



Marine Personnel Legislation Amendment Act 1997

No. 10, 1997

**An Act to amend certain legislation relating to
transport, and for related purposes**

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An Act to amend certain legislation relating to transport, and for related purposes

[Assented to 8 March 1997]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Marine Personnel Legislation
Amendment Act 1997*.

2 Commencement

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

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- (2) Item 75 of Schedule 1 is taken to have commenced on 24 June 1993, immediately after the commencement of section 93 of the *Seafarers Rehabilitation and Compensation Act 1992*.
 - (3) Item 9 of Schedule 2 is taken to have commenced on 18 July 1994, immediately after the commencement of section 121 of the *Occupational Health and Safety (Maritime Industry) Act 1993*.

3 Schedule(s)

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendment of the Seafarers Rehabilitation and Compensation Act 1992

1 Section 3

Insert:

AAT means the Administrative Appeals Tribunal.

2 Section 3

Insert:

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

3 Section 3 (definition of *Comcare*)

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

4 Section 3 (definition of *Comcare officer*)

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

5 Section 3 (definition of *journey*)

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

6 Section 3 (definition of *prescribed ship*)

Repeal the definition, substitute:

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

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

Repeal the paragraphs, substitute:

(b) a trainee; or

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

Omit “company trainee or an industry”.

9 Subsection 5(1)

Omit “months”, substitute “months”.

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

Omit “a place”, substitute “a place”.

11 After subsection 9(2)

Insert:

(2A) For the purposes of this section:

- (a) a journey from a place of residence is taken to start at the boundary of the land where the place of residence is situated; and
- (b) a journey to a place of residence is taken to end at that boundary.

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

12 After paragraph 19(1)(a)

Insert:

(aa) between 2 places outside Australia; or

13 Section 20

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

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

14 After section 20

Insert:

20A Act not to apply to exempt employment

- (1) The Authority may, in writing, either generally or as otherwise provided in the exemption, exempt the employment on a particular ship of all employees, of a particular group or particular groups of employees, or of a particular employee or particular employees, from the application of this Act.

- (2) An exemption is subject to any conditions set out in the exemption.
- (3) If an exemption is in force in respect of a ship, this Act (other than this section) does not apply, to the extent stated in the exemption, in relation to the employment on the ship of employees to whom the exemption applies so long as any conditions of the exemption are complied with.
- (4) The Authority must not grant an exemption if the proposed exemption would be inconsistent with an obligation of Australia under an international agreement.

15 Subsection 23(6)

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

16 Paragraph 28(6)(a):

Repeal the paragraph, substitute:

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

17 After subsection 28(6A)

Insert:

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

18 Subsection 28(8)

After “(6A),”, insert “(6AA),”.

19 Subsection 31(8)

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

20 Paragraph 32(d)

After “amount”, insert “per week”.

21 Subsection 44(2) (definition of ^y [Number of years])

Repeal the definition, substitute:

^y [number of years] means the number (calculated to 3 decimal places) worked out by dividing by 365 the number of days between the date of the determination and the day on which the employee reaches the age of 65 years.

22 After subsection 44(2)

Insert:

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

23 Section 48 (definition of approved program provider)

Omit “Safety”, substitute “Safety”.

24 Subsection 49(6A)

Omit “(6C)”, substitute “(6D)”.

25 Paragraph 49(6A)(a)

Repeal the paragraph, substitute:

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

26 After subsection 49(6B)

Insert:

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

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

27 Subsection 49(7)

After “(6B),”, insert “(6BA),”.

28 Subsection 50(2A)

Omit “(2C)”, substitute “(2D)”.

29 Paragraph 50(2A)(a)

Repeal the paragraph, substitute:

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

30 After subsection 50(2B)

Insert:

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

31 Subsection 50(2E)

After “(2B),”, insert “(2BA),”.

32 Subsection 50(4)

Repeal the subsection.

33 Paragraph 53(1)(d)

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

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

Omit “ship; and”, substitute “ship.”.

35 Paragraph 53(1)(e)

Repeal the paragraph.

36 Subsection 53(2)

Repeal the subsection.

