lost in the following year from previous year claims are the figures shown in brackets.

Table 14 indicates that while the total number of days lost from all injured seafarers has remained relatively constant over most of the previous four years, there has been a marked decline in 2002–03, to 7 995 days lost from injuries in 2002–03. The result is that the days lost per seafarer has fallen from 3.77 in 2001-02 to 2.38 in 2002-03, a decline of 36.9%. Also, for the first time over the reporting period the cumulative number of days lost from injuries in each of the reporting years has declined, relative to previous years. This points to the potential for a significant decline in the cost of claims.

One interpretation of the relative constancy in days lost over time, at least until 2002–03 (fluctuating from a low of 3.14 to a high of 3.91 over the previous four years) is that claims of six to twelve months duration and long tail claims (claims of one year’s duration or more) are continuing to contribute to the relatively high number of days lost per seafarer. The relative constancy has occurred notwithstanding the general decline in injury rates over that period. Long tail claims are most likely the major contributing factor to days lost.
Figure 15: Days lost per seafarer 1998–99 to 2002–03

Source: AMICA and Seacare Authority

Figure 15 indicates that there is a downward trend in lost days per seafarer over the period 1999–00 to 2002–03.

Given the hazardous working environment, the reduction in days lost per seafarer indicates the commitment of the industry to improving occupational health and safety.
Table 15: Active or continuing claims, 1998–99 to 2002–03

<table>
<thead>
<tr>
<th>Year claim commenced</th>
<th>Active or continuing claims at 30 June 2002 from the year specified</th>
<th>Percentage change over previous year</th>
<th>Accepted claims</th>
<th>Percentage claims active or continuing as a proportion of accepted claims</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998-99</td>
<td>2</td>
<td>0%</td>
<td>211</td>
<td>0.9%</td>
</tr>
<tr>
<td>1999-00</td>
<td>2</td>
<td>0%</td>
<td>157</td>
<td>1.3%</td>
</tr>
<tr>
<td>2000-01</td>
<td>1</td>
<td>-100%</td>
<td>180</td>
<td>0.5%</td>
</tr>
<tr>
<td>2001-02</td>
<td>12</td>
<td>100%</td>
<td>152</td>
<td>7.9%</td>
</tr>
<tr>
<td>2002-03</td>
<td>13</td>
<td>8.3%</td>
<td>145</td>
<td>9.0%</td>
</tr>
<tr>
<td>Total (over five years)</td>
<td>30</td>
<td></td>
<td>845</td>
<td>3.6%</td>
</tr>
</tbody>
</table>

Source: AMICA

Table 15 indicates that there are 30 active or continuing claims at 30 June 2003 from the last five years, which represents 3.6% of all accepted claims reported to AMICA over that period. This underscores the importance of actively supporting claimants and seeking rehabilitation/return to work options for claimants with a continuing incapacity to work.

Table 16: Cost of claims 1998–99 to 2002–03

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1998–99</td>
<td>2 909 500</td>
<td>215 541</td>
<td>259 136</td>
<td>169 550</td>
<td>92 055</td>
<td>3 645 782</td>
</tr>
<tr>
<td>1999–00</td>
<td>1 615 375</td>
<td>775 022</td>
<td>658 487</td>
<td>242 664</td>
<td>291 548</td>
<td>3 291 548</td>
</tr>
<tr>
<td>2000–01</td>
<td>1 960 041</td>
<td>1 517 477</td>
<td>471 617</td>
<td>3 949 135</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2001–02</td>
<td>2 184 085</td>
<td>1 115 724</td>
<td>3 299 809</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2002–03</td>
<td>2 007 549</td>
<td>2 007 549</td>
<td>2 007 549</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total $</td>
<td>2 909 500</td>
<td>1 830 916</td>
<td>2 994 199</td>
<td>4 529 599</td>
<td>3 929 609</td>
<td>16 193 823</td>
</tr>
</tbody>
</table>

Source: AMICA

Note: Costs include:

(i) payments to employees and/or dependants such as weekly payments;
(ii) payments for goods and services such as medical and hospital treatment, rehabilitation expenses, travelling expenses and property loss; and
(iii) non compensation payments such as investigation expenses, some legal costs, medico-legal reports.

Costs not included are: some legal costs associated with disputed claims, AAT costs which are met from Commonwealth appropriations, and some settlements.
Table 16 indicates that claims over the past five years have cost the industry $16.19 million (down from $18.78 million for the five years to June 2002). There has been a decrease from $2.18 million to $2.01 million in claim costs from 2001–02 to 2002–03, though claim costs for both the last two years are higher than 2000–01, by $1.96 million. The total cost during 2002–03 of all claims over the past five years is $3.93 million, down from $4.44 million for the five year period to 30 June 2002.

If the insurance premium pool data identified by Taylor Fry for the Authority for 1999–00, 2000–01 and 2001–02 of $6.95 million, $8.64 million and $9.73 million respectively is indicative of the five year reporting period it suggests that approximately $42.20 million in premiums has been paid over the last five years to help offset claim costs for which the insurer has responsibility (because such claims exceed the policy excess). While the full cost of insurer claims costs are not available at the time of reporting, insurers reported that the cost of long tail claims (claims of one or more years duration) to insurers over the five year period to 30 June 2002 was $7.44 million (excluding legal costs and settlement costs). Premiums are assessed on the basis of present and future liabilities, so care needs to be taken when comparing premium income with insurer payments, at any particular time, as future claim costs (future liabilities) can escalate.

4.5.7 Dispute resolution in the Seacare scheme

Reviewable decisions by the AAT

The AAT is the second tier review for seafarer disputed claims (the first tier is reconsiderations by the employer). The AAT review process usually operates as follows. Firstly, an AAT conference is held to enable applicants to discuss with their employer and an AAT member or conference registrar (an AAT official), why they think the employer determination is wrong. The conference gives the parties an opportunity to agree to what the decision should be. If at the end of the conference process a matter has not been settled, then a compulsory conciliation conference will be listed. If the matter fails to settle at a conciliation conference, the matter will proceed to a hearing unless both parties and the AAT agree that a mediation should be held. In 2002–03, 66 conferences were held involving seafarer matters, 21 conciliation conferences were conducted and 11 matters were heard by the AAT.
<table>
<thead>
<tr>
<th>Table 17: Outcome of AAT review of decisions 1998–99 to 2002–03</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1998–99</strong></td>
</tr>
<tr>
<td>Undetermined matters brought forward from previous years</td>
</tr>
<tr>
<td>New matters recorded by AAT for review of reviewable decisions</td>
</tr>
<tr>
<td>Matters resolved by consent or withdrawn</td>
</tr>
<tr>
<td>Matters heard and employer’s decision affirmed</td>
</tr>
<tr>
<td>Matters heard and employer’s decision set aside</td>
</tr>
<tr>
<td>Matters heard and varied</td>
</tr>
<tr>
<td>Matters heard and remitted to employer</td>
</tr>
<tr>
<td>Decision set aside by consent</td>
</tr>
<tr>
<td>Decision varied by consent</td>
</tr>
<tr>
<td>Decision dismissed as non-reviewable</td>
</tr>
<tr>
<td>Matters where there is no jurisdiction</td>
</tr>
<tr>
<td>Other</td>
</tr>
<tr>
<td>• Dismissed at request of applicant</td>
</tr>
<tr>
<td>• Dismissed by consent or withdrawn</td>
</tr>
<tr>
<td>• Dismissed for non appearance</td>
</tr>
<tr>
<td>Matters undetermined at 30 June</td>
</tr>
<tr>
<td>Number of conferences</td>
</tr>
<tr>
<td>Number of conciliation conferences</td>
</tr>
<tr>
<td>Average time taken from lodgement to decision (days)</td>
</tr>
</tbody>
</table>

*Source: AAT*
Table 17 shows that in 2002-03, 43 applications were resolved in some way by the AAT. Of those, the employer’s original decision was upheld in 18 or 42% of cases; 12 or 28% of matters were set aside; nine or 21% were dismissed at the request of the applicant or by consent, three or 7% of cases were varied by consent; and in one or 2% of cases, there was no jurisdiction.

The total number of claims reported to AMICA in 2002-03 was 163. In 2002-03, 37 new applications were made to the AAT for review of a decision. The number of applications relative to claims made is a useful indicator of the propensity to use the AAT. Using this analysis, 23% of claims made by seafarers resulted in an application to the AAT for a review of a decision, compared to 28% in 2001-02. Table 17 indicates the consistently high proportion of claims referred to the AAT for consideration over the past five years. Table 18 below compares the Seacare and Comcare dispute rate, noting that both schemes have a similar legislative and reviewable decisions structure.

In 2002-03, the time taken from lodgement of a claim with the AAT to a decision took on average 476 days. By comparison, under the Comcare scheme, which operates in the same tribunal, the average time taken from lodgement to decision in 2002-03 was 322 days.

This report does not contain an Appendix reporting on significant tribunal and court decision relevant to Seacare scheme legislation, as has appeared in previous years. While a number of cases were concluded during the financial year, none were considered to raise significant issues in relation to scheme legislation. A list of references to tribunal and court decisions involving Seacare scheme legislation is nevertheless available from the Seacare Authority website at www.seacare.gov.au.
Table 18: Comparison of Seacare scheme and Comcare dispute rate (number of applications to AAT as a proportion of claims)

<table>
<thead>
<tr>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Seacare scheme</td>
<td>31.3%</td>
<td>35.1%</td>
<td>32.5%</td>
<td>28.0%</td>
<td>23.0%</td>
</tr>
<tr>
<td>Comcare</td>
<td>6.1%</td>
<td>7.1%</td>
<td>9.3%</td>
<td>12.7%</td>
<td>12.1%</td>
</tr>
</tbody>
</table>

Source: Seacare Authority and Comcare
Note: Comcare data includes both AAT applications and reconsiderations (Seacare uses only AAT applications ("disputes")). Comcare also uses accepted claims, not all claims, as does Seacare. This explains at least part of the difference in the dispute rates. The dispute rate for Comcare for 2001–02, as reported in the 5th CPM report, is 27%, compared to Seacare at 28%.

