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The Hon Kevin Andrews 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 2005.

The Report includes information on the operation of the Seafarers Safety Net Fund following a declaration under section 100 of the Seafarers Act on 10 April 2002 that the Authority has 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 2005.

This Annual Report includes a report on the operation of the Occupational Health and Safety (Maritime Industry) Act 1993 (OHS(MI) Act) and regulations as amended, pursuant to subsection 114(1) of the OHS(MI) Act.

Yours sincerely

Geoff Gronow ESM ED  
Chairperson  
15th September 2005
THE SEACARE AUTHORITY’S MISSION

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 (the OSH(MI) Act)

The objects of the OHS(MI) Act 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.
Minister for Employment and Workplace Relations

Department of Employment and Workplace Relations

Seafarers Safety, Rehabilitation and Compensation Authority

Australian Maritime Safety Authority (OHS Inspectorate)

Seafarer Management Group

Seacare Management Group

AMICA Scheme Data Base

Seafarers

Other Stakeholders
(Employer and industry associations, trade unions, insurers, insurance brokers, lawyers, medical profession, rehabilitation providers, HSR trainers)

Maritime employers/operators (shipping companies)

Employee (seafarers) organisations

Seafarers

Other Stakeholders
(Employer and industry associations, trade unions, insurers, insurance brokers, lawyers, medical profession, rehabilitation providers, HSR trainers)
Legislation administered by the Seacare Authority at 30 June 2005

Enactments administered by the Minister for Employment and Workplace Relations through the Seafarers Safety, Rehabilitation and Compensation Authority, at 30 June 2005:

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

Amendments to Seacare scheme legislation, including regulations

There were no substantive amendments to Seacare scheme legislation during 2004-05.

Related legislative matters arising in 2004-05

There were no consequential amendments made to Seacare scheme legislation in 2004-05.
It gives me great pleasure to report to the Hon Kevin Andrews MP, Minister for Employment and Workplace Relations, the Australian Parliament and the maritime industry on the activities of the Seafarers Safety, Rehabilitation and Compensation Authority (Seacare Authority) for the year ending 30 June 2005. This is my sixth annual report since my appointment as Chairperson in September 1999.

The Seacare scheme is Australia’s only national, industry-based, occupational health and safety and workers’ compensation scheme. It covers seafarers who are maritime industry employees and trainees generally working on prescribed ships engaged in overseas, interstate or intra-territorial trade and commence. The scheme aims to protect and enhance seafarers’ health and safety. Where seafarers are injured it aims to provide for their safe and durable return to work while providing financial security through an efficient and effective scheme of rehabilitation and workers’ compensation. The workers’ compensation scheme is privately underwritten, administered and funded by the scheme’s employers.

During the year, the Minister announced an independent review of the Seacare scheme with broad terms of reference encompassing the scheme’s purpose and objectives, scheme design and coverage, governance and delivery. The conduct of the Review enabled interested persons to make submissions. A fundamental question posed by the Review was whether alternative systems to the existing arrangements would facilitate improved outcomes.

In terms of performance against the scheme’s objectives, I am pleased to report that Seacare has again achieved another year without a work-related fatality. It is now ten years since there was a work-related fatality in the maritime industry covered by the Occupational Health and Safety (Maritime Industry) Act 1993.

I am also pleased to report that on key injury prevention and workers’ compensation indicators the scheme has achieved very encouraging improvements in performance in the year under review, particularly in relation to incidence and frequency of injury measures. Provided the current levels of performance can be maintained, the scheme looks set to achieve the 10 year National OHS Strategy target, being a 40% reduction in the incidence of injuries of one week or more. While workers’ compensation premiums generally increased for 2003-04, the latest year for which premium information is available, it is hoped that the more positive injury performance during 2004-5 will be reflected in lower premium rates in future years.

During the year, the Authority, the industry and employee representatives have worked together to identify the key drivers of the incidence of injury, to propose remedies and to refine strategies to improve performance. One such example of this process was a close analysis of injury data by working parties at the Seacare OHS conference held in November 2004 and continued by the Authority at its planning meeting in February 2005. The Authority has since agreed to supplement its ‘leaders program’ within its OHS strategy by highlighting good performance within the industry, particularly from employers who demonstrate strong safety leadership and commitment, so that assistance and guidance can be provided by the Authority and industry peers where poor performance is identified.
This continues the theme of the Authority’s Sea Safe-Work Awards. Introduced in 2003 and presented again in 2004 following the November OHS Conference, the Awards form an important focal point for Australia’s maritime industry, particularly in recognising and rewarding the best positive initiatives taken by employers, shipping operators, seafarers and their representatives. The 2004 finalists and award winners are to be congratulated, particularly for their efforts and willingness to share their successes and innovations across the industry. The Authority has agreed to continue the Awards on a biennial basis.

Work has continued on the Authority’s commitment to progressively adopt applicable national OHS standards. The Authority, assisted by its OHS Standards Taskforce, proposed to the Minister during the year manual handling regulations and a related code of practice and has commenced reviewing the next priority area of regulation of confined spaces.

The Authority continued to be responsible for management of the Seafarers Safety Net Fund, which provides a safety net for injured seafarers for whom there is no extant employer against which to make a claim. The Authority sought a revised estimate of the Fund’s potential liabilities, taking into account terrorism risks and possible exposure to asbestos related disease claims. While the Fund is still seeking a commercial reinsurer, it is making good progress towards reaching its present reserve target.

The Authority continues to place a high priority on its communications with the industry. The Authority’s cycle of four meetings were again held in Melbourne, Sydney, Canberra and Fremantle. The Sydney meeting was scheduled to coincide with the Authority’s OHS Conference and Sea Safe-Work Awards and an industry briefing was held prior to the Fremantle meeting, to enable as many industry participants as possible to directly communicate with the Authority and to exchange views on key policy and operational issues.

I would once again like to record my appreciation to all Members and Deputy Members of the Authority who continue to demonstrate a strong commitment to making the maritime industry a safer place to work, as well as showing a compassionate approach to the treatment of 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 (AMSA) as the OHS Inspectorate and by the Australian Maritime Industry Compensation Agency (AMICA) as the Seacare scheme claims database manager, and the 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 assisted by the senior executives and other staff in Comcare. I am particularly grateful to Comcare’s CEO and senior executives who represent the Seacare Authority in key national fora such as the Heads of Workers’ Compensation Authorities (HWCA) and Heads of Workplace Safety Authorities (HWSA) meetings.

I commend a study of this report to all persons interested in the Australian maritime industry.

Geoff Gronow ESM ED
Chairperson

September 2005
Seacare Authority – major initiatives in 2004-05

• the Seacare Authority OHS Conference at which the Authority, industry and employee representatives analysed scheme injury data to identify the key drivers of OHS performance, to propose remedies and to consider and propose strategies to improve performance

• the Seacare Authority Sea Safe-Work Awards 2004 recognising and rewarding the best positive initiatives being taken by employers, shipping operators, seafarers, health and safety trainers, and rehabilitation providers to eliminate injuries in the maritime industry and to provide for improved post-injury management

• refinement of the Seacare 'leaders program' to enable good performance within the industry to be highlighted so that assistance and guidance can be provided by the Authority and industry peers where poor performance is identified

• continuation of the Authority's commitment to progressively recommend for the adoption of applicable national OHS standards. The Authority, assisted by its OHS Standards Taskforce, proposed to the Minister during the year manual handling regulations and a code of practice and has commenced reviewing the next priority area of regulation of confined spaces

• improvement to the quality and delivery of Health and Safety Representative (HSR) training by requiring HSR trainers to be registered training organisations (RTO) and for the content of courses to be checked by an Authority sub-committee

• improved management of the Seafarers Safety Net Fund by obtaining updated actuarial advice on a recommended level of reserve for the Fund taking into account exposure of the Fund to terrorism risks and asbestos claims

• continuation of the Authority’s engagement with the maritime industry and its stakeholders including holding its meetings and industry briefings in Australia’s major port cities, publishing its newsletter Seacare News and promoting Sea Safe-Work Day on 28 April 2005

• signing of a Memorandum of Understanding with the National Offshore Petroleum Safety Authority (NOPSA) enabling cooperation and consultation, as required, on OHS matters regarding the offshore petroleum and maritime industries that may affect each other’s roles and responsibilities

• continued participation in the Workplace Relations Ministers’ Council Comparative Performance Monitoring (CPM) Report and the Australia and New Zealand Return to Work Monitor which is prepared for the Heads of Workers’ Compensation Authorities

• introduction of an online employer reporting facility, Seacare Online, to provide employers with an efficient and fast means of meeting their statutory reporting obligations and to provide the Seacare Authority with timely and high-quality scheme information
Overview of the Seacare Scheme 2004-05 – selected statistics

- There were 4,260 employees covered under the *Seafarers Rehabilitation and Compensation Act 1992* (*Seafarers Act*) during the year working for 27 employers. This equates to a full time equivalent (FTE) value of some 3,459 employees (Source: Seacare Authority).

- The number of FTE employees covered under the *Occupational Health and Safety (Maritime Industry) Act 1993* (*OHS(MI) Act*) was 3,371, working for 26 employers (Source: Seacare Authority).

- The employees covered by the Seafarers Act were engaged on 169 ships – 62 (37%) in the bluewater sector, 94 (56%) in the offshore sector and the remaining 13 (7%) in the passenger, fishing, aquaculture and dredging sectors (Source: Seacare Authority).

- The Seacare scheme injury incidence rate for 2004-05, (the number of accepted claims resulting in one or more weeks of incapacity per 1,000 FTE employees), was 22.55, a significant improvement over last year’s rate of 45.66 (Source: Seacare Authority).

- The Seacare scheme injury frequency rate for 2004-05, (the number of accepted claims resulting in one or more weeks of incapacity per million hours worked) was 5.19, also a significant improvement over last year’s frequency of 10.52 (Source: Seacare Authority).

- There were no work-related fatalities in the Seacare scheme in 2004-05, bringing the fatality free period in the Seacare scheme to ten years (Source: Australian Maritime Industry Compensation Agency Ltd (AMICA)).

- There were 48 incidents and one dangerous occurrence reported to the OHS(MI) Act Inspectorate, AMSA, during the year (Source: AMSA).

- AMSA undertook 45 investigations during the year, three of which were in response to incidents reported. AMSA issued nine prohibition and six improvement notices resulting from these investigations (Source: AMSA).

- There were 164 workers’ compensation claims reported to AMICA, a reduction from 208 reported in the previous year. There were 136 claims accepted of which 109 involved lost time. This is well down on the number of accepted claims and accepted claims which involved lost time last year (182; 151) (Source: AMICA).

- Three insurance companies wrote seafarer workers’ compensation business in 2004-05 with most cover being written by two insurers (Source: Seacare Authority).

- The workers’ compensation premium pool or premium income collected by insurers was approximately $13,656,000 in the latest year for which data is available – 2003-04 (Source: Seacare scheme insurers & Taylor Fry Pty Ltd).

- The premium pool in that year was based on a wages/salary pool of approximately $263,400,000 which saw the average raw premium rate across the industry at 5.19% (Source: Seacare scheme insurers & Taylor Fry Pty Ltd).
CHAPTER 1:

THE OPERATIONS OF THE SEAFARERS SAFETY, REHABILITATION AND COMPENSATION AUTHORITY
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 Chief Executive Officer, 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 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
- perform 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 seafarers;
- 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 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 prescribed ships who are engaged in intra-territorial or interstate trade or commerce, 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, or 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 or interstate trade or commerce, or trade or commerce to places, or between places, outside Australia. The OHS(MI) Act also covers prescribed units, being certain offshore industry mobile units (a vessel or structure used in exploring or exploiting the natural resources of the seabed). The OHS(MI) Act does not cover ships that voyage within one state, government ships or vessels to which the Petroleum (Submerged Lands) Act 1967 applies.

The Seafarers Act also applies to employment on prescribed ships where a section 8A (for offshore industry vessels) or 8AA (for trading ships) declaration under the Navigation Act is in force, while the OHS(MI) Act applies to offshore industry vessels where a s8A declaration is in force and to trading ships where a s8AA declaration is in force.

It should be noted that the terms of reference of the independent review of the Seacare Scheme, discussed in the Chairperson’s report, included the impact and merit of alternative coverage provisions relating to employees and prescribed ships under the Seafarers Act and the OSH(MI) Act as well as the relationship of these acts with other legislation, including the Navigation Act 1912, the Petroleum (Submerged Lands) Act 1967 and State and Territory workers’ compensation and OHS schemes.
1.2 Membership of the Authority in 2004-05

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 CEO of the Australian Maritime Safety Authority (AMSA) is an ex-officio appointee to the Authority. Membership of the Authority as at 30 June 2005 was as follows:

Geoff Gronow  
Chairperson

Mr Gronow ESM ED 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 has now served as Chairperson since September 1999 and was reappointed from 1 September 2004.

Noel Swails  
Deputy Chairperson

Mr Swails is Deputy Chief Executive Officer of Comcare. He has been Deputy Chairperson of the Authority since October 2002 and was reappointed from 1 September 2004.

Peter Bremner  
Member

Mr Bremner is General Manager Shipping, CSR Limited. He represents the interests of employers. Mr Bremner's appointment commenced in August 2004.
Mr Hearnden is Manager, Swire Pacific Ship Management (Australia) Pty Ltd. He represents the interests of employers. Mr Hearnden has been a member of the Authority since December 2001 and was reappointed from February 2005.

Mr Byrne is the Assistant Federal Secretary of the Australian Institute of Marine and Power Engineers. He represents the interests of seafarers. Mr Byrne has been a member of the Authority since August 1996 and was reappointed in November 2004.

Mr Doleman is the Assistant National Secretary of the Maritime Union of Australia. He represents the interests of seafarers. Mr Doleman’s appointment commenced in November 2004.

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 2005, the following employer and employee members had appointed a deputy member:

- Mr Peter Bremner appointed Mr Trevor Griffett.
- Mr Mal Hearnden appointed Mr Tony Caccamo.
- Mr Martin Byrne appointed Mr John Wydell.
- Mr Mick Doleman appointed Mr Paddy Crumlin.

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 has appointed Mr Geoff Toomer to act as his deputy.

1.4 Membership Changes during the year

Mr Peter Bremner was appointed as a Member of the Authority on 23 August 2004, replacing Captain Warwick Norman. Mr Mick Doleman was appointed as a Member on 12 November 2004 replacing Mr Paddy Crumlin.

1.5 Meeting Attendance

The Seacare Authority met six times during 2004-05. Four of those meetings (in August, November, February and May) were scheduled meetings as required by the Seafarers Act, while two were special meetings (in September and January) conducted by teleconference to deal with particular issues. The following table outlines attendance at those meetings:

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<th>30/8</th>
<th>15/9</th>
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<th>24/2</th>
<th>26/5</th>
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<tr>
<td>Mr Geoff Gronow (Chairperson)</td>
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<tr>
<td>Mr Noel Swailes (Deputy Chairperson)</td>
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<td>Mr Peter Bremner</td>
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<td>Mr Mal Hearnden</td>
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<td>ob</td>
<td>✓</td>
<td>x</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Mr Paddy Crumlin</td>
<td>x</td>
<td>x</td>
<td>na</td>
<td>na</td>
<td>na</td>
<td>na</td>
</tr>
<tr>
<td>Mr Mick Doleman</td>
<td>na</td>
<td>na</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>x</td>
</tr>
<tr>
<td>Mr Clive Davidson</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</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 2004-05 three Authority sub-committees were in operation. These were:

**OHS Standards Taskforce**

Employer member: Mr Trevor Griffett
Employee member: Mr Martin Byrne
AMSA member: Mr Brad Groves

**Sea Safe-Work Awards and OHS Conference Steering Committee**

Chairperson: Mr Geoff Gronow
Employer representative: Mr Tony Caccamo
Employee representative: Mr Eddie Seymour

**Sea Safe-Work Awards Judging Panel**

Employer representative: Mr Simon Billing
Employee representative: Mr Eddie Seymour
Government representative: Mr Noel Swails

1.7 Public Accountability

**Consultancy Services**

In 2004-05 the Seacare Authority commissioned one consultancy. It was paid from monies collected under the Seafarers Rehabilitation and Compensation Levy Collection Act 1992 (i.e. from the Seafarers Safety Net Fund). The consultancy required Taylor Fry Pty Ltd to provide actuarial advice on an appropriate reserve to cover liabilities that could arise from claims on the Seafarers Safety Net Fund. The contract price was $10,550. Payment in full for this contract was made in 2004-05.

**External Scrutiny**

During the year the Minister announced that the Department of Employment and Workplace Relations (DEWR) would conduct an independent review of the Seacare scheme with broad terms of reference encompassing the scheme’s purpose and objectives, scheme design and coverage, governance and delivery. The review also enabled the opportunity for interested persons to make submissions. A fundamental question posed by the review was whether alternative systems to the existing arrangements would facilitate improved outcomes.

While the review was completed during the reporting year, its findings had not been released by year’s end.

**Social Justice**

The Seafarers Act serves a social purpose to ensure that seafarers are not unfairly disadvantaged because of work-related injuries. The Authority reinforces
this purpose by monitoring the operation of the Act and promoting high operational standards of claims management and effective rehabilitation procedures by employers. The Authority also responds to requests for information about the scheme and its proper operation from seafarers, employers, maritime unions, industry associations, insurance companies, insurance brokers, rehabilitation providers and the legal and medical professions.

