



Seafarers Rehabilitation and Compensation and Other Legislation Amendment Act 2015

No. 51, 2015

***An Act to amend the *Seafarers Rehabilitation and
Compensation Act 1992*, and for related purposes***

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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Seafarers Rehabilitation and Compensation and Other Legislation Amendment Act 2015

No. 51, 2015

An Act to amend the *Seafarers Rehabilitation and Compensation Act 1992*, and for related purposes

[Assented to 26 May 2015]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Seafarers Rehabilitation and
Compensation and Other Legislation Amendment Act 2015*.

No. 51, 2015

*Seafarers Rehabilitation and Compensation and Other Legislation
Amendment Act 2015*

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2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	26 May 2015
2. Schedule 1, Part 1	Immediately after the commencement of Part 2 of the <i>Seafarers Rehabilitation and Compensation Act 1992</i> .	24 June 1993
3. Schedule 1, Part 2	Immediately after the commencement of section 6 of the <i>Occupational Health and Safety (Maritime Industry) Act 1993</i> .	18 July 1994
3A. Schedule 1A	The day after this Act receives the Royal Assent.	27 May 2015
4. Schedule 2	The day this Act receives the Royal Assent.	26 May 2015

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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— Initial constitutional coverage

Part 1—Seafarers rehabilitation and compensation

Seafarers Rehabilitation and Compensation Act 1992

1 At the end of section 4

Add:

- (5) To avoid doubt, a reference in this Act to the employment of an employee is a reference to:
- (a) if the employee is a trainee—the employee’s performance of the role of a trainee; or
 - (b) if the employee is a person of a kind referred to in paragraph (1)(c)—the employee’s performance of the role of a person of that kind.

3 Subsections 19(2) to (5)

Repeal the subsections.

4 After section 19

Insert:

19A Extended application of Act for trainees etc.

- (1) This Act also applies to the employment of a trainee who, as required by his or her employer, is attending a training course in connection with, or for the purpose of, employment by that employer on:
- (a) a prescribed ship that is engaged in trade or commerce:
 - (i) between Australia and places outside Australia; or
 - (ii) between 2 places outside Australia; or
 - (iii) among the States; or
 - (iv) within a Territory, between a State and a Territory or between 2 Territories; or
 - (b) a vessel of a kind referred to in subsection 19(1AA); or

Schedule 1 Initial constitutional coverage

Part 1 Seafarers rehabilitation and compensation

- (c) a prescribed ship to which paragraph 19(1A)(a) or (b) applies.
- (2) This Act also applies to the employment of a person of a kind referred to in paragraph 4(1)(c) who would ordinarily be employed or engaged as a seafarer on:
 - (a) a prescribed ship that is engaged in trade or commerce:
 - (i) between Australia and places outside Australia; or
 - (ii) between 2 places outside Australia; or
 - (iii) among the States; or
 - (iv) within a Territory, between a State and a Territory or between 2 Territories; or
 - (b) a vessel of a kind referred to in subsection 19(1AA); or
 - (c) a prescribed ship to which paragraph 19(1A)(a) or (b) applies.
- (3) This section does not limit the operation of section 19.

5 Application of amendments

- (1) Subject to subitems (2) and (3), the amendments of the *Seafarers Rehabilitation and Compensation Act 1992* made by this Part apply in relation to any injury, loss or damage suffered by an employee on or after the commencement of Part 2 of that Act.
- (2) The amendments made by this Part do not apply in relation to any injury, loss or damage for which a claim was made, under section 63 of the *Seafarers Rehabilitation and Compensation Act 1992*, before the day the Bill that became this Act was introduced into the House of Representatives (whether or not the claim was determined before that day).
- (3) The amendments made by this Part do not apply in relation to an injury, or in relation to loss or damage, if:
 - (a) notice of the injury, or of the accident that resulted in the loss or damage, was given under section 62 of that Act before the day the Bill that became this Act was introduced into the House of Representatives; and
 - (b) the notice was intended to be a notice for the purposes of that section; and

- (c) no claim or application for State compensation (within the meaning of section 139 of that Act) has been made, or purportedly made, in relation to the injury, loss or damage.

6 Compensation for acquisition of property

- (1) If the operation of this Part would result in an acquisition of property from a person otherwise than on just terms, the Commonwealth is liable to pay a reasonable amount of compensation to the person.
- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in the Federal Court of Australia for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.
- (3) In this item:
acquisition of property has the same meaning as in paragraph 51(xxxi) of the Constitution.
just terms has the same meaning as in paragraph 51(xxxi) of the Constitution.

Part 2—Occupational health and safety

Occupational Health and Safety (Maritime Industry) Act 1993

8 Subsections 6(5) to (9)

Repeal the subsections.

9 Application of amendments

The amendments made by this Part apply in relation to anything done on or after the commencement of section 6 of the *Occupational Health and Safety (Maritime Industry) Act 1993*.

