

1996

The Parliament of the  
Commonwealth of Australia

THE SENATE

*Presented and read a first time*

# **Marine Personnel Legislation Amendment Bill 1996**

**No.     , 1996**

*(Transport and Regional Development)*

**A Bill for an Act to amend certain legislation  
relating to transport, and for related purposes**

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1 **A Bill for an Act to amend certain legislation**  
2 **relating to transport, and for related purposes**

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act may be cited as the *Marine Personnel Legislation*  
6 *Amendment Act 1996*.

7 **2 Commencement**

8 (1) Subject to this section, this Act commences on the day on which it  
9 receives the Royal Assent.

10 (2) Item 75 of Schedule 1 is taken to have commenced on 24 June  
11 1993, immediately after the commencement of section 93 of the  
12 *Seafarers Rehabilitation and Compensation Act 1992*.

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1 (3) Item 9 of Schedule 2 is taken to have commenced on 18 July 1994,  
2 immediately after the commencement of section 121 of the  
3 *Occupational Health and Safety (Maritime Industry) Act 1993*.

4 **3 Schedule(s)**

5 Subject to section 2, each Act that is specified in a Schedule to this  
6 Act is amended or repealed as set out in the applicable items in the  
7 Schedule concerned, and any other item in a Schedule to this Act  
8 has effect according to its terms.

1  
2 **Schedule 1—Amendment of the Seafarers**  
3 **Rehabilitation and Compensation Act**  
4 **1992**

5 **1 Section 3**

6 Insert:

7 *AAT* means the Administrative Appeals Tribunal.

8 **2 Section 3**

9 Insert:

10 *appointed member* means a member referred to in paragraph  
11 109(a), (b), (c) or (d).

12 **3 Section 3 (definition of *Comcare*)**

13 Omit “*Safety*”, substitute “*Safety*,”.

14 **4 Section 3 (definition of *Comcare officer*)**

15 Omit “*Safety*”, substitute “*Safety*,”.

16 **5 Section 3 (definition of *journey*)**

17 Omit “or 50(2A)”, substitute “, 50(2A), 66(4) or 83A(3)”.

18 **6 Section 3 (definition of *prescribed ship*)**

19 Repeal the definition, substitute:

20 *prescribed ship* means a ship to which Part II of the Navigation  
21 Act applies but does not include a Government ship.

22 **7 Subsection 4(1) (paragraphs (b) and (ba) of the definition of**  
23 ***employee*)**

24 Repeal the paragraphs, substitute:

25 (b) a trainee; or

26 **8 Subsection 4(1) (paragraph (c) of the definition of**  
27 ***employee*)**

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1 Omit “company trainee or an industry”.

2 **9 Subsection 5(1)**

3 Omit “months”, substitute “months,”.

4 **10 Subparagraph 9(2)(e)(ii)**

5 Omit “a place,”, substitute “a place”.

6 **11 After subsection 9(2)**

7 Insert:

8 (2A) For the purposes of this section:

9 (a) a journey from a place of residence is taken to start at the  
10 boundary of the land where the place of residence is situated;  
11 and

12 (b) a journey to a place of residence is taken to end at that  
13 boundary.

14 (2B) If an employee owns or occupies a parcel of land contiguous with  
15 the land on which the employee’s residence is situated, the  
16 boundary referred to in subsection (2A) is the external boundary of  
17 all of the contiguous parcels of land if treated as a single parcel.

18 **12 After paragraph 19(1)(a)**

19 Insert:

20 (aa) between 2 places outside Australia; or

21 **13 Section 20**

22 Omit “*Safety*”, substitute “*Safety*,”.

23 Note: The heading to section 20 is altered by omitting “*Safety*” and substituting “*Safety*,”.

24 **14 After section 20**

25 Insert:

26 **20A Act not to apply to exempt employment**

27 (1) The Authority may, in writing, either generally or as otherwise  
28 provided in the exemption, exempt the employment on a particular  
29 ship of all employees, of a particular group or particular groups of

1 employees, or of a particular employee or particular employees,  
2 from the application of this Act.

3 (2) An exemption is subject to any conditions set out in the exemption.

4 (3) If an exemption is in force in respect of a ship, this Act (other than  
5 this section) does not apply, to the extent stated in the exemption,  
6 in relation to the employment on the ship of employees to whom  
7 the exemption applies so long as any conditions of the exemption  
8 are complied with.