37 Subsection 66(4)

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

38 Paragraph 66(4)(a)

Repeal the paragraph, substitute:

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

39 After subsection 66(4)

Insert:

- (4A) If the journey referred to in paragraph (4)(a) is made by means of public transport or ambulance services, the expenditure referred to in that paragraph is taken to be an amount equal to the expenditure reasonably incurred in undertaking the journey.
- (4B) If the journey referred to in paragraph (4)(a) is made by means of a private motor vehicle, the expenditure referred to in that paragraph is taken to be the amount worked out using the formula:

Specified rate per kilometre × Number of kilometres travelled

where:

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

number of kilometres travelled means the number of whole kilometres that the employer determines to have been the

reasonable length of such a journey (including the return part of the journey).

- (4C) If the place where the employee is residing is not the place where the employee normally resides, the amount payable in respect of the journey is not to exceed the amount that would be payable if the journey were made from the place where the employee normally resides.
- (4D) An employer is not required to pay an amount to an employee under subsection (4) unless:
- (a) in relation to a journey to which subsection (4A) applies—the employee’s injury reasonably required the use of public transport or ambulance services (as the case may be) regardless of the distance involved; or
 - (b) in relation to a journey to which subsection (4B) applies—the reasonable length of such a journey exceeded 50 kilometres.

40 Subsection 66(5)

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

41 Subsection 67(1)

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

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

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

- (c) the information, or the document or a copy of the document; or
- (d) if paragraph (b) applies—a written authority to obtain the information or the document or a copy of the document.

42 Saving of existing notices

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

43 Subsection 67(2)

Repeal the subsection, substitute:

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

44 Subsection 67(3)

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

45 Paragraph 71(1)(d)

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

46 Sections 72 and 73

Repeal the sections, substitute:

72 Time limit for determining claims relating to death

- (1) An employer must determine its liability in relation to a claim for compensation under Division 2 of Part 2 by the later of the following times:
- (a) the end of the period of 60 days after the day on which the employer receives the claim;
 - (b) if, at the written request of the employer, the Authority, by written notice served on the employer, allows a further period or further periods for the determination of the liability—the end of that period or those periods, as the case may be.

- (2) If the employer, by notice under section 67 given to the claimant within the period referred to in paragraph (1)(a), requests the claimant to give information or a document or a copy of a document, or an authority to obtain information or a document or a copy of a document, that period is increased by the number of days occurring after the day on which the request was made and before the day on which the employer receives the information, the document or copy of the document or the authority, as the case may be.
- (3) A request under paragraph (1)(b) must state fully and in detail the circumstances concerning, and the reasons for, the employer's request for the Authority to allow a longer period.
- (4) A notice under paragraph (1)(b) does not have any effect unless it is served on the employer before the end of the period by which, apart from the notice, the employer would be required to determine the liability (including any period previously allowed under that paragraph).
- (5) If the employer has not determined the claim by the end of the period allowed by this section, the employer is taken to have made a decision, at the end of that period, disallowing the claim.

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

- (1) This section applies to a claim for compensation relating to:
 - (a) an injury resulting in an employee being incapacitated for work; or
 - (b) the loss of, or damage to, property used by an employee; or
 - (c) the cost of medical treatment for an injury suffered by an employee.
- (2) The employee's employer must determine its liability in relation to the claim by the latest of the following times:
 - (a) the end of the period of 12 days after the day on which the employer receives the claim;
 - (b) if the employer, by notice under section 67 given to the claimant within the period referred to in paragraph (a),

requests the claimant to give information or a document or a copy of a document, or an authority to obtain information or a document or a copy of a document—the end of the period of 12 days after the employer receives the information, the document or copy of the document or the authority, as the case may be;

- (c) if, at the written request of the employer, the Authority, by written notice served on the employer, allows a further period or further periods for the determination of the liability—the end of that period or those periods, as the case may be.
- (3) A request under paragraph (2)(c) must state fully and in detail the circumstances concerning, and the reasons for, the employer's request for the Authority to allow a longer period.
 - (4) A notice under paragraph (2)(c) does not have any effect unless it is served on the employer before the end of the period by which, apart from the notice, the employer would be required to determine the liability (including any period previously allowed under that paragraph).
 - (5) If the claim is for compensation relating to an injury resulting in the employee being incapacitated for work, compensation is payable in respect of the claim for the incapacity from and including the day on which liability arose under section 31.
 - (6) If the employer has not determined the claim by the end of the period allowed by this section, the employer is taken to have made a decision, at the end of that period, disallowing the claim.

