

Seafarers Rehabilitation and Compensation Levy Collection Regulations 2018

I, General the Honourable Sir Peter Cosgrove AK MC (Ret’d), Governor‑General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 21 June 2018

Peter Cosgrove

Governor‑General

By His Excellency’s Command

Craig Laundy

Minister for Small and Family Business, the Workplace and Deregulation

Contents

Part 1—Preliminary 1

1 Name 1

2 Commencement 1

3 Authority 1

4 Schedules 1

5 Definitions 1

Part 2—Records, returns and payment of levy 2

6 Giving of returns and other information 2

7 Manner of payment of levy 2

8 Recovery of levy 2

9 Refund of overpayment of levy 2

10 Records to be kept 2

11 Production of records 3

Part 3—Savings and transitional provisions 4

12 Definitions 4

13 Savings—levy payable under old regulations 4

14 Transitional—registers and records 4

15 Transitional—copy of register requested under the old regulations 4

Schedule 1—Repeals 5

Seafarers Rehabilitation and Compensation Levy Collection Regulations 2002 5

Part 1—Preliminary

1 Name

This instrument is the *Seafarers Rehabilitation and Compensation Levy Collection Regulations 2018*.

2 Commencement

(1) Each provision of this instrument 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. The whole of this instrument. | At the same time as the *Seafarers Rehabilitation and Compensation Levy Regulations 2018* commence.  However, the provisions do not commence at all if that instrument does not commence. | 1 July 2018 |

Note: This table relates only to the provisions of this instrument as originally made.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

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

3 Authority

This instrument is made under the *Seafarers Rehabilitation and Compensation Levy Collection Act 1992*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

5 Definitions

In this instrument:

***Act*** means the *Seafarers Rehabilitation and Compensation Levy Collection Act 1992*.

***Levy Act*** means the *Seafarers Rehabilitation and Compensation Levy Act 1992*.

Part 2—Records, returns and payment of levy

6 Giving of returns and other information

For the purposes of section 6 of the Act, the Authority is prescribed.

7 Manner of payment of levy

For the purposes of paragraph 16(2)(a) of the Act, levy must be paid to the Authority by:

(a) cheque payable to the Authority; or

(b) electronic funds transfer.

8 Recovery of levy

For the purposes of paragraph 16(1)(b) of the Act, the Authority may, on behalf of the Commonwealth, recover levy payable under the Levy Act.

9 Refund of overpayment of levy

For the purposes of paragraph 16(2)(b) of the Act, if there is an overpayment of levy, the overpayment is to be refunded by the Authority on behalf of the Commonwealth.

10 Records to be kept

(1) An employer must keep a register that records, for the first day of each quarter:

(a) the name of each prescribed ship for which the employer employed or engaged seafarers; and

(b) the number of seafarer berths on each of those prescribed ships.

(2) A record must be kept in the register for 5 years after the day on which the employer became liable to enter the record in the register.

Offence

(3) A person commits an offence if:

(a) the person is required to keep a register under subsection (1); and

(b) the person fails to:

(i) enter a record in the register in accordance with subsection (1); or

(ii) keep a record in the register in accordance with subsection (2).

Penalty: 5 penalty units.

(4) Strict liability applies to paragraph (3)(a).

11 Production of records

(1) The Authority may, by written request given to an employer, require the employer to give a copy of a register required to be kept under subsection 10(1) to the Authority within the period specified in the request.

(2) The period must be at least 14 days after the request is given.

Offence

(3) A person commits an offence if:

(a) the person is given a request under subsection (1); and

(b) the person fails to comply with the request within the period specified in the request.

Penalty: 5 penalty units.

Self‑incrimination

(4) A person is not excused from giving a copy of the register on the ground that giving the copy or the information contained in the copy might tend to incriminate the person or expose the person to a penalty.

(5) However, in the case of an individual:

(a) the information contained in the copy of the register; or

(b) giving the copy of the register; or

(c) any information, document or thing obtained as a direct or indirect consequence of the giving of the copy of the register;

is not admissible in evidence against the individual in criminal proceedings other than proceedings for an offence against section 10 or 11 of this instrument, or section 137.1 or 137.2 of the *Criminal Code* in relation to giving a copy of the register.

Part 3—Savings and transitional provisions

12 Definitions

In this Part:

***commencement day*** means the day this instrument commences.

***old regulations*** means the *Seafarers Rehabilitation and Compensation Levy Collection Regulations 2002*, as in force immediately before the commencement day.

13 Savings—levy payable under old regulations

Despite the repeal of the old regulations by this instrument, regulations 4, 5 and 7 of the old regulations continue to apply in relation to levy payable for a quarter ending before the commencement day.

14 Transitional—registers and records

(1) A register kept under subregulation 6(1) of the old regulations is taken, on and after the commencement day, to be kept under subsection 10(1) of this instrument.

(2) An entry in a register kept under subregulation 6(2) of the old regulations is taken, on and after the commencement day, to be kept under subsection 10(2) of this instrument.

(3) To avoid doubt, nothing in this section is intended to change the time at which:

(a) a register was kept, or was required to be kept; or

(b) an entry was recorded, or was required to be recorded, in a register; or

(c) an entry was kept, or was required to be kept, in a register.

15 Transitional—copy of register requested under the old regulations

If a request was:

(a) given to an employer under subregulation 6(3) of the old regulations; and

(b) pending immediately before the commencement day;

the request has effect, on and after the commencement day, as if it were made under subsection 11(1) of this instrument.

Note: Subregulation 6(3) of the old regulations allowed the Authority to request an employer provide a copy of a register.

Schedule 1—Repeals

Seafarers Rehabilitation and Compensation Levy Collection Regulations 2002

1 The whole of the instrument

Repeal the instrument.