Access and Equity

In 2004-05, the Authority maintained ready 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 on the scheme;
- maintaining a separate email address (seacare@comcare.gov.au) for general enquiries and correspondence for the Authority;
- maintaining a dedicated phone line and voicemail service (02-6275 0070) to ensure that all inquiries are dealt with in an efficient and timely manner;
- developing and distributing:
  - brochures to employers covered by the Seacare scheme and to other interested parties;
  - a new ‘plain english’ version of the claim form;
  - Seacare News, a quarterly newsletter distributed to interested parties which cover: injury prevention, rehabilitation, workers’ compensation, scheme governance, performance reporting and other related jurisdictional topics;
- Notices to Maritime Industry and Other Interested Parties; and
- providing information to members of the public.

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

In 2004-05, 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 Management Group
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 a 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 2004-05, there were no complaints lodged with the Authority or Comcare regarding Authority service standards.
1.8 Administrative Support

The Authority does not have its own staff. Comcare makes staff available to support the Seacare function, operating from a unit known as the Seacare Management Group (SMG). In 2004-05, there were two SMG staff, with administrative back up provided as required. The SMG, in performing its functions for the Authority, has access to Comcare legal services, financial management services, communication services and related corporate support services. The SMG is 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;
- liaising and communicating with scheme stakeholders and other like regulators; 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. It forms part of the Comcare Budget Statements. In 2004-05, the Seacare Output (1.5), identified as ‘Regulation of the Seacare scheme for workers’ compensation, rehabilitation and occupational health and safety’, contributed to the Comcare Outcome ‘Minimise human and financial costs of workplace injury in the Commonwealth jurisdiction’.

1.10 Other reporting requirements

As the Seacare Authority does not have its own staff, the following annual reporting requirements are reported in the Comcare Annual Report 2004-05:

- 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 summary representation of the Seacare Authority Accountability Framework, and provides an overview of the matters covered in this Chapter.

#### 2.1 The Seacare Authority Accountability Framework

**Table 2: The Seacare Authority Accountability Framework 2004-05**

<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 a budget</td>
<td>Seacare and Comcare advise the Minister in achieving the Outcome and Output/s</td>
</tr>
<tr>
<td><strong>Outcome</strong></td>
<td>To minimise the human and financial costs of workplace injury in the Commonwealth jurisdiction</td>
<td>Captured in the Portfolio Budget Statements (PBS). It specifies what the Government is expecting from its annual budget appropriation to the function: <em>To minimise the human and financial costs of workplace injury in the Commonwealth jurisdiction</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 specified in the legislation it administers – to support the Government’s specified Outcome</td>
</tr>
<tr>
<td><strong>Output</strong></td>
<td>Regulate the Seacare scheme of workers’ compensation, rehabilitation and occupational health and safety</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 2004-05 to 2009-10</strong></td>
<td>The Authority develops a Strategic Plan to identify and prioritise its longer term objectives in its delivery of the Output</td>
<td>The Strategic Plan is overlayed by the mission: <em>To take a leading role in minimising the human and financial costs of workplace injury in the Australian maritime industry</em></td>
</tr>
<tr>
<td><strong>Seacare Authority Business Plan 2004-05</strong></td>
<td>The Authority develops its Business Plan to identify, cost and measure its deliverables against the Outcome as stated in the PBS</td>
<td>The Business Plan enables the Authority to prioritise actions and to measure progress in achieving stated deliverables within its budget</td>
</tr>
<tr>
<td><strong>Seacare Management Group (SMG)</strong></td>
<td>Staff in the SMG are responsible for supporting the Authority and assisting it to deliver against its Business Plan which contributes to the achievement of its Strategic Plan</td>
<td>Comcare provides staff to form the SMG. Comcare also provides secretarial assistance and enabling services to the SMG including for information technology, financial management, human resource support and accommodation</td>
</tr>
<tr>
<td><strong>Annual Report to Parliament</strong></td>
<td>Seacare Authority reports to Parliament on the operation of the Authority and on scheme performance – (i.e. how has it delivered the Output and contributed to the Outcome)</td>
<td>Performance is reported in the Annual Report</td>
</tr>
</tbody>
</table>
2.2 The Outcome and Output for 2004-05

During 2004-05, the Authority contributed towards Comcare’s Outcome - Minimise human and financial costs of workplace injury in the Commonwealth jurisdiction. The Output expected of the Seacare Authority in assisting to meet this Outcome was - Regulate the Seacare scheme of workers’ compensation, rehabilitation and occupational health and safety.

Three measures for assessing the performance of the Seacare Authority in meeting this Output were identified in the PBS. These are: (i) the incidence of workplace injuries (target: 40% reduction by 30 June 2012); (ii) incidence of work-related fatalities (target: zero for the 10 years to 30 June 2012); and (iii) Seacare scheme performance meets Seacare Authority requirements.

Achievement of performance measure (i) would require, on average, a 4% reduction in the injury incidence per year measured from the base year (2001-02). In 2004-05, there was a sharp reduction in the incidence of injury in the jurisdiction such that if this reduction can be maintained, the ten year target will be achieved. Over the year, the incidence of injuries decreased by 37% from the base year using the National Occupational Health and Safety Commission (NOHSC) definition of injuries (see paragraph 4.6.2) and decreased by 42% using the Seacare definition of injuries, therefore performance against measure (i) has been met over the year.

Seacare met performance measure (ii), as there were no work-related fatalities in the maritime industry covered by the OHS(MI) Act over the year.

With respect to performance measure (iii), the Authority has discussed these achievements with industry stakeholders as well as other performance outcomes and has identified actions to refine its Strategic Plan and business plans to ensure that Seacare scheme performance continues to meet the Authority’s requirements.

2.3 The Seacare scheme - national context

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 the only national, industry based, rehabilitation and workers’ compensation scheme. Seacare is one of eleven OHS jurisdictions and one of three operating under Commonwealth legislation (Comcare and the offshore oil and gas sector, regulated by the National Offshore Petroleum Safety Authority (NOPS) pursuant to the OHS schedule of the Petroleum (Submerged Lands) Act 1967 being the others). As a Commonwealth statutory authority, the Seacare Authority is guided by Australian Government policy.

2.4 Seacare Authority Strategic Plan 2004-05 to 2009-10

In May 2004, the Authority adopted a five year Strategic Plan (2004-05 to 2009-10). The Strategic Plan proceeds from 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 PBS, the Authority’s Strategic Plan is built around its regulatory responsibilities associated with administration of scheme legislation.

In relation to administration of the OHS(MI) Act, the Authority’s strategic objective is:

- assist the Australian maritime industry to sustain a significant, continual reduction in the incidence of work-related injury and disease, and to avoid work-related fatalities.

In relation to administration of the Seafarers Act, the Authority’s strategic objective is:

- be an effective regulator for workers’ compensation and rehabilitation/RTW in partnership with the Australian maritime industry, and to be recognised by the industry as effective.
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 manage an efficient and effective Seafarers Safety Net Fund.

Within this framework the Authority places a high priority on policy development and practical initiatives aimed at fulfilling its statutory functions, including:

- monitoring the operation of the Seafarers Act;
- promoting high operational standards of claims management and effective rehabilitation procedures by employers;
- publishing material relating to the operation of the Act, claims management, rehabilitation and the incidence of injuries;
- monitoring the operation of the Seafarers Rehabilitation and Compensation Levy Act 1992 and Seafarers Rehabilitation and Compensation Levy Collection Act 1992 and regulations;
- ensuring that the obligations imposed by the OHS(MI) Act and regulations are complied with;
- cooperating with other bodies or persons with the aim of reducing the incidence of injuries to employees;
- formulating policies and strategies relating to the OHS 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; and
- 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.

2.5 Seacare Authority Business Plan 2004-05

The Seacare Business Plan for 2004-05 was endorsed in May 2004. The Business Plan disaggregated the PBS Output (Regulation of the Seacare scheme of workers’ compensation, rehabilitation and occupational health and safety) into two sub-outputs:

- Sub-Output 1.1: the effective operation of the Seacare Authority and performance of regulatory functions under Seacare scheme legislation; and
- Sub-Output 1.2: implementation of Seacare Authority decisions arising from performance of its statutory functions.

The key actions, initiatives and sub-programs under each sub-output are described below.

2.5.1 The effective operation of the Seacare Authority and performance of regulatory functions under Seacare scheme legislation

This sub-output involves actions consistent with the statutory functions of the Authority including discharging the regulatory requirements of scheme legislation. It covers:

- the requirement to provide advice to the Minister regarding the Authority’s powers and functions relating to scheme legislation including compensation, rehabilitation, the making of OHS regulations and approving OHS codes of practice and the Seafarers Safety Net Fund; and
- performance of other statutory functions including:
  - formulation of policies and strategies relating to OHS or employees;
monitoring the operation of the Seafarers Act;

− promoting high operational standards of claims management and rehabilitation;

− reporting on and evaluating scheme performance including reporting to Parliament through the Authority’s Annual Report;

− communicating with stakeholders; and

− managing the Seafarers Safety Net Fund.

Provision of advice to the Minister

The Authority, through the Chairperson, maintained regular communication with the Minister for Employment and Workplace Relations on outcomes arising from Authority meetings. Some of the key matters about which the Chairperson kept the Minister informed were:

• the application of the Seafarers Act and the OHS(MI) Act and their interaction with other Acts;

• Seacare scheme performance and strategies for improvement; and

• the making of OHS regulations and approving codes of practice.

Performance of statutory functions under delegation

In performing its statutory functions, the Chairperson of the Authority is able to delegate to the Chief Executive Officer of Comcare (as specified in section 125(1) of the Seafarers Act) who may in turn delegate to the Deputy CEO of Comcare and to certain staff of Comcare (those performing the functions of the Seacare Management Group) the following powers under the Seafarers Act:

• Section 3 – power to approve industry training courses;

• Section 20A – power to exempt employment from the operation of the Seafarers Act;

• Section 63(2) – power to approve a form or forms;

• Sections 72, 73 and 79 – power to extend time limits 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.

In 2004-05, the SMG has exercised its delegated powers in relation to applications for exemption, extensions to the period to determine employer's liability, provision of information on insurance and provision of information to the Authority.

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 identifying that the employees will be covered by an alternative and valid workers' compensation policy (usually under State or Territory workers' compensation legislation) for the duration of the period for which the request for exemption is made.

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 an exemption from the application of the Act granted by the Seacare Authority, the employer may risk loss of workers’ compensation indemnification for employees on that voyage both under state or territory legislation as well as the Seafarers Act. The employer also runs
the risk of prosecution action for failure to have a policy of insurance in accordance with the Seafarers Act.

During 2004-05 the Authority received applications for exemption for employment on 19 vessels.

Exemptions in relation to 18 vessels were granted as set out in Table 3 below. Applications for exemptions were considered and granted in accordance with the Seacare Authority exemption guidelines.

**Table 3: Section 20A exemptions granted by the Seacare Authority in 2004-05**

<table>
<thead>
<tr>
<th>Employer</th>
<th>Ship</th>
<th>Date exemption granted</th>
<th>Dates of exemption</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Territory Commander K; Pacific Lady K; Grete K; Brute Force K; Island Leader K; Maria Louise K</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Adsteam Harbour Pty Ltd</td>
<td>Tug Beltana</td>
<td>21 January 2005</td>
<td>7/1/2005 - 10/1/2005</td>
</tr>
<tr>
<td>International Maritime Services Pty Ltd</td>
<td>Moonlight Express</td>
<td>30 May 2005</td>
<td>6/6/2005 - 4/7/2005</td>
</tr>
</tbody>
</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 2004-05 the Authority received five requests for an extension of time under sections 72, 73, 73A or 79 of the Seafarers Act. Three requests for extensions were granted.

**Reviewable decisions under the Seafarers Act**

The Seafarers Act entitles an aggrieved person or organisation to seek a review of an Authority decision by the Administrative Appeals Tribunal (AAT) in a number of circumstances. For example, an employer may seek an AAT review of a decision by the Authority where it has refused to grant an extension of time to determine a compensation claim. Decisions made by employers or insurers are also reviewable. For example, an employee has a right to seek a reconsideration of a decision by the employer or insurer. Following a negative outcome of a request for a reconsideration, the employee may request an AAT review of the reconsidered decision. Applicants to the AAT may also 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 with implications for Seacare scheme legislation. Significant matters are summarised in Chapter 5.

**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 (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 each employer is insured or indemnified for the full amount of the employer’s liability for all employees employed by the employer under the Seafarers Act.

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 2004-05, the Authority has worked to ensure employers comply with section 94 of the Seafarers Act and since January 2005, employers have been able to report their compliance through the Authority’s on-line reporting system, Seacare Online.

Based on the information provided by employers to the Seacare Authority on insurance arrangements, there are three insurers providing workers’ compensation policies under the Seafarers Act. While the Authority is able to approve arrangements for workers’ compensation insurance cover through P&I Clubs, ship owners report that the P&I Clubs are unwilling to provide cover due to the long tail nature of incapacity benefits and strict limitations on settlement claims through cash redemptions under the Seafarers Act. Consequently, no employers have arranged cover through P&I Clubs.

**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.

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1 Section 3 of the Seafarers Act defines ‘authorised insurer’ to mean a general insurer or Lloyd’s underwriter under the Insurance Act 1973 or an insurer that carries on State insurance (whether or not the State insurance extends beyond the limits of the State concerned).
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, NOHSC (for the national Comparative Performance Monitoring report and for the national OHS statistics collection) and to Campbell Research and Consulting Pty Ltd (for the Return to Work Monitor) for scheme and national OHS reporting purposes.

The board of directors of AMICA Ltd at 30 June 2005 was:

- Mr David Sterrett (Chairman of Directors);
- Mr Peter Bremner (Director), General Manager Shipping, CSR Ltd;
- Mr Dermot Loughnane (Director), Managing Director, Teekay Shipping (Australia) Pty Ltd;
- Mr Peter Beekman (Director), General Manager, Stolt (NYK) Australia Pty Ltd;
- Mr Robert Bird (Director), Chief Operating Officer, ASP Ship Management Pty Ltd; and
- Mr Simon Billing (Director), Chief Operations Officer - West Australian Branch, Australian Mines and Metals Association Inc.

There were 16 member companies of AMICF at 30 June 2005.

**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 2004-05.

During the year, a secure online reporting facility, Seacare Online, was established on the Seacare website to enable employers to report details of their operations under both the Seafarers and OHS(MI) Acts, insurance arrangements, ships details and employee details including employee numbers, hours worked, employee occupations and age range. This system enables the Authority to analyse scheme statistics and consider a range of performance reports at its meetings. The key reports are subsequently disseminated to industry stakeholders by a variety of means.

The standing reports considered by the Authority include statistics on: (i) employee numbers and hours worked; (ii) compensation claims data reported to AMICA, including a breakdown of the status of claims; (iii) OHS incidents reported to AMSA, and qualitative information on both reactive and proactive investigations; (iv) ships covered by Seacare scheme legislation; (v) employer insurance details; (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; (viii) AAT and Court cases; (ix) incidence of injuries (claims per 1 000 employees); (x) injury frequency rate (claims per 1 million hours worked); and (xi) return to work and rehabilitation outcomes.

The Authority engaged the actuarial firm Taylor Fry Pty Ltd to obtain a range of employer insurance data from insurers and AMICA 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 report for the year 2003-04, provided in June 2005, gives comprehensive and reliable data relating to premium costs in the industry, which are analysed in Chapter 4 of this report.

The Authority also participated in the 7th national CPM report, due for publication in the new financial year, and participated in the RTW Monitor 2004-05.

**Communications**

In November 2004, the Seacare Authority held its Sea Safe-Work Awards. This was the second occasion that the Awards were presented. The Awards were introduced in 2003 to recognise and reward the best positive initiatives being taken by employers, shipping operators, seafarers, health and safety committees, health and safety representative trainers, rehabilitation providers and others – all aimed at providing safe workplaces for seafarers and eliminating injury.
Nominations for the 2004 Awards were invited from across the maritime industry between April and August. Following consideration of the nominations by a judging panel representing employers, employees and government, awards in three categories were made in 2004. These were:

- **OHS Leadership Award** – in recognition of an employer or operator who demonstrates outstanding leadership through commitment and achievement in minimising workplace injuries and disease;

- **Best Solution to a Major OHS Risk** – for innovation and effectiveness in developing a solution to a major OHS risk or hazard; and

- **Best Rehabilitation and Return to Work Program** – recognising the parties involved in an outstanding rehabilitation and return to work program.

The winners of the 2004 Awards were:

**OHS Leadership Award**:
- ASP Ship Management
  - Highly Commended – Mermaid Marine Australia

**Best Solution to a Major OHS Risk**:
- Farstad Shipping (Indian Pacific)
  - Highly Commended – CSR Shipping
  - Highly Commended – Mermaid Marine Australia

**Best Rehabilitation and Return to Work Program**:
- MP Safety Management Pty Ltd,
  - CSR Shipping Ltd & Mr Brian Neilson

The Authority continues to place a high priority on its communications with the industry. The Authority’s regular cycle of quarterly meetings was again held in Melbourne, Sydney, Canberra and Fremantle. The Sydney meeting was scheduled to coincide with the Authority’s OHS Conference and Sea Safe-Work Awards and an industry briefing was held prior to the Fremantle meeting to enable as many industry participants as possible to directly communicate with the Authority and to exchange views on key policy and operational issues.

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 secure, online reporting facility, Seacare Online, is also available to employers via the Seacare website.
The Seacare Authority’s website contains information about the scheme including:

- the Seacare Authority, its mission, membership, contact details, functions, strategic objectives and service charter;
- relevant legislation and scheme coverage;
- latest news, notices and events;
- Seacare forms, including secure employer access to on-line reporting forms;
- workers’ compensation;
- rehabilitation and return to work;
- occupational health and safety;
- Seacare Authority publications including the Annual Report; and
- links to related sites and a search function.