The use of the AAT by seafarers suggests that claimant prospects for a favorable decision are perceived to be high, or alternatively, the employer processes in considering claims are not working satisfactorily, resulting in applications to the AAT as a substitute for strong claims management at the enterprise level. It is not uncommon for an employer to exercise their statutory right to not make a determination within the statutory timeframe, which in effect is a denial of liability for the claim. In such circumstances an employee is entitled to seek an AAT review of what is in effect a decision to reject the claim.

In 12 or 28% of cases in 2002–03 applicants had a decision set aside or varied. This relatively low rate of variation suggests that although a high number of seafarers are applying to the AAT to have decisions reviewed, the data does not suggest a particularly high rate of success.
Reconsiderations by employers

Under subsection 78(4) of the Seafarers Act an employer must, upon receipt of a request by an employee for a reconsideration of a determination (of a claim), arrange for an industry panel, or for a Comcare officer, to assist in reconsidering a determination made about a claim for compensation. This review is tier one of a two-tier review process under the Seafarers Act. As there are no industry panels established pursuant to section 78 of the Seafarers Act, Comcare conducts all such reviews for employers. In 2002–03 Comcare reviewed 19 such cases, involving eight maritime employers. In 100% of cases, the Comcare recommendation was to affirm the employer determination.

Figure 16 indicates that Comcare reviews as a percentage of claims lodged have declined over the period 1998–99 to 2002–03, while AAT reviews seem to be showing the same trend 12 months later. Given that on average it takes 476 days from the time of lodgement of a claim with the AAT to a decision to be made the delay in AAT trends is expected.
While it would be expected that there would be a lower number of tier two reviews (in that some disputes would be resolved at the tier one stage) the data [as represented in Figure 16] shows the contrary. The key explanations for this are first, that AAT matters can arise from claims made in earlier financial years so the application year will not necessarily match reconsiderations arising from claims lodged in a particular financial year; and second, AAT matters can arise from decisions other than an employee requested reconsideration eg an employer initiated reconsideration which does not require a Comcare assisted review, or can arise from an employer decision to refuse a request for additional time to complete the request for a reconsideration i.e. the AAT matter arises from a procedural issue associated with the operation of section 78 of the Seafarers Act. AAT matters can also arise from the application of section 91 of the Seafarers Act (cost of proceedings before AAT).

### 4.5.8 Rehabilitation/Return to Work performance — using claims data

#### Table 19: Rehabilitation and return to work 1998–99 to 2002–03

<table>
<thead>
<tr>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Accepted Claims</td>
<td>211</td>
<td>157</td>
<td>180</td>
<td>152</td>
<td>145</td>
</tr>
<tr>
<td>Claims of 28 days or more</td>
<td>127</td>
<td>91</td>
<td>112</td>
<td>96</td>
<td>85</td>
</tr>
<tr>
<td>Number of claimants assessed for a rehabilitation program</td>
<td>27</td>
<td>60</td>
<td>49</td>
<td>14</td>
<td>24</td>
</tr>
<tr>
<td>Number of claimants commencing a rehabilitation program</td>
<td>24</td>
<td>35</td>
<td>41</td>
<td>13</td>
<td>17</td>
</tr>
<tr>
<td>Number of claimants commencing a rehabilitation program and who returned to work</td>
<td>7</td>
<td>21</td>
<td>33</td>
<td>6</td>
<td>12</td>
</tr>
</tbody>
</table>

Source: AMICA

Table 19 indicates that in 2002–03 there were 85 (58.6%) of claimants who were eligible for assessment of their capability of undertaking a rehabilitation program, that is, the data shows 85 claimants had an injury which lasted 28 days or more. However, of those 85 eligible claimants, only 24 or 28.2% were assessed by employers for their capability of undertaking a rehabilitation program in 2002–03 — suggesting there was non compliance with section 49 of the Seafarers Act in 71.8% of cases. Of the 24 who were assessed as capable of undertaking a rehabilitation program, only 17 or 20% of eligible claimants commenced a rehabilitation program.

Table 19 also indicates that of those assessed, some 70.8% have commenced a rehabilitation program, and 50% of those commencing rehabilitation, returned to work.
Table 20: Period of the rehabilitation program, where rehabilitation is finalised 1998–99 to 2002–03

<table>
<thead>
<tr>
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<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>3 months or less</td>
<td>13</td>
<td>17</td>
<td>2</td>
<td>4</td>
<td>8</td>
</tr>
<tr>
<td>3–6 months</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td>6–12 months</td>
<td>3</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>Greater than 12 months</td>
<td>5</td>
<td>13</td>
<td>11</td>
<td>5</td>
<td>0</td>
</tr>
<tr>
<td>Total</td>
<td>24</td>
<td>35</td>
<td>41</td>
<td>13</td>
<td>17</td>
</tr>
</tbody>
</table>

Continuing rehabilitation | 2 | 7 | 6 | 5 | 4 |

Source: AMICA

Table 20 shows that while the most prevalent length of rehabilitation programs in 2002–03 are those of up to three months duration, a number are continuing for quite lengthy periods, perhaps involving retraining. However, a considerable number of programs appear to have durations of between six months up to more than 12 months, though it cannot be ascertained from the data as to whether the longer programs are resulting in successful and durable return to work.

Table 21: Nature of duties on return to work 1998–99 to 2002–03

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Full duties</td>
<td>NA</td>
<td>78</td>
<td>133</td>
<td>82</td>
<td>94</td>
</tr>
<tr>
<td>Light duties</td>
<td>NA</td>
<td>13</td>
<td>9</td>
<td>10</td>
<td>6</td>
</tr>
<tr>
<td>Same position</td>
<td>NA</td>
<td>83</td>
<td>136</td>
<td>84</td>
<td>93</td>
</tr>
<tr>
<td>Other position</td>
<td>NA</td>
<td>6</td>
<td>6</td>
<td>7</td>
<td>7</td>
</tr>
<tr>
<td>Full time</td>
<td>NA</td>
<td>88</td>
<td>138</td>
<td>82</td>
<td>98</td>
</tr>
<tr>
<td>Part time</td>
<td>NA</td>
<td>1</td>
<td>3</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Ship</td>
<td>NA</td>
<td>85</td>
<td>137</td>
<td>84</td>
<td>94</td>
</tr>
<tr>
<td>Land</td>
<td>NA</td>
<td>4</td>
<td>5</td>
<td>8</td>
<td>6</td>
</tr>
</tbody>
</table>

Source: AMICA

Table 21 indicates that the majority of seafarers return to the same position on full duties when they return to work after injury. The data nevertheless indicates that some graduated return to work opportunities (presumably in a supernumerary position or on a laid up ship) are being found for returning seafarers as part of the rehabilitation process and that some land based employment options are also being used to assist recovery and return to work.
4.5.9 Rehabilitation and return to work — using ARTW Monitor data

The ARTW Monitor 2002–03 reports on a survey of 2,966 injured workers in Australian and New Zealand workers’ compensation schemes. It aims to establish a national/international benchmark for measuring RTW and durability of RTW across Australian and New Zealand workers’ compensation schemes. Seacare scheme data was included in the ARTW Monitor for the first time in 2001–02.

Injured seafarers are interviewed by phone in four survey waves each year in August, November, February and May. Those seafarers who lodged a claim in the seven to nine months prior to the survey month, who had more than 10 days compensation paid and who had not participated in a previous survey are identified by AMICA for confidential interview. In 2001–02, 30 such seafarers were interviewed, a response rate of 35.7% of the cohort (84).

A range of survey questions was asked of seafarers to ascertain their perceptions about the way their compensation claim was managed, and their rehabilitation and return to work experience. Some of the key findings which compare Seacare scheme performance with national outcomes are reported below:

- the return to work rate in the Seacare scheme of 77% [87% in 2001–02] is below the national average of 83% (unchanged from 2001–02), and is the lowest of any scheme in Australia;
- the durable return to work rate (i.e. the seafarer has remained back at work following a return to work) in the Seacare scheme is 67% [73% in 2001–02], below the national average of 73% (unchanged from 2001–02), and is the lowest of any scheme in Australia;
- only 17% of Seacare scheme employees were still receiving workers’ compensation payments at the time of the interview [18% in 2001–02], below the national average of 24% [25% in 2001–02]. As a low percentage is desirable, it suggests that injury duration is generally less than six months and that return to work is durable in the Seacare scheme;
- Seacare scheme injured employees are very likely to return to the same employer following a return to work. 96% [88% in 2001–02] reported returning to the same employer compared to the national average of 83% [85% in 2001–02]. This is the highest rate of any Australian scheme;

The highly specialised nature of shipping operations requires innovative solutions to maximise return to work options for injured seafarers.
• 87% of Seacare scheme workers (90% in 2001–02) returned to the same duties following an injury compared to the national average of 75% (74% in 2001–02). This is the highest of any scheme in Australia and probably reflects the fitness for duty requirements of the industry, the peculiarities of seagoing work and the specificity of seagoing occupations;

• Seacare scheme employees reported the highest identification with the importance of the workplace, and felt well valued by their employer;

• Seacare scheme employees indicated a high level of ease of access to information in making a compensation claim at 83% (87% in 2001–02), compared to the national average of 81% (77% in 2001–02), possibly due to the self-contained nature of the workplace;

• Seacare scheme employees reported the highest rate of having lodged a previous claim, at 58% (13% in 2001–02), compared to the national average of 38% (32% in 2001–02). Given the large variation in outcome over two years, it is difficult to determine a trend;

• of Seacare scheme employees not working at the time of the survey interview, 91% reported that they were still injured (68% in 2001–02) and 21% had left their employment (26% in 2001–02) and none had been retrenched (6% in 2001–02). These results are broadly consistent with the pattern across all schemes;

• Seacare scheme employees reported the lowest involvement in development of a rehabilitation program of any scheme in Australia, at 17% (16% in 2001–02), compared to the national average of 49% (47% in 2001–02);

• of those who did have a rehabilitation program, 77% indicated employee involvement in development of the program (87% in 2001–02), compared to the national average of 79% (81% in 2001–02), and 59% indicated the rehabilitation program was helpful (52% in 2001–02), compared to the national average of 72% (74% in 2001–02);

• 81% of Seacare scheme employees reported feeling ready to return to work when they returned (88% in 2001–02), compared to the national average of 73% (unchanged), though only 68% indicated they were given suitable duties on return to work (77% in 2001–02), compared to the national average of 77% (78% in 2001–02);

• of the assistance provided to seafarers in returning to work, the most help came from the seafarers own initiative (the highest of any scheme, suggesting that seafarers need to be resourceful given their isolation from professional assistance), their doctor, physiotherapists and other allied health professionals, rehabilitation providers, with work related assistance ranking the lowest help;
• Seacare scheme employees reported by far the lowest partial or graduated return to work of any scheme, at 4% (5% in 2001-02) compared to the national average of 23% (25% on 2001-02) – the next lowest being NSW at 20%. This undoubtedly reflects the lack of access to graduated return to work opportunities for seafarers;

• the average (mean) cost per claim by seafarers interviewed was $14,717, compared to the Australian average of $10,102;

• the average (mean) cost of rehabilitation of seafarers was $809 compared to the Australian average of $1,718.

