

2010-2011

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

**Safety, Rehabilitation and Compensation  
and Other Legislation Amendment Bill  
2011**

**No.     , 2011**

*(Education, Employment and Workplace Relations)*

**A Bill for an Act to amend the law relating to  
occupational health, safety, rehabilitation and  
compensation, and for related purposes**



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1     **A Bill for an Act to amend the law relating to**  
2     **occupational health, safety, rehabilitation and**  
3     **compensation, and for related purposes**

4     The Parliament of Australia enacts:

5     **1 Short title**

6                     This Act may be cited as the *Safety, Rehabilitation and*  
7                     *Compensation and Other Legislation Amendment Act 2011.*

8     **2 Commencement**

9                     This Act commences on the day after this Act receives the Royal  
10                    Assent.

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### **3 Schedule(s)**

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule has effect according to its terms.

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1 **Schedule 1—Amendment of the Occupational**  
2 **Health and Safety (Maritime Industry)**  
3 **Act 1993**  
4

5 **1 Subsections 109(5) and (6)**

6 Repeal the subsections, substitute:

- 7 (6) A code of practice, or a variation or revocation of a code of  
8 practice, that is approved by the Minister is a legislative instrument  
9 made by the Minister on the day on which he or she approves the  
10 code, variation or revocation.  
11

1 **Schedule 2—Amendment of the Safety,**  
2 **Rehabilitation and Compensation Act**  
3 **1988**

4 **Part 1—Amendments**

5 **1 Paragraph 6(1)(b)**

6 Repeal the paragraph, substitute:

- 7 (b) while the employee was at the employee’s place of work, for  
8 the purposes of that employment, or was temporarily absent  
9 from that place during an ordinary recess in that employment;  
10 or

11 **2 At the end of subsection 6(1)**

12 Add:

13 ; or (h) while the employee was, at the direction or request of the  
14 Commonwealth or a licensee, at a place:

- 15 (i) outside Australia and the external Territories; and  
16 (ii) declared by the Minister by legislative instrument to be  
17 a place to which this paragraph applies; or

18 (i) while the employee was:

- 19 (i) at the direction or request of the Commonwealth or a  
20 licensee, at a place outside Australia and the external  
21 Territories; and  
22 (ii) a member of a class of employees declared by the  
23 Minister by legislative instrument to be a class to which  
24 this paragraph applies.

25 **3 After subsection 36(4)**

26 Insert:

- 27 (4A) However, subsection (4) does not operate to suspend the  
28 employee’s right to compensation for the cost of medical treatment  
29 that is payable under section 16.

30 **4 After subsection 37(7)**

31 Insert:

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1 (7A) However, subsection (7) does not operate to suspend the  
2 employee's right to compensation for the cost of medical treatment  
3 that is payable under section 16.

#### 4 **5 After subsection 50(5)**

5 Insert:

6 (5A) However, paragraph (5)(b) does not operate to suspend the  
7 employee's right to compensation for the cost of medical treatment  
8 that is payable under section 16.

#### 9 **6 Before subsection 61(1)**

10 Insert:

11 (1A) The determining authority must consider and determine each claim  
12 for compensation under section 14 within the period prescribed by  
13 the regulations.

#### 14 **7 At the end of section 62**

15 Add:

16 (6) The determining authority or person must decide a request made by  
17 a claimant to reconsider a determination within the period  
18 prescribed by the regulations.

#### 19 **8 After paragraph 90B(a)**

20 Insert:

21 (ab) to enable Comcare to discharge a liability incurred because of  
22 an event or process that:

23 (i) happened or commenced before 1 December 1988; and

24 (ii) results in an injury, loss or damage that first manifests  
25 itself on or after 1 December 1988.

26 Example: An event—a person's inhalation of asbestos fibres—that happened  
27 before 1 December 1988 and results in an injury, loss or damage—the  
28 person's contraction of mesothelioma—that manifests itself on or after  
29 1 December 1988.