**Seacare Authority forms**

The Authority currently has nine approved forms under the Seafarers Act and two approved forms under the OHS(MI) Act. During the year, the Authority approved and distributed a new workers’ compensation claim form along with an employer’s determination form to be used from 1 April 2005. Seacare Authority forms and their issue date are listed in Appendix 2. Copies of all forms are available on the Seacare Authority website.

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

**Occupational Health and Safety**

The Authority’s Strategic Plan places a strong emphasis and importance on the Authority’s OHS functions and improvements in injury prevention performance. During the year, the Authority, industry and employee representatives have worked together to identify the key drivers of OHS performance, to propose remedies and to refine strategies to improve performance. One such example of this process was a close analysis of injury data by working parties at the Seacare OHS conference held in November 2004 and continued by the Authority at its planning meeting in February 2005. Following this meeting, the Authority agreed to supplement its ‘leaders program’ within its OHS strategy by highlighting good performance within the industry, particularly from employers who demonstrate strong safety leadership and commitment, so that assistance and guidance can be provided by the Authority and industry peers where poor performance is identified. The Authority also sought the greater involvement of employees in OHS and asked employers to promote activities such as Sea Safe-Work Day, held each year on 28 April.

Work has continued on adoption of applicable national OHS standards. The Authority, assisted by its OHS Standards Taskforce, proposed to the Minister manual handling regulations and a code of practice and has commenced developing a proposed regulation for the next priority area of regulation of confined spaces.

During the year, the Authority sought to improve the quality and delivery of Health and Safety Representative (HSR) training by requiring HSR trainers to be Registered Training Organisations (RTO) and for the content of courses to be checked by an Authority sub-committee.

During the year discussions were held with NOPSA to enable both regulators to develop a better understanding of their respective roles and responsibilities. A Memorandum of Understanding was settled to enable cooperation and consultation, as required, on OHS matters regarding the offshore petroleum and maritime industries that may affect the respective roles and responsibilities of the Authority and NOPSA.

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.

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 advised the Authority that six improvement notices and nine prohibition notices were issued by AMSA during the year. Two vessels also sought AMSA’s involvement in concerns raised by provisional improvement notices that were issued by the vessel’s Health and Safety Representatives. Following on from OHS initiatives in previous years, that included campaigns which focussed on signage, machinery guarding, manual handling and slip, trip and fall hazards, in 2004-05, AMSA concentrated on inspections that targeted specific ships where concerns existed that OHS performance was not adequate. AMSA advised the Authority that it also initiated in 2004-05 a program of OHS inspections with the objective of inspecting all ships covered by Part II of the Navigation Act on an annual basis. Guidance was provided to the AMSA inspectors to assist in these inspections, which resulted in a number of vessels requiring follow up inspections to ensure that any safety issues that were highlighted had been addressed.

Rehabilitation and return to work (RTW)

Rehabilitation and RTW performance reported in Chapter 4 of this report suggests that performance is yet to reach satisfactory levels. RTW outcomes in the industry are constrained by the limited availability of temporary suitable alternative duties for seafarers, as reduced hours and modified duties are often not available on board a ship at sea. Before returning to sea, seafarers must also satisfy the strict ‘fit-for-sea duty’ requirements of the industry. In addition, where injured seafarers are returned to their home ports following an injury, the availability of suitable duties in some locations, as well as access to skilled rehabilitation providers, is limited.

The Seacare Authority continued to participate in the RTW Monitor during 2004-05. The RTW 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 RTW Monitor is managed by a private consultancy firm, Campbell Research and Consulting Pty Ltd. The Seacare Authority commenced participation in 1999-2000.

The RTW 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 RTW Monitor analysed compensation payment data provided by AMICA relating to the interviewed seafarers, to ascertain compensation costs per claim. The RTW Monitor results contribute the data for four of the six Seacare Authority rehabilitation and RTW benchmarks.

Workers’ compensation

In 2004-05, 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 2004, the Seacare Authority engaged Taylor Fry Pty Ltd, actuarial consultants, to collect comprehensive Seacare scheme insurance premium data from Seacare scheme insurers for 2003-04 (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 contribute 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, 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 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 ship owners 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; and
- 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 Australian Government which supports the AAT through a budget appropriation.

However, the Seafarers Act workers’ compensation insurance premium also covers some employers, at their request, for liabilities which may arise from the application of sections 128, 132 and 132A of the Navigation Act 1912. Those sections impose obligations on employers to meet expenses 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.

**Accreditation of health and safety representatives (HSR) training courses**

The Authority’s objective for HSR training is to ensure that accreditation of HSR training courses promotes competency standards equivalent to the highest national standards, and that HSRs are equipped to competently perform their functions as set out in the OHS(MI) Act.

In 2004-05, the Authority sought to improve the standard of course delivery by introducing a requirement that training providers be registered training organisations (RTOs) and that they submit their course content to the Authority as part of the accreditation process. The Authority established a course accreditation sub-committee for this purpose, supported by a training and accreditation advisor. During the year, the Authority revoked the accreditation of two training providers and extended the accreditation of one, Australian Maritime Safety Consultants Pty Ltd, pending its application for reaccreditation under the new requirements.

Table 4 below summarises the aggregate outcome of training delivered over the period 2002-03 to 2004-05.
### Table 4: Outcomes from accredited training course delivery – 2002-03 to 2004-05

<table>
<thead>
<tr>
<th></th>
<th>Courses delivered</th>
<th>Seafarer commencements</th>
<th>Seafarer completions</th>
<th>Completion rate %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Face to face courses</td>
<td>13</td>
<td>8</td>
<td>11</td>
<td>167</td>
</tr>
<tr>
<td>Distance course</td>
<td>22</td>
<td>0</td>
<td>0</td>
<td>22</td>
</tr>
<tr>
<td>Total</td>
<td>35</td>
<td>8</td>
<td>11</td>
<td>189</td>
</tr>
</tbody>
</table>

Source: Providers of Seacare scheme accredited HSR training courses, and Seacare Authority

### 2.6 Relationships with national OHS and workers’ compensation bodies

#### Heads of Workers’ Compensation Authorities (HWCA)

During 2004-05, the Authority was represented at meetings of HWCA, a forum for the heads of Australia's workers’ compensation schemes to exchange information and develop initiatives in relation to scheme design and scheme administration. The Seacare scheme continues to be included in the HWCA Comparison of Workers’ Compensation Arrangements in Australia and New Zealand. The HWCA Comparisons document is available at www.hwca.org.au.

#### Heads of Workplace Safety Authorities (HWSA)

During 2004-05, the Authority was represented at meetings of HWSA, a forum for the heads of Australia’s OHS authorities to exchange information and develop initiatives in relation to occupational health and safety. One of the key issues considered by HWSA with significance to the Seacare scheme was a memorandum of understanding (MOU) between jurisdictions to facilitate investigations involving cross border or cross-jurisdictional issues. Both Seacare and the Inspectorate, AMSA, are signatories to this MOU.

#### Workplace Relations’ Ministers Council (WRMC)

During 2004-05, the Authority continued to take account of WRMC decisions which impact on the Seacare scheme. The key WRMC decisions impacting on the Authority concerned national OHS standards and implementation of the National OHS Strategy.

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

#### National Occupational Health and Safety Commission (NOHSC)

The Seacare Authority is not a member of the NOHSC nor does it have formal observer status at NOHSC or on NOHSC committees. Nevertheless, Seacare works through the Comcare representatives who attend NOHSC and its committees to ensure maritime industry OHS issues are considered in NOHSC fora. Seacare is strongly committed to coordinated efforts to improve OHS in Australia.
Key areas of NOHSC activity where Seacare has a close involvement include:

- implementation of the National OHS Strategy – where the Seacare Authority is required to report progress against the national targets and on its 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, as well as participation in a CPM companion report on OHS arrangements across Australian OHS jurisdictions; and

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

2.7 Outlook for 2005-06

Key priorities for the Seacare Authority in 2005-06 will be:

- providing advice on and responding to the outcomes of the review of the Seacare scheme;

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

- encouraging improved OHS and injury management performance and practice via the Sea Safe-Work Awards and Seacare OHS Conference;

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

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

- efficiently managing the Seafarers Safety Net Fund and working with the maritime industry to identify options for the long-term management of the Fund.
CHAPTER 3: THE OPERATION OF THE SEAFARERS SAFETY NET FUND

3.1 The Seafarers Safety Net Fund

The Seafarers Safety Net Fund (the 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:

(a) the employer:

• becomes bankrupt or insolvent; or

• applies to take the benefit of any law for the relief of insolvents; or

• compounds with the employer’s creditors for their benefit; or

• if the employer is a body corporate – is wound up, or, ceases to exist; or

• no longer engages in trade or commerce in Australia; and

(b) the employer is unable to meet the employer’s liabilities under the Seafarers Act.

In such circumstances, the Fund is substituted as employer and will determine the claim and pay any benefits from the Fund. Where there was a Seacare workers’ compensation insurance policy covering the employee, the Fund has the same rights as the employer who took out the policy to recover benefits from that policy.

3.2 Recent history of the Seafarers Safety Net Fund

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 Pty Ltd, an actuarial firm, 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. The levy has remained at this rate over the period 1 July 2002 to 30 June 2005.

3.3 Reserves to underwrite claims on the Fund

During 2004-05, the Seacare Authority sought updated actuarial advice from Taylor Fry Pty Ltd consulting actuaries on what would be a prudent reserve for the Fund, particularly taking into account any increased risk of a default event due to terrorism events, the continuing unavailability of insurance for the Fund and any increased pressure from asbestos related claims on the Fund. This advice had not been finalised by 30 June 2005.

At the present rate of levy, it is estimated that the current recommended reserve accumulation may be achieved in 2005-06. The Authority will keep the rate of levy and the reserve accumulation under review for provision of advice to the Minister as necessary.

3.4 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 Comcare contract with AMICA to undertake certain Fund administration services for the Authority. A deed of novation for performance of such services was executed in August 2002, to apply from 1 July 2002.

Under the arrangements established by the deed, AMICA administers Seacare levy collection on behalf of the Australian Government, manages the employer reporting arrangements by receiving and recording employer Levy Returns, provides Fund reconciliation reports to the Seacare Authority via Comcare and provides advice to the Seacare Authority on claims against the Fund.

3.5 Levy collection

In 2004-05, $359,075 was collected in levy receipts from Seacare scheme employers. This levy was collected from 23 employers who reported an average of 1,709 seafarer berths, each quarter. An overview of levy collection details based on AMICA reports to the Seacare Authority is set out in Table 5 below.

<table>
<thead>
<tr>
<th>Year</th>
<th>Average number of employers that paid the levy</th>
<th>Average number of berths per quarter reported by employers</th>
<th>Levy rate</th>
<th>Levy collected</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002-03</td>
<td>21</td>
<td>1,438</td>
<td>$53</td>
<td>$293,461</td>
</tr>
<tr>
<td>2003-04</td>
<td>22</td>
<td>1,610</td>
<td>$53</td>
<td>$327,593</td>
</tr>
<tr>
<td>2004-05</td>
<td>23</td>
<td>1,709</td>
<td>$53</td>
<td>$359,075</td>
</tr>
</tbody>
</table>

Source: AMICA and Seacare Authority
3.6 Claims on the Fund

There were no accepted claims on the Fund during 2004-05.

3.7 A policy of insurance for the Fund

The Seacare Authority has not been successful in securing a policy of insurance for the Fund. Last year insurance brokers Marsh Pty Ltd advised the Seacare Authority that following a comprehensive search in the Australian and global insurance markets it was not able to secure a policy. Late in 2004-05 the Authority engaged Aon Australia Pty Limited through Comcover to seek an insurance policy for the Fund. To date, Aon reports that despite the improvements in the insurance market, particularly the reinsurance market, a potential insurer has not been identified. Aon reports that the market views such insurance for the Fund as ‘employer insolvency’ insurance which the market is not willing to provide. The Authority will continue its search for insurance, but if this proves to be fruitless, will need to consider alternative options for the underwriting of the Fund and provide advice to the Minister. Under the current legislation, the Fund cannot be returned to industry without a policy of insurance. It should be noted that the terms of reference for the independent review of the Seacare scheme included the Levy and Collection Acts and insurance arrangements generally.

3.8 Seafarers Safety Net Fund – Profit and Loss statement

The following Table is the Profit and Loss statement for the Seafarers Safety Net Fund as at 30 June 2005. The audited financial statements for the Seacare Authority, including for the Seafarers Safety Net Fund, appear at Appendix 1.

Table 6: Seafarers Safety Net Fund – Profit and Loss statement as at 30 June 2005

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Revenue</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Seafarers levies</td>
<td>359,075</td>
<td>354,305</td>
</tr>
<tr>
<td><strong>Total Revenue</strong></td>
<td><strong>359,075</strong></td>
<td><strong>354,305</strong></td>
</tr>
<tr>
<td>Expenses</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Seacare Fund Administration</td>
<td>109,682</td>
<td>110,773</td>
</tr>
<tr>
<td>Actuarial services</td>
<td>11,229</td>
<td>10,682</td>
</tr>
<tr>
<td>Brokerage services</td>
<td>-</td>
<td>11,973</td>
</tr>
<tr>
<td>Legal costs</td>
<td>-</td>
<td>10,432</td>
</tr>
<tr>
<td>Bank charges</td>
<td>15</td>
<td>15</td>
</tr>
<tr>
<td>Claims expense</td>
<td>70,900</td>
<td>145,100</td>
</tr>
<tr>
<td>Write down of assets</td>
<td>5,141</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total expenses</strong></td>
<td><strong>196,967</strong></td>
<td><strong>288,975</strong></td>
</tr>
<tr>
<td><strong>Operating Result</strong></td>
<td><strong>162,108</strong></td>
<td><strong>65,330</strong></td>
</tr>
</tbody>
</table>

Source: Comcare
CHAPTER 4: SEACARE SCHEME PERFORMANCE 2004-05

4.1 Seacare scheme performance overview 2004-05

The Seacare scheme has demonstrated significant improvement in performance in 2004-05 relative to 2003-04 and previous years.

The key indicators which point to improved performance include:

- the scheme has completed another year without a work-related fatality, achieving its 10th fatality free year;
- the incidence of injury rate has reduced compared to 2003-04 and the scheme has already met the interim National OHS Strategy target of at least a 20% reduction in the incidence rate by 2006;
- the frequency rate of injury has also declined;
- the number of OHS incidents reported to AMSA has declined compared to 2003-04;
- the number of compensation claims reported to AMICA has declined as has the number of accepted claims;
- timeliness for employees lodging workers’ compensation claims has improved significantly as has timeliness for employers assessing injured employees for rehabilitation; and
- the average time taken from lodgement of a matter with the AAT, until decision, continues to improve.

However, this is moderated by performance indicators which suggest that there are areas where further progress needs to be made, such as:

- the average premium rate paid by Seacare scheme employers rose in 2003-04 (the latest year available) relative to 2002-03 (premium rate data remains one year behind most other data reports);
- rehabilitation and return to work performance continues to achieve below national averages on key indicators; and
- the second tier (AAT) dispute rate has increased in 2004-05 relative to 2003-04.

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 their employer may be forwarded to AMICA by the employer, or to the employer’s insurer, though clearly the majority are.

It is nationally recognised that compensation claims data is the most reliable available proxy for reporting outcomes on both occupational health and safety and compensation.

4.2.1 Compensation claims data

Compensation claims data used in this report is collected and recorded by AMICA. 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 (the majority are in the range $5 000 to $50 000). 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 of compensation claims at an early stage, as part of improved claims management and injury management practice.

Commencing from this reporting year, claims data are all claims accepted in the year. While this excludes claims which are pending, in dispute, withdrawn or rejected, it includes claims in these categories from previous years that are accepted in this most recent reporting year. This provides for stability in reporting from year to year and means that this year’s data will not require updating next year. However, previous years’ data has required updating and figures in this report may differ from previous years’ reports.

Accepted claims are further adjusted for reporting on OHS performance in this report by excluding journey to/from work claims and property-only claims, so the claims data used reflects claims where there was an injury at work (or in training, including both on and off duty), irrespective of whether there was any time off work.

4.2.2 Occupational health and safety (OHS) incident data

Compensation claims data used in this report for OHS reporting is complemented by data on accidents and dangerous occurrences (incidents) reported to AMSA in its capacity as the OHS Inspectorate under the OHS(MI) Act. Incidents are reportable to AMSA where there is an accident that results in a death or a serious personal injury to any person (one which requires immediate medical treatment or which results in five or more days incapacity) or where there was a dangerous occurrence.

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 collected information

The Seacare Authority maintains responsibility for collecting and recording information for use in calculating injury frequency and incidence rates (denominator data) including hours worked, numbers of employees who have worked in the scheme and full time equivalent employee numbers. Employee numbers and hours worked data is collected six monthly through the Authority’s Seacare Online reporting system.

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

4.2.4 Comparative Performance Monitoring report data

In recent years, comparative performance data extracted directly from the National Comparative Performance Monitoring (CPM) report, which reports comparative performance data across all Australian workers’ compensation schemes, as well as New Zealand data, has been included in the Authority’s Annual Report. As the 7th CPM report, which reports to 30 June 2004, will not be approved by Workplace Relations Ministers’ Council (WRMC) for release by the date of publication of this report, such comparative data is not included in this report. It will be available on the Seacare website www.seacare.gov.au when published.