Selected tables developed from data reported in the ARTW Monitor 2002–03 of August 2003 are reproduced below.

Figure 17: Seacare comparative return to work performance

Source: Seacare and ARTW Monitor

Figure 17 shows that the Seacare scheme return to work rate has fallen relative to 2001-02, is below the Seacare Authority’s benchmark established in 2000-01 and is below the national average for 2002-03.
Figure 18: Seacare comparative durable return to work performance

Source: Seacare and ARTW Monitor

Figure 18 shows that durable RTW in the Seacare scheme has fallen relative to the Seacare Authority’s 2000–01 benchmark and relative to 2001–02. Durable RTW in the Seacare scheme is also lower than the national average and suggests that durable return to work in the Seacare scheme is volatile.

The isolated nature of shipping activity poses large challenges to employers in seeking graduated return to work opportunities for injured seafarers.
Figure 19: Seacare comparative graduated RTW

Source: Seacare and Australasian Return to Work Monitor, Campbell Research & Consulting

Figure 19 shows a slight deterioration in graduated or partial RTW in the Seacare scheme compared to 2001-02, though the rate remains above the 2000-01 benchmark established by the Seacare Authority. However, the graduated RTW rate remains well below the national average of 23%.
Figure 20: Development of a rehabilitation program

Source: Seacare and ARTW Monitor

Figure 20 shows that rehabilitation programs do not appear to be a significant feature of seafarer return to work arrangements. While there has been a very slight improvement over 2001-02, the Seacare scheme is well behind the national average on this measure.
4.5.10 Seacare Authority rehabilitation and return to work benchmarks for the maritime industry

In November 2001 the Authority agreed on six benchmarks against which to monitor rehabilitation and return to work performance in the maritime industry, as part of implementation of a rehabilitation and return to work strategy for the industry.

The benchmarks and benchmark measures, along with performance against those benchmarks at 30 June 2002, are set out in Table 22. Benchmarks one and two are derived from Seacare data. They were determined on the basis of average 1999–00 and 2000–01 performance, while benchmarks three to six are derived from the Australasian Return to Work Monitor results for the Seacare scheme for 2000–01.

Table 22: Seacare Authority rehabilitation and return to work benchmarks and performance against those benchmarks – 2002–03

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Number of claimants assessed as capable of undergoing a rehabilitation program relative to the number of eligible claimants i.e. claims involving incapacity of 28 days or more (an average of performance over the two previous years)</td>
<td>52%</td>
<td>27.9%</td>
<td>28.2%</td>
</tr>
<tr>
<td>Source: Seacare Authority Annual Report Table 19</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Number of claimants commencing a rehabilitation program relative to those assessed as capable of undertaking a rehabilitation program (an average of performance over the two previous years)</td>
<td>60%</td>
<td>85.9%</td>
<td>70.8%</td>
</tr>
<tr>
<td>Source: Seacare Authority Annual Report Table 19</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Return to work</td>
<td>79%</td>
<td>87%</td>
<td>77%</td>
</tr>
<tr>
<td>Source: ARTW Monitor</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Durable return to work</td>
<td>74%</td>
<td>73%</td>
<td>67%</td>
</tr>
<tr>
<td>Source: ARTW Monitor</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Partial or graduated return to work</td>
<td>2%</td>
<td>5%</td>
<td>4%</td>
</tr>
<tr>
<td>Source: ARTW Monitor</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Seafarer perception of the usefulness of the return to work (rehabilitation) program</td>
<td>47%</td>
<td>52%</td>
<td>59%</td>
</tr>
<tr>
<td>Source: Seacare Authority and Australasian Return to Work Monitor, Campbell Research &amp; Consulting</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Table 22 indicates that the number of claimants who have been assessed as capable of undergoing a rehabilitation program relative to the total population eligible to be so assessed (28.2%), while slightly improved over 2001–02 (27.9%), remains well below the Seacare benchmark of 52%. There has also been a fall in the number of claimants commencing rehabilitation relative to those assessed, but the outcome nevertheless remains above the Seacare Authority benchmark. The return to work rate and durable return to work rate have both fallen and are below the Seacare Authority benchmark.

### 4.5.11 Long tail claims

Table 23 below contains details of long tail claims, defined as those claims that have received more than one year’s weekly compensation payments that were active during each of the last five years.

**Table 23: Number and cost of long tail claims 1997–98 to 2001–02**

<table>
<thead>
<tr>
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<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of long tail claims</td>
<td>85</td>
<td>87</td>
<td>80</td>
<td>62</td>
<td>88</td>
</tr>
<tr>
<td>Cost of claims</td>
<td>$1 435 543</td>
<td>$1 371 255</td>
<td>$2 377 166</td>
<td>$1 422 652</td>
<td>$2 061 903</td>
</tr>
</tbody>
</table>

*Source: Taylor Fry Pty Ltd report to Seacare Authority of August 2003*

*Note: As this data is collected as part of CPM reporting, the data is one year behind most Annual Report reporting.*

The average duration of long tail claims being supported by both major scheme insurers is 2.27 years. An analysis of the long tail data shows that the longest duration long tail claim since commencement of the scheme has been 7.85 years. The data suggests that the design of the scheme, which potentially provides for very long tail claims, has not resulted in a large number of long duration claims, though there are nevertheless a high number of long tail claims which are adding extensively to costs in the scheme.
4.5.12 Insurance premiums data (for the five years to 30 June 2002)

In late 2002 the Seacare Authority engaged Taylor Fry to collect comprehensive Seacare premium data from insurers for 2001–02. Taylor Fry obtained comprehensive data from all Seacare scheme insurers.

The data collected revealed an average raw premium level of 3.56% based on a wages pool of $273.3million. It also revealed that some $9.73million was collected in premiums from the industry in 2001–02. These results are summarised in Table 24 below.

The Seacare Authority commissioned Taylor Fry to calculate an adjustment to the raw premium to convert it to a five day deductible (excess) equivalent (a five day deductible or excess being the most common deductible across Australian workers’ compensation schemes). The five day deductible premium rate using the Taylor Fry conversion is 6.19% for 2001-02. Taylor Fry also undertook a premium standardisation process to account for different industry mixes across workers’ compensation schemes (see explanation of standardisation at page 116). Using this adjustment, the Seacare scheme standardised premium is 3.95% in 2001-02.

The data provided by insurers for 2001–02 was based on earned premiums, including adjustments to burning costs policies, which provides a more accurate picture of premiums than reporting deposit premiums only, which has been the basis of premium reporting in previous years.

Table 24: Seacare premiums data 1999–00 to 2001–02

<table>
<thead>
<tr>
<th></th>
<th>Seacare 1999–00</th>
<th>Seacare 2000–01</th>
<th>% change</th>
<th>Seacare 2001–02</th>
<th>% change</th>
<th>Aust Av 2001–02</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average raw premium rate</td>
<td>3.48%</td>
<td>4.12%</td>
<td>+18.39%</td>
<td>3.56%</td>
<td>-13.6%</td>
<td>2.40%</td>
</tr>
<tr>
<td>Average 5 day deductible premium rate</td>
<td>6.43%</td>
<td>6.64%</td>
<td>+3.27%</td>
<td>6.19%</td>
<td>-6.8%</td>
<td>2.48%</td>
</tr>
<tr>
<td>Average premium rate — standardised for industry mix (excluding GST)</td>
<td>2.42%</td>
<td>4.61%</td>
<td>+90.50%</td>
<td>3.95%</td>
<td>-14.3%</td>
<td>2.47%</td>
</tr>
<tr>
<td>Average premium rate — standardised for industry mix (including GST)</td>
<td>NA</td>
<td>5.07%</td>
<td>NA</td>
<td>4.38%</td>
<td>-13.6%</td>
<td>2.67%</td>
</tr>
<tr>
<td>Wages pool</td>
<td>$6 951 000</td>
<td>$8 636 000</td>
<td>+24.2%</td>
<td>$9 730 000</td>
<td>+12.7%</td>
<td>NA</td>
</tr>
<tr>
<td>Premium collected</td>
<td>$199 843 000</td>
<td>$209 679 000</td>
<td>+4.9%</td>
<td>$273 328 000</td>
<td>+30.3%</td>
<td>NA</td>
</tr>
</tbody>
</table>

Table 24 shows a fall in premium rate between 2000–01 and 2001–02 of 13.6%. The key explanation for the fall in the premium rate is that the premium rates on offer by insurers have not been fully adjusted by insurers to match the increased wages pool (remuneration) which increased by 12.7% over the year, i.e. the insurers have apparently been able to recoup required premium income using a lower premium rate given the increase in the wages pool. Improved data arising from the Teekay consolidation of its insurance arrangements upon gaining responsibility for former BHP Billiton ships may also have a slight impact on the premium result reported in this report. In addition, some employers are accepting higher excesses as a means of reducing or maintaining premium rates, while more employers are taking burning cost policies, i.e. they are demonstrating confidence in their own prevention strategies to minimise injury and hence claims costs, which is being reflected in the premium rate.