9 (4) The Authority must not grant an exemption if the proposed  
10 exemption would be inconsistent with an obligation of Australia  
11 under an international agreement.

## 12 **15 Subsection 23(6)**

13 Omit “that subsection”, substitute “subsection (5)”.

## 14 **16 Paragraph 28(6)(a):**

15 Repeal the paragraph, substitute:

16 (a) making a journey, necessary for the purpose of obtaining the  
17 treatment, from the place in Australia where the employee is  
18 residing to the place where the treatment is to be obtained;

## 19 **17 After subsection 28(6A)**

20 Insert:

21 (6AA) If the place where the employee is residing is not the place where  
22 the employee normally resides, the amount payable in respect of  
23 the journey is not to exceed the amount that would be payable if  
24 the journey were made from the place where the employee  
25 normally resides.

## 26 **18 Subsection 28(8)**

27 After “(6A),”, insert “(6AA),”.

## 28 **19 Subsection 31(8)**

29 After “earnings” (first occurring), insert “of the employee”.

## 30 **20 Paragraph 32(d)**

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1 After “amount”, insert “per week”.

2 **21 Subsection 44(2) (definition of <sup>y</sup> [Number of years])**

3 Repeal the definition, substitute:

4 <sup>y</sup> [number of years] means the number (calculated to 3 decimal  
5 places) worked out by dividing by 365 the number of days  
6 between the date of the determination and the day on which the  
7 employee reaches the age of 65 years.

8 **22 After subsection 44(2)**

9 Insert:

10 (2A) If the number worked out under the definition of <sup>y</sup> [number of  
11 years] in subsection (2) would, if it were calculated to 4 decimal  
12 places, end with a number greater than 4, the number is taken to be  
13 the number calculated to 3 decimal places in accordance with that  
14 definition and increased by 0.001.

15 **23 Section 48 (definition of approved program provider)**

16 Omit “Safety”, substitute “Safety,”.

17 **24 Subsection 49(6A)**

18 Omit “(6C)”, substitute “(6D)”.

19 **25 Paragraph 49(6A)(a)**

20 Repeal the paragraph, substitute:

21 (a) making a journey, necessary for the purpose of undergoing  
22 the examination, from the place in Australia where the  
23 employee is residing to the place where the examination is to  
24 be made;

25 **26 After subsection 49(6B)**

26 Insert:

27 (6BA) If the place where the employee is residing is not the place where  
28 the employee normally resides, the amount payable in respect of  
29 the journey is not to exceed the amount that would be payable if

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1 the journey were made from the place where the employee  
2 normally resides.

3 **27 Subsection 49(7)**

4 After “(6B),”, insert “(6BA),”.

5 **28 Subsection 50(2A)**

6 Omit “(2C)”, substitute “(2D)”.

7 **29 Paragraph 50(2A)(a)**

8 Repeal the paragraph, substitute:

- 9 (a) making a journey, necessary for the purpose of undertaking  
10 the rehabilitation program, from the place in Australia where  
11 the employee is residing to the place where the program is to  
12 be undertaken;

13 **30 After subsection 50(2B)**

14 Insert:

15 (2BA) If the place where the employee is residing is not the place where  
16 the employee normally resides, the amount payable in respect of  
17 the journey is not to exceed the amount that would be payable if  
18 the journey were made from the place where the employee  
19 normally resides.

20 **31 Subsection 50(2E)**

21 After “(2B),”, insert “(2BA),”.

22 **32 Subsection 50(4)**

23 Repeal the subsection.

24 **33 Paragraph 53(1)(d)**

25 Omit “, being a body corporate, includes a reference to a related body  
26 corporate that”, substitute “includes a reference to a person who”.

27 **34 Subparagraph 53(1)(d)(iv)**

28 Omit “ship; and”, substitute “ship.”.

29 **35 Paragraph 53(1)(e)**

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1 Repeal the paragraph.

2 **36 Subsection 53(2)**

3 Repeal the subsection.

4 **37 Subsection 66(4)**

5 Omit “An employer”, substitute “Subject to subsection (4D), an  
6 employer”.

7 **38 Paragraph 66(4)(a)**

8 Repeal the paragraph, substitute:

- 9 (a) an amount equal to the expenditure reasonably incurred by  
10 the employee in making a journey, necessary in connection  
11 with the examination, from the place in Australia where the  
12 employee is residing to the place where the examination is to  
13 be made; and

14 **39 After subsection 66(4)**

15 Insert:

16 (4A) If the journey referred to in paragraph (4)(a) is made by means of  
17 public transport or ambulance services, the expenditure referred to  
18 in that paragraph is taken to be an amount equal to the expenditure  
19 reasonably incurred in undertaking the journey.