4.2.5 Return to Work Monitor data

Some return to work data used in this report is derived from the RTW Monitor 2004-05. The RTW Monitor establishes a national benchmark for measuring RTW and durability of RTW across Australian and New Zealand workers’ compensation schemes. In 2004-05, the RTW Monitor summarised the findings of a survey of 49 injured seafarers.
4.3 Methodology behind performance reports

4.3.1 Coverage

While individual or collective workplace agreements may provide for the payment of benefits based on the Seafarers Act, only data and information relating to employees covered by the Seafarers Act is included in this report.

4.3.2 Employee numbers

The employee number data presented in this report, up to and including the 2003-04 annual report, has been based on the actual number of seafarers employed by each employer covered by the Seafarers Act – in effect a ‘head count’ of seafarers who were covered by the Act in the reporting period. This included seafarers engaged on Floating Storage and Offloading facilities (FSOs) and Floating Production Storage and Offloading facilities (FPSOs) who come under the Seafarers Act for short periods when the operations of such ships fall within the application provisions of the Seafarers Act (e.g. when delinked from the riser to avoid a cyclone or when in transit). It also included casual and temporary employees. While this is an accurate reflection of the numbers of seafarers covered, it is not an ideal number to use as a denominator in calculating the incidence rate of injuries (injuries per 1 000 seafarers), particularly in seeking to compare injury rates in the maritime sector with other industry sectors.

The Seacare Authority has agreed that a more valid seafarer number denominator for calculating incidence of injury rates is based on the following formula:

\[
\text{Seafarer number denominator} = (\text{standard complement of seafarers} \times \text{the proportion of the reporting period that the vessel was operational}) \times \frac{\text{the usual weekly shift hours worked on the vessel}}{\text{the relevant industrial agreement}} \times \text{average weekly working hours.}
\]

(Note: the latest available [2004] Australian Bureau of Statistics average hours worked per week by persons employed full time is 40.4):

- for example, on a trading ship with a crew complement of 17, where the ship operated for 160 days in the reporting period (182 days) and the weekly shift hours were 84 per week (12 hours each shift for 7 days) the inputs using the formula would be:
  \[17 \times 160/182 \times 84/40.4 = 31.1\]
  full time equivalent employees.

The 2004-05 incidence of injury rates quoted in this report are based on the above formula.

4.3.3 Hours worked

The hours worked data used in this report is based on a formula agreed by the Seacare Authority and first applied in the 2003-04 annual report. This is to allow for the continuous nature of Seafarers Act coverage during a voyage where seafarers, who are generally on board a ship for 24 hours a day, are exposed to the risk of injury for the entire time on board a vessel, whether on or off duty.
The formula is:

The standard complement of seafarers engaged on each ship at any one time (i.e. ship berths) X the number of hours (on average) per day the crew are on board, whether at work or not X the number of days the ship was operational (and was operating under the Seafarers Act) in the reporting period = hours worked:

- for example, on a trading ship with a crew complement of 17, where the ship operates 24 hours per day throughout each year, and the reporting period is 6 months (182 days), the inputs using the formula would be: 17 X 24 X 182 = 74,256 hours worked; or

- if the employer operates in the offshore sector, where the crewing complement might be say 11, and the ship completed a contract part way through the reporting period e.g. it operated for say 142 days from total available days of 182, the inputs using the formula would be as follows: 11 X 24 X 142 = 37,488 hours worked.

There is now a two years time-series of injury frequency data based on this reporting methodology.

4.4 Date of extraction of 2004-05 data

The date of extraction for 2004-05 claims data from the AMICA database is 13 July 2005. This date of extraction means that employers were given until 13 July 2005 to lodge with AMICA for data recording purposes a copy of 2004-05 claim forms received/accepted by employers during that year. AMICA worked closely with employers to ensure that a copy of all claims lodged by employees in 2004-05 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 July 2005. AMSA data includes those accidents and dangerous occurrences (incidents) notified and reported to AMSA by 30 July 2005 that occurred in the 2004-2005 year. Any accidents and dangerous occurrences which occurred in the financial year but which were not notified or reported to AMSA by 30 July 2005 are not included.
4.5 Workers’ compensation (claims) data relative to previous years

Workers’ compensation claims data reported to AMICA pursuant to the Seafarers Act is summarised in Table 7 below.

Table 7: Seacare scheme – aggregated claims data for reporting purposes 2000-01 to 2004-05

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Claims reported to AMICA</td>
<td>204</td>
<td>169</td>
<td>166</td>
<td>208</td>
<td>164</td>
</tr>
<tr>
<td>2</td>
<td>Claims accepted</td>
<td>180</td>
<td>152</td>
<td>149</td>
<td>182</td>
<td>136</td>
</tr>
<tr>
<td>3</td>
<td>Claims rejected</td>
<td>24</td>
<td>17</td>
<td>17</td>
<td>17</td>
<td>16</td>
</tr>
<tr>
<td>4</td>
<td>Claims pending</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>12</td>
</tr>
<tr>
<td>5</td>
<td>Claims accepted - on duty</td>
<td>167</td>
<td>138</td>
<td>127</td>
<td>168</td>
<td>125</td>
</tr>
<tr>
<td>6</td>
<td>Claims accepted - off duty</td>
<td>10</td>
<td>10</td>
<td>18</td>
<td>9</td>
<td>6</td>
</tr>
<tr>
<td>7</td>
<td>Journey claims</td>
<td>2</td>
<td>3</td>
<td>2</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>8</td>
<td>Claims while studying</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>9</td>
<td>Other</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>10</td>
<td>Claims accepted – one week or more duration (excluding journey claims)</td>
<td>145</td>
<td>117</td>
<td>124</td>
<td>148</td>
<td>77</td>
</tr>
<tr>
<td>11</td>
<td>Claims accepted (excluding journey claims and property only claims)</td>
<td>178</td>
<td>147</td>
<td>143</td>
<td>179</td>
<td>133</td>
</tr>
<tr>
<td>12</td>
<td>Claims of 28 days or more</td>
<td>112</td>
<td>96</td>
<td>91</td>
<td>115</td>
<td>69</td>
</tr>
<tr>
<td>13</td>
<td>Medical claims only (no lost time)</td>
<td>23</td>
<td>27</td>
<td>23</td>
<td>31</td>
<td>27</td>
</tr>
<tr>
<td>14</td>
<td>Claims accepted – excluding property claims</td>
<td>180</td>
<td>150</td>
<td>145</td>
<td>182</td>
<td>136</td>
</tr>
<tr>
<td>15</td>
<td>Claims accepted at workplace involving lost time</td>
<td>154</td>
<td>121</td>
<td>123</td>
<td>146</td>
<td>84</td>
</tr>
<tr>
<td>16</td>
<td>Claims accepted – lodged with insurer</td>
<td>67</td>
<td>71</td>
<td>94</td>
<td>102</td>
<td>78</td>
</tr>
<tr>
<td>17</td>
<td>Work-related fatality</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

Source: AMICA

Table 7 indicates that the number of claims reported to AMICA in 2004-05 has decreased significantly relative to the previous year (a decrease of 21% over 2003-04), but only a slight decrease (1.2%) from the year prior to that (2002-03). Also, the number of claims accepted has decreased significantly (25%) relative to 2003-04, but also by a more moderate amount (8.7%) from 2002-03. This indicates that claim numbers in the 2003-04 year were particularly high and standing outside the general five year decreasing trend.

Notably, the Seacare scheme has again recorded no work-related fatality in the reporting year. In fact, there have now been ten successive years without a work-related fatality in the maritime industry covered by Seacare scheme legislation.
Table 8: Seacare scheme – employee (seafarer) numbers and hours worked by seafarers 2000-01 to 2004-05

<table>
<thead>
<tr>
<th>Employee (seafarer) numbers and hours worked1</th>
<th>2000-01</th>
<th>2001-02</th>
<th>2002-03</th>
<th>2003-04</th>
<th>2004-05</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employees (head count)</td>
<td>2 895</td>
<td>3 152</td>
<td>3 355</td>
<td>3 933</td>
<td>4 260</td>
</tr>
<tr>
<td>Full Time Equivalent (FTE) Employee numbers2</td>
<td>3 000</td>
<td>3 0003</td>
<td>3 1734</td>
<td>3 2415</td>
<td>3 459</td>
</tr>
<tr>
<td>Hours worked (Seafarers Act)</td>
<td>5 986 832</td>
<td>6 529 685</td>
<td>7 255 196</td>
<td>14 070 5846</td>
<td>15 016 800</td>
</tr>
</tbody>
</table>

Source: Seacare Authority

1 The employee numbers and hours worked in Table 8 relate to employees covered by the Seafarers Act.  
2 Introduced from this reporting year – see 4.3.2 above.  
3 Estimated FTE for 2001-02 and 2000-01.  
4 Based on reported FTE numbers under the OSH(MI) Act. 
5 FTE number derived from reported hours worked under the Seafarers Act.  
6 A new hours worked figure was introduced in 2003-04 and 2004-05 – see 4.3.3 above.

Table 8 shows that the number of employees (by head count) covered by the scheme have risen to 4,260 in 2004-05 an increase of 8.3% over 2003-04. However, full time equivalent employee numbers have risen by only 6.7%.

4.5.1 Claims by sector (Bluewater and Offshore)

The trend in the numbers of accepted workers’ compensation claims by major industry sector (with claim numbers from the small number of operators in the passenger, fishing-aquaculture and dredging operators being added to the bluewater sector) are demonstrated in Figure 1 below. Claims from the offshore sector have generally increased relative to the bluewater sector over time. The claim rate per 1,000 employees, measured for the first time in 2004-05, reveals that the claim rate in the offshore sector (46.7) is higher than the rate in the bluewater sector (34.6). The nature of work in this sector may explain this difference.

Figure 1: Accepted claims by sector 2000-01 to 2004-05
4.6 Occupational Health and Safety Outcomes

4.6.1 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 high-level outcome trends in a scheme’s OHS performance. The injury incidence rate is derived from compensation claims per 1 000 employees, while the injury frequency rate is derived from compensation claims per one million hours worked.

The injury incidence and injury frequency rates highlighted below are based on compensation claims data which result in one week or more of compensation as reported by scheme employers to AMICA, and employee numbers and hours worked data reported to Seacare. They are similar to the key NOHSC outcome measures of accepted compensation claims (excluding journey claims).

*Figure 2: Incidence rate of compensated injury and disease resulting in one or more weeks compensation 2000-01 to 2004-05*

The injury incidence rate is an OHS performance measure based on compensation claims per 1 000 employees, where claims are a proxy for injuries.

The injury frequency rate reported in this report uses hours worked data collected from employers using the formula reported in section 4.3.3. This method produces a higher hours worked figure since 2003-04 compared to previous years because it is designed to more accurately reflect the 24 hour per day nature of seafaring work, and the fact that injuries occurring at any time while on board are potentially compensable. The decision to use this new data series emerged from comments made by employers that the divisor used by most employers in calculating the enterprise Lost Time Injury Frequency Rate (LTIFR) for seafarers is generally 24 hours. Inclusion of the new data will provide injury frequency rate data which is more meaningful to employers.

The adjusted hours worked data, where hours worked were adjusted to 12 hours and 14 hours for the bluewater and offshore fleets respectively, are used for years prior to 2003-04.
Figure 2 indicates the number of injuries for each 1,000 full time equivalent employees. In 2004-05, there were 22.26 injuries for each 1,000 employees covered by the Seafarers Act. This incidence rate is high by national standards (the last published national average incidence rate across all schemes and all industries is 16.1, reported for 2002-03 in the 6th CPM report of November 2004). However, the incidence rate in the Seacare scheme has shown a generally decreasing trend since 2000-01, apart from 2003-04, and a steep decrease in 2004-05.

*Figure 3: Incidence rate of compensated injury and disease resulting in 12 or more weeks compensation 2000-01 to 2004-05*

Figure 3 indicates the number of injuries resulting in longer term incapacity for each 1,000 full time equivalent employees. In 2004-05, there were 13.30 injuries for each 1,000 employees covered by the Seafarers Act. This incidence rate is very high by national standards (the last published national average incidence rate across all schemes and all industries is 3.5, reported for 2002-03 in the 6th CPM report of November 2004), and may indicate that injuries which result in longer term claims are not declining.
Figure 4: Frequency rate of injury and disease resulting in one or more weeks incapacity - 2000-01 to 2004-05

The Seacare Authority adopted the National OHS Strategy targets in 2002, for application to the maritime industry. The target requires at least a 20% reduction in the injury incidence rate by 2006-07 (after five years) and at least a 40% reduction by 2011-12 (after 10 years). The year 2001-02 is the baseline year for measurement of progress against the targets.

The Seacare Authority has adopted two measures of injury for assessing performance against the target. One uses the NOHSC data set to define injuries, so Seacare can conduct national comparisons, while a second measure uses a Seacare scheme data set. The different definitions are described below.

**Injury incidence rate 1: Using the NOHSC definition of injury**

The NOHSC definition of injury includes all accepted workers’ compensation claims lodged (in Seacare’s case, this means lodged with AMICA, the scheme data base manager) in the reference financial year.
that resulted in a fatality, permanent disability or temporary disability where there was at least one week or more incapacity determined (excluding journey claims) by 30 November following the reporting year. A reasonable approximation of this measure (reported in Figure 5), is any such claims which had at least one week of incapacity determined in the reference year, regardless of when the claim was lodged. Claims in this case exclude disease claims except those coded as musculo-skeletal diseases.

**Injury incidence rate 2: Using the Seacare definition of injury**

The Seacare definition of injury includes all accepted workers’ compensation claims determined in the reference financial year that resulted in a fatality, permanent disability or temporary disability where there was any time off work, (excluding journey claims).

**Table 9: Number of claims in Seacare scheme for OHS target reporting 2001-02 to 2004-05**

<table>
<thead>
<tr>
<th></th>
<th>2001-02 (base year)</th>
<th>2002-03</th>
<th>2003-04</th>
<th>2004-05</th>
</tr>
</thead>
<tbody>
<tr>
<td>Claims - NOHSC definition</td>
<td>97</td>
<td>104</td>
<td>121</td>
<td>70</td>
</tr>
<tr>
<td>Claims - Seacare definition*</td>
<td>122</td>
<td>124</td>
<td>148</td>
<td>81</td>
</tr>
</tbody>
</table>

* This result is different to that reported last year where medical expense only claims were inadvertently included.

Source: AMICA

**Table 10: Incidence rates 2001-02 to 2004-05 against 5 and 10 year NOHSC and Seacare targets**

<table>
<thead>
<tr>
<th></th>
<th>2001-02 (base year)</th>
<th>2002-03</th>
<th>2003-04</th>
<th>2004-05</th>
<th>5 year target (20% reduction)</th>
<th>10 year target (40% reduction)</th>
</tr>
</thead>
<tbody>
<tr>
<td>NOHSC definition</td>
<td>32.33</td>
<td>32.78</td>
<td>37.33</td>
<td>20.24</td>
<td>25.86</td>
<td>19.40</td>
</tr>
<tr>
<td>Injury incidence rate</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Seacare definition</td>
<td>40.67</td>
<td>39.08</td>
<td>45.66</td>
<td>23.42</td>
<td>32.5</td>
<td>24.4</td>
</tr>
</tbody>
</table>

Source: AMICA and Seacare Authority

Table 10 indicates that, by 2004-05 (after 3 years), incidence rates for the two measures have already achieved both the 5 year target of a 20% reduction from the base year (2001-02), and in the case of the Seacare target, the 10 year target of a 40% reduction. However, as this has only been achieved in the most recent year this trend may or may not be maintained in the long term, as the data may be somewhat volatile due to the low numbers involved.
Figure 5: Seacare injury incidence rate - progress against targets 2001-02 to 2006-07

Figure 5 shows that using both the NOHSC and the Seacare data sets to define injuries, the injury incidence rate in the Seacare scheme mostly worsened in the first two years after the baseline year of 2001-02, then improved markedly and is now better than the 5 year interim target.
4.6.3 Analysis of injuries

The following sections disaggregate claims data, enabling greater insight into the nature and origin of injuries.

*Figure 6: Proportion of total claims by occupational grouping 2000-01 to 2004-05*

Figure 6 identifies the proportion of claims and trends across the four key occupational groupings. This figure shows an increase in the proportion of claims from ratings and a corresponding decrease in claims from other occupational groups.
Figure 7 shows that 42% of seafarers are 45 years or older and this group contributed to 50% of claims in 2004-05, while seafarers under 45 who represented 58% by number contributed 50% of claims. This appears to be a more even-handed result than that reported last year where the older category contributed 58% of claims and the younger category contributed 42% of claims. This may indicate that the OHS focus on older employees by Seacare employers during 2004-05 has had some effect.
Figure 8: Proportion of accepted claims by location on the ship 2000-01 to 2004-05

Source: AMICA

Figure 8 shows that during 2004-05 there has been a decrease in the proportion of claims arising from injuries on deck spaces and in machinery spaces compared to 2003-04.
Figure 9: Proportion of accepted claims by body part 2000-01 to 2004-05

Figure 9 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 2004-05 most injuries occurred to the trunk of the body, followed by lower limbs then upper limbs of seafarers.
Figure 10: Proportion of accepted claims by mechanism of injury 2000-01 to 2004-05

Figure 10 shows that body stressing continues to be the most prevalent mechanism of injury over the period. Falls, slips and trips is the next most prevalent mechanism of injury category.

