

When do I have to make compensation payments?

Compensation must be paid within 30 days after the date that liability is accepted or otherwise determined by the AAT or relevant Court. If you do not pay your employee within the 30 days, interest will be payable on the outstanding amount from that time.

Can I make an employee have a medical examination?

Yes. You can require your employee to be examined by a legally qualified medical practitioner nominated by you. You will be responsible for costs associated with the examination, including travel.

Can I obtain documents from an employee?

Yes. If you are satisfied that the employee has documents relevant to the claim and that copies may be provided without unreasonable expense or inconvenience, you may request copies of the documents by written notice to the employee.

Can I withhold documents from an employee?

No. Where an employee asks, in writing, for documents related to their claim, you must provide these unless you have a good reason. There is a penalty for failing to comply with this requirement.

What are my responsibilities in relation to rehabilitation?

If an injury lasts, or is expected to last 28 days or more and results in incapacity for work or impairment, you must, within 28 days, arrange for the employee to be assessed as to their capacity to undergo rehabilitation. This may include vocational rehabilitation or retraining.

If the employee has participated or is participating in rehabilitation you have a duty to provide them with suitable alternative employment.

Fraudulent claims

Employees who make false claims can be prosecuted under the relevant State or Territory Crimes Act.

How can I contact the Seacare Authority?

You can contact the Authority by:

Telephone: 02-6275 0070

Facsimile: 02-6275 0067

Email: seacare@comcare.gov.au

Website: www.seacare.gov.au

Post: Seacare Authority
GPO Box 9905
CANBERRA ACT 2601

Visit: Level 1, 14 Moore St
CANBERRA ACT (appointments essential)



Australian Government

Seafarers Safety, Rehabilitation
and Compensation Authority

SEAFARERS REHABILITATION AND COMPENSATION ACT 1992

EMPLOYER RIGHTS AND RESPONSIBILITIES

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

What is Seacare?

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

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

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

Who is covered by the Seafarers Act?

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

A 'prescribed ship' is a ship to which Part II of the Navigation Act applies. This includes ships registered in Australia, ships otherwise registered and engaged in the coasting trade, and ships of which the majority of the crew are Australian residents and which are operated by an entity with its principal place of business in Australia.

Exemption from the Seafarers Act

An employer may seek an exemption from the Seafarers Act with respect to a particular employee, group of employees or employees on a particular ship.

A copy of the application form and details of the Authority's exemption policy are available on the Authority's website www.seacare.gov.au. Requests for exemption must be accompanied by written evidence that the employee/s will be covered by a valid and current workers' compensation policy issued under State or NT legislation.

What are your responsibilities as an employer?

If your employees are covered by the Seafarers Act, your broad responsibilities include:

- provision of a safe working environment;
- ensuring that you have a valid and current workers' compensation policy for all of your employees covered by the Seafarers Act;
- providing your employees with access to information about the scheme, including access to brochures and claim forms and ensuring that they are aware of their obligation to report accidents and injuries;
- dealing with claims for compensation within prescribed time frames;
- facilitating rehabilitation and return-to-work for injured workers as early as practicable; and
- providing information to the Seacare Authority, including the provision of claim and rehabilitation details.

What types of benefits are payable under the Seafarers Act?

Employees may be entitled to compensation for:

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

Benefit levels are adjusted from time-to-time and published in *Notices to Maritime Organisations and other interested parties*, which are available on the Authority's website. The brochure on *Entitlements Under the Seafarers Act* is available from the Authority.

When must I make a decision on a claim?

An employer must make a decision on a claim for compensation no later than:

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

The 12, 30 and 60 day time limits above may be extended where, within that limit, you give your employee written notice that they need to supply further information.

If the relevant time limit expires and you have not decided to accept or reject the claim for compensation, you are nevertheless taken to have rejected it.

Your employee may proceed to have the matter reviewed.

Extensions of time to consider and reconsider claims for compensation

Employers may request an extension of time to consider or reconsider a claim for compensation by writing to the Authority. The request must fully state the circumstances concerning and the reasons for the employer's request for a longer period.

As extensions of time must be given to the employer in writing before the expiry of the statutory time limits, we ask that you notify us and forward the request by facsimile on (02) 6275 0067 at the earliest opportunity.

What happens if I want to reject a claim for compensation?

If you reject a claim for compensation, or do not respond within the statutory time limit, the employee can ask you to reconsider your decision.

Where you reject a claim, you must write to the employee to inform them of your decision. The notice should set out the terms and reasons for your decision, and include a statement indicating that the employee can ask you to reconsider the claim.

An employee can ask you to reconsider a claim by writing to you. You may also reconsider a claim on your own initiative.

What should I do if I am asked to reconsider a claim for compensation?

On receiving a request to reconsider a claim, you should arrange for a Comcare Officer or industry panel established under a federal certified agreement to assist with the reconsideration. They will report to you on their views of the merits of your decision based on the available information. (Note: No such industry panel has been established to date.)

Following the report, you must again consider whether to accept the claim. You have 60 days from the date of the request for reconsideration to make your decision. This period may be extended by written request to the Authority.

What happens if I do not accept the Comcare or Industry Panel recommendations?

If you do not accept the Comcare or the industry panel's recommendation, you should write to the employee to notify them of your decision. Your employee may then appeal your decision to the Administrative Appeals Tribunal (AAT).

What is the role of the AAT?

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