



Australian Government

Seafarers Safety, Rehabilitation  
and Compensation Authority

# Guidance on information requirements when considering whether to make a declaration

## Introduction

These guidelines set out the information required by the Seafarers Safety, Rehabilitation and Compensation Authority (Seacare Authority) when considering whether to declare a vessel into, or out of, either the *Seafarers Rehabilitation and Compensation Act 1992* (Seafarers Act) or *Occupational Health and Safety (Maritime Industry) Act 1993* (OHS(MI) Act).

These guidelines should be read in conjunction with the requirements outlined in the Seacare Authority's *Guidelines: Declarations that the Seafarers Rehabilitation and/or Compensation Act 1993 and Occupational Health and Safety (Maritime Industry) Act 1993 do/do not apply to a ship* (Guidelines).

## Information requirements

### Application

At a minimum, an application or request made to the Seacare Authority by an applicant must include:

- details of the applicant
- details of the operator(s) of the ship or vessel (if different to the applicant)
- details of all employers with employees on board the ship or vessel (if different to the applicant and operator)
- the number and residency of employees on board the ship, including the place of residence for these employees (to confirm whether majority Australian crewed test is satisfied)
- details on how the vessel or ship meets the 'prescribed ship' test<sup>1</sup>
- details of the vessels operations, including voyages it undertakes
- confirmation that the ship or vessel is or is not an 'off-shore industry vessel' or 'trading ship' for the purposes of the *Navigation Act 1912* or a coastal trading vessel<sup>2</sup>
- evidence of consultation by the applicant with all parties which may be affected by a declaration being granted to the ship or vessel (refer below).

<sup>1</sup> **Note:** The Seacare Authority may only declare that the Seafarers Act applies if the vessel is a prescribed ship. While the Seacare Authority may declare that the OHS(MI) Act applies to an off-shore industry vessel or a trading ship, significant parts of that Act only apply to prescribed ships and therefore whether the ship or vessel is a prescribed ship will be a relevant factor for the Seacare Authority's consideration.

<sup>2</sup> **Note:** The Seacare Authority may only declare that the Seafarers Act or OHS(MI) Act applies if the ship or vessel is an off-shore industry vessel or a trading ship. As the OHS(MI) Act and Seafarers Act applies to a coastal trading vessel, a declaration would not be required.

If any of the above information is not supplied by the applicant or person making the request, or if the Seacare Authority is considering making a declaration of its own motion, the Seacare Authority should take reasonable steps to obtain all of the above information from the operator of the vessel, and/or any other party which may be able to supply the required information.

## Consultation

The Seacare Authority expects the applicant or person making the request to undertake consultation with all affected parties prior to submitting an application or request.

In the event that there has not been sufficient consultation by the Applicant or person making the request, or if the Seacare Authority is considering making a declaration of its own motion, the Seacare Authority will take reasonable steps to undertake consultation to enable it to properly consider the matter.

For the purpose of these guidelines, the following table outlines the matters that should be sought from, or provided by the applicant to, each relevant stakeholder during consultation:

| Stakeholder                     | Matters to consult on during consultation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|---------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Operator</b>                 | <ul style="list-style-type: none"> <li>• If the operator is the applicant or person making the request – the reasons for seeking a declaration</li> <li>• Details of the operator sufficient to determine whether the vessel is a prescribed ship pursuant to 10 of the repealed <i>Navigation Act 1912</i></li> <li>• Confirmation of the operator of the vessel for the purposes of the Act</li> <li>• Information on the OHS(MI) and/or Seafarers Act, including the operator's requirements under the Act</li> <li>• Confirmation on whether there are arrangements on board the vessel to apply the Act, despite coverage provisions not being met, to advise whether a declaration will formalise these arrangements</li> <li>• Details on any feedback mechanisms, including providing direct feedback to the Seacare Authority</li> <li>• Any matter the operator believes should be considered by the Seacare Authority in making its decision.</li> </ul> |
| <b>Employer(s)</b>              | <ul style="list-style-type: none"> <li>• If the employer is the applicant or person making the request – the reasons for seeking a declaration</li> <li>• Information on the OHS(MI) and/or Seafarers Act, including the employer's requirements under the Act</li> <li>• Confirmation on whether there are arrangements on board the vessel to apply the Act, despite coverage provisions not being met, to advise whether a declaration will formalise these arrangements</li> <li>• Any industrial agreements setting out arrangements, details of employment, etc</li> <li>• Details on any feedback mechanisms, including providing direct feedback to the Seacare Authority</li> <li>• Any matter the employer believes should be considered by the Authority in making its decision.</li> </ul>                                                                                                                                                              |
| <b>Employee representatives</b> | <ul style="list-style-type: none"> <li>• If the employee representative is the applicant or person making the request – the reasons for seeking a declaration</li> <li>• The impact that any declaration will have on employee rights or benefits or the exercise of such rights or benefits</li> <li>• Details on how employees can provide feedback, including direct feedback channels to the Seacare Authority</li> <li>• Any matter the employee representative believes should be considered by the Authority in making its decision.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                              |

As evidence of consultation, the following must be submitted to the Seacare Authority when submitting the application:

- Written evidence that each stakeholder has been consulted on the declaration, and its impact, in line with the requirements of the above table
- A copy of all stakeholder responses provided, including any dissenting views, and
- A copy of any replies from the applicant or person requesting the declaration, to stakeholder feedback, addressing dissenting or other views.

## Timing

The Seacare Authority will consider applications or request for a declaration in as timely a manner as is reasonable in the circumstances. The Seacare Authority will ordinarily require at least 12 weeks from the receipt of an application or request to consider information, gather any additional information necessary, ensure consultation has been undertaken, and make a decision on the application or request for declaration.

This timeframe may be abridged if circumstances require and allow. The timeframe may need to be extended if any information required above is not submitted, or if further information is required to allow the Seacare Authority to make its decision.

## Comcare's role in assessing declaration applications

Comcare will assist the Seacare Authority to consider an application for declaration and provide an assessment on whether the application has met the Seacare Authority's requirements.

Comcare will work with an applicant or person making a request to ensure all information and consultation required by the Seacare Authority is provided. However, this will not extend to undertaking information gathering exercises on behalf of the applicant.

## Seacare Authority consideration

It is preferred that any application or request, will be considered by the Seacare Authority through its scheduled meetings.

Should more urgent consideration be required, Comcare will work with the Chairperson to arrange for the matter to be considered out of session, in line with the Seacare Authority's meeting protocols.

## Notifying stakeholders

Once the Seacare Authority has considered its decision, it will inform:

- the applicant or person making the request, and
- all relevant stakeholders identified through the application

of its decision, as well as the timeframe for any declaration to be in place.

A notice of the Seacare Authority's decision will be included on its website. A register of all declarations will also be maintained on the website.