Source: AMICA
Figure 11 shows that sprains and strains continue to be the major injury type and their proportion has risen relative to previous years. Fractures and hernias have reduced relative to previous years.
4.7 OHS Compliance and the Activities of the Inspectorate

The Australian Maritime Safety Authority (AMSA) performs the occupational health and safety Inspectorate function under the OHS(MI) Act. It also has functions to:

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

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. The following provides a summary of the activities of the Inspectorate.

Table 11: Seacare scheme – core data on the operation of the OHS Inspectorate under the OHS(MI) Act – 2000-01 to 2004-05

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Incidents reported to AMSA</td>
<td>69</td>
<td>61</td>
<td>78</td>
<td>78</td>
<td>49</td>
</tr>
<tr>
<td>Dangerous occurrences notified</td>
<td>8</td>
<td>5</td>
<td>13</td>
<td>6</td>
<td>1</td>
</tr>
<tr>
<td>Incidents minus dangerous occurrences</td>
<td>61</td>
<td>56</td>
<td>65</td>
<td>72</td>
<td>48</td>
</tr>
<tr>
<td>Investigations under s87 (re compliance with, or contravention of, Act or regulations; accidents and dangerous occurrences)</td>
<td>12</td>
<td>14</td>
<td>12</td>
<td>10</td>
<td>45</td>
</tr>
<tr>
<td>Prohibition Notices issued under s93</td>
<td>0</td>
<td>2</td>
<td>2</td>
<td>1</td>
<td>9</td>
</tr>
<tr>
<td>Improvement Notices issued under s98</td>
<td>0</td>
<td>3</td>
<td>0</td>
<td>1</td>
<td>6</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 s92</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Appeals instituted against inspectors' decision s100</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Directions given by the Minister s114</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>AMSA staff trained as OHS inspectors</td>
<td>0</td>
<td>21</td>
<td>40</td>
<td>50</td>
<td>54</td>
</tr>
<tr>
<td>Prosecutions commenced</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Prosecutions completed</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

Source: AMSA

Table 11 indicates that the total number of incidents reported to AMSA in 2004-05 (49) was down on that reported in 2003-04 and the previous year. This reduction is consistent with the reduction in reported numbers of claims with incapacity of one week or more in the year under the Seafarers Act (there were 78). However, as not all incidents will result in a claim, the reported number of incidents (49) would represent a degree of under-reporting.

7 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; death or a dangerous occurrence.

8 A dangerous occurrence is where there is an incident at the workplace that 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.
AMSA reviews all incidents reported and when considered necessary, conducts an investigation pursuant to its investigation powers under the OHS(MI) Act. Three reactive investigations were conducted by AMSA in 2004-05, compared to 10 in 2003-04. However, AMSA conducted an additional 42 investigations or OHS specific audits under s 87 of the OHS(MI) Act as part of its program of proactive investigations. This has resulted in an increase in the number of Prohibition Notices and Improvement Notices issued in the reporting year. AMSA intends to continue this proactive program aiming to cover, each year, all ships to which the OHS(MI) Act applies.

Table 12: Ratio of Reported Incidents to Seafarers 2000-01 to 2004-05

<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>61</td>
<td>78</td>
<td>78</td>
<td>49</td>
</tr>
<tr>
<td>Number of seafarers (FTE) under the OHS(MI) Act</td>
<td>2 850</td>
<td>3 000</td>
<td>3 173</td>
<td>3 474</td>
<td>3 371</td>
</tr>
<tr>
<td><strong>Ratio (incidents per 1,000 seafarers)</strong></td>
<td><strong>24.2</strong></td>
<td><strong>20.3</strong></td>
<td><strong>24.6</strong></td>
<td><strong>22.5</strong></td>
<td><strong>14.5</strong></td>
</tr>
<tr>
<td>Number of reported incidents involving an incapacity of 5 or more successive days</td>
<td>61</td>
<td>56</td>
<td>65</td>
<td>72</td>
<td>48</td>
</tr>
<tr>
<td><strong>Ratio (incidents involving 5 or more days incapacity per 1,000 seafarers)</strong></td>
<td><strong>21.4</strong></td>
<td><strong>18.7</strong></td>
<td><strong>20.5</strong></td>
<td><strong>20.7</strong></td>
<td><strong>14.2</strong></td>
</tr>
</tbody>
</table>

Source: AMSA and Seacare Authority

Table 12 indicates that the reported incident rate, measured using all incidents reported to AMSA as a proportion of seafarers, decreased in 2004-05 compared to 2003-04. The incident rate based on incidents resulting in incapacity of five or more successive days also improved in 2004-05 relative to 2003-04. This improvement seems to be consistent with the lower number of compensation claims reported in 2004-05.
Figure 12: Numbers of accepted compensation claims (1 week or more) compared to reported serious personal injury incidents 2000-01 to 2004-05

Source: Seacare Authority, AMSA and AMICA

Figure 12 indicates that the fall in the number of claims in 2004-05 is generally reflected in a decline in the number of serious personal incidents reported to the Inspectorate. The reduction in claims is greater than the reduction in reportable incidents.

4.8 Workers’ Compensation

4.8.1 Seacare Workers’ Compensation Premium Arrangements

Scheme employers are required to have insurance arrangements in place indemnifying them for the cost of Seafarers Act workers’ compensation claims. Typically this involves employers paying a yearly premium to an insurer at the start of a year to fund the future costs of all claims incurred in that year including injuries incurred but not yet reported in that year. These policies typically include a claim excess or deductible. This serves to lower the premium payable but requires the employer to meet the costs of claims up to the deductible amount. Each year, the Seacare Authority arranges for an actuary to report on these insurance premium arrangements. This year, actuaries Taylor Fry Pty Ltd made the following observations on Seacare 2003-04 Scheme insurance arrangements.

In 2003-04, $13,656,000 in premium income was collected against declared total scheme remuneration of $263,400,000, yielding an effective average premium rate of 5.19%. However, this was inclusive of deductibles which range from $0 to over $100,000. Standardising the level of deductibles to the equivalent of 5 days incapacity ($1,550) would have required a combined premium income of some $24,257,000, or a premium rate of 9.21%. However, this includes cover for potential liabilities under the Navigation Act as well as under the Seafarers Act. Those policies which do not include the Navigation Act cover have an average premium of 7.28%. The following demonstrates the increase in premiums over the 5 year period 1999-00 to 2003-04.
Table 13: Unadjusted and Adjusted Seacare Premium Rates 1999-00 to 2003-04

<table>
<thead>
<tr>
<th></th>
<th>1999-00</th>
<th>2000-01</th>
<th>2001-02</th>
<th>2002-03*</th>
<th>2003-04</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average raw or unadjusted premium rate</td>
<td>3.48%</td>
<td>4.12%</td>
<td>3.75%</td>
<td>5.17%</td>
<td>5.19%</td>
</tr>
<tr>
<td>Average 5 day deductible premium equivalent rate</td>
<td>6.43%</td>
<td>6.64%</td>
<td>6.19%</td>
<td>8.01%</td>
<td>9.21%</td>
</tr>
<tr>
<td>Premium collected, or premium income (million)</td>
<td>$6.951</td>
<td>$8.636</td>
<td>$9.730</td>
<td>$13.594</td>
<td>$13.656</td>
</tr>
<tr>
<td>Wages pool (remuneration) (million)</td>
<td>$199.843</td>
<td>$209.679</td>
<td>$273.328</td>
<td>$273.134</td>
<td>$263.400</td>
</tr>
</tbody>
</table>

* varies from figures reported last year due to data correction

Source: Taylor Fry Pty Ltd

Table 13 shows only a very small increase in the premium rate in 2003-04 relative to 2002-03. However, based on the 5 day deductible premium equivalent rate there is a 15% increase. One explanation for this apparent rise in this premium rate is that the premium payments negotiated by employers and insurers contain a higher deductible in 2003-04 than in the previous year.

4.8.2 Claim Payment Summary

Taylor Fry have also provided a claim payment summary on the components of claim costs that have been paid to injured seafarers over the four year period to 2003-04. Payments for weekly benefits (time off work) remain the largest component of costs.

Table 14: Payment Summary - Payment type by $ and percentage

<table>
<thead>
<tr>
<th>Payment type</th>
<th>Total $ paid</th>
<th>Proportion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Weekly benefits</td>
<td>13,665,813</td>
<td>69%</td>
</tr>
<tr>
<td>Lump sums</td>
<td>1,722,146</td>
<td>9%</td>
</tr>
<tr>
<td>Medical and like</td>
<td>2,442,441</td>
<td>12%</td>
</tr>
<tr>
<td>Hospital</td>
<td>650,272</td>
<td>3%</td>
</tr>
<tr>
<td>Rehabilitation</td>
<td>270,221</td>
<td>1%</td>
</tr>
<tr>
<td>Investigation and assessment</td>
<td>244,635</td>
<td>1%</td>
</tr>
<tr>
<td>Legal</td>
<td>706,617</td>
<td>4%</td>
</tr>
<tr>
<td>Other</td>
<td>243,986</td>
<td>1%</td>
</tr>
<tr>
<td>Total</td>
<td>19,946,130</td>
<td>100%</td>
</tr>
</tbody>
</table>

Source: Taylor Fry Pty Ltd

4.8.3 Claims management – duration indicators

Last year, for the first time, the Seacare Authority published claims management duration data highlighting a number of measures identified to show the performance of employers and employees in managing claims. The first of these measures shows improvement in 2004-05 relative to 2003-04. The data is reported in Tables 15 to 18.
Table 15: Injury occurrence to claim lodgement 2004-05

<table>
<thead>
<tr>
<th>Injury occurrence to lodgement of claim with the employer</th>
<th>% claims lodged in first month</th>
<th>% claims lodged between 1 and 3 months</th>
<th>% claims lodged between 3 and 12 months</th>
<th>% claims lodged after 12 months</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003-04</td>
<td>51%</td>
<td>35%</td>
<td>12%</td>
<td>2%</td>
</tr>
<tr>
<td>2004-05</td>
<td>93%</td>
<td>4%</td>
<td>2%</td>
<td>1%</td>
</tr>
</tbody>
</table>

Source: AMICA

Table 15 shows a dramatic improvement in employee performance in the early lodgement of claims with employers, especially as the majority of the 93% lodged in the first month were in fact lodged within 7 days. Early claims lodgement is generally regarded as a prerequisite for early intervention by the employer.

Table 16: Claim receipt by employer to assessment of capability of undertaking rehabilitation

<table>
<thead>
<tr>
<th>Time claim received by employer to time of rehabilitation assessment</th>
<th>% assessed between 1-7 days</th>
<th>% assessed between 8-14 days</th>
<th>% assessed between 15-21 days</th>
<th>% assessed between 22-31 days</th>
<th>% assessed between 1-3 months</th>
<th>% assessed between 4-12 months</th>
<th>% unknown</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003-04</td>
<td>40%</td>
<td>3%</td>
<td>3%</td>
<td>17%</td>
<td>13%</td>
<td>20%</td>
<td>4%</td>
</tr>
<tr>
<td>2004-05</td>
<td>52%</td>
<td>0%</td>
<td>4%</td>
<td>0%</td>
<td>22%</td>
<td>13%</td>
<td>9%</td>
</tr>
</tbody>
</table>

Source: AMICA

Table 16 shows that while a greater proportion of injured employees (52%) were assessed (the employer made an assessment of the employee's capability of undertaking rehabilitation) within 7 days in 2004-05, a lower proportion (56% compared to 63% last year) were assessed within 31 days (the statutory time is 28 days).

Table 17: Receipt of claim to end of compensation (a proxy for a return to work)

<table>
<thead>
<tr>
<th>Date employer received claim to compensation end date (proxy for return to work)</th>
<th>0-14 days</th>
<th>15-31 days 4-12 months</th>
<th>&gt;12 months</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003-04</td>
<td>40%</td>
<td>13%</td>
<td>27%</td>
</tr>
<tr>
<td>2004-05</td>
<td>28%</td>
<td>6%</td>
<td>29%</td>
</tr>
</tbody>
</table>

Source: AMICA

Table 17 shows that in 34% of cases, compensation had ceased within one month and 63% ceased within 3 months of the date of receipt of the claim by the employer. The increase in the proportion of claims taking longer than 3 months to return to work is a poorer result than that achieved in 2003-04.
4.9 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 with the assistance of Comcare). The AAT review process usually operates as follows. Firstly, an AAT conference is held to enable applicants to discuss with their employer, together with 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 on a decision. 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 mediation should be held.

Table 18: Outcome of AAT review of decisions 2002-03 to 2004-05

<table>
<thead>
<tr>
<th>Matters to be dealt with</th>
<th>2002-03</th>
<th>2003-04</th>
<th>2004-05</th>
</tr>
</thead>
<tbody>
<tr>
<td>Undetermined matters registered by AAT in reporting year</td>
<td>50</td>
<td>44</td>
<td>58</td>
</tr>
<tr>
<td>New matters recorded by AAT for review of reviewable decisions</td>
<td>41</td>
<td>66</td>
<td>62</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>91</td>
<td>110</td>
<td>120</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Matters finalised by consent of parties</th>
<th>2002-03</th>
<th>2003-04</th>
<th>2004-05</th>
</tr>
</thead>
<tbody>
<tr>
<td>Decision affirmed</td>
<td>17</td>
<td>19</td>
<td>21</td>
</tr>
<tr>
<td>Decision set aside</td>
<td>5</td>
<td>14</td>
<td>20</td>
</tr>
<tr>
<td>Decision varied</td>
<td>3</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Application dismissed or withdrawn by consent of parties</td>
<td>1</td>
<td>1</td>
<td>8</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>26</td>
<td>35</td>
<td>51</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Matters heard and determined by the AAT (under s43 of AAT Act)</th>
<th>2002-03</th>
<th>2003-04</th>
<th>2004-05</th>
</tr>
</thead>
<tbody>
<tr>
<td>Decision of employer affirmed</td>
<td>3</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Decision set aside</td>
<td>9</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>Decision varied</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>12</td>
<td>4</td>
<td>3</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Other finalisations</th>
<th>2002-03</th>
<th>2003-04</th>
<th>2004-05</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application withdrawn by applicant</td>
<td>8</td>
<td>13</td>
<td>15</td>
</tr>
<tr>
<td>Application dismissed by AAT</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Application dismissed by AAT – as AAT had no jurisdiction</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total Matters Finalised</strong></td>
<td>47</td>
<td>52</td>
<td>70</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Timeframes</th>
<th>2002-03</th>
<th>2003-04</th>
<th>2004-05</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average time taken from lodgement to resolution (days)</td>
<td>495</td>
<td>352</td>
<td>293</td>
</tr>
</tbody>
</table>

Source: AAT
While total number of matters to be dealt with by the AAT has increased from 110 in 2003-04 to 120 in 2004-05, new matters have declined from 66 to 62. The majority of matters continue to be finalised by consent of the parties (51) as opposed to only a small and declining number (3) which proceed to be heard and determined by the AAT under s.43 of the AAT Act. This has undoubtedly contributed to the improvement in the average time taken from lodgement to resolution which in 2004-05 stands at 293 days.

The total number of claims reported to AMICA in 2004-05 was 164 and 62 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, and is generally regarded as the most effective measure of a dispute rate. Using this analysis, 38% of claims made by seafarers resulted in an application to the AAT for a review of a decision. This compares to 32% in 2003-04 and 25% in 2002-03.

Table 19: Seacare scheme dispute rate (number of applications to AAT as a proportion of total claims lodged) – 2001-02 to 2004-05

<table>
<thead>
<tr>
<th></th>
<th>2001-02</th>
<th>2003-04</th>
<th>2004-05</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dispute rate</td>
<td>25%</td>
<td>32%</td>
<td>38%</td>
</tr>
</tbody>
</table>

Source: AAT and Seacare Authority

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 2004-05 Comcare reviewed 38 such cases from 40 requests lodged. In the majority of cases (34) Comcare recommended that the employer's determination be affirmed with only four recommendations being made to vary the determination.

While it would be expected that there would be a lower number of tier two (AAT) reviews (in that some disputes would be resolved at the tier one stage) the data shows the contrary. The key explanations for this are: firstly, 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 secondly, 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 (eg, 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 the AAT).
4.10 Rehabilitation/Return to Work performance

4.1.1 Rehabilitation/Return to Work performance – using claims data

Table 20: Rehabilitation and return to work 2000-01 to 2004-05

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Accepted Claims</td>
<td>180</td>
<td>152</td>
<td>149</td>
<td>182</td>
<td>136</td>
</tr>
<tr>
<td>Claims of 28 days or more</td>
<td>112</td>
<td>96</td>
<td>91</td>
<td>115</td>
<td>69</td>
</tr>
<tr>
<td>Number of claimants assessed for a</td>
<td>50</td>
<td>15</td>
<td>27</td>
<td>30</td>
<td>23</td>
</tr>
<tr>
<td>rehabilitation program</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of claimants commencing a</td>
<td>38</td>
<td>13</td>
<td>19</td>
<td>18</td>
<td>20</td>
</tr>
<tr>
<td>rehabilitation program</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of claimants commencing a</td>
<td>33</td>
<td>7</td>
<td>14</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>rehabilitation program and who returned to work</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: AMICA

Table 20 indicates that in 2004-05 there were 69 employees (51% of employees with accepted claims) whose incapacity lasted for 28 days or more. Under s49 of the Seafarers Act the employer is required to arrange for an assessment of the employee’s capability of undertaking a rehabilitation program in such cases. However, of those, only 23, or 33% (up from 26% in 2003-04) were assessed by employers for their capability of undertaking a rehabilitation program.