The nature of shipping and the unpredictability of operating conditions will continue to influence the insurance risk and the cost of workers’ compensation.
Table 25: Numbers of policies in premium rate bands 1999–00 to 2001–02

<table>
<thead>
<tr>
<th>Premium band</th>
<th>Number of policies</th>
<th>1999-00</th>
<th>%</th>
<th>Number of policies</th>
<th>2000-01</th>
<th>%</th>
<th>Number of policies</th>
<th>2001-02</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt;1%</td>
<td>2</td>
<td>6.45</td>
<td>2</td>
<td>4.88</td>
<td>3</td>
<td>6.25</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1-2%</td>
<td>1</td>
<td>3.23</td>
<td>4</td>
<td>9.76</td>
<td>4</td>
<td>8.3</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2-3%</td>
<td>5</td>
<td>16.13</td>
<td>3</td>
<td>7.32</td>
<td>4</td>
<td>8.3</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3-4%</td>
<td>6</td>
<td>19.35</td>
<td>5</td>
<td>12.20</td>
<td>7</td>
<td>14.58</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4-5%</td>
<td>6</td>
<td>19.35</td>
<td>8</td>
<td>19.51</td>
<td>7</td>
<td>14.58</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5-6%</td>
<td>4</td>
<td>12.90</td>
<td>4</td>
<td>9.76</td>
<td>3</td>
<td>6.25</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6-7%</td>
<td>1</td>
<td>3.23</td>
<td>3</td>
<td>7.32</td>
<td>5</td>
<td>10.42</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7-8%</td>
<td>2</td>
<td>6.45</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>4.17</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8-9%</td>
<td>1</td>
<td>3.23</td>
<td>0</td>
<td>0</td>
<td>3</td>
<td>6.25</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9-10%</td>
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<td>0</td>
<td>2</td>
<td>4.88</td>
<td>2</td>
<td>4.17</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>&gt;10%</td>
<td>3</td>
<td>9.68</td>
<td>10</td>
<td>24.39</td>
<td>8</td>
<td>16.67</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>31</strong></td>
<td><strong>41</strong></td>
<td><strong>48</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: Taylor Fry Pty Ltd reports to Seacare Authority of March 2001, March 2002 and May 2003

The data in Table 25 shows the number of policies in each premium band from <1% to >10%. It indicates that in 2001–02 the majority of policies fall in the zero to five per cent range (52%), while 48% of policies are in the six percent to 10%+ range. This contrasts to 2000–01 where the majority of policies (58%) fell in the zero to six percent range, confirming the fall in the premium rate over the year ending 30 June 2002.

Taylor Fry also obtained comprehensive data on the excesses negotiated by Seacare scheme employers in seafarer workers’ compensation insurance policies, and on the extent of identified burning cost policies. A summary of the range of employer excesses and policies based on burning costs is contained in Table 26.
Table 26: Seacare scheme - employer insurance excesses 1999–00 to 2001–02

<table>
<thead>
<tr>
<th>Excess range</th>
<th>Policies</th>
<th>Cost burners</th>
<th>Total</th>
<th>Policies</th>
<th>Cost burners</th>
<th>Total</th>
<th>Policies</th>
<th>Cost burners</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>4</td>
<td>0</td>
<td>4</td>
<td>7</td>
<td>1</td>
<td>8</td>
<td>4</td>
<td>2</td>
<td>6</td>
</tr>
<tr>
<td>$2 500</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>$5 000</td>
<td>2</td>
<td>1</td>
<td>3</td>
<td>2</td>
<td>1</td>
<td>3</td>
<td>1</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>$10 000</td>
<td>10</td>
<td>1</td>
<td>11</td>
<td>10</td>
<td>2</td>
<td>12</td>
<td>13</td>
<td>2</td>
<td>15</td>
</tr>
<tr>
<td>$20 000</td>
<td>2</td>
<td>0</td>
<td>2</td>
<td>2</td>
<td>0</td>
<td>2</td>
<td>2</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>$25 000</td>
<td>4</td>
<td>1</td>
<td>5</td>
<td>4</td>
<td>1</td>
<td>5</td>
<td>4</td>
<td>1</td>
<td>5</td>
</tr>
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<td>$35 000</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>0</td>
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<td>1</td>
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<td>1</td>
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<tr>
<td>$50 000</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>0</td>
<td>2</td>
<td>2</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>$70 000</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>0</td>
<td>2</td>
<td>2</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>$75 000</td>
<td>2</td>
<td>0</td>
<td>2</td>
<td>2</td>
<td>0</td>
<td>2</td>
<td>3</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>&gt;$100 000</td>
<td>2</td>
<td>0</td>
<td>2</td>
<td>2</td>
<td>0</td>
<td>2</td>
<td>3</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>28</td>
<td>3</td>
<td>31</td>
<td>36</td>
<td>5</td>
<td>41</td>
<td>42</td>
<td>6</td>
<td>48</td>
</tr>
</tbody>
</table>

Source: Taylor Fry Pty Ltd reports to Seacare Authority of March 2001, March 2002 and May 2003

Table 26 shows that of the 48 policies reported in 2001–02, 24 or 50% contained an excess of $10 000 or less, while 16 or 33% contained excesses of $50 000 or more. Table 26 also shows that there are a higher number of policies with an excess of around $50 000 relative to the previous year. The median is in the $10 000 band. The relatively high excesses in the Seacare scheme appear to be reducing the actual premium paid by employers because in many cases, claims are being met directly by the employer with no call on the insurance policy, i.e. the risk is being shifted to the employer.

This proposition is supported by anecdotal evidence from Seacare scheme employers which indicates that the principal mechanism utilised by employers to reduce the cost of their workers’ compensation insurance has been to progressively increase the employer excess. The result is that only a small percentage of accepted compensation claims are being referred to insurers for payment against a policy. Taylor Fry consider that some characteristics of the Seacare scheme are similar to self-insurance.
4.6 Seacare scheme OHS and workers’ compensation performance relative to other schemes/industries

4.6.1 Comparative OHS

To better understand the relative performance of the Seacare scheme, this annual report contains data from the 5th national CPM report which provides a comparative analysis of OHS, workers’ compensation and return to work performance across Australian and New Zealand schemes. While the main comparison is with other schemes, such as NSW WorkCover, some industry comparisons are also available. Comparing the Seacare scheme, which covers only one sector of industry, with other schemes which cover a wide range of industry sectors and occupations has its limitations, but nevertheless provides a useful national picture of Seacare scheme comparative performance.

Comparing the Seacare scheme with other high-risk industries such as mining and construction, and with the transport and storage industry as a whole, provides strong indicators of comparative performance.

Readers should note that compensation claims data used in CPM reports until the 2003 report exclude disease related claims as classified using the National Data Set (NDS) data specifications for workers’ compensation statistics and coding of claims under the Type of Occurrence Classification System (TOOCS). However, the 5th CPM report includes both injury and disease claims for years 2000–01 and 2001–02, for the Seacare scheme, for the first time.

Disease covers a wide range of ailments including diseases of the nervous system, diseases of the respiratory system (e.g. asthma), diseases of the skin (e.g. dermatitis), diseases of the digestive system (e.g. hernias), infectious and parasitic diseases, neoplasms (i.e. cancers and benign tumours) and psychological illness. Also, the CPM report does not include claims involving less than one week being compensated. Even though off duty claims are included in CPM claims data used in this section of the annual report (the Seacare scheme covers seafarers when on board the ship but off duty), such claims represent approximately 10% of claims and make little statistical difference to the performance reports.

Seacare scheme injury claim numbers used for CPM reporting purposes distinguish injury and disease claims. Claim numbers in the 5th CPM report, for years 2000–01 and 2001–02, include disease claims, whereas claim numbers used in other sections of this annual report include disease claims for all reporting years. The CPM and Seacare claim numbers are reported here (Seacare figures in brackets): 1997-98: 232 (356); 1998-99: 154 (211); 1999–00: 105 (157); 2000–01: 101 (180); and 2001–02: 76 (147). In 2001–02, 76 claims represent 51.7% of all accepted claims.
Figure 21: Incidence of injury and disease (number of injuries/diseases per 1000 employees) resulting in one week or more days compensated (off work), by jurisdiction 1997–98 to 2001–02, CPM data

Figure 21 shows that the Seacare scheme incidence rate for both injuries and diseases (and combined) is the highest of any scheme in Australia in each of the five years of CPM reporting, though the dramatic fall in the injury incidence rate has continued in 2001–02. Whereas the injury incidence rate was over twice the national average in 2000–01 it is now only 70% higher. The rate of decline in the Seacare scheme injury incidence rate is unmatched in any other Australian scheme, noting that it was more than three times the national average just four years ago. Section 2.5.2 in Chapter 2 of this report outlines initiatives taken by the Seacare Authority to reduce injuries, and hence the injury and disease incidence rate.

Source: 5th CPM Report 2003
Figure 22: Frequency of injury and disease (number of injuries/diseases per 1,000,000 hours worked) resulting in one week or more days compensated (off work) 1997–98 to 2001–02, CPM data

Figure 22 shows that the Seacare scheme frequency rate for injuries is also the highest of any scheme in Australia. Although the Seacare disease frequency rate is equal highest with South Australia, and the combined injury and disease frequency rate is the highest of any scheme, the dramatic fall in the injury frequency rate has continued in 2001–02. Whereas the injury frequency rate was 65% higher than the national average in 2000–01 it is now only 38% higher. Section 2.5.2 in Chapter 2 of this report outlines initiatives taken by the Seacare Authority to reduce injuries, and hence the injury and disease frequency rate.

Source: 5th CPM Report 2003
For the first time since CPM reporting commenced, the maritime industry (as represented by the Seacare scheme) does not exhibit the highest injury incidence rate of any industry in Australia. In 2001–02 the maritime industry shows a better injury incidence rate than transport and storage, mining and construction. However, the disease incidence rate remains the highest of any industry.

