

1996

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

MARINE PERSONNEL LEGISLATION AMENDMENT BILL 1996

EXPLANATORY MEMORANDUM

(Circulated by Authority of the Minister for Transport and Regional
Development, the Hon John Sharp MP)



Marine Personnel Legislation Amendment Bill 1996

Outline

The proposed Marine Personnel Legislation Amendment Bill 1996 makes a number of small but important amendments to the *Seafarers Rehabilitation and Compensation Act 1992* (the SRC Act) and to the *Occupational Health and Safety (Maritime Industry) Act 1993* (the OH&S(MI) Act). The amendments to both Acts are designed to enhance their operation. The need for the amendments has become apparent as a result of operational experience with the two Acts since their commencement on 24 June 1993 and 18 July 1994 respectively.

Amendments to the *Seafarers Rehabilitation and Compensation Act 1992*

Schedule 1 of the Bill sets out amendments to the SRC Act. In summary, those amendments will:

- extend the application provision to enable the SRC Act to apply to Australian vessels trading between two places outside Australia
- provide that the employment of specified employees on a specified ship may be exempted from the requirements of the SRC Act
- amend requirements relating to approved insurers to enable an employer's liabilities under the SRC Act to be indemnified by an employers' mutual indemnity association
- provide that State and Territory stamp duty is not payable on insurance policies issued in respect of employer liabilities under the SRC Act
- clarify the meaning of **employer** in respect of liabilities arising outside the Act
- provide that State and Territory workers compensation insurance is not required to be taken out in respect of employees covered by the SRC Act
- provide that workers covered by the SRC Act are not entitled to benefits under State or Territory workers' compensation schemes
- provide that the Chief Executive Officer of the Australian Maritime Safety Authority (AMSA) is *ex officio* a member of the Seafarers Safety, Rehabilitation and Compensation Authority (the Seacare Authority) rather than having to be appointed by the Minister
- provide that the time limit for determining claims for permanent impairment be increased from 12 days to 30 days
- increase the time limit in which a redetermination of a decision must be completed from 35 days to 60 days
- provide that an employee may give an employer consent to obtain documents or information directly, rather than the employee obtaining the documents or information and then passing them on to the employer
- provide for the suspension of the time limit where an employer is waiting for information from an employee necessary for the determination or redetermination of a claim
- improve the administrative arrangements associated with the granting of extensions of time for the determination and redetermination of claims

- enable an employer to require an injured employee to undergo a medical examination where a claim is being reconsidered
- include a formula for determining the amount of travel costs to be reimbursed to an employee who has been required to undergo a medical examination as part of the original determination of a claim
- limit an employer's liability for travel costs for on-going medical examinations and rehabilitation if an injured employee departs Australia
- remove anomalous references to ships declared under sections 8A and 8AA of the *Navigation Act 1912* from the definition of **prescribed ship**
- provide that compensation is not payable for injuries occurring within the boundaries of a person's place of residence
- make minor amendments consequent upon changes to the *Administrative Appeals Tribunal Act 1975*
- correct minor punctuation, drafting and typographical errors and inconsistencies.

Amendments to the *Occupational Health and Safety (Maritime Industry) Act 1993*

Schedule 2 of the Bill sets out amendments to the OH&S(MI) Act. In summary, those amendments will:

- extend the application provision to ensure that the OH&S(MI) Act applies to Australian vessels trading between two places outside Australia
- amend the definition of **operator** to clarify the meaning of the term
- remove anomalous references to ships declared under sections 8A and 8AA of the *Navigation Act 1912* from the definition of **prescribed ship**
- provide that the Minister may approve codes of practice prepared by a body other than the Seacare Authority
- include a specific power to provide that the regulations may prescribe penalties of up to 10 penalty units.
- correct minor punctuation, drafting and typographical errors and inconsistencies.

Financial Impact Statement

The proposed amendments will have an insignificant financial impact. There will be a small reduction in administrative work by:

- removing the need for the Chief Executive officer of AMSA to be reappointed periodically as a member of the Seacare Authority
- a reduction in the number of applications to the Seacare Authority for an extension of time.

Marine Personnel Legislation Amendment Bill 1996

Clause 1: Short title

Clause 1 provides that the Bill, once enacted, may be cited as the *Marine Personnel Legislation Amendment Act 1996*.

