



Safety, Rehabilitation and Compensation and Other Legislation Amendment Act 2011

No. 181, 2011

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

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

Contents

1	Short title	1
2	Commencement	2
3	Schedule(s)	2
Schedule 1—Amendment of the Occupational Health and Safety (Maritime Industry) Act 1993		3
Schedule 2—Amendment of the Safety, Rehabilitation and Compensation Act 1988		4
Part 1—Amendments		4
Part 2—Saving provision		7
Schedule 3—Amendment of the Seafarers Rehabilitation and Compensation Act 1992		8



Safety, Rehabilitation and Compensation and Other Legislation Amendment Act 2011

No. 181, 2011

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

[Assented to 6 December 2011]

The Parliament of Australia enacts:

1 Short title

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

Safety, Rehabilitation and Compensation and Other Legislation Amendment Act 2011 No.
181, 2011 1

2 Commencement

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

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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule has effect according to its terms.

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

1 Subsections 109(5) and (6)

Repeal the subsections, substitute:

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

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

Part 1—Amendments

1 Paragraph 6(1)(b)

Repeal the paragraph, substitute:

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

2 At the end of subsection 6(1)

Add:

- ; or (h) while the employee was, at the direction or request of the Commonwealth or a licensee, at a place:
 - (i) outside Australia and the external Territories; and
 - (ii) declared by the Minister by legislative instrument to be a place to which this paragraph applies; or
- (i) while the employee was:
 - (i) at the direction or request of the Commonwealth or a licensee, at a place outside Australia and the external Territories; and
 - (ii) a member of a class of employees declared by the Minister by legislative instrument to be a class to which this paragraph applies.

3 After subsection 36(4)

Insert:

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

4 After subsection 37(7)

Insert:

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

5 After subsection 50(5)

Insert:

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

6 Before subsection 61(1)

Insert:

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

7 At the end of section 62

Add:

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

8 After paragraph 90B(a)

Insert:

- (ab) to enable Comcare to discharge a liability incurred because of an event or process that:
- (i) happened or commenced before 1 December 1988; and
 - (ii) results in an injury, loss or damage that first manifests itself on or after 1 December 1988.

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

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

9 Paragraph 90B(b)

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

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

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

11 Subsection 92(3)

Omit “(3)”.

Note: This item removes a redundant subsection number.

Part 2—Saving provision

12 Saving provision—payments under section 90B

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

Schedule 3—Amendment of the Seafarers Rehabilitation and Compensation Act 1992

1 Paragraph 10(1)(b)

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

2 Paragraph 10(1)(b)

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

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

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

4 After subsection 42(3)

Insert:

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

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

Repeal the subsections.

6 Subsection 44(3)

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

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

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

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

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

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

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

10 Subsection 66(6)

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

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

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

12 Subsection 83A(9)

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

13 Subsection 130(3)

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

14 Subsection 135(2)

Omit “set-off”, substitute “set off”.

Note: This item corrects a misspelling.

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

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

16 Section 142

Repeal the section.

*[Minister's second reading speech made in—
House of Representatives on 23 March 2011
Senate on 14 June 2011]*

(54/11)

*10 Safety, Rehabilitation and Compensation and Other Legislation Amendment Act 2011
No. 181, 2011*