20 (4B) If the journey referred to in paragraph (4)(a) is made by means of a  
21 private motor vehicle, the expenditure referred to in that paragraph  
22 is taken to be the amount worked out using the formula:

23 Specified rate per kilometre × Number of kilometres travelled

24 where:

25 *specified rate per kilometre* means such rate per kilometre as the  
26 Minister specifies by written notice under this subsection in respect  
27 of journeys to which this subsection applies.

28 *number of kilometres travelled* means the number of whole  
29 kilometres that the employer determines to have been the  
30 reasonable length of such a journey (including the return part of  
31 the journey).

1 (4C) If the place where the employee is residing is not the place where  
2 the employee normally resides, the amount payable in respect of  
3 the journey is not to exceed the amount that would be payable if  
4 the journey were made from the place where the employee  
5 normally resides.

6 (4D) An employer is not required to pay an amount to an employee  
7 under subsection (4) unless:

8 (a) in relation to a journey to which subsection (4A) applies—  
9 the employee's injury reasonably required the use of public  
10 transport or ambulance services (as the case may be)

11 regardless of the distance involved; or

12 (b) in relation to a journey to which subsection (4B) applies—  
13 the reasonable length of such a journey exceeded 50  
14 kilometres.

#### 15 **40 Subsection 66(5)**

16 Omit all the words before paragraph (a), substitute "In deciding  
17 questions arising under subsections (4), (4A), (4B), (4C) and (4D), the  
18 employer must have regard to the following matters:".

#### 19 **41 Subsection 67(1)**

20 Repeal paragraph (b) and omit the words after that paragraph,  
21 substitute:

22 (b) may obtain such information, or such a document or a copy  
23 of such a document, without unreasonable expense or  
24 inconvenience;

25 the employer may, by written notice given to the claimant, ask the  
26 claimant to give to the employer:

27 (c) the information, or the document or a copy of the document;  
28 or

29 (d) if paragraph (b) applies—a written authority to obtain the  
30 information or the document or a copy of the document.

#### 31 **42 Saving of existing notices**

1 A notice duly given before the commencement of item 41 under  
2 subsection 67(1) of the *Seafarers Rehabilitation and Compensation Act*  
3 *1992* and in force immediately before that commencement continues in  
4 force as if it had been duly given under that subsection as amended by  
5 that item.

6 **43 Subsection 67(2)**

7 Repeal the subsection, substitute:

8 (2) A claimant who has received a notice under subsection (1) is taken  
9 to have complied with the notice if the claimant gives the employer  
10 the information, the document or a copy of the document, or the  
11 authority, referred to in the notice.

12 **44 Subsection 67(3)**

13 Omit “, or a copy of the document, specified in the notice”, substitute  
14 “or the document or a copy of the document, or the authority, referred  
15 to in the notice”.

16 **45 Paragraph 71(1)(d)**

17 Omit “or 73”, substitute “, 73 or 73A”.

18 **46 Sections 72 and 73**

19 Repeal the sections, substitute:

20 **72 Time limit for determining claims relating to death**

21 (1) An employer must determine its liability in relation to a claim for  
22 compensation under Division 2 of Part 2 by the later of the  
23 following times:

- 24 (a) the end of the period of 60 days after the day on which the  
25 employer receives the claim;  
26 (b) if, at the written request of the employer, the Authority, by  
27 written notice served on the employer, allows a further  
28 period or further periods for the determination of the  
29 liability—the end of that period or those periods, as the case  
30 may be.

31 (2) If the employer, by notice under section 67 given to the claimant  
32 within the period referred to in paragraph (1)(a), requests the

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1 claimant to give information or a document or a copy of a  
2 document, or an authority to obtain information or a document or a  
3 copy of a document, that period is increased by the number of days  
4 occurring after the day on which the request was made and before  
5 the day on which the employer receives the information, the  
6 document or copy of the document or the authority, as the case  
7 may be.

