

Amendments arising from the 2012-13 Review of the Seacare Scheme

The review recommended updates to the Seafarers Act to realign the scheme with the *Safety Rehabilitation and Compensation Act 1988* (the SRC Act).

Definitions	
‘action for non-economic loss’ – s 3	Clarifies an action for non-economic loss is not restricted to the formal institution of proceedings but can include processes like settlement negotiations and consultations.
‘medical treatment’ – s 3	Enables legislative rules to be made to include a wider range of compensable medical treatment.
‘superannuation scheme’ – s 3	Extends the definition of superannuation scheme to include retirement savings accounts, reflecting updated approaches to superannuation arrangements.
Benefit changes	
Payment of medical related expenses – s 28	Enables reimbursement of medical related expenses (at the direction of the employee) to the medical treatment provider or the employee if they have paid for the treatment.
Reduction in threshold for binaural hearing loss to improve access to compensation for injuries resulting in permanent impairment - s 40	Reduces the qualifying threshold for a permanent impairment that is a binaural hearing loss from 10% to 5% to align with the SRC Act and other jurisdictions.
Increase to funeral benefit – s 30(2)	Aligns the maximum amount of compensation payable in respect of funeral expenses with the SRC Act.
Improvements to scheme integrity	
Clarification that dependents of deceased employees have access to common law remedies against the employer of the deceased – s 54	Clarifies that where an employee’s injury results in death, the dependants of the deceased employee are not prevented from bringing an action against the employer, even where the employee may have made a previous election.
Clarification of employees ability to bring action for non-economic loss – s 55	Clarifies that an election by an employee to institute an action or proceeding against their employer or another employee does not prevent the employee from doing any other thing that constitutes an action for non-economic loss.
Clarification of requirements in relation to proceedings and consequences of election and payment of damages – ss 56-60	Aligns provisions with the SRC Act by substituting references to ‘proceedings’ with the broader term of ‘claims’. ‘Claims’ encompasses settlements resulting from negotiation whether or not that claim or action progressed to the formal institution of proceedings or was made at common law.
Changes to eligibility thresholds	
Injury which is a disease - contribution of employment to shift from the ‘material degree’ to a ‘significant degree’ – s 3 and new s 5B	Increases threshold to align with the SRC Act. Employment must contribute to disease suffered by employee to a ‘significant degree’ rather than ‘material degree’.

<p>Psychological injuries-exclusions - shift from 'reasonable disciplinary action' to 'reasonable administrative action'</p> <p>– new s 5A</p>	<p>The Seafarers Act currently excludes compensation for injuries as a result of 'reasonable disciplinary action' or an employee's 'failure to obtain a promotion, transfer or benefit'. This definition will be replaced with the concept of 'reasonable administrative action taken in a reasonable manner'. A new section will also be added providing a non-exhaustive list of the actions which may constitute 'reasonable administrative action'. This will align with the SRC Act.</p>
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OTHER TECHNICAL CHANGES IDENTIFIED DURING DRAFTING

<p>Updates to references to other Commonwealth legislation – s 135</p>	<p>Updates references to other Commonwealth legislation - the <i>Child Support (Registration and Collection) Act 1988</i>, the <i>Social Security Act 1991</i>, and the <i>Family Law Act 1975</i> – to reflect current practice regarding the treatment of compensation payments for the purposes of assignment and attachment.</p>
<p>Removal of redundant references</p>	<p>References to “industry panel”, “Seafarers Engagement Centre” and “industry trainee” will be removed.</p>
<p>Administrative Appeals Tribunal – Costs – s 91</p>	<p>Clarifies that the AAT may order claimants costs where determination about eligibility for compensation is reconsidered by a determining authority on its own motion and proceedings are rendered abortive.</p>