Source: 5th CPM Report 2003
For the first time since CPM reporting commenced, the maritime industry (as represented by the Seacare scheme) does not exhibit the highest injury frequency rate of any industry in Australia. In 2001–02 the maritime industry shows a better injury frequency rate than the transport and storage, construction, manufacturing and agriculture, forestry and fishing industries. However, the disease frequency rate remains the highest of any industry.
### 4.6.2 Workers’ compensation premiums

Table 27: Australian schemes — 2001–02 average premium rates

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Insured 2</th>
<th>Exclude super 3</th>
<th>5 day deductible 4</th>
<th>Include self-insurers 5</th>
<th>Standardised 6 (excluding GST)</th>
<th>Standardised 7 (including GST)</th>
<th>Change in standardised rates 2000/01 to 2001/02 8</th>
</tr>
</thead>
<tbody>
<tr>
<td>NSW 9 10</td>
<td>2.96%</td>
<td>2.96%</td>
<td>2.96%</td>
<td>3.00%</td>
<td>3.06%</td>
<td>3.29%</td>
<td>6.03%</td>
</tr>
<tr>
<td>Vic</td>
<td>2.25%</td>
<td>2.45%</td>
<td>2.49%</td>
<td>2.38%</td>
<td>2.43%</td>
<td>2.65%</td>
<td>-0.07%</td>
</tr>
<tr>
<td>Qld 9 11</td>
<td>1.55%</td>
<td>1.55%</td>
<td>1.55%</td>
<td>1.60%</td>
<td>1.48%</td>
<td>1.61%</td>
<td>9.71%</td>
</tr>
<tr>
<td>WA 12</td>
<td>2.63%</td>
<td>2.63%</td>
<td>2.60%</td>
<td>2.59%</td>
<td>2.42%</td>
<td>2.63%</td>
<td>-4.26%</td>
</tr>
<tr>
<td>SA</td>
<td>2.58%</td>
<td>2.82%</td>
<td>2.84%</td>
<td>2.37%</td>
<td>2.21%</td>
<td>2.37%</td>
<td>-6.72%</td>
</tr>
<tr>
<td>Tas</td>
<td>3.13%</td>
<td>3.13%</td>
<td>3.13%</td>
<td>2.82%</td>
<td>2.53%</td>
<td>2.76%</td>
<td>-3.21%</td>
</tr>
<tr>
<td>NT 9</td>
<td>3.10%</td>
<td>3.10%</td>
<td>3.07%</td>
<td>2.55%</td>
<td>2.46%</td>
<td>2.68%</td>
<td>1.45%</td>
</tr>
<tr>
<td>ACT Private 9</td>
<td>3.07%</td>
<td>3.07%</td>
<td>3.04%</td>
<td>3.03%</td>
<td>3.59%</td>
<td>3.94%</td>
<td>24.57%</td>
</tr>
<tr>
<td>ACT GS 9</td>
<td>3.06%</td>
<td>3.06%</td>
<td>3.03%</td>
<td>3.03%</td>
<td>3.89%</td>
<td>4.36%</td>
<td>5.77%</td>
</tr>
<tr>
<td>C/wealth 9</td>
<td>0.91%</td>
<td>0.91%</td>
<td>0.88%</td>
<td>1.09%</td>
<td>1.44%</td>
<td>1.56%</td>
<td>-6.64%</td>
</tr>
<tr>
<td>ADF 9</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>4.08%</td>
<td>4.71%</td>
<td>4.86%</td>
</tr>
<tr>
<td>Seacare 9</td>
<td>3.56%</td>
<td>3.56%</td>
<td>6.19%</td>
<td>6.19%</td>
<td>3.95%</td>
<td>4.38%</td>
<td>-14.30%</td>
</tr>
<tr>
<td>Australia</td>
<td>2.40%</td>
<td>2.47%</td>
<td>2.48%</td>
<td>2.47%</td>
<td>2.47%</td>
<td>2.67%</td>
<td>1.66%</td>
</tr>
<tr>
<td>NZ</td>
<td>0.92%</td>
<td>0.92%</td>
<td>0.92%</td>
<td>0.93%</td>
<td>0.86%</td>
<td>0.94%</td>
<td>-24.32%</td>
</tr>
</tbody>
</table>

Source: 5th National Comparative Performance Monitoring Report

Notes:
1. For policies that were issued or provided coverage during 2001-02.
2. Average premium rate for insured employers only, excluding GST.
3. Average premium rate for insured employers only and excluding superannuation from remuneration and GST.
4. Average premium rate for insured employers only, excluding superannuation and GST and adjusted to a common five-day deductible rate.
5. Average premium rate for insured employers only, excluding superannuation and GST, adjusted to a common five-day deductible rate and including self-insurers.
6. Average premium rate including self-insurers, excluding superannuation and GST, adjusted to a common five-day deductible rate and based on standard industry mix.
7. Includes GST paid on premiums by insured employers. Self-insurers do not pay a premium and therefore, no allowance for GST paid on premiums is included for self-insured employers.
8. The change in standardised rates from 2000–01 to 2001–02 reflects changes in the cost of premium, but also the effect of changes in industry mixes within each jurisdiction.
9. Includes journey claims.
10. Revised 2000-01 data. The NSW average premium rates also include the dust diseases levies which are not part of the WorkCover NSW scheme but are payable by employers in that State.
11. Includes stamp duty levied at a rate of 5% of the premium including GST.
12. Includes stamp duty levied at a rate of 3% of the premium including GST. A small number of large employers will pay stamp duty at a rate of 5% of the GST inclusive premium. Prior to 2001/02, stamp duty was levied at a rate of 5%.
Table 27 indicates that the Seacare scheme average raw premium rate of 3.56% and five day deductible premium rate of 6.19% is the highest of any workers’ compensation scheme in Australia. However, the Seacare standardised premium rate of 3.95% is below that of the Australian Defence Force (ADF) and compares favourably with the Australian Capital Territory (ACT) public and private sectors and with New South Wales (NSW).

However, Seacare also recorded by far the highest reduction in the average (standardised) premium rate compared to 2000–01 of any Australian scheme (a 14.3% reduction). Another interesting observation is that the Seacare scheme standardised premium rate of 3.95% is only slightly higher than the standardised premium rate for transport and storage as a whole (3.77%), noting that this industry sector as a whole contains all occupations, eg white collar or low risk occupations. Also, the standardised average premium rate is increasing for the transport and storage industry as a whole (from 3.41% in 1997-98 to 3.77% in 2001-02), while it has reduced in Seacare.

Standard industry mix — the standardisation factor — based on 2000–01 data

The standard industry mix identified in column six of Table 27 above and footnote six above is a statistical adjustment method used to account for particular characteristics of statistical populations so that valid comparisons can be made across particular populations. In the case of premiums across different workers’ compensation schemes, some of which have higher proportions of high risk occupations, for example, large mining industries, or a high proportion of low risk occupations, for example, Commonwealth employment, the standardisation process evens out known variations to enable valid comparisons.

The standardisation method applied to the Seacare scheme compares the transport and storage industry premium rate for the Seacare scheme (which is also the unstandardised rate for the Seacare scheme) to the Australian average in the same industry, as follows: the Australian average premium rate in transport and storage is 3.48%. The Seacare premium rate in transport and storage (and hence the unstandardised Seacare scheme premium rate, in 2000–01) is 6.64%. This is 1.91 times the Australian average rate in the transport and storage industry (the same industry division). Therefore, it is assumed that on average Seacare scheme premiums are 1.91 times the Australian average premium rate in the same industry division. Hence, the standardised rate for the Seacare scheme is 1.91 times the Australian average rate over all industries ie 1.91 times the Australian average of 2.42% = 4.61% (3.95% in 2001–02).
4.6.3 Workers’ compensation – disputation

This is the first year that the Seacare disputation data has been included in the CPM report. The key observations which can be derived from this section of the CPM report are that the Seacare scheme:

- has the highest disputation rate (a dispute against the employer decision which is referred to a formal review tribunal, i.e. the AAT) of any scheme (28% compared to the Australian average of 14%). Comcare, which operates under similar legislative arrangements, has a dispute rate of 27%;

- has the second highest legal cost per dispute, at $21,470 per dispute (ACT private sector is higher at $23,650), which compares to the national average of $10,360; and

- has the highest legal costs as a percentage of total claims costs of any scheme (32%, compared to the Australian average of 10%).

These outcomes are illustrated in Figures 25, 26 and 27 below.
Figure 25: Disputation rate — Australian compensation schemes 1998–99 to 2001–02

Source: 5th CPM Report 2003
Figure 26: Average legal cost per dispute — Australian compensation schemes 1998–99 to 2001–02

Source: 5th CPM Report 2003
Figure 27: Average dispute overheads – Australian compensation schemes 1998–99 to 2001–02

Source: 5th CPM Report 2003
APPENDIX 1: SELECTED DATA TABLES

Part A: Incident data reported to AMSA

Table 28: Incidents by location on ship 1998–99 to 2002–03

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Deck/cargo spaces</td>
<td>26</td>
<td>36</td>
<td>19</td>
<td>24</td>
<td>32</td>
</tr>
<tr>
<td>Machinery Spaces</td>
<td>11</td>
<td>12</td>
<td>17</td>
<td>13</td>
<td>15</td>
</tr>
<tr>
<td>Accommodation Block</td>
<td>15</td>
<td>8</td>
<td>8</td>
<td>6</td>
<td>12</td>
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<tr>
<td>Other</td>
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<td>4</td>
<td>4</td>
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<tr>
<td>Galley</td>
<td>5</td>
<td>4</td>
<td>4</td>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td>Gangway/Pilot Ladder</td>
<td>1</td>
<td>3</td>
<td>4</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td>Wharf</td>
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<td>1</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Unknown</td>
<td>0</td>
<td>3</td>
<td>4</td>
<td>3</td>
<td>9</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>64</strong></td>
<td><strong>70</strong></td>
<td><strong>61</strong></td>
<td><strong>56</strong></td>
<td><strong>78</strong></td>
</tr>
</tbody>
</table>

Table 29: Incidents by ship type 1998–99 to 2002–03

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Tanker - Oil</td>
<td>4</td>
<td>7</td>
<td>11</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Tanker - Gas</td>
<td>3</td>
<td>2</td>
<td>4</td>
<td>4</td>
<td>7</td>
</tr>
<tr>
<td>Tanker - Chemical</td>
<td>0</td>
<td>5</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Tanker - Other</td>
<td>9</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td>Dry Cargo - Containers</td>
<td>1</td>
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<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Dry Cargo - RO/RO</td>
<td>9</td>
<td>7</td>
<td>5</td>
<td>5</td>
<td>2</td>
</tr>
<tr>
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<td>5</td>
<td>1</td>
<td>1</td>
<td>9</td>
</tr>
<tr>
<td>Offshore - Support</td>
<td>6</td>
<td>3</td>
<td>4</td>
<td>1</td>
<td>3</td>
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<tr>
<td>General cargo</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
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</tr>
<tr>
<td>Bulk Carrier</td>
<td>27</td>
<td>39</td>
<td>32</td>
<td>26</td>
<td>30</td>
</tr>
<tr>
<td>Other</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>10</td>
<td>1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>64</strong></td>
<td><strong>70</strong></td>
<td><strong>61</strong></td>
<td><strong>56</strong></td>
<td><strong>65</strong></td>
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</table>
### Table 30: Accepted claims by location on ship 1998–99 to 2002–03