Table 20 also indicates that of those employees commencing a rehabilitation program, 10, or 50% returned to work. It should be noted that more than 10 injured seafarers returned to work, but most returned to work without having undertaken a rehabilitation program.
Table 21: Nature of duties on return to work 2000-01 to 2004-05

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Full duties</td>
<td>136</td>
<td>83</td>
<td>100</td>
<td>124</td>
<td>72</td>
</tr>
<tr>
<td>Light duties</td>
<td>9</td>
<td>11</td>
<td>6</td>
<td>6</td>
<td>3</td>
</tr>
<tr>
<td>Same position</td>
<td>139</td>
<td>85</td>
<td>99</td>
<td>125</td>
<td>72</td>
</tr>
<tr>
<td>Other position</td>
<td>6</td>
<td>8</td>
<td>7</td>
<td>4</td>
<td>3</td>
</tr>
<tr>
<td>Full time</td>
<td>142</td>
<td>84</td>
<td>104</td>
<td>129</td>
<td>74</td>
</tr>
<tr>
<td>Part time</td>
<td>3</td>
<td>3</td>
<td>2</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Ship</td>
<td>140</td>
<td>89</td>
<td>100</td>
<td>125</td>
<td>73</td>
</tr>
<tr>
<td>Land</td>
<td>5</td>
<td>7</td>
<td>6</td>
<td>4</td>
<td>2</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 (in supernumerary positions or on shore-based duties) are being arranged for returning seafarers as part of the rehabilitation process.

4.10.2 Rehabilitation and return to work – using RTW Monitor data

The RTW Monitor 2004-05 reports on a survey of injured workers who have had more than 10 days of compensation paid. It is undertaken by an independent research company, Campbell Research and Consulting, in all Australian workers’ compensation jurisdictions (with the exception of Western Australia) and New Zealand. It aims to establish a national/international benchmark for measuring RTW, and durability of RTW, across Australian and New Zealand workers’ compensation schemes. In 2004-05, it surveyed 2,995 injured workers by confidential interview of whom 49 were in the Seacare Scheme.
The RTW Monitor also includes a range of survey questions asked to ascertain injured workers’ perceptions about the way their compensation claim was managed, and their rehabilitation and return to work experience.

Some of the key outcomes which compare Seacare scheme performance with national outcomes are reported below:

**Table 22: RTW Comparative Performance: Key Measures 2004-2005**

<table>
<thead>
<tr>
<th>RTW Outcomes</th>
<th>Seacare</th>
<th>National</th>
<th>Seacare performance to National</th>
</tr>
</thead>
<tbody>
<tr>
<td>RTW rate %</td>
<td>75%</td>
<td>85%</td>
<td>worse</td>
</tr>
<tr>
<td>Durable RTW rate %</td>
<td>62%</td>
<td>76%</td>
<td>worse</td>
</tr>
<tr>
<td>Non durable RTW %</td>
<td>13%</td>
<td>9%</td>
<td>*</td>
</tr>
<tr>
<td>Mean length of durable RTW (average days)</td>
<td>193</td>
<td>154</td>
<td>better</td>
</tr>
<tr>
<td>Compensation payment status at time of interview (still receiving weekly payments)</td>
<td>25%</td>
<td>21%</td>
<td>*</td>
</tr>
<tr>
<td>Full RTW (income from employment only) %</td>
<td>56%</td>
<td>63%</td>
<td>*</td>
</tr>
<tr>
<td>Partial RTW (income from employment and other source at the time of interview) %</td>
<td>9%</td>
<td>15%</td>
<td>*</td>
</tr>
<tr>
<td>Non-durable RTW / no RTW (income from all other sources except employment)</td>
<td>35%</td>
<td>22%</td>
<td>worse</td>
</tr>
<tr>
<td>Continuity of Employer</td>
<td>93%</td>
<td>84%</td>
<td>better</td>
</tr>
<tr>
<td>Returned to same duties by time of interview</td>
<td>85%</td>
<td>76%</td>
<td>*</td>
</tr>
<tr>
<td>Work importance; satisfaction; valued</td>
<td>4.7; 4.5; 4.2</td>
<td>4.4; 4.2; 3.9</td>
<td>better</td>
</tr>
<tr>
<td>Ease of claim information; lodging claim (mean rating)</td>
<td>85%; 84%</td>
<td>81%; 73%</td>
<td>better</td>
</tr>
<tr>
<td>Development of RTW</td>
<td>20%</td>
<td>50%</td>
<td>worse</td>
</tr>
<tr>
<td>Involved in development of RTW plan</td>
<td>50%</td>
<td>79%</td>
<td>worse</td>
</tr>
<tr>
<td>Proportion males; mean age</td>
<td>95%; 46</td>
<td>62%; 42</td>
<td>*</td>
</tr>
<tr>
<td>Mean days compensation paid</td>
<td>92</td>
<td>56</td>
<td>worse</td>
</tr>
<tr>
<td>Mean claim cost</td>
<td>$23,827</td>
<td>$10,594</td>
<td>worse</td>
</tr>
<tr>
<td>Participation in rehabilitation</td>
<td>18%</td>
<td>48%</td>
<td>worse</td>
</tr>
<tr>
<td>Average rehabilitation costs</td>
<td>$2,279</td>
<td>$1,586</td>
<td>*</td>
</tr>
</tbody>
</table>

*difference is not statistically significant*
The following points summarise other RTW Monitor outcome results for Seacare against the national results:

- the Seacare scheme achieved a RTW rate of 75% in 2004-05 which was 10 percentage points below the national rate. However, as there is year to year volatility, the average RTW rate over 5 years has been 82%;
- the durable RTW rate for 2004-05 of 62% was also below the national average of 82%, but over 5 years the Seacare rate has averaged 72%. Encouragingly, the length of durable RTW rate at 193 days better the national average of 154 days;
- 25% of Seacare scheme employees were still receiving weekly workers’ compensation payments at the time of the interview, a marked deterioration from previous years (15% in 2003-04 and 17% in 2002-03), and now above (worse than) the national average of 21%;
- Seacare scheme injured employees are very likely to return to the same employer following a return to work. 93% reported returning to the same employer (83% in 2003-04 and 96% in 2002-03) compared to the national average of 84%;
- Seacare scheme employees reported by far the lowest partial or graduated return to work of any scheme, at 2% (3% in 2003-04, 4% in 2002-03 and 5% in 2001-02) compared to the national average of 23%. This undoubtedly reflects the lack of access to graduated return to work opportunities for seafarers, a consequence of the fitness for duty requirements of the industry and the general unavailability of alternative duties on board ship;
- 85% of Seacare scheme employees (87% in 2003-04 and the same in 2002-03) returned to the same duties following an injury compared to the national average of 76%. This is the highest of any scheme in Australia.

In terms of rehabilitation process measures and employees’ perceptions, the Monitor reported the following key points:

- Seacare scheme employees reported the highest identification with importance of the workplace, work satisfaction and scored highest in feeling valued by their employer;
- Seacare scheme employees indicated a high level of ease of access to information on making a compensation claim at 85% (81% nationally) and also outscored the national rate for ease of putting in a claim (84% of Seacare respondents thought the process was simple, against 73% nationally);
- of the Seacare scheme employees who had a RTW plan developed, only half (50%) reported that they had been involved in the development of the plan, against the national average of 79%. This may be a disappointing result as the Seafarers Act (section 50) requires the employer to consult with the employee in the development of the RTW plan and in previous years the results have been from 77-87%, however, due to the small sample size (10), the 2004-05 reduced result is not statistically significant.

The RTW Monitor has collected demographic and claim characteristics of the survey population. The key features are as follows:

- while 95% of Seacare survey respondents were male (62% nationally), the average age of 46 years was not significantly different to the national average (42 years). However 71% of the Seacare respondents came from non-metropolitan regions, this was higher than the national average of 46%;
one in five (18%) of injured seafarers in the sample participated in rehabilitation in 2004-05, much lower than the national rate (48%); and

the average (mean) number of days compensation paid to injured seafarers was 92, significantly higher than the national average of 56 and continuing the trend of being higher than the national average for the last 5 years. Consequently, the cost per claim by seafarers interviewed was $23,827 ($19,745 in 2003-04) which is significantly higher than the Australian average (mean) of $10,594; and

the average (mean) cost of rehabilitation of seafarers was $2,279 in 2004-05 and has risen from $930 in 2003-04. This compares to the Australian average of $1,586.

The RTW Monitor also tracks performance against its measures over time. While the following table summarises this performance, the small survey numbers involved may mean that year to year variations in performance are simply volatile rather than indicating improvement or deterioration.

Table 23: Trend Data Key Results

<table>
<thead>
<tr>
<th>RTW Outcomes</th>
<th>2000-01</th>
<th>2001-02</th>
<th>2002-03</th>
<th>2003-04</th>
<th>2004/05</th>
</tr>
</thead>
<tbody>
<tr>
<td>RTW rate %</td>
<td>79</td>
<td>87</td>
<td>77</td>
<td>86</td>
<td>75</td>
</tr>
<tr>
<td>Durable RTW rate %</td>
<td>74</td>
<td>73</td>
<td>67</td>
<td>81</td>
<td>62</td>
</tr>
<tr>
<td>Non durable RTW %</td>
<td>20</td>
<td>18</td>
<td>17</td>
<td>15</td>
<td>25</td>
</tr>
<tr>
<td>Mean length of durable RTW (average days)</td>
<td>221</td>
<td>222</td>
<td>210</td>
<td>184</td>
<td>193</td>
</tr>
<tr>
<td>Compensation payment status at time of interview</td>
<td>20</td>
<td>18</td>
<td>17</td>
<td>15</td>
<td>25</td>
</tr>
<tr>
<td>(still receiving weekly payments) %</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Full RTW (income from employment only) %</td>
<td>60</td>
<td>67</td>
<td>59</td>
<td>63</td>
<td>56</td>
</tr>
<tr>
<td>Partial RTW (income from employment and other</td>
<td>14</td>
<td>8</td>
<td>8</td>
<td>21</td>
<td>9</td>
</tr>
<tr>
<td>source at the time of interview) %</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-durable RTW / no RTW (income from all others</td>
<td>26</td>
<td>25</td>
<td>33</td>
<td>17</td>
<td>35</td>
</tr>
<tr>
<td>except employment %</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Continuity of Employer %</td>
<td>88</td>
<td>88</td>
<td>96</td>
<td>83</td>
<td>93</td>
</tr>
<tr>
<td>Returned to same duties by time of interview</td>
<td>94</td>
<td>90</td>
<td>87</td>
<td>87</td>
<td>85</td>
</tr>
</tbody>
</table>

RTW / Claim Process Measures

| Ease of claim lodgement (mean rating % ‘simple’)   | 71      | 68      | 75      | 75      | 84      |
| Development of RTW %                              | 23      | 16      | 17      | 18      | 20      |
| Involved in development of RTW plan %             | 80      | 87      | 77      | 77      | 49      |

Demographics / claim characteristics

| Mean days compensation paid                       | 73      | 92      | 86      | 83      | 92      |
| Mean claim cost                                   | $16,041 | $22,424 | $14,717 | $19,745 | $23,827 |
| Participation in rehabilitation %                 | 23      | 14      | 9       | 14      | 18      |
| Average rehabilitation costs                      | $1,662  | $798    | $809    | $930    | $2,279  |
CHAPTER 5:

SIGNIFICANT ADMINISTRATIVE APPEALS TRIBUNAL DECISIONS AND COURT JUDGEMENTS RELEVANT TO SEACARE SCHEME LEGISLATION
There are two matters to report from 2004-05, both arising in the Administrative Appeals Tribunal (AAT). A list of all AAT and Court decisions and judgements relevant to Seacare scheme legislation over the period 1994 to June 2005 is provided at Section 5.2.

5.1 Administrative Appeals Tribunal matters


In this case, the applicant sought a review of the decision made by the respondent to deny liability under the Seafarers Rehabilitation and Compensation Act 1992 in respect of an injury sustained when the applicant dived into shallow water at Port Melbourne beach on 18 June 2001. The respondent had denied the applicant's claim for workers' compensation by virtue of serious misconduct by the applicant, namely being under the influence of alcohol.

The issues before the Tribunal were: first, did the injury occur in the course of the applicant's employment; secondly, if so, did the applicant disentitle himself to compensation by virtue of wilful misconduct, in this case alcohol consumption, or by the assumption of an abnormal risk of injury. The Tribunal reaffirmed the decision to deny liability. However, it reasoned that the injury occurred outside the course of the applicant's employment rather than because of serious misconduct.


This hearing concerned denied workers' compensation claims made by two seafarers who subsequently applied to the Tribunal for review. The primary issue for consideration was whether the Seafarers Act applied to the seafarers on these vessels, and consequently, whether the decisions to deny were reviewable before the Tribunal. At question were whether the two ships on which the seafarers had sustained their injuries were prescribed ships, and whether the respondents were 'operators' within the meaning of the Seafarers Act. In particular, could this be established according to the entity which had operated the vessels at the material time.

Both vessels had been in the service of third-party companies that had entered into agreements with these companies to employ the ships' crews (manning agents). It had been previously determined that neither one or the other company associated with either ship could be found to be operating the vessel, as day to day activities had been managed by one company with the other directing the ship's operations.

The Tribunal found that despite not controlling the day to day activities of the vessels, each vessel had been “operated” by companies in association with the commercial or technical managers of the vessels, insofar as the Master of each vessel was employed by the companies and ‘operated’ the vessels and that consequently, the Seafarers Act was applicable and the decisions before the Tribunal were reviewable.

Both vessels had been covered by alternative workers' compensation arrangements. One vessel had entered into a contractual obligation to meet the Seafarers Act compensation obligations. Both companies had received prior advice that their vessels were not ‘prescribed ships’.

The consequence of the decision of the AAT has been to extend the definition of ‘operator’ to include manning agents and the vessels and seafarers to which the Seafarers Act may now apply. The decisions of the AAT are set down to be heard on appeal by the Full Federal Court in November 2005.
5.2 Court judgments and Administrative Appeals Tribunal decisions relevant to Seacare scheme legislation, 1994 to June 2005.

High Court of Australia

Smith v ANL Ltd [2000] HCA 58
(16 November 2000)

Federal Court of Australia – Full Court

Cook v ASP Ship Management [2001] FCA 598 (16 February 2001)


Tiwi Barge Services Pty Ltd v Julie Ann Stark [1997] FCA 874 (3 September 1997)


Federal Court of Australia – Single Judge

Smith v Caltex Australia Petroleum Pty Ltd [2004] FCA 480 (23 April 2004)

Pacific Manning Company Pty Ltd v Barton [2003] FCA 498 (22 May 2003)


Howard Smith Industries Pty Ltd v Richards [1999] FCA 1144 (3 September 1999)


Total Marine Services Pty Ltd v Michael Kiely [1998] FCA 153 (4 March 1998)

Broken Hill Pty Co Ltd v Andrew Lionel Finestone [1997] FCA 31 (31 October 1997)


Federal Magistrates Court of Australia

Cook v ASP Ship Management Pty Ltd and ASP Ship Management Pty Ltd v Cook (no.2) [2004] FMCA 361 (9 June 2004)

Compensation Court – NSW


Supreme Court – WA


Court of Appeal – WA


Administrative Appeals Tribunal


Kelk and Mermaid Labour and Management Ltd [2005] AATA 312 (8 April 2005)

Hume and Total Marine Services Pty Ltd [2004] AATA 1135 (20 October 2004)


Blackney and Total Marine Services Pty Ltd [2004] AATA 269 (15 March 2004)
Smith and Caltex Australian Petroleum Pty Ltd [2003] AATA 1230 (8 December 2003)


Engelbrecht and BHP Transport and Logistics Pty Ltd [2002] AATA 1127 (1 November 2002)


Nicholas and Norwest Shipping [2002] AATA 806 (13 September 2002)


Cowe and Tidewater Port Jackson Marine Pty Ltd [2001] AATA 674 (26 July 2001)

Robertson and CSR Shipping [2001] AATA 325 (2 April 2001)

Chiavaro and TT Line Co Pty Ltd [2001] AATA 78 (7 February 2001)


Hughes and Tidewater Port Jackson Marine Pty Ltd [1999] AATA 577 (6 August 1999)

Zutt and Total Marine Services Pty Ltd [1999] AATA 313 (13 May 1999)


Gabriella Jean Pisconeri (on behalf of Kimberley and Emma Collins) and Tidewater Port Jackson Marine (1997) AAT No 12487 (11 December 1997)

Megan Louise Boyd v ASP Ship Management (1997) AAT No.12350 (28 October 1997)

Colin Simon Lane v ASP Ship Management (1997) AAT No. 12348 (28 October 1997)

Cameron v Australian Tankships Pty Ltd (1997) AAT No. 12117 (13 August 1997)

Robertson v ASP Ship Management (1997) AAT No. 12117 (13 August 1997)

Steven George Bingham v ASP Ship Management (1997) AAT No. 11957 (18 June 1997)

Chapter five


Norman Carroll Hore v Union Shipping Company Australia (1995) AAT No. 10157 21 AAR 291
(28 April 1995)

David Rodney Rowett v Australian Offshore Services (1994) AAT No.9618 (8 July 1994)
INDEPENDENT AUDIT REPORT

To the Minister for Employment and Workplace Relations

Matters relating to the Electronic Presentation of the Audited Financial Statements

This audit report relates to the financial statements published in both the annual report and on the website of the Seafarers Safety, Rehabilitation and Compensation Authority (Seacare Authority) the for the year ended 30 June 2005. The Chairperson and Chief Executive Officer is responsible for the integrity of both the annual report and the website.

The audit report refers only to the financial statements, schedules and notes named below. It does not provide an opinion on any other information which may have been hyperlinked to/from the audited financial statements.