Clause 2: Commencement

This clause provides that the proposed Act, except for item 75 of Schedule 1 and item 9 of Schedule 2, will commence when the Bill receives Royal Assent. Item 9 of Schedule 1 will be taken to have commenced on 24 June 1993, the commencement date of section 93 of the *Seafarers Rehabilitation and Compensation Act 1992*. Schedule 2 will be taken to have commenced on 18 July 1994, the commencement date of section 121 of the *Occupational Health and Safety (Maritime Industry) Act 1993*.

Clause 3: Schedules

This clause provides that the *Seafarers Rehabilitation and Compensation Act 1992* and the *Occupational Health and Safety (Maritime Industry) Act 1993* are amended as set out in the Schedules to the Bill.

Schedule 1 - Amendment of the Seafarers Rehabilitation and Compensation Act 1992 (the SRC Act)

Item 1

This item inserts a definition of **AAT** into section 3 of the SRC Act. This is the same as the existing definition in subsection 76(1) which will be repealed by item 50.

Item 2

This item inserts a definition of **appointed member** into section 3 of the SRC Act. This is to distinguish between the six members of the Seacare Authority who are appointed by the Minister and the seventh member, the Chief Executive Officer of the AMSA who, in accordance with an amendment to section 110 (item 80), will be *ex officio* a member of the Seacare Authority.

Items 3 and 4

These items amend the definitions of **Comcare** and **Comcare officer** by adding a comma to the title of the *Safety, Rehabilitation and Compensation Act 1988* which occurs in each of those definitions. A comma was included in the title of that Act with effect from 19 January 1994.

Item 5

This item amends the definition of **journey** consequential upon the amendment of existing section 66 (item 38) and the addition of a new section 83A (item 62).

Item 6

Currently, **prescribed ship** is defined in section 3 to mean a ship to which Part II of the *Navigation Act 1912* applies or an off-shore industry vessel or a trading ship declared, respectively, under section 8A or 8AA of the Navigation Act. Government ships are excluded from the meaning of **prescribed ship**.

Item 6 replaces the existing definition with a new definition which excludes references to declared off-shore industry vessels and trading ships. These references are superfluous because Part II of the Navigation Act automatically applies to ships declared under sections 8A and 8AA.

Items 7 and 8

These items amend subsection 4(1) in two places by replacing the references to **industry trainee** and **company trainee** with references to **trainee**. This is consequential upon the existing definition of **trainee** in section 3.

Items 9 and 10

These items correct typographical errors in subsection 5(1) and subparagraph 9(2)(e)(i) respectively.

Item 11

By virtue of subsection 9(2) of the SRC Act, a seafarer who is injured while travelling between his or her place of residence and his or her place of work is entitled to compensation for the injury. Item 11 inserts new subsections 9(2A) and (2B) to provide that compensation is not payable in respect of an injury that occurs within the boundaries of the land on which the seafarer's residence is situated or within the boundaries of any contiguous parcels of land that the seafarer owns or occupies.

Item 12

This item inserts a new paragraph (aa) into subsection 19(1) to provide that the SRC Act applies to an Australian ship engaged in trade or commerce between ports outside Australia. This will align the application of the SRC Act with Part II of the *Navigation Act 1912*.

Item 13

This item amends section 20 and the heading to section 20 by adding a comma to the title of the *Safety, Rehabilitation and Compensation Act 1988*.

Item 14

This item inserts a new section 20A to provide that the Seacare Authority may exempt the employment of some or all employees on a specified ship from the application of the SRC Act. An example of where an exemption may be appropriate is where an intrastate trading ship, normally under the jurisdiction of a State compensation scheme, makes a single voyage to another State or Territory.

An exemption may be made subject to conditions. An exemption must not be granted if it would be inconsistent with an obligation of Australia under an international agreement.

Item 15

This item amends subsection 23(6) to clarify the cross-reference in that subsection.

Items 16, 17 and 18

Section 28 provides for the payment of compensation for medical and related expenses (including travel expenses).

Item 16 replaces the existing paragraph 28(6)(a) to make it clear that travel expenses for purposes of medical treatment are payable only in respect of a journey in Australia and are payable only from the place where the seafarer is actually residing at the time of the journey.

Item 17 inserts a new subsection 26(6AA) to provide that, if a seafarer is temporarily residing at a place that is not the place at which he or she normally resides, the maximum amount payable in respect of a journey for purposes of medical treatment is the amount that would be payable if the seafarer was residing at the place where he or she normally resides in Australia.