8 (3) A request under paragraph (1)(b) must state fully and in detail the  
9 circumstances concerning, and the reasons for, the employer's  
10 request for the Authority to allow a longer period.

11 (4) A notice under paragraph (1)(b) does not have any effect unless it  
12 is served on the employer before the end of the period by which,  
13 apart from the notice, the employer would be required to determine  
14 the liability (including any period previously allowed under that  
15 paragraph).

16 (5) If the employer has not determined the claim by the end of the  
17 period allowed by this section, the employer is taken to have made  
18 a decision, at the end of that period, disallowing the claim.

### 19 **73 Time limit for determining claims relating to incapacity for work, 20 loss of or damage to property or cost of medical treatment**

21 (1) This section applies to a claim for compensation relating to:

22 (a) an injury resulting in an employee being incapacitated for  
23 work; or

24 (b) the loss of, or damage to, property used by an employee; or

25 (c) the cost of medical treatment for an injury suffered by an  
26 employee.

27 (2) The employee's employer must determine its liability in relation to  
28 the claim by the latest of the following times:

29 (a) the end of the period of 12 days after the day on which the  
30 employer receives the claim;

31 (b) if the employer, by notice under section 67 given to the  
32 claimant within the period referred to in paragraph (a),  
33 requests the claimant to give information or a document or a  
34 copy of a document, or an authority to obtain information or  
35 a document or a copy of a document—the end of the period

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1 of 12 days after the employer receives the information, the  
2 document or copy of the document or the authority, as the  
3 case may be;

4 (c) if, at the written request of the employer, the Authority, by  
5 written notice served on the employer, allows a further  
6 period or further periods for the determination of the  
7 liability—the end of that period or those periods, as the case  
8 may be.

9 (3) A request under paragraph (2)(c) must state fully and in detail the  
10 circumstances concerning, and the reasons for, the employer's  
11 request for the Authority to allow a longer period.

12 (4) A notice under paragraph (2)(c) does not have any effect unless it  
13 is served on the employer before the end of the period by which,  
14 apart from the notice, the employer would be required to determine  
15 the liability (including any period previously allowed under that  
16 paragraph).

17 (5) If the claim is for compensation relating to an injury resulting in  
18 the employee being incapacitated for work, compensation is  
19 payable in respect of the claim for the incapacity from and  
20 including the day on which liability arose under section 31.

21 (6) If the employer has not determined the claim by the end of the  
22 period allowed by this section, the employer is taken to have made  
23 a decision, at the end of that period, disallowing the claim.

24 **73A Time limit for determining claims relating to permanent**  
25 **impairment**

26 (1) If a claim for compensation relates to an injury resulting in  
27 permanent impairment to an employee, the employee's employer  
28 must determine its liability in relation to the claim by the later of  
29 the following times:

30 (a) the end of the period of 30 days after the day on which the  
31 employer receives the claim;

32 (b) if, at the written request of the employer, the Authority, by  
33 written notice served on the employer, allows a further  
34 period or further periods for the determination of the

1 liability—the end of that period or those periods, as the case  
2 may be.

- 3 (2) If the employer, by notice under section 67 given to the claimant  
4 within the period referred to in paragraph (1)(a), requests the  
5 claimant to give information or a document or a copy of a  
6 document, or an authority to obtain information or a document or a  
7 copy of a document, that period is increased by the number of days  
8 occurring after the day on which the request was made and before  
9 the day on which the employer receives the information, the  
10 document or copy of the document or the authority, as the case  
11 may be.
- 12 (3) A request under paragraph (1)(b) must state fully and in detail the  
13 circumstances concerning, and the reasons for, the employer's  
14 request for the Authority to allow a longer period.
- 15 (4) A notice under paragraph (1)(b) does not have any effect unless it  
16 is served on the employer before the end of the period by which,  
17 apart from the notice, the employer would be required to determine  
18 the liability (including any period previously allowed under that  
19 paragraph).
- 20 (5) If the injury under subsection (1) results in permanent impairment  
21 to the employee, compensation is payable in respect of the claim  
22 for the impairment in accordance with section 39 or 40.
- 23 (6) If the employer has not determined the claim by the end of the  
24 period allowed by this section, the employer is taken to have made  
25 a decision, at the end of that period, disallowing the claim.

## 26 **47 Transitional**

27 Despite the repeals and substitutions effected by item 46, the repealed  
28 sections continue to apply in respect of claims made before the  
29 commencement of that item.