If users of this report are concerned with the inherent risks arising from electronic data communications they are advised to refer to the hard copy of the audited financial statements in the Seacare Authority’s annual report.

Scope

The financial statements and the Chairperson and Chief Executive Officer’s responsibility

The financial statements comprise:
- Statement by the Chairperson and Chief Executive Officer;
- Statement of Financial Performance;
- Schedule of Administered Items; and
- Notes to and forming part of the Financial Statements

of the Seacare Authority for the year ended 30 June 2005.

The Chairperson and Chief Executive Officer is responsible for preparing financial statements that give a true and fair presentation of the financial position and performance of the Seacare Authority, and that comply with accounting standards, other mandatory financial
reporting requirements in Australia, and the Finance Minister’s Orders made under the Financial Management and Accountability Act 1997. The Chairperson and Chief Executive Officer is also responsible for the maintenance of adequate accounting records and internal controls that are designed to prevent and detect fraud and error, and for the accounting policies and accounting estimates inherent in the financial statements.

Audit approach

I have conducted an independent audit of the financial statements in order to express an opinion on them to you. My audit has been conducted in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing and Assurance Standards, in order to provide reasonable assurance as to whether the financial statements are free of material misstatement. The nature of an audit is influenced by factors such as the use of professional judgement, selective testing, the inherent limitations of internal control, and the availability of persuasive, rather than conclusive, evidence. Therefore, an audit cannot guarantee that all material misstatements have been detected.

While the effectiveness of management’s internal controls over financial reporting was considered when determining the nature and extent of audit procedures, the audit was not designed to provide assurance on internal controls.

I have performed procedures to assess whether, in all material respects, the financial statements present fairly, in accordance with the Finance Minister’s Orders made under the Financial Management and Accountability Act 1997, accounting standards and other mandatory financial reporting requirements in Australia, a view which is consistent with my understanding of the Seacare Authority’s financial performance as represented by the statement of financial performance.

The audit opinion is formed on the basis of these procedures, which included:

- examining, on a test basis, information to provide evidence supporting the amounts and disclosures in the financial statements; and
- assessing the appropriateness of the accounting policies and disclosures used, and the reasonableness of significant accounting estimates made by the Chairperson and Chief Executive Officer.

Independence

In conducting the audit, I have followed the independence requirements of the Australian National Audit Office, which incorporate the ethical requirements of the Australian accounting profession.
Audit Opinion

In my opinion, the financial statements of the Seacare Authority:

(a) have been prepared in accordance with the Finance Minister’s Orders made under the Financial Management and Accountability Act 1997; and

(b) give a true and fair view of the Seacare Authority’s financial performance for the year ended 30 June 2005, in accordance with:

(i) the matters required by the Finance Minister’s Orders; and

(ii) applicable accounting standards and other mandatory financial reporting requirements in Australia.

Australian National Audit Office

[Signature]

Brandon Jarrett
Executive Director

Delegate of the Auditor-General

Canberra
15 September 2005
SEAFARERS SAFETY, REHABILITATION AND COMPENSATION
AUTHORITY (SEACARE AUTHORITY)

Financial Statements
For the Year Ended 30 June 2005

Statement by the Chairperson and Chief Executive Officer

The accompanying statements of the Seafarers Safety, Rehabilitation and Compensation Authority for the year ended 30 June 2005 consist of:

- Statement of Financial Performance
- Schedule of Administered Items
- Notes to and forming part of the Financial Statements

In my opinion, the attached financial statements for the year ended 30 June 2005 give a true and fair view of the matters required by the Finance Minister’s Orders made under the Financial Management and Accountability Act 1997. The financial statements have been prepared using properly maintained records. As at the date of this statement, there are reasonable grounds to believe the Seacare Authority will be able to pay the debts of the Seafarers Safety Net Fund as and when they become due and payable.

Geoff Gronow  ESM ED
Chairperson and Chief Executive Officer

15 September 2005
# SEACARE AUTHORITY
## STATEMENT OF FINANCIAL PERFORMANCE
*For the year ended 30 June 2005*

<table>
<thead>
<tr>
<th>Notes</th>
<th>2004/05 $</th>
<th>2003/04 $</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>REVENUE</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Revenues from Ordinary Activities</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Resources received free of charge</td>
<td></td>
<td>423,000 408,500</td>
</tr>
<tr>
<td>Revenues From Ordinary Activities</td>
<td></td>
<td>423,000 408,500</td>
</tr>
<tr>
<td><strong>EXPENSE</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expenses from Ordinary Activities</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>Suppliers</td>
<td></td>
<td>423,000 408,500</td>
</tr>
<tr>
<td>Expenses From Ordinary Activities</td>
<td></td>
<td>423,000 408,500</td>
</tr>
<tr>
<td>Net surplus / (deficit) from ordinary activities</td>
<td></td>
<td>- -</td>
</tr>
</tbody>
</table>
### Seafarers Safety, Rehabilitation and Compensation Authority

#### Schedule of Administered Items

<table>
<thead>
<tr>
<th>Notes</th>
<th>Revenues administered on behalf of Government</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>For the year ended 30 June 2005</td>
</tr>
</tbody>
</table>

#### Non-taxation revenue (Revenues From Government)

<table>
<thead>
<tr>
<th>Notes</th>
<th>2004/05 $</th>
<th>2003/04 $</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Revenues From Government</td>
<td></td>
</tr>
</tbody>
</table>

| Levies | 359,075 | 354,305 |

#### Total revenues administered on behalf of Government

<table>
<thead>
<tr>
<th>Notes</th>
<th>2004/05 $</th>
<th>2003/04 $</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total revenues</td>
<td>359,075</td>
</tr>
</tbody>
</table>

#### Expenses administered on behalf of Government

<table>
<thead>
<tr>
<th>Notes</th>
<th>2004/05 $</th>
<th>2003/04 $</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Expenses</td>
<td>196,967</td>
</tr>
</tbody>
</table>

#### Assets administered on behalf of Government

<table>
<thead>
<tr>
<th>Notes</th>
<th>2004/05 $</th>
<th>2003/04 $</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Assets</td>
<td>684,388</td>
</tr>
</tbody>
</table>

#### Liabilities administered on behalf of Government

<table>
<thead>
<tr>
<th>Notes</th>
<th>2004/05 $</th>
<th>2003/04 $</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Liabilities</td>
<td>231,214</td>
</tr>
</tbody>
</table>

#### Net Assets Administered on Behalf of Government

<table>
<thead>
<tr>
<th>Notes</th>
<th>2004/05 $</th>
<th>2003/04 $</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Net Assets</td>
<td>453,174</td>
</tr>
</tbody>
</table>

---

This schedule should be read in conjunction with the accompanying notes.
### Administered Cash Flows
*For the period ended 30 June 2005*

#### Operating Activities

<table>
<thead>
<tr>
<th></th>
<th>Notes</th>
<th>2004/05 $</th>
<th>2003/04 $</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Cash Received</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Levies</td>
<td></td>
<td>377,238</td>
<td>327,593</td>
</tr>
<tr>
<td>Other – GST received from the ATO</td>
<td></td>
<td>19,920</td>
<td>3,777</td>
</tr>
<tr>
<td><strong>Total cash received</strong></td>
<td></td>
<td>397,158</td>
<td>331,370</td>
</tr>
<tr>
<td><strong>Cash Used</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Suppliers</td>
<td></td>
<td>171,686</td>
<td>109,040</td>
</tr>
<tr>
<td><strong>Total cash used</strong></td>
<td></td>
<td>171,686</td>
<td>109,040</td>
</tr>
</tbody>
</table>

**Net cash from/(used by) operating activities**

**Net increase/(decrease) in cash held**

<table>
<thead>
<tr>
<th></th>
<th>Notes</th>
<th>2004/05 $</th>
<th>2003/04 $</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash at the beginning of the reporting period</td>
<td></td>
<td>-</td>
<td>225,736</td>
</tr>
<tr>
<td>Cash from Official Public Account – Special Account</td>
<td></td>
<td>171,686</td>
<td>358,406</td>
</tr>
<tr>
<td>Cash to the Official Public Account – Special Account</td>
<td></td>
<td>(397,158)</td>
<td>(806,472)</td>
</tr>
</tbody>
</table>

**Cash at the end of the reporting period**

This schedule should be read in conjunction with the accompanying notes.
<table>
<thead>
<tr>
<th>Note</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Summary of Significant Accounting Policies</td>
</tr>
<tr>
<td>2</td>
<td>Adoption of Australian Equivalents to International Financial Reporting Standards from 2005-2006</td>
</tr>
<tr>
<td>3</td>
<td>Revenues from Ordinary Activities</td>
</tr>
<tr>
<td>4</td>
<td>Expenses from Ordinary Activities</td>
</tr>
<tr>
<td>5</td>
<td>Revenues administered on behalf of Government</td>
</tr>
<tr>
<td>6</td>
<td>Expenses administered on behalf of Government</td>
</tr>
<tr>
<td>7</td>
<td>Assets Administered on behalf of Government - Cash</td>
</tr>
<tr>
<td>8</td>
<td>Assets Administered on behalf of Government - Receivables</td>
</tr>
<tr>
<td>9</td>
<td>Liabilities Administered on behalf of Government - Payables</td>
</tr>
<tr>
<td>10</td>
<td>Liabilities Administered on behalf of Government - Provisions</td>
</tr>
<tr>
<td>11</td>
<td>Administered Reconciliation Table</td>
</tr>
<tr>
<td>12</td>
<td>Aged Analysis of Receivables</td>
</tr>
<tr>
<td>13</td>
<td>Remuneration of Auditors</td>
</tr>
<tr>
<td>14</td>
<td>Administered Special Accounts</td>
</tr>
<tr>
<td>15</td>
<td>Outcomes and Outputs</td>
</tr>
<tr>
<td>16</td>
<td>Remuneration of Members</td>
</tr>
</tbody>
</table>
SEACARE AUTHORITY
ADMINISTERED NOTES
FOR THE YEAR ENDED 30 JUNE 2005

1  Summary of Significant Accounting Policies

1.1  Objectives of the Seacare Authority

The objective of the Seacare Authority is to take a leading role in minimising the human and financial costs of workplace injury in the Australian maritime industry.

The Authority is structured to meet the following outcome:

Outcome 1: Minimise human and financial costs of workplace injury in the Commonwealth jurisdiction.

The Seacare Authority has not reported a departmental statement of financial position as it does not control assets or incur liabilities in its own right. The Seacare Authority has not reported a departmental statement of cash flows as it did not have departmental cash flows during the 2004-2005 financial year. The administration of the Seacare Authority is performed by Comcare. The associated financial transactions are reported in the Comcare financial statements under Output 1.5: “Regulation of the Seacare scheme of workers’ compensation, rehabilitation and occupational health and safety”. The Seacare Authority has no departmental commitments or departmental contingent liabilities as at 30 June 2005.

Other Seacare Authority activities contributing toward Outcome 1 are classified as administered activities. Administered activities involve the management or oversight by the Authority, on behalf of the Government, of items controlled or incurred by the Government.

The administered activities concern a Fund which was established in October 1992. It was established for the purpose of providing through its contracted agent, Australian Maritime Industry Compensation Agency Ltd (AMICA), a safety net under Section 96 of the Seafarers Rehabilitation and Compensation Act 1992 for the compensation and rehabilitation of injured seafarers not otherwise covered by an employer. The safety net fund provides coverage to persons when undergoing industry training, attending the seafarers’ engagement system and any seafarer or company trainee in situations where the original employer is insolvent or no longer traceable.

As AMICA was unable to obtain insurance, the Minister for Employment and Workplace Relations declared on 10 April 2002 that the Seacare Authority is to have the Fund’s powers and obligations under Section 100 of the Seafarers Rehabilitation and Compensation Act 1992.

Section 102 of the Seafarers Rehabilitation and Compensation Act 1992 requires the Seacare Authority to obtain insurance cover with an authorised insurer for any amount of a claim made by an eligible person that would exceed $1m. Despite the efforts of the Authority, it was not possible to obtain this cover as at 30 June 2005.

A Special Account called the ‘Seafarers Rehabilitation and Compensation Account’ was established on the 9 August 2002 under section 21 of the Financial Management and Accountability Act 1997 to operate as the Fund to receive levies under the Seafarers Rehabilitation and Compensation Levy Collection Act 1992 and to make payments arising from liabilities under the Seafarers Rehabilitation and Compensation Act 1992. The activities accounted for in these financial statements represent:
(a) the receipt into the Administered Official Receipts Account of levies collected under the *Seafarers Rehabilitation and Compensation Levy Collection Act 1992*;

(b) the transfer of these receipts to the Official Public Account in accordance with Australian Government requirements;

(c) the draw-down of Special Appropriation into the Administered Official Payments Account representing the return of the funds from the Official Public Account to meet payments under the *Seafarers Rehabilitation and Compensation Act 1992*; and

(d) the payment of expenses from the Administered Official Payments account.

### 1.2 Basis of Accounting

The financial statements are required by section 49 of the *Financial Management and Accountability Act 1997* and are a general purpose financial report.

The statements have been prepared in accordance with:

- Finance Minister’s Orders (or FMOs, being the Financial Management and Accountability Orders (Financial Statements for reporting periods ending on or after 30 June 2005));
- Australian Accounting Standards and Accounting Interpretations issued by the Australian Accounting Standards Board; and
- Consensus Views of the Urgent Issues Group.

The Schedule of Administered Items has been prepared on an accrual basis and these are in accordance with the historical cost convention. Except where stated, no allowance is made for the effect of changing prices on the items.

Assets and liabilities are recognised in the Schedule of Administered Items when and only when it is probable that future economic benefits will flow and the amounts of the assets or liabilities can be reliably measured. Liabilities and assets that are unrecognised are reported in the Administered Schedule of Commitments.

### 1.3 Revenue

Revenue is recognised to the extent that it is probable that the economic benefits will flow to the entity and the revenue can be reliably measured.

### 1.4 Cash

Cash means notes and coins held and any deposits held at call with a bank or financial institution. Cash is recognised at its nominal amount. For the purposes of the schedule of administered cash flows, cash includes cash on hand and in the bank.

### 1.5 Administered Cash Transfers to and from Official Public Account

Levies collected by the Seacare Authority on behalf of the Australian Government rather than the Seacare Authority are Administered Revenues. Collections are transferred to the Official Public Account (OPA) maintained by the Department of Finance. These transfers to the OPA are adjustments to the administered cash held by the Authority on behalf of the Government and reported as such in the Schedule of Cash Flows. Thus the Schedule of Administered Items largely reflects the Government’s transactions, through the Seacare Authority, with parties outside the Government.
Administered revenue for 2004-2005 represents levies collected in accordance with the Seafarers Rehabilitation and Compensation Levy Collection Act 1992. The levies collected by the Seacare Authority are paid into the Seacare Official Receipts account and then transferred into the OPA. These receipts represent monies available for the operation of the Seafarers’ Safety Net Fund. These monies are drawn down as an Administered Special Appropriation to meet expenses of the Fund.

Administered revenues transferred or transferable to the OPA are not reported as administered expenses or payables. These transactions or balances are internal to the Administered entity and are required to be reported in both the Schedule of Administered Items and in the Administered Reconciliation Table in Note 11.

1.6 Administered Commitments

The Seacare Authority held no administered commitments as at 30 June 2005.

1.7 Administered Contingent Assets and Contingent Liabilities

The Seacare Authority held no administered contingent assets or liabilities as at 30 June 2005.

1.8 Compensation and Debt Relief in Special Circumstances

During the financial year ended 30 June 2005, the Seacare Authority made no special payments in the form of:

- Act of Grace payments;
- Ex- Gratia payments;
- payments under the Scheme for Compensation for Detriment caused by Defective Administration; or
- payments under section 73 of the Public Service Act 1999.


2 Adoption of Australian Equivalents to International Financial Reporting Standards from 2005-2006

The Australian Accounting Standards Board has issued replacement Australian Accounting Standards to apply from 2005-06. The new standards are the Australian Equivalents to International Financial Reporting Standards (AEIFRS) which are issued by the International Accounting Standards Board. The new standards cannot be adopted early. The standards being replaced are to be withdrawn with effect from 2005-06, but continue to apply in the meantime.

The purpose of issuing Australian Equivalents to IFRSs is to enable Australian entities reporting under the Corporations Act 2001 to be able to more readily access overseas capital markets by preparing their financial reports according to accounting standards more widely used overseas.

The new reporting requirements are expected to have minimal impact on reporting for the Seacare Authority.

3 Revenues from Ordinary Activities

The services provided free of charge are recognised as revenue in accordance with the Finance Minister’s Orders for 2004-2005.

4 Expenses from Ordinary Activities

The value of suppliers represents the cost of services provided free of charge by the ANAO ($13,000) and Comcare ($410,000). These services are recognised as expenses in accordance with the Finance Minister’s Orders for 2004-2005.
The Seacare Authority does not employ staff. Comcare pays the expenses associated with the management of the Seacare Authority.

5 Revenues administered on behalf of government

Levies are imposed under the Seafarers Rehabilitation and Compensation Levy Act 1992 on seafarer berths (a berth on a prescribed ship that is normally used by a seafarer). The levies are payable by an employer who employs or engages seafarers on a prescribed ship.