Item 18 amends subsection 28(6) to include a reference to new subsection 26(6AA).

Item 19

This item amends subsection 31(8) to clarify that the minimum earnings referred to in that subsection are the minimum earnings of the employee and to make subsection 31(8) consistent with subsection 31(9).

Item 20

This item amends paragraph 32(d) to make it clear that the amount referred to in that paragraph is an amount per week that an employee would be earning if engaged in employment.

Items 21 and 22

Section 44 provides for the redemption of small weekly compensation payments by the payment of one lump sum in accordance with a formula in that section.

Items 21 and 22 amend the definition of **Y [number of years]** in subsection 44(2) and insert a new subsection 44(2A) to clarify how the term **Y [number of years]**, as used in the formula, is to be rounded to 3 decimal places.

Item 23

This item amends the definition of **approved program provider** in section 48 by adding a comma to the title of the *Safety, Rehabilitation and Compensation Act 1988*.

Item 24

This item corrects a typographical error in subsection 49(6A).

Items 25, 26 and 27

Section 49 provides for the payment by an employer of costs (including travel expenses) associated with the assessment of an injured seafarer's capability to undertake a rehabilitation program.

Item 25 replaces the existing paragraph 49(6A)(a) to make it clear that travel expenses for purposes of being assessed for a rehabilitation program are payable only in respect of a journey in Australia and are payable only from the place where the seafarer is actually residing at the time of the journey.

Item 26 inserts a new subsection 49(6BA) to provide that, if a seafarer is temporarily residing at a place that is not the place where he or she normally resides, the maximum amount payable in respect of a journey for purposes of being assessed for a rehabilitation program is the amount that would be payable if the seafarer was residing at the place where he or she normally resides in Australia.

Item 27 amends subsection 49(7) to include a reference to new subsection 49(6BA).

Item 28

This item corrects a typographical error in subsection 50(2A).

Items 29, 30 and 31

Section 50 provides for the payment by an employer of any costs (including travel expenses) where an injured seafarer undertakes a rehabilitation program.

Item 29 replaces the existing paragraph 50(2A)(a) to make it clear that travel expenses associated with a rehabilitation program are payable only in respect of a journey in Australia and are payable only from the place where the seafarer is actually residing at the time of the journey.

Item 30 inserts a new subsection 50(2BA) to provide that, if a seafarer is temporarily residing at a place that is not the place where he or she normally resides, the maximum amount payable in respect of a journey for purposes of undertaking a rehabilitation program is the amount that would be payable if the seafarer was residing at the place where he or she normally resides in Australia.

Item 31 amends subsection 50(2E) to include a reference to new subsection 50(2BA).

Item 32

Subsection 50(4) provides that a person entitled to compensation under subsection 50(3) has no entitlement under Part 2.10 of the *Social Security Act 1991*. Part 2.10, which related to the payment of rehabilitation allowances, has been repealed. Nobody who is entitled to compensation under subsection 50(3) is receiving a payment under the now-

repealed Part 2.10. As subsection 50(4) is not serving any purpose, it is repealed by item 32.

Items 33, 34, 35 and 36

One of the objectives of the SRC Act is to curtail access to common law claims by injured seafarers. The current meaning of **employer** in section 53 would allow an injured seafarer to mount an unlimited common law action against a body corporate, not related to the employer, that owns, manages, charters or operates the ship on which the seafarer was injured. Items 33, 34, 35 and 36 amend section 53 to remedy this situation.

Items 37, 38, 39 and 40

Section 66 provides that where a seafarer has given his or her employer a notice of injury, the employer may require the seafarer to undergo a medical examination.

Items 37, 38, 39 and 40 amend section 66 make specific provision for the payment by the employer of travel costs connected with such medical examinations. The provisions relating to the payment of travel costs are similar to the equivalent provisions in the amended sections 28, 49 and 50.

The amount required to be paid by the employer is equal to the reasonable travel costs incurred by the seafarer. Travel costs associated with attendance at a medical examination are payable only in respect of a journey in Australia and are payable only from the place where the seafarer is actually residing at the time of the journey.

If the seafarer is temporarily residing at a place that is not the place where he or she normally resides, the maximum amount payable in respect of a journey for purposes of attending at a medical examination is the amount that would be payable if the seafarer was residing at the place where he or she normally resides in Australia.