73A Time limit for determining claims relating to permanent impairment

- (1) If a claim for compensation relates to an injury resulting in permanent impairment to an employee, the employee's employer must determine its liability in relation to the claim by the later of the following times:
 - (a) the end of the period of 30 days after the day on which the employer receives the claim;
 - (b) if, at the written request of the employer, the Authority, by written notice served on the employer, allows a further period
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or further periods for the determination of the liability—the end of that period or those periods, as the case may be.

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

47 Transitional

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

48 Section 74

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

49 Application

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

50 Subsection 76(1) (definition of AAT)

Repeal the definition.

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

Repeal the definition, substitute:

decision has the same meaning as in the AAT Act.

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

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

53 Application

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

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

Repeal the definition.

55 Section 79

Repeal the section, substitute:

79 Time limit for reconsideration of determinations

- (1) If a claimant requests an employer to reconsider a determination made by the employer, the employer must reconsider the determination before the later of the following times:
 - (a) the end of the period of 60 days after the employer receives the request;
 - (b) if, at the written request of the employer, the Authority, by written notice served on the employer, allows a further period or further periods for the determination of the liability—the end of that period or those periods, as the case may be.

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

56 Transitional

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

57 Section 80

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

58 Application

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

59 Subsection 83(1)

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

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

- (c) the information, or the document or a copy of the document;
or
- (d) if subparagraph (b)(ii) applies—a written authority to obtain the information or the document or a copy of the document.

60 Subsection 83(2)

Repeal the subsection, substitute:

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

61 Subsection 83(3)

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

62 After section 83

Insert:

83A Power to request employee to undergo medical examination

- (1) If a claimant has requested the employer to reconsider a determination under subsection 78(2), the employer may, by written notice given to the claimant, require:

- (a) the employee to undergo, within a reasonable period set out in the notice, an examination by a legally qualified medical practitioner nominated by the employer; and
 - (b) the claimant to give the employer a report by the medical practitioner of the results of the examination.
- (2) An employee must not be required to be examined by more than one legally qualified medical practitioner in any examination that the employee is required to undergo under subsection (1).
- (3) Subject to subsection (7), an employer who requires an employee to undergo an examination under this section must pay the cost of the examination and is liable to pay to the employee:
 - (a) an amount equal to the expenditure reasonably incurred by the employee in making a journey, necessary in connection with the examination, from the place in Australia where the employee is residing to the place where the examination is to be made; and
 - (b) an amount equal to the expenditure reasonably incurred by the employee in remaining (if necessary), for the purpose of the examination, at a place to which the employee has made a journey for that purpose.
- (4) If the journey referred to in paragraph (3)(a) is made by means of public transport or ambulance service, the expenditure referred to in that paragraph is taken to be an amount equal to the expenditure reasonably incurred in undertaking the journey.
- (5) If the journey referred to in paragraph (3)(a) is made by means of a private motor vehicle, the expenditure referred to in that paragraph is taken to be the amount worked out using the formula:

Specified rate per kilometre × Number of kilometres travelled
where:

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

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

- (6) If the place where the employee is residing is not the place where the employee normally resides, the amount payable in respect of the journey is not to exceed the amount that would be payable if the journey were made from the place where the employee normally resides.
- (7) An employer is not required to pay an amount to an employee under subsection (3) unless:
 - (a) in relation to a journey to which subsection (4) applies—the employee’s injury reasonably required the use of public transport or ambulance services (as the case may be) regardless of the distance involved; or
 - (b) in relation to a journey to which subsection (5) applies—the reasonable length of such a journey exceeded 50 kilometres.
- (8) In deciding questions arising under subsections (3), (4), (5), (6) and (7), the employer making the decision must have regard to the following matters:
 - (a) the means of transport available to the employee for the journey;
 - (b) the route or routes by which the employee could have travelled;
 - (c) the accommodation available to the employee.
- (9) An employee must not be required to undergo an examination under this section at more frequent intervals than are stated by the Minister by written notice.

