Q1. Can changes be made to the OHS regulatory arrangements (ie. NOPSA model) to improve workplace health and safety outcomes for seafarers?

Comments

- The National Offshore Petroleum Safety Authority model may provide an appropriate starting point from which to improve workplace health and safety outcomes for seafarers. It should be recognised however that the issues relevant to occupational health and safety in the offshore petroleum area may not readily translate to the needs of the maritime industry generally, particularly in relation to the bluewater fleet.

- We do not favour the application of the safety case regime, applicable in the offshore oil and gas industry, to the shipping industry.

Q2. How can workplace health and safety for seafarers be improved (ie. enhanced training, etc)?

Comments

- The current regime which places duty of care on operators and employers to provide primary responsibility for the health and safety of employees should be maintained, as should encouragement to maintain Designated Work Groups, Health and Safety Committees and Health and Safety Representatives on board each vessel.

- The Authority should become more strongly advocating for Government Budget appropriation for OHS prevention as is provided for Comcare. This would allow for more proactive Inspectorate campaigns around known hazards, risks and injury
types and would provide for better targeting of operators and employers with poor safety records.

- The Authority should be promoting better training opportunities for health and safety representatives appointed under DWGs.

- The scope to implement work safe seminars in the workplace should be explored and the Authority should make available experts in the area for such a purpose.

**INJURY MANAGEMENT AND REHABILITATION**

**Q3. Do Seacare scheme benefits need to be refreshed to align with benefits available to workers under the Safety Rehabilitation Compensation Act?**

**Comments**

As noted in the introduction to the Issues Paper the Seacare scheme had its origin in the Seamen’s Compensation Review conducted by Professor Harold Luntz in 1988. The Luntz review recognised the importance of maintaining a nationally based scheme to cover all Australian seafarers. The review recommended the adoption of the existing Comcare legislation (then known as the *Commonwealth Employees Rehabilitation and Compensation Act 1988*, now known as the *Safety Rehabilitation and Compensation Act 1992*) as a model for the new Seacare legislation. Although it was pointed out that the compensation statute developed to cover public servants may not be fully compatible with legislation covering the maritime industry, the authors of the review felt that there were at least two good reasons to adopt the *SRC Act* as a model, namely:

(a) There was an advantage in maintaining broad parity between the two compensation schemes, in order to ensure that the smaller scheme was kept up to date and not neglected by the legislature as had undoubtedly occurred during 80 year life of the previous seafarers legislation.
(b) To ensure familiarity with the smaller scheme by the members of the
Administrative Appeals Tribunal who were vested with jurisdiction over both Acts.

These reasons are as relevant today as they were in 1988.

Table 1 to the Issues Paper highlights a number of areas of distinction between the two Acts. Some of these distinctions have developed as a result of changes to the SRC Act, and neglect of the Seafarers Act. Some of the differences are simply a factor of the distinctions between the maritime industry and the industries covered by the SRC Act.

The position that we adopt is that in relation to increased benefits and entitlements which have accrued in the SRC Act, parity between the two statutes should be restored. In relation to those SRC Act amendments which “toughen up” entitlements a real need should first be demonstrated before adoption in the Seafarers Act.

(a) Journey Claims

The SRC Act was amended to exclude journey claims in April 2007. A significant argument advanced to exclude coverage was said to be the lack of the ability of an employer to control events outside of its workplace and that it was unfair in those circumstances to impose an obligation to cover journeys. That argument does not hold the same force in relation to seafarers. Seafarers have unique journey arrangements and usually live a considerable distance from their places of engagement. Furthermore, the nature of the seafarer’s roster means that there are relatively few work journeys as these will only occur at the commencement and end of a work swing which is typically every 4 to 6 weeks or so. This is to be contrasted with most Australian employees who transact a work journey twice a day. Most seafarers’ journeys involve air travel which represents a statistically far lesser risk of injury than motor vehicle travel.

In those circumstances the number of journey claims are relatively few and there is no appreciable saving to be gained by the repeal of these provisions.
The *Seafarers Act* excludes liability for journeys where the route taken substantially increased the risk of injury, compared to a more direct route, or where there was an interruption to the journey which increased the risk of injury (Section 9(3)).

A number of state jurisdictions still retain coverage for journey claims including NSW, Queensland and the ACT.

