



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

PROOF

BILLS

**Seafarers and Other Legislation
Amendment Bill 2016**

Second Reading

SPEECH

Thursday, 13 October 2016

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

SPEECH

Date	Thursday, 13 October 2016	Source	House
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Questioner		Responder	
Speaker	Taylor, Angus, MP	Question No.	

Mr TAYLOR (Hume—Assistant Minister for Cities and Digital Transformation) (10:51): I move:

That this bill be now read a second time.

Introduction

I am pleased to introduce the Seafarers and Other Legislation Amendment Bill 2016 to modernise the Commonwealth Seacare scheme.

The Seacare scheme is a workers' compensation and work health and safety scheme for a small, defined segment of the Australian maritime industry. It covers around 30 employers, 340 vessels and 6,900 employees. The scheme generally applies only to Australian flagged vessels and foreign flagged vessels with an Australian crew and operator that are engaged in interstate, international or territorial trade or commerce.

A workers' compensation scheme to cover Australian seafarers was first established over a century ago to protect Australian seafarers and their families from the financial costs of workplace injury or death.

The Seacare scheme commenced in 1993 and has not been substantially updated since that time.

Two independent reviews of the Seacare scheme—the first in 2005, the second over 2012 and 2013—concluded that it needs widespread reform.

There is clearly a need to modernise the scheme's work health and safety arrangements to ensure that seafarers are adequately protected and to update its workers' compensation arrangements to restore the historic link with the Comcare scheme.

The changing profile of the maritime industry over the last 20 years has also made it more difficult for both maritime industry employers and employees to work out if they fall within the scheme's coverage.

A Federal Court decision in 2014 significantly expanded the coverage of the Seacare scheme casting further doubt on the scheme's coverage.

Finally, the governance of the Seacare scheme is overly complex for its small size, and its regulatory bodies are not adequately funded to perform their functions.

Detail of the bill

The bill repeals the Occupational Health and Safety (Maritime Industry) Act 1993 and extends the Commonwealth Work Health and Safety Act 2011 to apply to the Seacare scheme.

This represents the Seacare scheme's adoption of harmonised work health and safety laws. This adoption of modern best practice laws will improve the safety performance of the scheme, which should significantly benefit both employers and seafarers.

The bill also amends the Seafarers Rehabilitation and Compensation Act 1992 (the seafarers act) to clarify the coverage of the Seacare scheme while maintaining a similar scope.

The new coverage test in the bill will be two tiered: (1) a vessel must be a 'prescribed vessel', which is similar to existing arrangements, and (2) the vessel must not be used wholly or predominantly for voyages or other tasks that are within the territorial sea of a particular state or territory.

Unlike under the current coverage test—where coverage of vessels can change on a voyage-by-voyage basis—the new coverage test will mean that vessels are either covered or not covered by the Seacare scheme.

The bill also introduces a formal mechanism for employers to opt into the Seacare scheme, while improving the operation of exemptions from the scheme.

The seafarers act will also be amended to make long-overdue updates and necessary clarifications. The changes reflect a sensible balanced approach.

The bill implements the government's decision to transfer the functions of the Seacare Authority to the Safety, Rehabilitation and Compensation Commission (the commission), which was announced in 2014 as part of the Smaller Government agenda. The Seacare Authority will be abolished and its functions split between Comcare and the commission.

The bill will enable the chair of the commission to establish an advisory group—comprised of representatives from Seacare employers and maritime unions—to provide support and industry expertise to Comcare and the commission as required.

At the same time, the bill will amend the seafarers act and the Safety, Rehabilitation and Compensation Act 1988 (the SRC Act) to align the age at which incapacity payments cease to be payable with the 'pension age'. This will ensure that persons in receipt of incapacity payments can continue to receive those payments until they reach 'pension age', which is increasing as a result of changes to the Social Security Act 1991.

The bill will also amend both the seafarers act and SRC Act to align with minimum benchmarks to be set by the National Injury Insurance Scheme.

The bill also amends the seafarers act to ensure compliance with recent amendments to the International Labour Organization's Maritime Labour Convention.

The bill makes other amendments to the Commonwealth Work Health and Safety Act 2011 (the WHS Act) which are of general application. These include amendments to clarify the scope of the WHS Act and demonstrate the Commonwealth's ongoing commitment to nationally harmonised work health and safety laws.

The bill will clarify that judges, justices and heads of mission are not 'officers' for the purpose of the WHS Act. This will ensure the criminal penalty regime does not apply to judges, consistent with the common-law principle of judicial immunity. It also clarifies the work health and safety duties of heads of mission while on international deployment.

Conclusion

The Seafarers and Other Legislation Amendment Bill 2016 will bring the Seacare scheme into the 21st century and protect its immediate sustainability.

The amendments in the bill represent a sensible, balanced package of reforms and reflect the findings of the past independent reviews into the Seacare scheme. These changes have been discussed at length with maritime industry employers and employees over recent years.

Reform of the Seacare scheme has been a long time coming. I would like to thank maritime industry employers and unions for their patience and willingness to work cooperatively and productively with governments over such a long period of time to develop these reforms.

Debate adjourned.