## 30 **48 Section 74**

31 Omit “72(1)(c) or 73(1)(c)”, substitute “72(1)(b), 73(2)(c) or  
32 73A(1)(b)”.

## 33 **49 Application**

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1           The amendment made by item 48 applies only to decisions of the  
2           Authority given in respect of claims made after the commencement of  
3           that item.

4           **50 Subsection 76(1) (definition of AAT)**

5           Repeal the definition.

6           **51 Subsection 76(1) (definition of *decision*)**

7           Repeal the definition, substitute:

8                     *decision* has the same meaning as in the AAT Act.

9           **52 Subsection 76(1) (definition of *extension of time decision*)**

10           Omit “72(1)(c) or 73(1)(c)”, substitute “72(1)(b), 73(2)(c) or  
11           73A(1)(b)”.

12           **53 Application**

13           The amendment made by item 52 applies only to decisions of the  
14           Authority given in respect of claims made after the commencement of  
15           that item.

16           **54 Subsection 78(7) (definition of *certified agreement*)**

17           Repeal the definition.

18           **55 Section 79**

19           Repeal the section, substitute:

20           **79 Time limit for reconsideration of determinations**

21           (1) If a claimant requests an employer to reconsider a determination  
22           made by the employer, the employer must reconsider the  
23           determination before the later of the following times:

24                     (a) the end of the period of 60 days after the employer receives  
25                     the request;

26                     (b) if, at the written request of the employer, the Authority, by  
27                     written notice served on the employer, allows a further  
28                     period or further periods for the determination of the  
29                     liability—the end of that period or those periods, as the case  
30                     may be.

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- 1 (2) If the employer, by notice under section 83 given to the claimant  
2 within the period referred to in paragraph (1)(a) (or, if that period  
3 has been increased under subsection (3), within that period as so  
4 increased), requests the claimant to give information or a  
5 document or a copy of a document, or an authority to obtain  
6 information or a document or a copy of a document, that period is  
7 increased or further increased, as the case may be, by the number  
8 of days occurring after the day on which the request was made and  
9 before the day on which the employer receives the information, the  
10 document or copy of the document or the authority, as the case  
11 may be.
- 12 (3) If the employer, by notice under section 83A given to the claimant  
13 within the period referred to in paragraph (1)(a) (or, if that period  
14 has been previously increased under subsection (2), within that  
15 period as so previously increased), requires the employee to  
16 undergo an examination by a medical practitioner and requires the  
17 claimant to give the employer the report by the medical  
18 practitioner of the results of the examination, that period is  
19 increased, or that period as so previously increased is further  
20 increased, as the case may be, by the number of days occurring  
21 after the day on which the request was made and before the day on  
22 which the employer receives the report.
- 23 (4) A request under paragraph (1)(b) must state fully and in detail the  
24 circumstances concerning, and the reasons for, the employer's  
25 request for the Authority to allow a longer period.
- 26 (5) A notice under paragraph (1)(b) does not have any effect unless it  
27 is served on the employer before the end of the period by which,  
28 apart from the notice, the employer would be required to  
29 reconsider the determination (including any period previously  
30 allowed under that paragraph).
- 31 (6) If the employer has not determined the claim by the end of the  
32 period allowed by this section, the employer is taken to have made  
33 a decision, at the end of that period, disallowing the claim.

34 **56 Transitional**

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1           Despite the repeal and substitution effected by item 55, the repealed  
2           section continues to apply in respect of a reconsideration requested  
3           before the commencement of that item.

4           **57 Section 80**

5           Omit “79(1)(c)”, substitute “79(1)(b)”.

6           **58 Application**

7           The amendment made by item 57 applies to decisions of the Authority  
8           given in respect of claims made after the commencement of that item.

9           **59 Subsection 83(1)**

10          Omit all the words after paragraph (b), substitute:

11           the employer may, by written notice given to the claimant, ask the  
12           claimant to give to the employer:

13           (c) the information, or the document or a copy of the document;

14           or

15           (d) if subparagraph (b)(ii) applies—a written authority to obtain  
16           the information or the document or a copy of the document.

17          **60 Subsection 83(2)**

18          Repeal the subsection, substitute:

19           (2) A claimant who has received a notice under subsection (1) is taken  
20           to have complied with the notice if the claimant gives the employer  
21           the information, the document or a copy of the document, or the  
22           authority, referred to in the notice.