(b) **Work Contribution Test to Definition of Injury**

In April 2007 the definition of disease in the *SRC Act* was amended to include a requirement that any work related disease “was contributed to, to a significant degree, by the employee’s employment” *Section 5B(1) SRC Act.*

This work contribution test only exists in relation to disease cases. The longstanding definition in injury cases remains unaltered.

What constitutes a contribution “to a significant degree” is not defined in the *SRC Act* although the following matters may be taken into account:

“(a) *The duration of employment;*
(b) *The nature of, and particular tasks involved in, the employment;*
(c) *Any predisposition of the employee to the ailment or aggravation;*
(d) *Any activities of the employee not related to the employment;*
(e) *Any other matters affecting the employee’s health.*” (Section 5B(2)).

The only other guidance given is the admonition that “significant degree means a degree that is substantially more than material” (Section 5B(3)). That perhaps goes without saying but it does not necessarily provide any further guidance as to the application of the section.
The decision to amend the definition of disease to incorporate a “significant contribution” test arose out of concern in Comcare about the high number and high cost psychological injury claims arising from government agencies. In fact of the 74 AAT cases dealing with Section 5B since its introduction into the SRC Act, the vast majority relate to psychological injuries. The same imperative does not hold up in the maritime industry. The experience in the Seacare scheme is that there are relatively few psychological injury claims with an almost insignificant number being accepted. This demonstrates there is little or no propensity to claim for these conditions and no cost rationale which would support the need to alter the current definition of disease by the adoption of an employment contribution test.

In other jurisdictions the addition of a significant contribution test has done nothing to add clarity. A similar provision in the NSW Workers Compensation Act requiring employment to be a substantial contributing factor (Section 9A) has been the subject of several decisions of the NSW Court of Appeal without delivering any significant guidance about what the words really mean as a matter of practice. In the most recent decision (Badawai v Nexon Asia Pacific Pty Ltd [2009] NSWCA 324) the Court concluded that the words “substantial contributing factor” mean nothing more than “real and of substance”.

For practical purposes in almost every case where the disease arose out of or in the course of employment, it can be concluded that employment was a contribution to a significant degree.

(c) Exclusionary Provision

In the maritime unions’ view the Seafarers Act currently contains an adequate exclusionary provision. The current definition of injury excludes a disease or injury if “suffered by an employee as a result of reasonable disciplinary action taken against the employee, or failure by the employee to obtain a promotion, transfer or benefit in connection with his or her employment” (Section 6). The main point of
departure between the *Seafarers Act* provision and the *SRC Act* provision (Section 5A(1)) is that the latter refers to a disease or injury suffered as a result of reasonable administrative action. Administrative actions are further defined to include appraisal of work performance, counselling, suspension, disciplinary action and things done in relation to failures to obtain promotion, transfer or other benefit (Section 5A(2)).

For practical purposes the main point of distinction between the 2 provisions is limited to administrative actions which fall short of actions in relation to promotions, transfer or other benefits in connection with employment. What they might be is hard to envisage and our submission is that the current *SRC Act* provision adds little beyond what is currently contained in the *Seafarers Act* provision and no reason for change has been demonstrated.

(d) **Adjustment Mechanisms for Increase in Earnings in Pre-injury Employment**

It is a hallmark of all progressive compensation statutes that there be adequate provision to index or increase incapacity payments to keep pace with inflation and to reflect what wage increases would have accrued to the worker but for his injury.

Under the *Seafarers Act* incapacity payments are calculated on the basis of the employee’s normal weekly earnings. These are defined to be the amount payable weekly to the employee by way of salary under his contract of employment immediately before the injury happened (Section 13(1)).

Increases in payments can only obtained if the circumstances fit within either Section 13(5) or (6).

Section 13(5) deals with increases due to the operation of an industrial instrument or National Employment Standards or contract of employment because of:
(a) Reaching a particular age;
(b) Completing a particular of service;
(c) Receiving an entitlement to an incremental increase in a salary range.

These circumstances are narrowly confined and do not allow for increases in workers compensation payments based on the likelihood of promotion to different positions over a working life. A cadet will not always remain a cadet but he will have difficulty in having his workers compensation payments adjusted on the basis of what his career path might have been, as the law currently stands.

Section 13(6) deals with increases in salary due to movements in industrial instruments or the National Employments Standards. The problem with this provision is that if the class of employees to which the seafarer belonged at the time of injury subsequently ceases to exist, no increase is possible. In addition any wage increases which do not flow as a result of a formally ratified industrial instrument or the National Employment Standards will not be recoverable.