<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td>Accommodation Block</td>
<td>34</td>
<td>18</td>
<td>14</td>
<td>13</td>
<td>17</td>
</tr>
<tr>
<td>Bridge</td>
<td>0</td>
<td>2</td>
<td>3</td>
<td>3</td>
<td>4</td>
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<tr>
<td>Deck Spaces</td>
<td>90</td>
<td>60</td>
<td>65</td>
<td>75</td>
<td>48</td>
</tr>
<tr>
<td>Gailey</td>
<td>20</td>
<td>11</td>
<td>19</td>
<td>12</td>
<td>15</td>
</tr>
<tr>
<td>Gangway/Pilot</td>
<td>3</td>
<td>5</td>
<td>5</td>
<td>1</td>
<td>7</td>
</tr>
<tr>
<td>Location not relevant</td>
<td>27</td>
<td>11</td>
<td>5</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Machinery Spaces</td>
<td>37</td>
<td>39</td>
<td>51</td>
<td>33</td>
<td>37</td>
</tr>
<tr>
<td>Not on Ship</td>
<td>0</td>
<td>1</td>
<td>5</td>
<td>6</td>
<td>7</td>
</tr>
<tr>
<td>Stairs — External</td>
<td>0</td>
<td>2</td>
<td>3</td>
<td>0</td>
<td>4</td>
</tr>
<tr>
<td>Stairs — Internal</td>
<td>0</td>
<td>6</td>
<td>8</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>Wharf</td>
<td>0</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>211</strong></td>
<td><strong>157</strong></td>
<td><strong>180</strong></td>
<td><strong>152</strong></td>
<td><strong>145</strong></td>
</tr>
</tbody>
</table>

### Table 31: Accepted claims by mechanism of injury 1998–99 to 2002–03

<table>
<thead>
<tr>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Falls, Trips and Slips</td>
<td>53</td>
<td>35</td>
<td>47</td>
<td>42</td>
<td>53</td>
</tr>
<tr>
<td>Hitting Objects with Body</td>
<td>21</td>
<td>21</td>
<td>12</td>
<td>15</td>
<td>9</td>
</tr>
<tr>
<td>Hit by Moving Object</td>
<td>34</td>
<td>27</td>
<td>27</td>
<td>29</td>
<td>23</td>
</tr>
<tr>
<td>Sound and Pressure</td>
<td>2</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Body Stressing</td>
<td>70</td>
<td>54</td>
<td>79</td>
<td>54</td>
<td>46</td>
</tr>
<tr>
<td>Heat, radiation and Electricity</td>
<td>3</td>
<td>4</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Chemical and Other Substances</td>
<td>3</td>
<td>1</td>
<td>3</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Biological Factors</td>
<td>5</td>
<td>4</td>
<td>3</td>
<td>5</td>
<td>2</td>
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<tr>
<td>Mental Stress</td>
<td>3</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Other and unspecified</td>
<td>17</td>
<td>9</td>
<td>8</td>
<td>4</td>
<td>10</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>211</strong></td>
<td><strong>157</strong></td>
<td><strong>180</strong></td>
<td><strong>152</strong></td>
<td><strong>145</strong></td>
</tr>
</tbody>
</table>
Table 32: Accepted claims by body location 1998–99 to 2002–03

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Head and Neck</td>
<td>17</td>
<td>11</td>
<td>13</td>
<td>15</td>
<td>11</td>
</tr>
<tr>
<td>Trunk</td>
<td>60</td>
<td>46</td>
<td>55</td>
<td>48</td>
<td>45</td>
</tr>
<tr>
<td>Upper Limbs</td>
<td>61</td>
<td>53</td>
<td>61</td>
<td>55</td>
<td>38</td>
</tr>
<tr>
<td>Lower Limbs</td>
<td>54</td>
<td>37</td>
<td>47</td>
<td>28</td>
<td>48</td>
</tr>
<tr>
<td>Multiple</td>
<td>8</td>
<td>8</td>
<td>1</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Systemic</td>
<td>5</td>
<td>1</td>
<td>2</td>
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<tr>
<td>Other</td>
<td>6</td>
<td>1</td>
<td>1</td>
<td>4</td>
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</tr>
<tr>
<td>Total</td>
<td>211</td>
<td>157</td>
<td>180</td>
<td>152</td>
<td>145</td>
</tr>
</tbody>
</table>

Table 33: Accepted claims by injury/disease type 1998–99 to 2002–03

<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>Fractures</td>
<td>30</td>
<td>24</td>
<td>29</td>
<td>20</td>
<td>20</td>
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<tr>
<td>Sprains and strains</td>
<td>99</td>
<td>76</td>
<td>92</td>
<td>62</td>
<td>80</td>
</tr>
<tr>
<td>Other Injury and Poisoning</td>
<td>49</td>
<td>34</td>
<td>31</td>
<td>39</td>
<td>23</td>
</tr>
<tr>
<td>Disease - musculoskeletal/connective tissue</td>
<td>7</td>
<td>2</td>
<td>11</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>Hernia</td>
<td>8</td>
<td>11</td>
<td>9</td>
<td>14</td>
<td>10</td>
</tr>
<tr>
<td>Disease - all other</td>
<td>18</td>
<td>10</td>
<td>8</td>
<td>11</td>
<td>6</td>
</tr>
<tr>
<td>Total</td>
<td>211</td>
<td>157</td>
<td>180</td>
<td>152</td>
<td>145</td>
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</tbody>
</table>
APPENDIX 2: SEACARE AUTHORITY PUBLICATIONS AVAILABLE DURING 2002–03

Notices to maritime industry organisations and other interested parties issued during 2002–03

04/2002  Maximum Level of Benefits [July 2002]
05/2002  Maximum Level of Benefits [September 2002]
06/2002  Maximum Level of Benefits [November 2002]
01/2003  Maximum Level of Benefits [March 2003]
02/2003  Maximum Level of Benefits [June 2003]
03/2003  Indexation — Increase in Benefits from 1 July 2003 [June 2003]

Brochures

Brochure 1  Employee Rights and Responsibilities [July 2002]
Brochure 2  Employer Rights and Responsibilities [June 2000]
Brochure 3  Entitlements under the Seafarers Act [January 2001]
Brochure 4  Occupational Health and Safety [July 2002]
Brochure 5  Rehabilitation and Return to Work [January 2001]

Seacare Authority Quarterly Reports

02/2002  Outcomes of Seacare Authority meeting 40 of 21 May 2002 and Meeting 41 of 13 June 2002

Seacare News

12/2002  Issue 1 — Includes outcomes of Seacare Meeting 44 of 19 November 2002
03/2003  Issue 2 — Includes outcomes of Seacare Meeting 45 of 19 February 2003
06/2003  Issue 3 — Includes outcomes of Seacare Meeting 46 of 21 May 2003
## Forms

<table>
<thead>
<tr>
<th>Name of Form</th>
<th>Form number</th>
<th>Dates</th>
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<tbody>
<tr>
<td>Insurance Arrangements Form</td>
<td>02</td>
<td>Updated January 2001 Issued June 2000</td>
</tr>
<tr>
<td>Claim for Rehabilitation/Compensation</td>
<td>03</td>
<td>Updated March 2001 and March 2002 Issued July 1999</td>
</tr>
<tr>
<td>Insurance Arrangements Form</td>
<td>02</td>
<td>Updated January 2001 Issued June 2000</td>
</tr>
<tr>
<td>Claim for Rehabilitation/Compensation</td>
<td>03</td>
<td>Updated March 2001 and March 2002 Issued July 1999</td>
</tr>
<tr>
<td>Claim for Permanent Impairment and Non-Economic Loss and/or Related Aids</td>
<td>04</td>
<td>Updated March 2002 Issued 1996</td>
</tr>
<tr>
<td>Claim for Compensation by Dependents of Deceased Employees</td>
<td>05</td>
<td>Issued 1997</td>
</tr>
<tr>
<td>OHS Incident Alert Form</td>
<td>06</td>
<td>Issued June 1999</td>
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<tr>
<td>OHS Incident Report Form</td>
<td>07</td>
<td>Issued June 1999</td>
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<tr>
<td>Claim Update Form</td>
<td>08</td>
<td>Updated March 2001 Issued June 2000</td>
</tr>
<tr>
<td>Report on Employee and Ship Details</td>
<td>09</td>
<td>Updated June 2002 and April 2001 Issued June 2000</td>
</tr>
<tr>
<td>Section 20A application for exemption from the application of the Seafarers Rehabilitation and Compensation Act 1992</td>
<td>10</td>
<td>Updated May 2002 and November 2000 Issued June 2000</td>
</tr>
<tr>
<td>Levy and Berths Return</td>
<td>11</td>
<td>Issued 30 June 2002</td>
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</tbody>
</table>
Other Publications

Guidance Note — Coverage under the Seafarers Rehabilitation and Compensation Act 1992 (Seafarers Act)


Seafarers Rehabilitation and Return to Work — A Best Practice Guide for the Australian Shipping Industry — February 2002

Seafarers Rehabilitation and Return to Work — A Short Version of the Best Practice Guide for the Australian Shipping Industry — February 2002

Seafarers Rehabilitation and Return to Work — A Summary of Key Actions Employers can Take to Assist Recovery, Rehabilitation and Return to Work of an Injured Seafarer — February 2002

Seafarers Rehabilitation and Return to Work — PowerPoint Presentation [only available on the Seacare Authority website www.seacare.gov.au]

All of the above publications were issued free of charge and are available from the Authority or from the Seacare Authority website.
Coverage under the
Seafarers Rehabilitation and Compensation Act 1992 (Seafarers Act)

Seafarers Safety, Rehabilitation and Compensation Authority (Seacare Authority)
March 2003

Advice on the application of the Seafarers Act may be obtained from:
Seacare Management Group
Seafarers Safety, Rehabilitation and Compensation Authority
Phone: 02 6275 0070
Email: seacare@comcare.gov.au

Disclaimer
This guidance note is not intended to be a legal document or to provide legal advice. This document is intended to be a guide only as to the application of the Seafarers Rehabilitation and Compensation Act 1992. This document should not be relied on as a complete statement of the law. Persons who may be affected by the application of the Seafarers Act should seek their own legal advice.