Where a seafarer travels by private motor vehicle, the employer is required to pay an amount based on the distance travelled, but there is no requirement for the employer to make any payment if a return journey by private motor vehicle does not exceed 50 kilometres.

Item 41, 42, 43 and 44

Section 67 provides that, where a claim for compensation has been lodged with an employer, the employer may ask the claimant to provide further information or documents.

Items 41, 43 and 44 amend section 67 to make it clear that an employer may seek the authority of the claimant to obtain a document or information directly from a third party. For example, the employer may seek the claimant's authority to obtain a medical report directly from a medical practitioner rather than asking the claimant to obtain the report and then forward it on to the employer.

Item 42 is a savings provision to ensure that any notices issued by an employer before the commencement of item 41 requesting a claimant to provide information or documents remain in force as if the notices had been issued under the amended subsection 67(1).

Item 45

This item inserts a reference to new section 73A (inserted by item 46) into paragraph 71(1)(d).

Item 46

This item substitutes existing section 72 and replaces existing section 73 with new sections 73 and 73A.

The existing section 72 sets a time limit of 60 days in which an employer is required to make a determination where a claim is lodged seeking compensation for the death of an employee. If the employer seeks further information or documents relating to the claim from the claimant, the 60 day period starts again from when the employer receives the information or documents. The Seacare Authority may extend the 60 day time period at the employer's request at any time within the original 60 day time period.

Under new section 72, there is no change in the 60 day time limit. However, where an employer requests information or documents, the time period is suspended until the employer receives the information or documents. Once the information or documents are provided, the time limit will resume from where it was suspended.

The Seacare Authority will be able to grant an extension of time at any time within an existing time limit including where the Seacare Authority has already granted an extension of time.

The existing section 73 requires an employer to make a determination within 12 days of receiving a claim for compensation for an injury other than an injury that results in the death of an employee. If the employer seeks further information or documents relating to the claim from the claimant, the 12 day period starts again from when the employer receives the information or documents. The Seacare Authority may extend the 12 day time period at the employer's request at any time within the original 12 day time period.

The new section 73 relates to compensation claims other than for death or permanent impairment. There will be no change in the provision that the 12 day period for determining a claim will start again from the beginning when the employer receives the information or documents. However, the Seacare Authority will be able to grant an extension of time at any time within an existing time limit including where the Seacare Authority has already granted an extension of time.

The new section 73A relates to compensation claims for permanent impairment. The time limit for an employer to determine a claim is increased from 12 days to 30 days. Where an employer requests information or documents, the time period is suspended until the employer receives the information or documents. Once the information or documents are provided, the time limit will resume from where it was suspended.

The Seacare Authority will be able to grant an extension of time at any time within an existing time limit including where the Seacare Authority has already granted an extension of time.

Item 47

Item 47 provides that the existing sections 72 and 73 will continue to apply to any claims made before the commencement of new sections 72, 73 and 73A.

Item 48

Section 74 provides for review by the AAT of the Seacare Authority's decision in relation to the granting of an extension of time to determine a decision. Item 48 amends section 74 consequential to the amendments made by item 46.

Item 49

This item provides that the amendments made by item 48 apply only to decisions made by the Seacare Authority after the commencement of item 48.

Item 50

This item repeals the definition of **AAT** in subsection 76(1) consequential upon the insertion of a similar definition in section 3.

Item 51

This item substitutes the definition of **decision** in subsection 76(1) with a simpler definition.

Item 52

This item amends the definition of **extension of time decision** consequential upon the new sections 72, 73 and 73A inserted by item 46.

Item 53

This item provides that the amendments made by item 52 apply only to decisions made by the Seacare Authority after the commencement of item 52.

Item 54

This item repeals the definition of **certified agreement** in subsection 78(7) because there is already a definition in section 3.

Item 55

Section 79 sets time limits in which an employer is required to reconsider a claim for compensation where a claimant has sought reconsideration of an initial decision.

Item 55 replaces the existing section 79 with a new section 79 to increase the time limit for reconsidering a decision from 35 days to 60 days. The Seacare Authority will be able to grant an extension of time within an existing time limit rather than only within the original time limit.

Where an employer requests information or documents, the time period is suspended until the employer receives the information or documents. Once the employer receives the documents or information, the time limit will resume from where it was suspended.

Item 56

Item 56 provides that the repealed section 79 will continue to apply in respect of any reconsideration requested before the commencement of item 55.