The equivalent provision in the SRC Act has been the subject to two substantive amendments which go some way towards addressing these issues and providing increased benefits not currently available to seafarers.

In October 2001, Section 8(9) was repealed and substituted a new Section 8(9)-(9D) introduced. These amendments provide for the normal weekly earnings of people who are no longer employed by the Commonwealth to be increased by reference to increases in a wage cost index.

In April 2007 Section 8 was further amended by inserting new provisions (Section 9(E)-9(G)). These provisions provide for normal weekly earnings to be updated by reference to a wage price index if the earnings cannot otherwise be updated under the existing provisions. These changes were necessary because of concerns that
the “increasingly decentralised nature of wage fixing” would result in no increases otherwise being payable.

In the Union’s submission the Seafarers Act provisions should be brought up to date with the SRC Act provisions. At the very least Section 13 should be amended in 3 important areas:

(i) Provide a mechanism for increase in normal weekly earnings by reference to a wage cost index in situations where the class of employees no longer exists.

(ii) By permitting an increase when earnings in the class have been increased by wage increases which have flowed on but have not been the subject of formal amendment to an industrial instrument.

(iii) By permitting an increase based on opportunities for promotion.

(d) Treatment of Superannuation for Retired Employees

In their 2005 submissions the maritime unions expressed concern about the ability of employers and insurers to offset incapacity payments by the seafarer’s receipt of superannuation benefits. These provisions in effect permit employers to use a seafarers superannuation entitlement to reduce their own liability. There seems no logical reason why this should be so.

The cost to the seafarer can be considerable but will vary depending on the method by which the superannuation benefit is paid (ie pension, rollover or lump sum). There is nothing contained in the Seafarers Act which requires an employer to inform a seafarer of the above provisions so that he can make an informed decision about the method in which he accesses his superannuation entitlements. As it is the employer, and its insurers, that receive the benefit of these provisions, at the very least it would seem only
fair that the Act be amended to require the employer to furnish advice as to what his options are.

In any event, our position is that these provisions should be removed from the Seafarers Act. While similar provisions exist in the SRC Act, their existence there can be justified on the basis that Commonwealth superannuation benefits include generous allowances for invalidity. This is certainly not the case for seafarers.

Apart from the SRC Act, no other jurisdiction takes superannuation payments into account in calculating compensation payments.

In any event, the formulae for calculation of the reduction has been amended in the SRC Act to the marginal benefit of employees. At the very least the formulae currently contained in the Seafarers Act should be replaced by the formulae currently contained in the SRC Act.

(e) Cessation of Weekly Benefits Upon Reaching Retirement Age

The Seafarers Act provides that an employee who sustains an injury and who has not reached 64 years is entitled to incapacity payments up to 65 years. If an employee has reached 64 at the date of injury, incapacity payments will cease after 12 months (Section 38).

By way of contrast, the SRC Act provides for incapacity payments for workers under 63 years to age 65, and for workers who are 63 or over at the time of the injury, incapacity payments for a further two years. (Section 23).

Consequentially a worker (63 years or over) injured under the SRC Act is entitled to two years’ weekly payments whereas a seafarer (who is 64 or over) receives payments for only one year.
Furthermore, under the *SRC Act*, payments extend to a maximum of 104 weeks (whether consecutive or not) and regardless of when the incapacity commences, whereas under the *Seafarers Act* the entitlement is only for incapacity payments during 12 months from the date of injury. ie. if the incapacity only commenced sometime after the date of injury the payments will not even extend for 12 months.

Both these anomalies should be removed.

In any event given the recent changes to the *Social Security Act* extending the pension age to people born after 1957, to 67 years, both Acts should be amended to provide that incapacity payments continue until that age is reached.

(f) **Compensation for Hearing Loss**

The threshold for impairment compensation under the *Seafarers Act* for all injuries (excluding impairments to the fingers, toes or senses of taste and smell) is 10% (Section 37(7)). This is on a whole person impairment basis.

The threshold under the *SRC Act* is the same except in relation to claims for hearing loss. Since 2001, the *SRC Act* has provided for a threshold in hearing loss cases of 5% on a binaural basis (Section 25(7A)). A binaural hearing loss is divided by 2 to convert to a whole person impairment loss. Accordingly, 5% binaural impairment is equivalent to 2.5% whole person impairment. Therefore, the *SRC Act* threshold is ¼ of the *Seafarers Act* threshold.