Coverage under the Seafarers Rehabilitation and Compensation Act 1992 (Seafarers Act)

Guidance Notes
The application provisions of the Seafarers Rehabilitation and Compensation Act 1992 (Section 19)

19.(1) This Act applies to the employment of employees on a prescribed ship that is engaged in trade or commerce:
   (a) between Australia and places outside Australia; or
   (aa) between 2 places outside Australia; or
   (b) among the States; or
   (c) within a Territory, between a State and a Territory or between 2 Territories.
[1A] In addition, this Act applies to the employment of employees on any prescribed ship that is:

[a] an offshore industry vessel in relation to which a declaration under subsection 8A(2) of the Navigation Act is in force; or

[b] a trading ship in relation to which a declaration under subsection 8AA(2) of that Act is in force.

[2] This Act also has the effect it would have if:

[a] a reference to an employer were limited to a reference to a trading corporation formed within the limits of the Commonwealth; and

[b] a reference to an employee were limited to a reference to an employee employed by a trading corporation formed within the limits of the Commonwealth.

[3] This Act also has the effect it would have if:

[a] a reference to an employer were limited to a reference to a financial corporation formed within the limits of the Commonwealth; and

[b] a reference to an employee were limited to a reference to an employee employed by a financial corporation formed within the limits of the Commonwealth.

[4] This Act also has the effect it would have if:

[a] a reference to an employee were limited to a reference to an employee employed by a foreign corporation; and

[b] a reference to an employee were limited to a reference to an employee employed by a foreign corporation.

[5] Subsection (3) does not have the effect of applying this Act with respect to:

[a] State banking that does not extend beyond the limits of the State concerned; or

[b] State insurance that does not so extend.

Note: The application provisions of the Occupational Health and Safety (Maritime Industry) Act 1993 (Section 6) and the Seafarers Rehabilitation and Compensation Levy Act 1993 (Section 6) are set out at Attachment 1.
Seafarers Act – coverage tests

Test 1: Is there employment of employees\(^1\)? [that is, is there an employer-employee relationship – independent contractor and partnership arrangements must be genuine to fail the employment test].

Note: Section 19 of the Seafarers Act limits references to employer to trading, financial and foreign corporations and references to employees employed by trading, financial and foreign corporations\(^2\).

Test 2: Is the ship\(^3\) a prescribed ship?

Section 3 of the Seafarers Act provides that a prescribed ship means a ship to which Part II of the Navigation Act 1912 (the Navigation Act) applies but does not include a Government ship\(^4\).

Part II of the Navigation Act (refer to section 10 of the Navigation Act) generally applies to\(^5\):

a. a ship registered\(^6\) in Australia; or

b. a ship (other than a ship registered in Australia) engaged in the coasting trade\(^7\); or

c. a ship (other than a ship registered in Australia or engaged in the coasting trade) of which the majority of the crew are residents of Australia and which is operated by\(^8\) any of the following (whether or not in association with any other person, firm or company, being a person, firm or company of any description) namely:

   (i) a person who is a resident of, or has his principal place of business in, Australia;

   (ii) a firm that has its principal place of business in Australia; or

   (iii) a company that is incorporated, or has its principal place of business, in Australia.

Test 3: Is the prescribed ship engaged in trade or commerce\(^9\):

a. between Australia and places outside Australia\(^10\); 

b. between 2 places outside Australia;

c. among the States (inter-State);

d. within a Territory (intra-Territorial);

e. between a State and Territory; or

f. between 2 Territories.

[If the ship is engaged in any of the voyage types described in a–f above, it meets test 3].
If the answer to test 1, and test 2 and test 3 is in the affirmative, then the ship is covered by the Seafarers Act.

Test 4: Is the prescribed ship an offshore industry vessel to which a declaration under subsection 8A(2) of the Navigation Act is in force [a check of the AMSA website at www.amsa.gov.au/ will provide a guide as to whether the ship is so declared]

Test 5: Is the prescribed ship a trading ship to which a declaration under subsection 8AA(2) of the Navigation Act is in force [a check of the AMSA website at www.amsa.gov.au/ will provide a guide as to whether the ship is so declared]

If the answer to tests 1 and 2 is answered in the affirmative AND also either test 4 or test 5 is answered in the affirmative, then the ship will be covered by the Seafarers Act irrespective of whether it meets test 3 above [i.e. irrespective of whether it is engaged in trade or commerce between Australia and places outside Australia, or between 2 places outside Australia, among the States, within a Territory, between a State and Territory or between 2 Territories]. In summary, a ship that is declared under s.8A or s.8AA must also be a prescribed ship to be covered by the Seafarers Act.

Exemptions from the operation of the Seafarers Act

Section 20A of the Seafarers Act provides that the Seacare Authority may exempt the employment on a particular ship of all employees, or a particular group or groups of employees or a particular employee or particular employees from the operation of the Seafarers Act. Regard should be had to the exemption guidelines issued by the Authority which are available from the Seacare website when considering an application for exemption.

An exemption granted under section 20A of the Seafarers Act from the application of that Act does not have the effect of also exempting the ship within the operation of the OHS(MI) Act which may be subject to an exemption must still to comply with the OHS(MI) Act and regulations.
Interpretation Section

1 Employee is defined in section 4 of the Seafarers Act to mean a seafarer or trainee or a person (other than a trainee), although ordinarily employed or engaged as a seafarer, is not so employed or engaged but is required under an award to attend a Seafarers Engagement Centre for the purposes of registering availability for employment or engagement on a prescribed ship (the Seafarers Engagement Centres were phased out in 1998).

A seafarer means a person employed in any capacity on a prescribed ship on the business of the ship, other than: (a) a pilot; (b) a person temporarily employed on the ship in port; or (c) a person included in the class of persons defined as "special personnel" in Section 283 of the Navigation Act (e.g. scientists, technicians carried on board a ship engaged in research, expeditions or surveys).

Section 283 of the Navigation Act provides that 'special personnel' means persons carried on board a special purpose ship with the knowledge or consent of the owner, agent or master of the ship, other than the master of any other member of the crew of the ship, a pilot, a person temporarily employed on the ship in port or any person included in a class of persons prescribed for paragraph (d) of the definition. Part 50 of the Marine Orders (Order 14 of 1999) prescribes certain ships as special purpose ships for the purposes of section 283 of the Navigation Act. Special purpose ships are prescribed as mechanically self-propelled ships which, by reason of their function, carry on board (a) more than 12 special purpose personnel or (b) a combination of passengers and special purpose personnel where the combined total exceeds 12 but the number of passengers does not exceed 12. The Marine Order notes that the combined effect of the provisions in the Marine Order is that "special personnel" are persons employed on the ship in connection with the special purpose of the ship or related special work performed on board the ship. An example of ships that would normally be regarded as special purpose ships are ships engaged in research, expeditions and survey.

2 Section 3 of the Seafarers Act defines a financial corporation to mean a financial corporation within the meaning of Paragraph 51(xx) of the Commonwealth Constitution, a foreign corporation to mean a foreign corporation within the meaning of paragraph 51(xx) of the Constitution and includes a body that is incorporated in an external Territory and a trading corporation to mean a trading corporation within the meaning of paragraph 51(xx) of the Constitution.
3 Section 6 of the Navigation Act defines a **ship** to mean any kind of vessel used in navigation by water, however propelled or moved and includes:

(a) a barge, lighter or other floating vessel *(that is self propelled - see endnote 5 below for the types of ships to which Part II of the Navigation Act does not apply)*;

(b) an air cushion vehicle, or other similar craft, used wholly or primarily in navigation by water; and

(c) an offshore industry mobile unit *(with the exception of those that are not self propelled, and where self propelled, only when being moved)*.

4 Section 3 of the Seafarers Act defines a government ship to mean a ship:

(a) that belongs to the Commonwealth or a State or Territory;

(b) the beneficial interest in which is vested in the Commonwealth or a State or Territory; or

(c) that is for the time being demised or sub-demised to, or in the exclusive possession of, the Commonwealth, a State or a Territory;

and includes a ship that belongs to an arm of the Defence Force, but does not include a ship:

(d) that belongs to a trading corporation that is an authority or agency of the Commonwealth or a State or Territory; or

(e) the beneficial interest in which is vested in such a trading corporation; or

(f) that is for the time being demised or sub-demised to, or in the exclusive possession of a trading corporation; or

(g) that is operated by seafarers supplied (directly or indirectly) by a corporation under a contract with the Commonwealth or a State or Territory.

5 **Part II of the Navigation Act does not apply to** inland waterway vessels, pleasure crafts, barges, lighters or other floating vessels which are not self propelled. However for the purposes of the definition of ‘prescribed ship’ in the Seafarers Act, Part II of the Navigation Act may apply, for example, to fishing vessels and fishing fleet support vessels *(irrespective of the type of voyage they are proceeding on)*.
6 A ship registered in Australia is defined by section 7A of the Navigation Act, which provides that a reference to a ship registered in Australia shall be read as a reference to a ship registered under the Shipping Registration Act 1981 and as including a reference to a ship that is required to be registered under that Act but is not so registered. Reference should also be made to section 8B (ships imported into Australia) and 283G (off-shore industry vessels and mobile units) of the Navigation Act which deems certain ships to be registered in Australia where there are no declarations to the contrary.

7 To determine if a ship is engaged in the coasting trade reference should be made to the definition of ‘coasting trade’ in section 7 of the Navigation Act, which in turn will assist in determining whether a ship is a ‘prescribed ship’ for the purposes of the Seafarers Act. A ship which has a licence to engage in the coasting trade will be a prescribed ship for the purposes of the Seafarers Act. However an unlicensed ship which has been issued with a permit or permission under section 286 of the Navigation Act, whilst engaged in the activities covered by the permit or permission, would not be ‘engaged in the coasting trade’ for the purposes of subsection 10(b) of the Navigation Act.

