

Seafarers Rehabilitation and Compensation Levy Collection Amendment Regulations 2003 (No. 1) 2003 No. 147

EXPLANATORY STATEMENT

Statutory Rules 2003 No. 147

Issued by the authority of the Minister for Employment and Workplace Relations

Seafarers Rehabilitation and Compensation Levy Collection Act 1992

Seafarers Rehabilitation and Compensation Levy Collection Amendment Regulations 2003 (No. 1)

Section 16 of the *Seafarers Rehabilitation and Compensation Levy Collection Act 1992* (the Levy Collection Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed or matters necessary or convenient to be prescribed for carrying out or giving effect to the Act or for facilitating the collection of amounts of levy payable to the Commonwealth under section 8 of the Levy Collection Act.

Section 8 of the Levy Collection Act provides that the levy on a seafarer berth may be recovered by the Commonwealth as a debt due to the Commonwealth.

Subsection 16(2) of the Levy Collection Act provides that the matters that may be prescribed under subsection (1) include providing for the manner of payment to the Commonwealth under section 8.

The *Seafarers Rehabilitation and Compensation Levy Collection Regulations 2002* (the Levy Collection Regulations) provide for various matters associated with the collection of a levy imposed by the *Seafarers Rehabilitation and Compensation Levy Act 1992* (the Levy Act) on certain maritime employers. The levy provides the funding resources for the Seafarers Safety, Rehabilitation and Compensation Authority (the Seacare Authority) to act in its reserve role as the Fund under the *Seafarers Rehabilitation and Compensation Act 1992* (the Seafarers Act). The Fund is the safety net provider of rehabilitation and compensation entitlements under the Seafarers Act.

The Seacare Authority is established under the Seafarers Act. It is not a body corporate and has no infrastructure or staff of its own. Until 11 June 2003, the Department of Employment and Workplace Relations (the Department) was responsible for providing administrative and operational support to the Seacare Authority. On 11 June 2003, amendments to the Seafarers Act and the *Safety, Rehabilitation and Compensation Act 1988* transferred to Comcare the Department's responsibility for providing operational support to the Seacare Authority. Comcare is a statutory body, established under the *Safety, Rehabilitation and Compensation Act 1988*, responsible for workplace health and safety, rehabilitation and compensation in respect of Commonwealth government employees.

The Department had also been performing various financial functions for the Seacare Authority in its role as the Fund under the Seafarers Act. This situation was reflected in Regulation 5 of the Levy Collection Regulations which provided that an employer must pay the levy payable under the Levy Act by cheque payable to the Department or direct credit to the Department's Official Administered Receipts Account (Seafarers).

The levy imposed by the Levy Act is public money and, therefore, must be handled in accordance with the *Financial Management and Accountability Act 1997* (the FMA Act). Comcare is not an Agency under the FMA Act. Also the Seacare Authority did not have any financial

autonomy of its own. These factors meant that the financial functions performed by the Department did not automatically move to Comcare when operational responsibility transferred on 11 June 2003.

To transfer these financial functions from the Department to the Seacare Authority, which is now assisted by Comcare, the Minister for Finance and Administration recommended the making of regulations prescribing the Seacare Authority as a prescribed Agency for the purposes of section 5 of the FMA Act. Regulations prescribing the Seacare Authority as a prescribed Agency under the FMA Act commenced on 1 July to coincide with the new financial year.

These Regulations amend Regulation 5 of the Levy Collection Regulations to provide that, consistent with prescription of the Seacare Authority as a prescribed Agency under the FMA Act, the levy be paid to the Seacare Authority by cheque payable to the Seacare Authority or by direct credit to the Seacare Authority's account.

The commencement date of the regulations is 1 July 2003.