To recover compensation for hearing impairment under the *Seafarers Act* the seafarer must establish a binaural loss of 20%. This is a very significant level
of impairment, particularly after the automatic deductions made for age related changes (presbycusis) are taken into account. As a result most claims for industrial deafness for seafarers fail to reach this threshold. Given the nature and extent of most seafarers noise exposure this is an area requiring urgent reform.

The current Seafarers Act threshold is out of step with all other jurisdictions. As an example the threshold in New South Wales is 6% binaural (or 3% on a whole person impairment basis).

The maritime unions made a similar submission in the Seacare Scheme Review conducted in April 2005. It is now time for this submission to be adopted.

Q4. What can be done to encourage best practice in injury management and rehabilitation and improve return to work outcomes?

Comments

Consideration should be given to amending Section 49 of the Seafarers Act to give the employee the right to require his employer to arrange for the assessment of his capability of undertaking a rehabilitation program. Section 36 of the SRC Act is in those terms. The Seafarers Act provision only places that power with the employer and then only if the injury “lasts, or is expected to last, 28 days” (Section 49). Giving the option of the employee to require the employer to organise an assessment is likely to enhance the chances of successful rehabilitation.

Significant sanctions exist in Section 49 and Section 50 in relation to an employee who unreasonably refuses to undertake rehabilitation programs. His right to compensation is suspended for so long as he is in default of his obligations (Section 49(4) and Section 50(5)). What is lacking from the provisions of Part 3 is any sanction on an employer who fails in his obligations to assess the capability of undertaking a program or providing a program. The terms of Sections 49 and 50 are mandatory in their
requirements on employers but consideration should be given to introducing some penalty to encourage performance.

Similarly, Section 52 places an obligation on an employer to “take all reasonable steps to provide the employee with suitable employment, or to assist the employee to find such employment” upon the completion of a rehabilitation program. Here again no sanction exists.

The difficulties which exist in relation to rehabilitation in the maritime industry are well known. Those problems include:

(a) Difficulties arising out of the geographical isolation of the seafarer, the employer and the rehabilitation advisers.

(b) Difficulties in returning an injured seafarer back to seagoing employment given crew fitness requirements and safety issues.

(c) Difficulties in retraining a seafarer for land based employment.

Nevertheless, we suggest that it is time for all parties to place a stronger strategic, resource and regulatory focus on rehabilitation and return to work obligations. There are already significant penalties on employees who fail to comply. There are no penalties on employers. The reality is that there are many employers who identify an injured seafarer as a liability that is best got rid of and returning him to employment is not seen as worthwhile. That culture should be discouraged, and the time has come to introduce some positive steps to change it.

Anecdotal evidence suggests that there is a significant component of non-compliance on the part of the employers and insurers in relation to the obligations imposed in the Act. The Seacare Authority should adopt procedures to ensure compliance.
Q5. *Is there a role for industry panels to play in reducing the level of claim disputation in the scheme?*

**Comments**

An employer who is under an obligation to reconsider a determination must on receipt the request either arrange for an industry panel or Comcare officer to assist the employer in reconsidering the determination (Section 78(4)). The obligation to refer to an industry panel only exists if the employer is a party to a certified agreement which establishes such a panel.

How an industry panel would reduce the level of claim disputation is unknown. The panel would presumably consist of an employer representative and an employee representative. The composition of such a panel is not prescribed in the Act. The panel members may well have expertise in relation to the maritime industry but are unlikely to have any experience in relation to resolving disputes concerning workers compensation issues. The Issue paper suggests that such a panel could also consist of an independent expert. That presumably might be a medical expert. That raises a number of issues including who appoints the expert, who pays him and how is his independence to be assured.

Another matter for consideration is the role of the insurer. It could be expected that an insurer would, in accordance with its rights of subrogation, insist on some participation on the industry panel. Once that occurs the likelihood of the panel giving free and independent advice goes out the window.

For all of its faults, referral to a Comcare delegate is to be preferred if only because of the expertise those officers possess in dealing with workers' compensation disputes. Although his opinion is only advisory it is likely to be seen as being more authoritative than an industrial panel.

Q6. *What can be done to reduce disputation in the Seacare scheme?*
Comments

Disputation rates under the Seacare Scheme, as indicated in the issues paper have trended lower in recent years but are still about twice the national average. Comparison between different jurisdictions can sometimes be misleading. In 2008/09 the Seacare Scheme had a disputation rate equivalent to Victoria and South Australia but higher than other State jurisdictions (Comparative Performance Monitoring report, 12th Edition Published by Workplace relations Ministers’ Counsel dated December 2010).