23          **61 Subsection 83(3)**

24          Omit “or a copy of the document, specified in the notice”, substitute “or  
25          the document or a copy of the document, or the authority, referred to in  
26          the notice”.

27          **62 After section 83**

28          Insert:

1 **83A Power to request employee to undergo medical examination**

- 2 (1) If a claimant has requested the employer to reconsider a  
3 determination under subsection 78(2), the employer may, by  
4 written notice given to the claimant, require:
- 5 (a) the employee to undergo, within a reasonable period set out  
6 in the notice, an examination by a legally qualified medical  
7 practitioner nominated by the employer; and  
8 (b) the claimant to give the employer a report by the medical  
9 practitioner of the results of the examination.
- 10 (2) An employee must not be required to be examined by more than  
11 one legally qualified medical practitioner in any examination that  
12 the employee is required to undergo under subsection (1).
- 13 (3) Subject to subsection (7), an employer who requires an employee  
14 to undergo an examination under this section must pay the cost of  
15 the examination and is liable to pay to the employee:
- 16 (a) an amount equal to the expenditure reasonably incurred by  
17 the employee in making a journey, necessary in connection  
18 with the examination, from the place in Australia where the  
19 employee is residing to the place where the examination is to  
20 be made; and  
21 (b) an amount equal to the expenditure reasonably incurred by  
22 the employee in remaining (if necessary), for the purpose of  
23 the examination, at a place to which the employee has made  
24 a journey for that purpose.
- 25 (4) If the journey referred to in paragraph (3)(a) is made by means of  
26 public transport or ambulance service, the expenditure referred to  
27 in that paragraph is taken to be an amount equal to the expenditure  
28 reasonably incurred in undertaking the journey.
- 29 (5) If the journey referred to in paragraph (3)(a) is made by means of a  
30 private motor vehicle, the expenditure referred to in that paragraph  
31 is taken to be the amount worked out using the formula:  
32 Specified rate per kilometre × Number of kilometres travelled  
33 where:

1            *specified rate per kilometre* means such rate per kilometre as the  
2            Minister specifies by written notice under this subsection in respect  
3            of journeys to which this subsection applies.

4            *number of kilometres travelled* means the number of whole  
5            kilometres that the employer determines to have been the  
6            reasonable length of such a journey (including the return part of  
7            the journey).

- 8            (6) If the place where the employee is residing is not the place where  
9            the employee normally resides, the amount payable in respect of  
10           the journey is not to exceed the amount that would be payable if  
11           the journey were made from the place where the employee  
12           normally resides.
- 13           (7) An employer is not required to pay an amount to an employee  
14           under subsection (3) unless:
- 15                (a) in relation to a journey to which subsection (4) applies—the  
16                employee’s injury reasonably required the use of public  
17                transport or ambulance services (as the case may be)  
18                regardless of the distance involved; or
- 19                (b) in relation to a journey to which subsection (5) applies—the  
20                reasonable length of such a journey exceeded 50 kilometres.
- 21           (8) In deciding questions arising under subsections (3), (4), (5), (6)  
22           and (7), the employer making the decision must have regard to the  
23           following matters:
- 24                (a) the means of transport available to the employee for the  
25                journey;
- 26                (b) the route or routes by which the employee could have  
27                travelled;
- 28                (c) the accommodation available to the employee.
- 29           (9) An employee must not be required to undergo an examination  
30           under this section at more frequent intervals than are stated by the  
31           Minister by written notice.
- 32           (10) If the employer does not receive a report by the medical  
33           practitioner of the results of the examination of the employee, the  
34           employer may refuse to reconsider the determination under  
35           section 78 until the employer receives the report.

1 **63 Paragraph 86(1)(d)**

2 Omit “or 73”, substitute “, 73 or 73A”.

3 **64 Paragraph 90(2)(a)**

4 Omit “, document or copy of the document, specified in the notice”,  
5 substitute “, the document or a copy of the document, or the authority,  
6 referred to in the notice”.