Item 57

Section 80 provides for review by the AAT of the Seacare Authority's decision in relation to the granting of an extension of time to reconsider a decision. Item 57 amends section 80 consequential to the amendments made by item 55.

Item 58

This item provides that the amendments made by item 57 apply only to decisions made by the Seacare Authority after the commencement of item 57.

Items 59, 60 and 61

Existing section 83 allows an employer who is reconsidering a determination to seek further information or documents from the claimant. Items 59, 60 and 61 amend section 83 to allow an employer to seek authority from the claimant to obtain information or a copy of a document from a third party, rather than the claimant having to first obtain the information or copy and then passing it on to the employer.

Item 62

This item inserts a new section 83A. The new section provides that, where an employer has received a request to reconsider a claim, the employer may require the seafarer to

undergo a medical examination and provide a copy of the medical report to the employer. The employer must pay the reasonable accommodation and travel costs incurred by the seafarer in undertaking the examination.

Item 63

This item amends paragraph 86(1)(d) consequential upon the insertion of new section 73A by item 46.

Item 64

Section 90 relates to evidence that is admissible in proceedings before the AAT. Item 64 amends paragraph 90(2)(a), consequential upon amendments to sections 67 and 83, to include a reference to an authority to obtain information or documents.

Item 65

Section 90 provides that, without leave, certain matters, information or documents are not admissible in proceedings before the AAT. Item 65 replaces existing subsection 90(3) with new subsections 90(2A) and (3).

New subsection 90(2A) provides that certain reports of medical examinations are not admissible, without leave, in proceedings before the AAT. The new subsection 90(3) is similar to the existing subsection 90(3) but with a reference to new subsection 90(2A).

Items 66 and 67

Section 91 relates to the cost of proceedings before the AAT. Items 66 and 67 amend paragraphs 91(3)(b) and 91(4)(b), consequential upon amendments to sections 67 and 83, to include a reference to an authority to obtain information or documents.

Items 68, 69 and 70

Section 92 relates to the cost of proceedings before the AAT where costs are payable by the employer. Items 68, 69 and 70 amend paragraphs 92(4)(a) and 92(5)(a) and subparagraph 92(5)(b)(i), consequential upon amendments to sections 67 and 83, to include a reference to an authority to obtain information or documents.

Items 71 and 72

These two items amend section 92 consequential upon recent changes to the *Administrative Appeals Tribunal Act 1975*.

Items 73 and 74

Section 93 of the SRC Act requires each employer to have a policy of insurance or indemnity from an authorised insurer or to be a member of a protection and indemnity

association that is approved by the Seacare Authority, so that the employer is insured or indemnified against liabilities under the Act.

Items 73 and 74 amend section 93 to allow an employer to be insured or indemnified with an employers' mutual indemnity association that is approved by the Seacare Authority.

Item 75

This item adds a new subsection 93(4) to provide that State or Territory stamp duty is not payable on insurance policies issued in respect of employer liabilities under the SRC Act. This is consistent with the stamp duty legislation of the States and Territories which generally exempt workers' compensation policies under their own legislation from stamp duty.

Items 76 and 77

Section 94 requires employers to give the Seacare Authority details of their insurance or indemnity arrangements. Items 76 and 77 amend section 94 consequential upon the amendments to section 93 relating to an employers' mutual indemnity association.

Item 78

Section 95 provides that the Seacare Authority may require an employer to provide details of its insurance or indemnity arrangements. Item 78 amends section 95 consequential upon the amendments to section 93 relating to an employers' mutual indemnity association.

Item 79

This item repeals subsection 102(1) which defines **authorised insurer**. The definition is unnecessary because there is an identical definition in section 3.

Items 80 to 90

The Seacare Authority has seven part-time members, all of whom are appointed by the Minister. All but the Chairperson and the Deputy Chairperson may appoint a deputy. One of the members is the Chief Executive Officer of the Australian Maritime Safety Authority (AMSA).

Items 80 to 90 amend various sections of the SRC Act to allow the Chief Executive officer of AMSA to be automatically a member without having to be appointed to the Seacare Authority by the Minister, and to provide that his or her deputy must be an officer or employee of AMSA.

Items 91, 92 and 93

Existing section 126 provides that an employer may require information or documents in an injured seafarer's possession about the seafarer's previous employers. The employer may refuse to deal with the claim until the information or documents are provided.