Higher disputation rates in Seacare can be attributed in large measure to disputes generated by the failure of employers and insurers to respond to claims within the time limits imposed under the Act. A failure to meet those time limits results in a claim being deemed to be declined by Section 73(6). Many employers and their insurers also fail to meet the time limits for reconsideration under Section 79(6).

Faced with that position the seafarer has little option other than to access the Administrative Appeals Tribunal.

The Maritime Union argued in its 2005 submission that the default position described above should be reversed. Where an employer has not made a determination by the end of the statutory time frame, liability for the claim should be considered to have been accepted. This would encourage employers and insurers to be more proactive and reduce the overall level of disputation.

It should also be pointed out that the Administrative Appeals Tribunal encourages early resolution of disputes and as part of its general practice note in relation to workers compensation requires the parties to attend at conciliation prior to any formal hearing. Most claims are resolved short of a formal hearing and determination by the Tribunal.

A certain number of disputes are generated in relation to issues concerning coverage under the Seafarers Act. As acknowledged by the Issues Paper the coverage provisions for the scheme are complex and not easily understood. The de-linking of the
coverage provision with the *Navigation Act* and the adoption of a more seamless coverage provision not solely reliant upon the trade and commerce power, would considerably lessen the scope for disputation.

A greater commitment to return to work programs would also lessen the scope for ongoing disputes and access to the AAT.

Disputation rates, particularly where they can be attributed to deemed decisions, is a matter about which the Seacare Authority should adopt a monitoring role to review the performance of scheme insurers.

**SCHEME EFFECTIVENESS AND EFFICIENCY**

**Q7. How can the Seacare Authority contribute to improving the viability of the Australian maritime industry?**

**Comments**

The Seacare Authority and the Inspectorate must continue to explore innovative ways to ensure that the Objects of the OHS (MI) Act are fulfilled. Reducing injury and eliminating fatalities will in turn reduce workers’ compensation claims and hence reduce the costs of both workers compensation insurance premiums and the cost of industry to employers.

In this way the Seacare Authority and the Inspectorate can ensure that the labour and operational costs are reduced and that seafarers are able to perform to capacity, thus supporting the improvement in labour productivity required to support shipping reform.

One element of the Authority’s obligation in ensuring the Objects of the Act are fulfilled is to ensure there are adequate resources available to the Authority and the Inspectorate to apply practical initiatives to improve OHS performance. There must be stronger advocacy by the Authority and the Inspectorate to their policy agency masters ie DEEWR and the Department of Infrastructure and Transport to ensure that Budget funding is improved or that levy collection is extended to support the Objects of the Act.

**Q8. Does the existing scheme funding and service delivery model provide the most efficient and effective outcome for employers?**
Comments

Overall the recent scheme performance indicators show a drop in the number of claims for the first half of 2010/11 and a reduction in injury incident rates and claims (Seacare Newsletter April 2011). It is unreasonable to expect the Seacare scheme to match the performance of other general workers compensation schemes. Premium rates have declined appreciably and are drawing closer to premiums in the transport and storage industries which is the only fair comparison, as state based premium rates are averaged over many different industries and occupations.

Scheme funding could well be enhanced by fine tuning the legislation so as to encourage the entry of new players such as P & I Clubs. That might be achieved by providing greater certainty for redemption of continuing claims. The maritime unions however, are strongly opposed to any watering down of existing entitlements for the purposes of encouraging new insurance players to enter the market.

Q9. Should other funding and service delivery models (including central funding, self-insurance arrangements, centralized claims management, and P&I Clubs) be explored?

Comments

Although this issue will be of particular concern to employers, the maritime unions believe that whatever option is pursued must not threaten the longtime viability of the scheme.

The maritime unions believe it would be a retrograde step if the industry was forced to submit to a Comcare monopoly regarding the provision of insurance and claims management. Those functions are currently, and properly in our view, in the hands of enterprise decision makers under the current Seacare framework.

The Unions believe that the adoption of a public sector model would not be appropriate. The scheme is a small one and a bureaucratic approach would not be the most efficient in our opinion.
P & I Clubs were the sole source of compensation insurance under the former Act and have of course long experience in general maritime insurance covering all aspects of operations including hull, cargo, environmental service and crew protection. P & I Clubs abandoned the market in Australia in 1993 with the commencement of the *Seafarers Act* because of concerns about the long tail nature of incapacity payments and the perceived difficulties in negotiating redemptions.