7 **65 Subsection 90(3)**

8 Repeal the subsection, substitute:

9 (2A) If:

10 (a) an employer has determined a claim and, before doing so,  
11 gave the claimant a notice under section 83A requiring the  
12 employee to undergo an examination by a legally qualified  
13 medical practitioner and requiring the claimant to give the  
14 employer a report by the medical practitioner of the results of  
15 the examination; and

16 (b) the claimant failed to give the employer the report;  
17 a report by the medical practitioner of the results of the  
18 examination is not, without leave of the AAT, admissible in  
19 proceedings instituted under this Part in relation to the  
20 determination.

21 (3) The AAT must not give leave under subsection (2) or (2A) unless:

22 (a) the claimant provides a statement of reasons why he or she  
23 failed to comply with a notice under section 67 or 83 or  
24 failed to give the report to the employer; and

25 (b) the AAT is satisfied that there are special circumstances  
26 justifying the admission of the information, document or  
27 copy, or the admission of the report, in evidence.

28 **66 Paragraph 91(3)(b)**

29 Repeal the paragraph, substitute:

30 (b) the employer, before making the original determination, gave  
31 the claimant a notice under section 67 or 83 requesting the  
32 claimant to give the employer the information (the **relevant**  
33 **information**) referred to in the notice or an authority to  
34 obtain the relevant information; and

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1 **67 Paragraph 91(4)(b)**

2 Repeal the paragraph, substitute:

- 3 (b) the employer, before making the original determination, gave  
4 the claimant a notice under section 67 or 83 requesting the  
5 claimant to give the employer, or to give the employer a  
6 copy of, a document (the *relevant document*) referred to in  
7 the notice or an authority to obtain, or to obtain a copy of, the  
8 relevant document; and

9 **68 Paragraph 92(4)(a)**

10 Repeal the paragraph, substitute:

- 11 (a) the employer, before making the reviewable decision, gave  
12 the claimant a notice under section 67 or 83 requesting the  
13 claimant to give the employer the information (the *relevant*  
14 *information*) referred to in the notice or an authority to  
15 obtain the relevant information; and

16 **69 Paragraph 92(5)(a)**

17 Repeal the paragraph, substitute:

- 18 (a) the employer, before making the reviewable decision, gave  
19 the claimant a notice under section 67 or 83 requesting the  
20 claimant to give the employer, or to give the employer a  
21 copy of, a document (the *relevant document*) referred to in  
22 the notice or an authority to obtain, or to obtain a copy of, the  
23 relevant document; and

24 **70 Subparagraph 92(5)(b)(i)**

25 Omit “that order”, substitute “the notice”.

26 **71 Subsection 92(6)**

27 After “the Registrar”, insert “, a District Registrar”.

28 **72 At the end of section 92**

29 Add:

- 30 (7) For the purposes of section 69A of the AAT Act, an employer who  
31 is ordered by the AAT to pay costs incurred by a claimant is taken  
32 to be a party to the proceedings in which the order is made.

1 **73 After paragraph 93(1)(b)**

2 Insert:

3 or (c) be a member of an employers' mutual indemnity association  
4 that is approved in writing by the Authority;

5 **74 Subsection 93(2)**

6 After "association", insert "or of an employers' mutual indemnity  
7 association".

8 **75 At the end of section 93**

9 Add:

10 (4) A policy of insurance or indemnity is not subject to stamp duty or  
11 any other tax under a law of a State or Territory.

12 **76 Section 94**

13 Omit "or the protection and indemnity association", substitute ", the  
14 protection and indemnity association or the employers' mutual  
15 indemnity association".

16 **77 Paragraph 94(b)**

17 After "association", insert "or an employers' mutual indemnity  
18 association".

19 **78 Paragraph 95(b)**

20 After "association", insert "or an employers' mutual indemnity  
21 association".

22 **79 Subsection 102(2)**

23 Repeal the subsection.

24 **80 Subsection 110(1)**

25 After "members", insert "referred to in paragraphs 109(a), (b), (c) and  
26 (d)".

27 **81 Subsection 111(2)**

28 Omit "A member", substitute "An appointed member".

1 **82 Subsection 112(1)**

2 Omit “, (d) or (e)”, substitute “or (d)”.

3 **83 After subsection 112(1)**

4 Insert:

5 (1A) The member referred to in paragraph 109(e) may appoint a person  
6 who is an officer or employee of the Australian Maritime Safety  
7 Authority to be his or her deputy.

8 **84 Subsection 112(2)**

9 After “member” (first occurring), insert “referred to in paragraph 109(c)  
10 or (d)”.

11 **85 After subsection 112(2)**

12 Insert:

13 (2A) The member referred to in paragraph 109(e) may revoke the  
14 appointment of his or her deputy.

