

## EXPLANATORY STATEMENT

### *Shipping Registration Act 1981*

#### **Shipping Registration (International Registration— Minimum Wages and Compensation) Determination 2018**

Subsection 61AE(3) of the *Shipping Registration Act 1981* (the Act) provides that the Minister must, by legislative instrument, determine the amount of wages of seafarers performing particular types of work on board ships registered in the Australian International Shipping Register (the International Register). The wages apply to a seafarer working, or proposing to work, on board a ship that is used to engage in international trade.

Subsection 61AM(2) of the *Shipping Registration Act 1981* (the Act) provides that the Minister must, by legislative instrument, determine the amount of compensation for the death or long-term disability suffered by a seafarer as a result of sickness or injury occurring while on board ships registered in the International Register.

This Determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

#### **Purpose**

The purpose of the Determination is to set out the minimum amount of wages of seafarers performing particular types of work and to set out the minimum amount of compensation for the death or long-term disability suffered by a seafarer as a result of sickness or injury occurring while on board a ship.

#### **Other**

This Determination does not apply, adopt or incorporate any other matters by reference.

#### **Background**

Under subsection 15A(b) of the Act, one of the objects is to provide an internationally competitive shipping register to facilitate the long term growth of the Australian shipping industry. A core component of the Act that gives effect to this is permitting operators of International Register ships to access mixed crewing arrangements, thereby enabling the employment of foreign seafarers at internationally competitive rates and conditions.

In order to protect the interests of seafarers, however, the Act contains a number of provisions in relation to seafarers' employment terms and conditions on International Register ships. Subsection 61AE(1) of the Act requires the work agreement of a seafarer to specify the amount of the seafarer's wages, or the method for working that out.

Subsection 61AE(2) provides that the amount of the wages must not be less than the relevant amount determined by the Minister under subsection 61AE(3).

In turn, subsection 61AE(4) provides that the amount of wages determined by the Minister must not be less than the amount of wages specified in the International Transport Workers' Federation Uniform Total Crew Cost Collective Agreement (the ITF Template Agreement).

The amounts of wages specified in the Determination are the same as those in the ITF Agreement at the time of making the Determination. The work classifications in the table in section 5 are the same as the classifications in the ITF template agreement, and this consistency is necessary to ensure that the draft determination complies with subsection 61AE(4) of the Act.

One of the commitments the Government made in establishing the International Register was that it would include workers' compensation arrangements consistent with the International Labour Organization's *Maritime Labour Convention 2006* (the MLC). Standard A4.2 of the MLC provides that ship owners shall provide financial security to assure compensation in the event of the death or long-term disability of seafarers due to an occupational injury, illness or hazard.

This requirement is reflected in section 61AM of the Act. Subsection 61AM(1) of the Act requires the owner of a ship that is registered in the International Register to have a policy of insurance or indemnity that insures or indemnifies the owner for any liability of the owner to pay compensation for the death or long-term disability suffered by a seafarer as a result of sickness or injury occurring while on board the ship. This subsection further provides that the level of insurance must be sufficient to cover the amount of compensation that is determined by the Minister under subsection 61AM(2).

In turn, subsection 61AM(3) provides that the amount of compensation determined by the Minister must not be less than the amount of compensation specified in the ITF template Agreement. The amounts of compensation for the death or long-term disability of a seafarer specified in the Determination are the same as those in the ITF Template Agreement at the time of making the Determination.

Details of the Determination are in the [Attachment](#).

### **Consultation**

No formal consultation was undertaken specifically in relation to this Determination as it is a replacement of the *Australian International Shipping Register (Minimum Wages) Determination 2016* and the *Shipping Registration (International Register—Minimum Compensation) Determination 2016* which only provided wage and compensation amounts until 31 December 2017. The ITF Template Agreement is internationally recognised as the standard for wages and the MLC is an international Convention well known to industry.

There has never been a vessel registered on the Australian International Shipping Register.

## **Regulatory impact analysis**

Before this Determination was made, its expected impact was assessed using the Preliminary Assessment tool approved by the Office of Best Practice Regulation. That assessment indicated that it would have no or low impact on business, individuals and the economy.

## **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

### **Shipping Registration (International Registration— Minimum Wages and Compensation) Determination 2018**

The Determination is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the Determination**

The Determination sets out the minimum amount of wages of seafarers performing particular types of work on board ships registered in the Australian International Shipping Register (the International Register). This is a requirement under subsection 61AE(3) of the *Shipping Registration Act 1981*.

The Determination also sets out the minimum amount of compensation for the death or long-term disability suffered by a seafarer as a result of sickness or injury occurring while on board a ship registered in the International Register. This is a requirement under subsection 61AM(2) of the *Shipping Registration Act 1981*.

#### **Human rights implications**

Article 7 of the International Covenant on Economic, Social and Cultural Rights protects the right of workers to the enjoyment of just and favourable conditions of work. This includes fair wages, equal remuneration for work of equal value, safe and healthy working conditions, equal opportunity in promotion, and rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

The Determination protects the right of workers to just and favourable conditions of work. In the absence of this Determination, there would be no minimum safety net for the amount of wages or compensation payable to seafarers working on board ships registered in the International Register.

#### **Conclusion**

The Determination is compatible with human rights because it is part of a legislative framework that protects the human rights of seafarers on International Register ships.

**Deputy Prime Minister and Minister for Infrastructure, Transport and Regional Development, the Hon Michael McCormack MP**

**Details of the Shipping Registration (International Registration— Minimum Wages and Compensation) Determination 2018**

**Section 1 – Name**

Section 1 provides that the name of the Determination is the *Shipping Registration (International Registration— Minimum Wages and Compensation) Determination 2018*.

**Section 2 – Commencement**

Section 2 provides that the Determination commences on the day after it is registered.

**Section 3 – Authority**

Section 3 provided that the Determination is made under subsection 61AE(3) and 61AM(2) of the *Shipping Registration Act 1981*.

**Section 4 – Definitions**

Section 4 states that a number of expressions used in the Instrument are defined in the *Shipping Registration Act 1981* and provides definitions for the word ‘Act’ and term ‘senior officer’.

**Section 5 – Amount of wages**

Section 5 provides for a seafarer performing the work of a classification mentioned in column 1 of the table to be paid, in US dollars, per calendar month the amount stated in column 2 of the table.

**Section 6 – Amount of compensation—death**

Section 6 provides for the amount of compensation for a seafarer’s immediate next of kin, in respect of the death of that seafarer as a result of sickness or injury occurring while on board a ship registered on the Australian International Shipping Register, in US Dollars. This section also provides that the amount of compensation for each of the seafarer’s dependent children under the age of 18 (up to a maximum of 4).

**Section 7 – Amount of compensation—long-term disability**

Section 7 sets the amount of compensation for long-term disability suffered by a seafarer as a result of sickness or injury occurring while on board a ship registered on the Australian

International Shipping Register. For a degree of disability mentioned as a percentage in column 1 of an item of the table, the amount of compensation is the amount, in US dollars, mentioned in the item in whichever of column 2, 3 or 4 applies to the seafarer's role.

Section 7 also provides for compensation for a degree of disability less than 10 per cent to be worked out on a pro-rata basis.