8 Operated by is not defined in the Seafarers Act or Navigation Act and needs to be given its ordinary meaning.

9 Trade or commerce has a wide meaning. It will be a question of fact in each case as to whether a ship engages in trade or commerce. For example, the interstate transportation of goods or persons for any purpose when done for profit or reward (such as would be involved in tourism operations) would come within the scope of interstate trade or commerce.

10 Australia includes offshore areas to the outer limit of the territorial sea (see section 15B of the Acts Interpretation Act 1901). The outer limit of the territorial sea was established by Proclamation under section 7 of the Seas and Submerged Lands Act 1973 as 12 nautical miles seaward of baselines, also established by Proclamation under section 7 of the Seas and Submerged Lands Act 1973.
Attachment 1

The application provisions of the Occupational Health and Safety (Maritime Industry) Act 1993 (Section 6)

(1) This Act applies in relation to a prescribed ship or prescribed unit that is engaged in trade or commerce:

(a) between Australia and places outside Australia; or

(aa) between 2 places outside Australia; or

(b) between the States; or

(c) within a Territory, between a State and a Territory or between 2 Territories.

(2) Without limiting the operation of subsection (1), this Act applies to:

(a) the operator of a prescribed ship or prescribed unit described in subsection (1); and

(b) employees employed on a prescribed ship or prescribed unit described in subsection (1); and

(c) contractors and other persons working on a prescribed ship or prescribed unit described in subsection (1); and

(d) manufacturers, suppliers and importers of plant used, or substances used or handled, on a prescribed ship or prescribed unit described in subsection (1).

(3) This Act also applies in relation to:

(a) an offshore industry vessel in relation to which a declaration under subsection 8A(2) of the Navigation Act 1912 is in force; and

(b) a trading ship in relation to which a declaration under subsection 8AA(2) of that Act is in force.

(4) Without limiting the operation of subsection (3), this Act applies to:

(a) the operator of a vessel or ship described in subsection (3); and

(b) employees employed on a vessel or ship described in subsection (3); and

(c) contractors and other persons working on a vessel or ship described in subsection (3); and

(d) manufacturers, suppliers and importers of plant used, or substances used or handled on, a vessel or ship described in subsection (3).

(5) Without prejudice to its effect apart from this subsection, this Act also has effect as provided by subsections (6), (7) and (8).
(6) This Act has, by force of this subsection, the effect it would have if:

(a) a reference to an operator were limited to a reference to a trading corporation formed within the limits of the Commonwealth; and

(b) a reference to an employee were limited to a reference to an employee of a trading corporation formed within the limits of the Commonwealth; and

(c) a reference to a contractor were limited to a reference to a contractor working for a trading corporation formed within the limits of the Commonwealth; and

(d) a reference to a manufacturer were limited to a reference to a manufacturer that is a trading corporation formed within the limits of the Commonwealth; and

(e) a reference to a supplier were limited to a reference to a supplier that is a trading corporation formed within the limits of the Commonwealth; and

(f) a reference to a person in sections 22, 23 and 24 were limited to a reference to a person working for a trading corporation formed within the limits of the Commonwealth.

(7) This Act has, by force of this subsection, the effect it would have if:

(a) a reference to an operator were limited to a reference to a financial corporation formed within the limits of the Commonwealth; and

(b) a reference to an employee were limited to a reference to an employee of a financial corporation formed within the limits of the Commonwealth; and

(c) a reference to a contractor were limited to a reference to a contractor working for a financial corporation formed within the limits of the Commonwealth; and

(d) a reference to a person in sections 22, 23 and 24 were limited to a reference to a person working for a financial corporation formed within the limits of the Commonwealth.

(8) This Act has, by force of this subsection, the effect it would have if:

(a) a reference to an operator were limited to a reference to a foreign corporation; and

(b) a reference to an employee were limited to a reference to an employee of a foreign corporation; and

(c) a reference to a contractor were limited to a reference to a contractor working for a foreign corporation; and

(d) a reference to a manufacturer were limited to a reference to a manufacturer that is a foreign corporation; and
(e) a reference to a supplier were limited to a reference to a supplier that is a foreign corporation; and

(f) a reference to a person in sections 22, 23 and 24 were limited to a reference to a person working for a foreign corporation.

(9) This Act does not apply with respect to:

(a) State banking that does not extend beyond the limits of the State concerned; or

(b) State insurance that does not so extend.

**The application provisions of the Seafarers Rehabilitation and Compensation Levy Act 1992 (Section 6)**

6. Levy on Seafarer berths is payable by an employer who employs or engages Seafarers on a prescribed ship.

The Seafarers Rehabilitation and Compensation Levy Act 1992 and the Seafarers Rehabilitation and Compensation Levy Collection Act 1992 apply to employers who employ or engage seafarers on prescribed ships which are subject to the application of the Seafarers Act by reason of section 19 of that Act.
List of abbreviations, acronyms and terms

AAT  Administrative Appeals Tribunal
AMICA  Australian Maritime Industry Compensation Agency Ltd, the trustee for AMICF
AMICF  Australian Maritime Industry Compensation Foundation
AMMA  Australian Mines and Metals Association
AMSA  Australian Maritime Safety Authority
ARTW Monitor  Australasian Return To Work Monitor
ASA  Australian Shipowners Association
BTE  Bureau of Transport Economics
CBR  Crew to berth ratio
CPM  Comparative Performance Monitoring (report)
DEWR  Department of Employment and Workplace Relations
ESD  Employee and Ship Details report – the Seacare scheme employer on-line data reporting system
FMA Act  Financial Management and Accountability Act 1997
FPSO  Floating Production, Storage and Offloading Facility
Frequency rate  The injury frequency rate — a nationally recognised outcome indicator of OHS performance — denoted as the number of workers’ compensation claims per million hours worked
FSC  Flag State Control (inspections)
FTE  Full time equivalent
Hours worked  Hours worked data used throughout the Seacare Authority Annual Report which has been adjusted by employers at the time of reporting to the Seacare Authority to reflect a 12 hour working day in the bluewater sector and a 14 hour working day in the offshore sector, for data comparability purposes
Hours worked [unadjusted]  Hours worked data used in specific section of the Seacare Authority Annual Report which has not been adjusted by employers at the time of reporting to the Seacare Authority – this hours worked data reflects the actual reporting used by each employer, generally reflecting a 24 hour working day for each day a seafarer is on board. The distinctions are important as hours worked is the divisor for establishing the scheme injury frequency rate
HWCA  Heads of Workers’ Compensation Authorities (formerly Heads of Workplace Safety and Compensation Authorities – HWSCA)
<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Incidence rate</td>
<td>The injury incidence rate – a nationally recognised outcome indicator of OHS performance – denoted as the number of workers’ compensation claims per 1 000 employees (seafarers)</td>
</tr>
<tr>
<td>Inspectorate</td>
<td>The OHS Inspectorate managed by AMSA under the OHS(MI) Act</td>
</tr>
<tr>
<td>ISM Code</td>
<td>International Safety Management Code</td>
</tr>
<tr>
<td>Levy Act</td>
<td>Seafarers Rehabilitation and Compensation Levy Act 1992</td>
</tr>
<tr>
<td>Levy Collection Act</td>
<td>Seafarers Rehabilitation and Compensation Levy Collection Act 1992</td>
</tr>
<tr>
<td>Long tail claims</td>
<td>Claims of more than one year duration</td>
</tr>
<tr>
<td>MOU</td>
<td>Memorandum of Understanding</td>
</tr>
<tr>
<td>NDS</td>
<td>National Data Set – a set of nationally agreed data specifications for the supply of workers’ compensation data to NOHSC for CPM reporting and other data reporting purposes</td>
</tr>
<tr>
<td>Navigation Act</td>
<td>Navigation Act 1912</td>
</tr>
<tr>
<td>NOHSC</td>
<td>National Occupational Health and Safety Commission</td>
</tr>
<tr>
<td>OHS</td>
<td>Occupational Health and Safety</td>
</tr>
<tr>
<td>OHS(MI) Act</td>
<td>Occupational Health and Safety (Maritime Industry) Act 1993</td>
</tr>
<tr>
<td>PBS</td>
<td>Portfolio Budget Statement</td>
</tr>
<tr>
<td>PSL Act</td>
<td>Petroleum (Submerged Lands) Act 1967</td>
</tr>
<tr>
<td>RTW</td>
<td>Return to Work</td>
</tr>
<tr>
<td>SMG</td>
<td>Seacare Management Group (the unit supporting the Seacare Authority and the Seacare function)</td>
</tr>
<tr>
<td>Seacare News</td>
<td>The Seacare Authority’s periodic newsletter to stakeholders</td>
</tr>
<tr>
<td>Seafarers Safety</td>
<td>The safety net Fund (the Fund) established by Division 2 of Part 7 of the Seafarers Act</td>
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<td>Seafarers Safety Net Fund</td>
<td>The safety net Fund (the Fund) established by Division 2 of Part 7 of the Seafarers Act</td>
</tr>
<tr>
<td>Seacare</td>
<td>The trading name or abbreviation to describe the Seacare scheme</td>
</tr>
<tr>
<td>Seacare Authority</td>
<td>Seafarers Safety, Rehabilitation and Compensation Authority</td>
</tr>
<tr>
<td>Seacare scheme</td>
<td>The scheme of workers’ compensation, rehabilitation and return to work established by the Seafarers Act, as well as the arrangements for occupational health and safety under the OHS(MI) Act</td>
</tr>
<tr>
<td>Seafarers Act</td>
<td>Seafarers Rehabilitation and Compensation Act 1992</td>
</tr>
</tbody>
</table>
Sea Safe-Work | The Seacare Authority Awards program, recognising outstanding OHS and rehabilitation performance
---|---
SPISIC | Safety Performance Indicators for the Shipping Industry Committee
Taylor Fry | Taylor Fry Pty Ltd (an actuarial consultant contracted to the Seacare Authority)
Tiwi Barge | A decision of the Federal Court in *Tiwi Barge Services Pty Ltd v Julie Anne Stark* [1997] 874 FCA
TOOCS | Types of Occurrence Classification System – a set of nationally agreed specifications for coding of workers’ compensation claims data and OHS incident data
WRMC | Workplace Relations Ministers’ Council
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