Item 91 inserts a new subsection 126(1) to provide that the employer may also ask the seafarer to obtain such information or documents or copies of documents or to provide the employer with authority to obtain these directly. Item 93 makes consequential amendments to subsection 126(2).

Item 92 provides that a notice by an employer seeking information and documents before the commencement of item 91 continues in force as if it had been issued under the new subsection 126(1).

Item 94

Section 138 provides that, if workers' compensation is paid under State or Territory legislation, compensation is not payable in respect of the same matter under the SRC Act. Item 94 repeals section 138 consequential upon the insertion by item 96 of new section 139A into the SRC Act.

Item 95

This item is a transitional provision to provide that the repealed section 138 continues to apply in respect of an injury etc suffered if the injury etc occurred before the commencement of item 94.

Item 96

This item inserts new section 139A into the SRC Act to exclude the operation of State and Territory workers' compensation laws where the SRC Act applies. New section 139A has two effects:

- a State or Territory cannot require a ship operator to pay workers' compensation insurance where the SRC Act applies to the ship
- a seafarer whose employment is covered by the SRC Act has no entitlement to workers' compensation under any State or Territory laws.

Item 97

This item corrects a typographical error in subsection 140(1).

Item 98

This item inserts into section 142 references to new subsections 66(4B), 83A(5) and 83A(9) to provide that notices by the Minister under those subsections are disallowable instruments.

Schedule 2 - Amendment of the Occupational Health and Safety (Maritime Industry Act 1993 (the OH&S(MI) Act)

Item 1

This item repeals the definition of **accident** in section 4. The definition provides that accident includes contracting a disease. This definition is inappropriate.

The OH&S(MI) Act uses the word **accident** only in the context of the notification, reporting and recording of accidents and dangerous occurrences. The sense in which the word **accident** is used is that of an undesirable event that happens unexpectedly and without design. The contraction of a disease is not of itself an accident, although it may be a consequence of an accident just as an injury may be the consequence of an accident.

Furthermore, a disease may only occur a considerable time after accidental exposure to a hazardous substance. The notification, recording and reporting requirements of the OH&S(MI) Act are intended to relate to an undesirable, unplanned event, that is, the accidental exposure to a hazardous substance, not to the consequential disease. There are separate requirements in the *Navigation Act 1912* and the *Seafarers Rehabilitation and Compensation Act 1992* in respect of the reporting of injuries and diseases.

Item 2

This item replaces the definition of **operator** in section 4 with a new, simpler definition to remove ambiguity and to make it clear that whoever has management or control of a ship is the operator for purposes of the OH&S(MI) Act.

Item 3

Currently, **prescribed ship** is defined in section 4 to mean a ship to which Part II of the *Navigation Act 1912* applies or an off-shore industry vessel or a trading ship declared, respectively, under section 8A or 8AA of the Navigation Act. Government ships are excluded from the meaning of **prescribed ship**.

Item 3 replaces the existing definition with a new definition that excludes references to declared off-shore industry vessels and trading ships. These references are superfluous because Part II of the Navigation Act automatically applies to ships declared under sections 8A and 8AA.

Item 4

This item inserts a new paragraph (aa) into subsection 6(1) to provide that the OH&S(MI) Act applies to an Australian ship engaged in trade or commerce between ports outside Australia. This will align the application of the OH&S(MI) Act with Part II of the *Navigation Act 1912*.

Items 5, 6 and 7

These items amend subsections 100(2) and (3) to correct incorrect references in those subsections to parts of subsection 100(1).

Item 8

Subsection 109(1) provides that, for the purpose of providing practical guidance to operators, the Minister may approve codes of practice approved by the Seacare Authority. Item 8 amends subsection 109(1) to make it clear that the Minister may also approve codes of practice prepared by a body other than the Seacare Authority.

Item 9

Section 121 provides for the making of regulations by the Governor-General. Item 9 amends section 121 to specifically provide that the regulations may impose penalties up to 10 penalty units. Item 9 will be deemed to commence retrospectively on 18 July 1993 which is the commencement date of the OH&S(MI) Act. The retrospective commencement is to remove any possible doubt about the validity of penalty provisions in the existing Occupational Health and Safety (Maritime Industry) Regulations. It should be noted that the retrospective commencement will not disadvantage anybody because no penalties have been imposed under those regulations (and no prosecutions are pending).