Schedule 1A—Constitutional coverage from the day after this Act receives the Royal Assent

Part 1—Seafarers rehabilitation and compensation

Seafarers Rehabilitation and Compensation Act 1992

1 At the end of section 19

Add:

- (2) This Act also has the effect it would have if:
 - (a) a reference to an employer were limited to a reference to a trading corporation formed within the limits of the Commonwealth; and
 - (b) a reference to an employee were limited to a reference to an employee employed by a trading corporation formed within the limits of the Commonwealth.
- (3) This Act also has the effect it would have if:
 - (a) a reference to an employer were limited to a reference to a financial corporation formed within the limits of the Commonwealth; and
 - (b) a reference to an employee were limited to a reference to an employee employed by a financial corporation formed within the limits of the Commonwealth.
- (4) This Act also has the effect it would have if:
 - (a) a reference to an employer were limited to a reference to a foreign corporation; and
 - (b) a reference to an employee were limited to a reference to an employee employed by a foreign corporation.
- (5) Subsection (3) does not have the effect of applying this Act with respect to:
 - (a) State banking that does not extend beyond the limits of the State concerned; or

Schedule 1A Constitutional coverage from the day after this Act receives the Royal Assent

Part 1 Seafarers rehabilitation and compensation

(b) State insurance that does not so extend.

2 Section 19A

Repeal the section.

3 Application of amendments

The amendments of the *Seafarers Rehabilitation and Compensation Act 1992* made by this Part apply in relation to any injury, loss or damage suffered by an employee on or after the commencement of this item.

Part 2—Occupational health and safety

Occupational Health and Safety (Maritime Industry) Act 1993

4 At the end of section 6

Add:

- (5) Without prejudice to its effect apart from this subsection, this Act also has effect as provided by subsections (6), (7) and (8).
- (6) This Act has, by force of this subsection, the effect it would have if:
 - (a) a reference to an operator were limited to a reference to a trading corporation formed within the limits of the Commonwealth; and
 - (b) a reference to an employee were limited to a reference to an employee of a trading corporation formed within the limits of the Commonwealth; and
 - (c) a reference to a contractor were limited to a reference to a contractor working for a trading corporation formed within the limits of the Commonwealth; and
 - (d) a reference to a manufacturer were limited to a reference to a manufacturer that is a trading corporation formed within the limits of the Commonwealth; and
 - (e) a reference to a supplier were limited to a reference to a supplier that is a trading corporation formed within the limits of the Commonwealth; and
 - (f) a reference to a person in sections 22, 23 and 24 were limited to a reference to a person working for a trading corporation formed within the limits of the Commonwealth.
- (7) This Act has, by force of this subsection, the effect it would have if:
 - (a) a reference to an operator were limited to a reference to a financial corporation formed within the limits of the Commonwealth; and

- (b) a reference to an employee were limited to a reference to an employee of a financial corporation formed within the limits of the Commonwealth; and
 - (c) a reference to a contractor were limited to a reference to a contractor working for a financial corporation formed within the limits of the Commonwealth; and
 - (d) a reference to a person in sections 22, 23 and 24 were limited to a reference to a person working for a financial corporation formed within the limits of the Commonwealth.
- (8) This Act has, by force of this subsection, the effect it would have if:
- (a) a reference to an operator were limited to a reference to a foreign corporation; and
 - (b) a reference to an employee were limited to a reference to an employee of a foreign corporation; and
 - (c) a reference to a contractor were limited to a reference to a contractor working for a foreign corporation; and
 - (d) a reference to a manufacturer were limited to a reference to a manufacturer that is a foreign corporation; and
 - (e) a reference to a supplier were limited to a reference to a supplier that is a foreign corporation; and
 - (f) a reference to a person in sections 22, 23 and 24 were limited to a reference to a person working for a foreign corporation.
- (9) This Act does not apply with respect to:
- (a) State banking that does not extend beyond the limits of the State concerned; or
 - (b) State insurance that does not so extend.

5 Application of amendments

The amendments made by this Part apply in relation to anything done on or after the commencement of this item.

Schedule 2—Application of the seafarers rehabilitation and compensation levy

Seafarers Rehabilitation and Compensation Act 1992

1 Section 3 (definition of seafarer berth)

After “by a seafarer”, insert “to whose employment this Act applies”.

2 Section 3 (at the end of the definition of seafarer berth)

Add:

Note: Section 19 deals with the application of this Act.

3 Subsection 20A(1)

Omit “the application of this Act”, substitute:

the application of:

- (a) this Act; and
- (b) the *Seafarers Rehabilitation and Compensation Levy Act 1992*; and
- (c) the *Seafarers Rehabilitation and Compensation Levy Collection Act 1992*.

4 Subsection 20A(3)

Omit “this Act (other than this section) does not apply”, substitute “those Acts (other than this section) do not apply”.

5 Transitional provision

If an exemption granted under section 20A of the *Seafarers Rehabilitation and Compensation Act 1992* is in force immediately before the day this Act receives the Royal Assent, it continues in force after that day as if it had been granted, under that section as amended by this Act, as an exemption from the application of:

- (a) that Act (as so amended); and
- (b) the *Seafarers Rehabilitation and Compensation Levy Act 1992*; and

(c) the *Seafarers Rehabilitation and Compensation Levy Collection Act 1992*.

[*Minister's second reading speech made in—
House of Representatives on 26 February 2015
Senate on 25 March 2015*]

(18/15)