15 **86 Paragraph 112(5)(a)**

16 Omit “is”, substitute “was”.

17 **87 Subsection 115(1)**

18 Omit “to the Authority”, substitute “of the Authority”.

19 **88 Section 117**

20 Omit “A member”, substitute “An appointed member”.

21 **89 Subsection 118(1)**

22 Omit “a member’s”, substitute “an appointed member’s”.

23 **90 Subsection 118(2)**

24 Omit “a member” (first occurring), substitute “an appointed member”.

25 **91 Subsection 126(1)**

26 Repeal the subsection, substitute:



1 (1) An employer who has been given a claim under section 63 may, by  
2 written notice given to the claimant, ask the claimant to give the  
3 employer:

4 (a) any information, or a document or a copy of a document, that  
5 the employee has in his or her possession as to the name and  
6 the address of each employer by whom the employee was  
7 employed before the day on which the injury happened; or

8 (b) if the employee can obtain any information, or a document or  
9 a copy of a document, as to the name and address of each  
10 such employer—the information or the document or a copy  
11 of the document, or an authority to obtain the information or  
12 the document or a copy of the document.

## 13 **92 Saving of existing notices**

14 A notice duly given before the commencement of item 91 under  
15 subsection 126(1) of the *Seafarers Rehabilitation and Compensation*  
16 *Act 1992* and in force immediately before that commencement  
17 continues in force as if it had been duly given under the subsection  
18 substituted by that item.

## 19 **93 Subsection 126(2)**

20 Omit “the information, or a copy of the document, specified in the  
21 notice”, substitute “the information or the document or a copy of the  
22 document, or an authority to obtain the information or the document or  
23 a copy of the document, referred to in the notice”.

## 24 **94 Section 138**

25 Repeal the section.

## 26 **95 Transitional**

27 Despite the repeal effected by item 94, the repealed section continues to  
28 apply in respect of an injury suffered by an employee, or in respect of  
29 loss of, or damage to, property used by an employee, if the injury, or  
30 the loss or damage, happened before the commencement of that item.

## 31 **96 After section 139**

32 Insert:

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1 **139A Exclusion of State laws relating to workers' compensation**

2 This Act excludes the operation of any law of a State or Territory  
3 relating to workers' compensation in so far as that law purports to  
4 apply in relation to death of, or an injury suffered by, or loss of, or  
5 damage to, property used by, an employee if the death or injury, or  
6 the loss or damage, happens after the commencement of this  
7 section.

8 **97 Subsection 140(1)**

9 Omit "a employer", substitute "an employer".

10 **98 Section 142**

11 Omit "66(6)", substitute "66(4B) or (6), 83A(5) or (9)".

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## Schedule 2—Amendment of the Occupational Health and Safety (Maritime Industry) Act 1993

### 1 Section 4 (definition of *accident*)

Repeal the definition.

### 2 Section 4 (definition of *operator*)

Repeal the definition, substitute:

*operator*, in relation to a prescribed ship or a prescribed unit, means the person who has the management or control of the ship or unit.

### 3 Section 4 (definition of *prescribed ship*)

Repeal the definition, substitute:

*prescribed ship* means a ship to which Part II of the *Navigation Act 1912* applies but does not include:

- (a) a ship or off-shore industry mobile unit to which the *Petroleum (Submerged Lands) Act 1967* applies; or
- (b) a Government ship.

### 4 After paragraph 6(1)(a)

Insert:

- (aa) between 2 places outside Australia; or

### 5 Subsection 100(2)

Omit “(1)(a) to (f)”, substitute “(1)(a), (c), (d), (e), (f) and (h)”.

### 6 Paragraph 100(2)(g)

Repeal the paragraph, substitute:

- (g) a person who owns any plant, substance or thing to which the decision referred to in paragraph (1)(a), (c), (d) or (h) relates.

### 7 Subsection 100(3)

Omit “(1)(g) or (h)”, substitute “(1)(b) or (g)”.

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1 **8 Subsection 109(1)**

2 After “Authority”, insert “or any other body”.

3 **9 At the end of section 121**

4 Add (but not as part of paragraph (b)):

5 including regulations imposing penalties (not exceeding 10 penalty  
6 units) for a contravention of the regulations.







