

**SEAFARERS REHABILITATION AND COMPENSATION LEVY AMENDMENT
REGULATIONS 2019**

EXPLANATORY STATEMENT

Issued by authority of the Minister for Industrial Relations

under section 7 of *Seafarers Rehabilitation and Compensation Levy Act 1992*

PURPOSE AND OPERATION OF THE INSTRUMENT

The *Seafarers Rehabilitation and Compensation Act 1992* (Seafarers Act) provides workers' compensation for approximately 5000 maritime employees on 170 vessels. Under the Seafarers Act the Seafarers Safety, Rehabilitation and Compensation Authority (Seacare Authority) operates as a default workers' compensation employer where there is no employer against whom the employee can make a workers' compensation claim.

The *Seafarers Rehabilitation and Compensation Levy Act 1992* (Levy Act) imposes a levy on Seacare scheme employers who employ or engage seafarers on a prescribed ship. The levy primarily finances an industry safety net fund (the fund) managed by the Seacare Authority. The levy is payable quarterly pursuant to the *Seafarers Rehabilitation and Compensation Levy Collection Act 1992*.

The *Seafarers Rehabilitation and Compensation Levy Regulations 2018* (Levy Regulations) set the rate of the levy for the purposes of the Levy Act.

Sections 5 and 7 of the Levy Act provide for the rate of levy imposed on each seafarer berth to be prescribed by regulation. The levy rate can be increased or decreased as required to support the fund, as assessed by the Seacare Authority and depending on claims made against the fund from time to time. It is more appropriate that the rate of the levy be set by subordinate legislation rather than by parliamentary enactment.

The Levy Regulations currently prescribe a quarterly levy rate of \$25 per seafarer berth for this purpose. The *Seafarers Rehabilitation and Compensation Levy Amendment Regulations 2019* (the Regulations) amend the Levy Regulations to specify a new levy rate of \$50 per seafarer berth on prescribed ships.

The levy rate increase gives effect to a recommendation from the Seacare Authority to the Minister. The amount of the increase is the amount recommended by the Seacare Authority, taking into account expert actuarial advice it commissioned.

Details of the Regulations are set out at [Attachment A](#).

The Regulations will commence at the beginning of the first quarter after this instrument is registered (that is on the first 1 July, 1 October, 1 January or 1 April).

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

CONSULTATION

The Seacare Authority is a consultative body comprising members representing employers and employees in the maritime industry as well as the Australian Maritime Safety Authority and Comcare.

Subsection 7(2) of the Levy Act sets out pre-requisites for consultation before setting the rate of levy by regulations. The Minister must consult the Seacare Authority on:

- the need to ensure that the fund has adequate financial reserves for the purposes of its prudential management;
- reasonable estimates of the fund's present and future liabilities under the Seafarers Act; and
- the cost of administering the Seacare Authority in connection with the performance or exercise of the fund's functions, powers and obligations under that Act.

As required by subsection 7(2) of the Levy Act, the Minister consulted the Seacare Authority on the above matters and the Seacare Authority recommended an increase in the levy rate from \$25 per seafarer berth to \$50 per seafarer berth.

REGULATION IMPACT STATEMENT

The Office of Best Practice Regulation has advised a Regulation Impact Statement is not required (OPBR ID 25358).

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

Seafarers Rehabilitation and Compensation Levy Amendment Regulations 2019

This Legislative Instrument 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 Legislative Instrument

The *Seafarers Rehabilitation and Compensation Act 1992* (Seafarers Act) provides workers' compensation for approximately 5000 maritime employees on 170 vessels. Under the Seafarers Act the Seafarers Safety, Rehabilitation and Compensation Authority (Seacare Authority) operates as a default workers' compensation employer where there is no employer against whom the employee can make a workers' compensation claim.

The *Seafarers Rehabilitation and Compensation Levy Act 1992* (Levy Act) imposes a levy on Seacare scheme employers who employ or engage seafarers on a prescribed ship. The levy primarily finances an industry safety net fund (the fund) managed by the Seacare Authority. The levy is payable quarterly pursuant to the *Seafarers Rehabilitation and Compensation Levy Collection Act 1992*.

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The Seacare Authority is a consultative body comprising members representing employers and employees in the maritime industry as well as the Australian Maritime Safety Authority and Comcare.

Human rights implications

The instrument engages the right to social security in Article 9 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR). This provides that States Parties recognise the right of everyone to social security, including social insurance.

The proposed levy increase will help secure the integrity of the default insurance fund for workers' compensation established under the legislation. It will ensure the administering body, the Seacare Authority, has adequate financial reserves for the purposes of its prudential management. Insofar as it enhances the integrity of the scheme, it can be said to promote the right to social security (ICESCR).

Conclusion

The Regulations are compatible with human rights.

The Hon Christian Porter MP

Minister for Industrial Relations

NOTES ON SECTIONS

Section 1 - Name

This section provides that the title of the instrument is the *Seafarers Rehabilitation and Compensation Levy Amendment Regulations 2019* (the Regulations).

Section 2 - Commencement

This section provides that the Regulations commence on the first quarter following the day after the instrument is registered on the Federal Register of Legislation.

Section 3 - Authority

This section provides that the instrument is made under the *Seafarers Rehabilitation and Compensation Levy Act 1992*.

Section 4 - Schedules

This section gives effect to the Schedule to this instrument.

Schedule 1 - Amendments

Item 1 of Schedule 1 amends section 6 of the Levy Regulations to amend the rate of levy from \$25 to \$50.