An opportunity exists to bring P & I Clubs back into the market which might provide a significant opportunity to provide adequate competition for premium income.

A third option is to consider self-insurance. Such an option may be cost effective and valuable however it would require the establishment of a set of prudential conditions which would have to be overseen by the Seacare Authority or some other prudential body. Maritime Unions would recommend the establishment of a task force to investigate alternate insurance models which might include any of the options referred to above or any combination of insurance options.

**Q10. Should other benefit options (cash redemptions, common law) be explored?**

**Comments**

The *Seafarers Act* currently contains a provision in relation to redemption (Section 44). It is unworkable for the following reasons:

(a) The maximum amount which can be redeemed is only $99.56 per week which is a figure less than the weekly payments in nearly every case.

(b) The redemption is at the option of the employer and he in fact can force the result on the seafarer without his consent.
(c) The provision lays down a formula for the calculation of the redemption figure. Accordingly it is inflexible and does not take into account the individual circumstances in any particular case including any reasons for compromise.

(d) The redemption need not be a final settlement as Section 45 provides that if the employee subsequently becomes totally incapacitated, the employer’s liability to make weekly payments is revived. This factor alone would discourage any insurer from taking up the option.

There are advantages to redemption from the point of view of both ship owners and insurers and also for seafarers. In the appropriate case, where rehabilitation options have been exhausted, it provides the seafarer with an ability to obtain a lump sum and get on with his life. It may assist in relation to the establishment of a new opportunity for self-employment or it might assist him in paying off a mortgage and rearranging his financial affairs. It should also be acknowledged that it provides considerable benefit to an insurer anxious to avoid long exposure to lengthy tail claims.

To that extent, it might well provide encouragement for P & I Clubs to re-enter the scheme.

If the decision was made to provide for a more open-ended redemption mechanism the following features should be taken into account:

(a) The decision to redeem must be by and with the consent of both the seafarer and the employer.

(b) The determination of the appropriate redemption figure cannot be fettered by any statutory limit or formula but must reflect in any particular case the result of an agreement freely reached between the parties. This is vital because individual circumstances of each case will vary and the parties themselves are in the best position to determine the appropriate figure. The imposition of an inflexible
(c) It would be appropriate to require a seafarer to obtain independent legal and financial advice at the cost of the ship owner.

Consideration should be given to increasing the prescribed maximum available under Section 55 in connection with claims for damages. The Act provides that a seafarer may elect to pursue a damages action for non-economic loss in the alternative to pursuing a claim for permanent impairment under Sections 39 and 41. The maximum amount prescribed for the purposes of that claim is $138,570.52. This amount has not been increased since the commencement of the Act in 1993.

**ADDITIONAL COMMENTS**

*Please provide any additional comments you may wish to make to assist the development of the 2015 Seacare Strategic Plan.*

**Comments**

**EXEMPTIONS**

The exemptions under Section 20A are a significant cause for concern to maritime unions. Section 20A provides no guidance as to the circumstances under which a ship or group of employers may be exempted. Providing exemptions on the basis of the availability of cheaper workers compensation insurance is a retrograde step, in our view. In any every instance where the insurance is cheaper the level of benefits inevitably will be inferior. For example the *Western Australian Workers Compensation Act* provides a cap on weekly payments which is currently $183,394.00. Under that legislation a totally incapacitated seafarer working in the offshore area will exhaust his entitlement to weekly compensation payments under that scheme in a little less than 2 years.
That will then place him on the Social Security System.

The granting of Section 20A exemptions weakens the underlying purpose of the Act. Because of the relatively narrow focus of the Seacare scheme, its viability depends on ensuring the continued involvement of as many employers as possible to permit economies of scale to operate. In that context Section 20A is counter-productive to the aims of the legislation and should be either repealed or its application restricted to one-off voyages.

**COVERAGE PROVISIONS**

We understand that the coverage provisions of the Seacare scheme is outside the scope of the current review. Our position in relation to coverage is that the underpinning of jurisdiction should be put on as wide a constitutional basis as possible and not simply based on the interstate and overseas trade and commerce power. This would involve reliance upon the corporation’s power, the external affairs power and the trade and commerce power.