30 Note: The heading to section 90B is altered by omitting "**liabilities under Part X**" and  
31 substituting "**long-term liabilities**".

#### 32 **9 Paragraph 90B(b)**

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**Schedule 2** Amendment of the Safety, Rehabilitation and Compensation Act 1988  
**Part 1** Amendments

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1 Omit all the words after “claims for”, substitute “a liability mentioned  
2 in paragraph (a) or (ab).”.

3 **10 Subparagraph 90C(1)(a)(i)**

4 After “paragraph 90B(a)”, insert “or (ab)”.

5 **11 Subsection 92(3)**

6 Omit “(3)”.

7 Note: This item removes a redundant subsection number.

8

1 **Part 2—Saving provision**

2 **12 Saving provision—payments under section 90B**

- 3 (1) This item applies if:
- 4 (a) the Commonwealth paid an amount to Comcare under  
5 section 90B of the *Safety, Rehabilitation and Compensation*  
6 *Act 1988* before the commencement of this item; and
- 7 (b) that amount:
- 8 (i) was not payable to Comcare under that section at that  
9 time; but
- 10 (ii) would have been payable under that section if the  
11 amendments made by this Schedule had been in force at  
12 that time.
- 13 (2) The Commonwealth may recover the amount already paid to Comcare  
14 as a debt.
- 15 (3) Comcare is entitled, on the commencement of this item, to be paid that  
16 amount by the Commonwealth.
- 17 (4) The Commonwealth may set off the amount that Comcare is entitled to  
18 be paid against the amount already paid to Comcare.
- 19 (5) The Consolidated Revenue Fund is appropriated for the purposes of this  
20 item.  
21

1       **Schedule 3—Amendment of the Seafarers**  
2                       **Rehabilitation and Compensation Act**  
3                       **1992**  
4

5       **1 Paragraph 10(1)(b)**

6               Omit “written notice”, substitute “legislative instrument”.

7       **2 Paragraph 10(1)(b)**

8               Omit “the notice”, substitute “the instrument”.

9       **3 Paragraph 28(6A)(b) (definition of *Specified rate per***  
10                       ***kilometre*)**

11               Omit “by written notice”, substitute “, by legislative instrument,”.

12       **4 After subsection 42(3)**

13               Insert:

14               (3A) A Guide prepared under subsection (1), or a variation or revocation  
15                       of a Guide under subsection (2), that is approved by the Minister is  
16                       a legislative instrument made by the Minister on the day on which  
17                       he or she approves the Guide, variation or revocation.

18       **5 Subsections 42(7), (9) and (10)**

19               Repeal the subsections.

20       **6 Subsection 44(3)**

21               Omit “notice in writing”, substitute “legislative instrument”.

22       **7 Paragraph 49(6B)(b) (definition of *Specified rate per***  
23                       ***kilometre*)**

24               Omit “by written notice”, substitute “, by legislative instrument,”.

25       **8 Paragraph 50(2B)(b) (definition of *Specified rate per***  
26                       ***kilometre*)**

27               Omit “by written notice”, substitute “, by legislative instrument,”.

1 **9 Subsection 66(4B) (definition of *specified rate per***  
2 ***kilometre*)**

3 Omit “by written notice”, substitute “, by legislative instrument,”.

4 **10 Subsection 66(6)**

5 Omit “written notice”, substitute “legislative instrument”.

6 **11 Subsection 83A(5) (definition of *specified rate per***  
7 ***kilometre*)**

8 Omit “by written notice”, substitute “, by legislative instrument,”.

9 **12 Subsection 83A(9)**

10 Omit “written notice”, substitute “legislative instrument”.

11 **13 Subsection 130(3)**

12 Omit “notice in writing”, substitute “legislative instrument”.

13 **14 Subsection 135(2)**

14 Omit “set-off”, substitute “set off”.

15 Note: This item corrects a misspelling.

16 **15 Subsection 139(7) (definition of *specified law*)**

17 Omit “written notice”, substitute “legislative instrument”.

18 **16 Section 142**

19 Repeal the section.