6 Expenses administered on behalf of government

<table>
<thead>
<tr>
<th>SEACARE AUTHORITY SCHEDULE OF ADMINISTERED ITEMS</th>
<th>2004/05 $</th>
<th>2003/04 $</th>
</tr>
</thead>
<tbody>
<tr>
<td>Supplier Expenses</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rendering of services – external parties</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Seacare Fund administration</td>
<td>109,682</td>
<td>110,773</td>
</tr>
<tr>
<td>Actuarial services</td>
<td>11,229</td>
<td>10,682</td>
</tr>
<tr>
<td>Brokerage services</td>
<td>-</td>
<td>11,973</td>
</tr>
<tr>
<td>Legal costs</td>
<td>-</td>
<td>10,432</td>
</tr>
<tr>
<td>Bank charges</td>
<td>15</td>
<td>15</td>
</tr>
<tr>
<td>Total Suppliers</td>
<td>120,926</td>
<td>143,875</td>
</tr>
<tr>
<td>Write down of assets</td>
<td>5,141</td>
<td>-</td>
</tr>
<tr>
<td>Workers compensation expenses</td>
<td>70,900</td>
<td>145,100</td>
</tr>
</tbody>
</table>

The estimated value of potential workers compensation claims is a management estimate based on available information including actuarial advice.

Total expenses administered on behalf of Government: 196,967 ($196,967)
### 7 Assets Administered on behalf of Government - Cash

<table>
<thead>
<tr>
<th>SEACARE AUTHORITY SCHEDULE OF ADMINISTERED ITEMS</th>
<th>2004/05 $</th>
<th>2003/04 $</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash represents:</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Special Accounts</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Amounts temporarily held in the Administered</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Official Receipts Account prior to being</td>
<td></td>
<td></td>
</tr>
<tr>
<td>transferred to the Official Public Account</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Amounts transferred from the Official Public</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Account and temporarily held in the</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Administered Official Payments Account prior</td>
<td></td>
<td></td>
</tr>
<tr>
<td>to being paid to creditors</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total cash held as at 30 June 2005</strong></td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

### 8 Assets Administered on behalf of Government - Receivables

<table>
<thead>
<tr>
<th>SEACARE AUTHORITY SCHEDULE OF ADMINISTERED ITEMS</th>
<th>2004/05 $</th>
<th>2003/04 $</th>
</tr>
</thead>
<tbody>
<tr>
<td>Receivables represent:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Monies held in the Official Public Account.</td>
<td>673,538</td>
<td>448,066</td>
</tr>
<tr>
<td>These funds are available to be drawn down</td>
<td></td>
<td></td>
</tr>
<tr>
<td>to fund expenses payable under the Seafarers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Levies outstanding</td>
<td>4,982</td>
<td>27,719</td>
</tr>
<tr>
<td>GST receivable</td>
<td>5,868</td>
<td>6,134</td>
</tr>
<tr>
<td><strong>Total receivables administered on behalf of Government</strong></td>
<td>684,388</td>
<td>481,919</td>
</tr>
</tbody>
</table>

### 9 Liabilities Administered on behalf of Government - Payables

<table>
<thead>
<tr>
<th>SEACARE AUTHORITY SCHEDULE OF ADMINISTERED ITEMS</th>
<th>2004/05 $</th>
<th>2003/04 $</th>
</tr>
</thead>
<tbody>
<tr>
<td>Payables</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Suppliers</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Seacare Fund administration</td>
<td>-</td>
<td>24,545</td>
</tr>
<tr>
<td>Brokerage services</td>
<td>-</td>
<td>11,973</td>
</tr>
<tr>
<td>Legal costs</td>
<td>-</td>
<td>8,228</td>
</tr>
<tr>
<td>Actuarial costs</td>
<td>10,550</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total Suppliers administered on behalf of Government</strong></td>
<td>10,550</td>
<td>44,746</td>
</tr>
</tbody>
</table>
10 Liabilities Administered on behalf of Government - Provisions

<table>
<thead>
<tr>
<th>SEACARE AUTHORITY SCHEDULE OF ADMINISTERED ITEMS</th>
<th>2004/05 $</th>
<th>2003/04 $</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provisions</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Provision for workers compensation claims</td>
<td>216,000</td>
<td>145,100</td>
</tr>
<tr>
<td><strong>Total provisions administered on behalf of Government</strong></td>
<td>216,000</td>
<td>145,100</td>
</tr>
</tbody>
</table>

The safety net fund provides coverage to persons when undergoing industry training, attending the seafarers’ engagement system and any seafarer or company trainee in situations where the original employer is insolvent or no longer traceable. As such, the Seacare Authority had a financial exposure to all eligible workers’ compensation claims that cannot be met by the original employer.

The value of workers compensation claims expenses was estimated by management using available information including actuarial advice. The provision for claims incurred but not yet reported (IBNR) includes a prudential margin of 35%. There have been no successful claims incurred by the fund in 2004-05.

11 Administered Reconciliation Table

<table>
<thead>
<tr>
<th></th>
<th>2004/05 $</th>
<th>2003/04 $</th>
</tr>
</thead>
<tbody>
<tr>
<td>Opening administered assets less administered liabilities at 1 July</td>
<td>291,066</td>
<td>-</td>
</tr>
<tr>
<td><strong>Plus</strong> Administered revenues</td>
<td>359,075</td>
<td>354,305</td>
</tr>
<tr>
<td><strong>Less</strong> Administered expenses</td>
<td>196,967</td>
<td>288,975</td>
</tr>
</tbody>
</table>

Administered transfers to/from Australian Government:
- Appropriation Transfers from OPA:
  - Annual Appropriations Administered expenses
  - Administered assets and liabilities Appropriations
  - Special Appropriations (limited)
  - Special Appropriations (unlimited)
- Transfers to OPA
- Restructuring
- Transfers to other Entities (Finance – Whole of Government)
- Transfers from other Entities (Finance – Whole of Government)

| Closing administered assets less administered liabilities | 453,174   | 291,066   |

12 Aged Analysis of Receivables

<table>
<thead>
<tr>
<th></th>
<th>2004/05 $</th>
<th>2003/04 $</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Overdue less than 30 days</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Overdue 30 to 60 days</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Overdue 61 to 90 days</td>
<td>4,982</td>
<td>15,635</td>
</tr>
<tr>
<td>Overdue more than 90 days</td>
<td>-</td>
<td>12,084</td>
</tr>
<tr>
<td><strong>Total Receivables</strong></td>
<td>4,982</td>
<td>27,719</td>
</tr>
</tbody>
</table>
13  Remuneration of auditors

The Australian National Audit Office did not charge a fee for the audit of the 2004/05 financial statements. The notional amount of $13,000 was brought to account in the 2004/05 financial year as services provided free of charge (2004: $8,500).

14  Administered Special Account

A Special Account called the ‘Seafarers Rehabilitation and Compensation Account’ was established by the Financial Management and Accountability (Establishment of Special Account) Determination 2002/06 on the 9th of August 2002. The determination was made under section 21 of the Financial Management and Accountability Act 1997 by the Minister for Finance and Administration.

The account has the following purposes for, or in relation to, which amounts may be expended or transferred with in the Consolidated Revenue Fund:

(a)  the payment of claims, or other amounts payable by the Authority under or by virtue of the Seafarers Act, being amounts payable because of the declaration of the Authority as the Fund;

(b)  the payment of expenditure incurred in, or attributable to, the administration of the Fund;

(c)  payment to persons from whom the levy was collected under the Levy Collection Act;

(d)  the payment of any premium for a policy of insurance or indemnity for any amount of the Authority’s liability under the Seafarers Act;

(e)  any departmental purpose or administered purpose of the Department administering the Seafarers’ Act, but only up to an amount which had previously been expended by the Department for other purposes of the Account; and

(f)  payment to any trading corporation which may be approved under S.96 of the Seafarers Act to be the Fund for the purposes of that Act of an amount not exceeding the amount of the levy collected under the Levy Act less any payments made from the Account.
<table>
<thead>
<tr>
<th>Description</th>
<th>2004/05 $</th>
<th>2003/04 $</th>
</tr>
</thead>
<tbody>
<tr>
<td>Balance carried from previous period</td>
<td>448,066</td>
<td>-</td>
</tr>
<tr>
<td>GST receipts</td>
<td>19,920</td>
<td>3,777</td>
</tr>
<tr>
<td>Other receipts – Levy receipts</td>
<td>377,238</td>
<td>327,593</td>
</tr>
<tr>
<td>Other receipts – Transfer of funds from Department of Employment and Workplace Relations</td>
<td>-</td>
<td>225,736</td>
</tr>
<tr>
<td>Available for payments</td>
<td>845,224</td>
<td>557,106</td>
</tr>
<tr>
<td>Payments made</td>
<td>(171,686)</td>
<td>(109,040)</td>
</tr>
<tr>
<td>Other</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Balance carried to the next period</td>
<td>673,538</td>
<td>448,066</td>
</tr>
</tbody>
</table>

Represented by:

- Cash – transferred to the Official Public Account: 673,538 $, 448,066 $
- Cash – held by the entity: - $, - $

**Total per balance carried to the next period**: 673,538 $, 448,066 $
15 Outcome and Output

Note 15A Outcome and output

Outcome

The Seacare Authority is structured to meet one outcome: To minimise human and financial costs of workplace injury in the Commonwealth jurisdiction.

Output

The following output is identified with the outcome: Regulation of the Seacare scheme for workers’ compensation, rehabilitation and occupational health and safety.

Note 15B Net Cost of Outcome Delivery

<table>
<thead>
<tr>
<th></th>
<th>Outcome 2004/05 $</th>
<th>Total 2004/05 $</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administered expenses</td>
<td>196,967</td>
<td>196,967</td>
</tr>
<tr>
<td>Departmental expenses</td>
<td>423,000</td>
<td>423,000</td>
</tr>
<tr>
<td><strong>Total expenses</strong></td>
<td><strong>619,967</strong></td>
<td><strong>619,967</strong></td>
</tr>
<tr>
<td>Administered revenues</td>
<td>359,075</td>
<td>359,075</td>
</tr>
<tr>
<td>Departmental revenues</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total external revenues</strong></td>
<td><strong>359,075</strong></td>
<td><strong>359,075</strong></td>
</tr>
<tr>
<td>Net cost/(contribution) of outcome</td>
<td>260,892</td>
<td>260,892</td>
</tr>
</tbody>
</table>

Note 15C Departmental Revenues and Expenses by Output Groups

<table>
<thead>
<tr>
<th>Outcome 1</th>
<th>Output 2004/05 $</th>
<th>Total 2004/05 $</th>
</tr>
</thead>
<tbody>
<tr>
<td>Departmental expenses</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Suppliers</td>
<td>423,000</td>
<td>423,000</td>
</tr>
<tr>
<td><strong>Total departmental expenses</strong></td>
<td>423,000</td>
<td>423,000</td>
</tr>
<tr>
<td>Funded By:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Resources received free of charge</td>
<td>423,000</td>
<td>423,000</td>
</tr>
<tr>
<td><strong>Total departmental revenues</strong></td>
<td>423,000</td>
<td>423,000</td>
</tr>
</tbody>
</table>

16 Remuneration of Members

The aggregate amount of remuneration received by the part time members of Seacare Authority, not employed by the Australian Government, but paid by Comcare (on behalf of the Seacare Authority) during the period was $5,994 (2004: $8,509).
APPENDIX 2: SEACARE AUTHORITY PUBLICATIONS AVAILABLE DURING 2004-05

Notices to maritime industry organisations and other interested parties issued during 2004-05

03/2005    Maximum Level of Benefits (6 June 2005)
02/2005    Maximum Level of Benefits (18 April 2005)
01/2005    Indexation – Increase in Benefits from 1 July 2005 (28 February 2005)
06/2004    Maximum Level of Benefits (8 December 2004)
05/2004    Maximum Level of Benefits (10 September 2004)

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 News

Issue 8    (October 2004)
Issue 9    (January 2005)
Issue 10   (April 2005)
### Forms

<table>
<thead>
<tr>
<th>Name of Form</th>
<th>Form number</th>
<th>Dates</th>
</tr>
</thead>
<tbody>
<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 Dependants of Deceased Employees</td>
<td>05</td>
<td>Issued 1997</td>
</tr>
<tr>
<td>OHS Incident Alert</td>
<td>06</td>
<td>Issued June 1999</td>
</tr>
<tr>
<td>OHS Incident Report</td>
<td>07</td>
<td>Issued June 1999</td>
</tr>
<tr>
<td>Claim Update</td>
<td>08</td>
<td>Updated March 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 June 2002</td>
</tr>
<tr>
<td>Employer’s Determination of a Claim for Workers’ Compensation</td>
<td>12 (SRC 90)</td>
<td>Issued February 2005</td>
</tr>
</tbody>
</table>
Other Publications

- 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 (Wall Chart) 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) – February 2002

All of the above publications were issued free of charge and are available from the Authority and via the Seacare Authority website - www.seacare.gov.au.
APPENDIX 3: SEACARE SCHEME COVERAGE – GUIDANCE NOTES

Guidance Notes

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

Seafarers Safety, Rehabilitation and Compensation Authority (Seacare Authority)

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 employer were limited to a reference to 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 1992 (Section 6) are set out at Attachment 1.
Seafarers Act – coverage tests

Test 1: Is there employment of employees? [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 to employees employed by trading, financial and foreign corporations.

Test 2: Is the ship 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.

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

a. a ship registered in Australia; or

b. a ship (other than a ship registered in Australia) engaged in the coasting trade; 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 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/her 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:

a. between Australia and places outside Australia;

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, which exempts some or all employment from the operation of the Seafarers Act does not have the effect of exempting the operator from the operation of the OH&S(MI) Act. An employer or operator who is subject to a s20A exemption must still comply with the provisions of the OH&S(MI) Act.

Interpretation Section

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.
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.

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).

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.

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).
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.

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.

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

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.

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.
<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>AAT</td>
<td>Administrative Appeals Tribunal</td>
</tr>
<tr>
<td>AMICA</td>
<td>Australian Maritime Industry Compensation Agency Ltd, the trustee for AMICF</td>
</tr>
<tr>
<td>AMICF</td>
<td>Australian Maritime Industry Compensation Foundation</td>
</tr>
<tr>
<td>AMSA</td>
<td>Australian Maritime Safety Authority</td>
</tr>
<tr>
<td>RTW Monitor</td>
<td>Return to Work Monitor</td>
</tr>
<tr>
<td>CPM</td>
<td>Comparative Performance Monitoring (report)</td>
</tr>
<tr>
<td>DEWR</td>
<td>Department of Employment and Workplace Relations</td>
</tr>
<tr>
<td>FMA Act</td>
<td>Financial Management and Accountability Act 1997</td>
</tr>
<tr>
<td>FPSO</td>
<td>Floating Production Storage and Offloading facility</td>
</tr>
<tr>
<td>FSO</td>
<td>Floating Storage and Offloading facility</td>
</tr>
<tr>
<td>FTE</td>
<td>Full time equivalent. The formula for calculating a FTE employee number in this report is: The standard complement of seafarers engaged on each ship at any one time (i.e. ship berths) X the proportion of the reporting period that the vessel was operational and/or the seafarers were covered under the Seafarers Act X the usual weekly shift hours worked on the vessel (according to the relevant industrial agreement) divided by average weekly working hours. (Note: the latest available [2004] Australian Bureau of Statistics average hours worked per week by persons employed full time is 40.4)</td>
</tr>
<tr>
<td>Hours worked (adjusted)</td>
<td>A reference to the method for adjusting hours worked data used in Seacare Authority Annual Reports prior to 2003-04, where hours were 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</td>
</tr>
<tr>
<td>Hours worked</td>
<td>Calculated using the following formula – The standard complement of seafarers engaged on each ship at any one time (i.e. ship berths) X the number of hours (on average) per day the crew are on board, whether at work or not X the number of days the ship was operational (and was operating under the Seafarers Act) in the reporting period = hours worked. The formula aims to reflect a 24 hour working day for each day a seafarer is on board</td>
</tr>
<tr>
<td>HWCA</td>
<td>Heads of Workers’ Compensation Authorities (formerly Heads of Workplace Safety and Compensation Authorities – HWSCA) – a national consultative forum comprising the heads of all Australian workers’ compensation agencies</td>
</tr>
<tr>
<td>HWSA</td>
<td>Heads of Workplace Safety Authorities – a national consultative forum comprising the heads of all Australian OHS agencies</td>
</tr>
<tr>
<td>Term</td>
<td>Definition</td>
</tr>
<tr>
<td>------------------------------------------</td>
<td>------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Injury Frequency rate</td>
<td>An outcome indicator of OHS performance – denoted as the number of lost time workers’ compensation claims per million hours worked</td>
</tr>
<tr>
<td>Injury Incidence rate</td>
<td>A recognised outcome indicator of OHS performance – denoted as the number of lost time 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>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>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>NOPSA</td>
<td>National Offshore Petroleum Safety Authority</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 in Comcare 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 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>Seacare Online</td>
<td>The Seacare scheme employer on-line data reporting system</td>
</tr>
<tr>
<td>Seafarers Act</td>
<td>Seafarers Rehabilitation and Compensation Act 1992</td>
</tr>
<tr>
<td>Term</td>
<td>Description</td>
</tr>
<tr>
<td>--------------</td>
<td>-----------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Sea Safe-Work Awards</td>
<td>The Seacare Authority Awards program, recognising outstanding OHS and rehabilitation performance</td>
</tr>
<tr>
<td>SPISIC</td>
<td>Safety Performance Indicators for the Shipping Industry Committee</td>
</tr>
<tr>
<td>Taylor Fry</td>
<td>Taylor Fry Pty Ltd (an actuarial consultant contracted to the Seacare Authority)</td>
</tr>
<tr>
<td>WRMC</td>
<td>Workplace Relations Ministers’ Council</td>
</tr>
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