- (10) If the employer does not receive a report by the medical practitioner of the results of the examination of the employee, the employer may refuse to reconsider the determination under section 78 until the employer receives the report.

63 Paragraph 86(1)(d)

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

64 Paragraph 90(2)(a)

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

65 Subsection 90(3)

Repeal the subsection, substitute:

(2A) If:

- (a) an employer has determined a claim and, before doing so, gave the claimant a notice under section 83A requiring the employee to undergo an examination by a legally qualified medical practitioner and requiring the claimant to give the employer a report by the medical practitioner of the results of the examination; and
 - (b) the claimant failed to give the employer the report; a report by the medical practitioner of the results of the examination is not, without leave of the AAT, admissible in proceedings instituted under this Part in relation to the determination.
- (3) The AAT must not give leave under subsection (2) or (2A) unless:
- (a) the claimant provides a statement of reasons why he or she failed to comply with a notice under section 67 or 83 or failed to give the report to the employer; and
 - (b) the AAT is satisfied that there are special circumstances justifying the admission of the information, document or copy, or the admission of the report, in evidence.

66 Paragraph 91(3)(b)

Repeal the paragraph, substitute:

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

67 Paragraph 91(4)(b)

Repeal the paragraph, substitute:

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

68 Paragraph 92(4)(a)

Repeal the paragraph, substitute:

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

69 Paragraph 92(5)(a)

Repeal the paragraph, substitute:

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

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

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

71 Subsection 92(6)

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

72 At the end of section 92

Add:

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

73 After paragraph 93(1)(b)

Insert:

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

74 Subsection 93(2)

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

75 At the end of section 93

Add:

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

76 Section 94

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

77 Paragraph 94(b)

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

78 Paragraph 95(b)

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

79 Subsection 102(2)

Repeal the subsection.

80 Subsection 110(1)

After “members”, insert “referred to in paragraphs 109(a), (b), (c) and (d)”.

81 Subsection 111(2)

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

82 Subsection 112(1)

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

83 After subsection 112(1)

Insert:

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

84 Subsection 112(2)

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

85 After subsection 112(2)

Insert:

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

86 Paragraph 112(5)(a)

Omit “is”, substitute “was”.

87 Subsection 115(1)

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

88 Section 117

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

89 Subsection 118(1)

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

90 Subsection 118(2)

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

91 Subsection 126(1)

Repeal the subsection, substitute:

- (1) An employer who has been given a claim under section 63 may, by written notice given to the claimant, ask the claimant to give the employer:
 - (a) any information, or a document or a copy of a document, that the employee has in his or her possession as to the name and the address of each employer by whom the employee was employed before the day on which the injury happened; or
 - (b) if the employee can obtain any information, or a document or a copy of a document, as to the name and address of each such employer—the information or the document or a copy of the document, or an authority to obtain the information or the document or a copy of the document.

92 Saving of existing notices

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

93 Subsection 126(2)

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

94 Section 138

Repeal the section.

95 Transitional

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

96 After section 139

Insert:

139A Exclusion of State laws relating to workers' compensation

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

97 Subsection 140(1)

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

98 Section 142

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

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)”.

8 Subsection 109(1)

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

9 At the end of section 121

Add (but not as part of paragraph (b)):
including regulations imposing penalties (not exceeding 10 penalty
units) for a contravention of the regulations.

*[Minister’s second reading speech made in—
Senate on 27 November 1996
House of Representatives on 25 February 1997]*

(181/96)

I HEREBY CERTIFY that this bill which originated in the Senate as the Marine Personnel Legislation Amendment Bill 1996 has been finally passed by the Senate and the House of Representatives.

Clerk of the Senate

IN THE NAME OF HER MAJESTY, I assent to this Act.

Governor-General

1997