

EXPLANATORY STATEMENT

Shipping Registration Act 1981

Shipping Registration (International Register—Minimum Compensation) Determination 2016

Subsection 61AM(2) of the *Shipping Registration Act 1981* (the Act) provides that the Minister must, by legislative instrument, determine the amount of compensation for the death or long-term disability suffered by a seafarer as a result of sickness or injury occurring while on board ships registered in the Australian International Shipping Register (the International Register). Subsection 61AM(4) of the Act requires and authorises the *Shipping Registration (International Register—Minimum Compensation) Determination 2016* (the Determination) to repeal a previous Determination that only set minimum compensation rates until 31 December 2014.

This Determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

Purpose

The purpose of the Determination is to set out the minimum amount of compensation for the death or long-term disability suffered by a seafarer as a result of sickness or injury occurring while on board a ship. The Determination will also repeal the *Australian International Shipping Register (Minimum Compensation) Determination 2012*.

Other

This Determination does not apply, adopt or incorporate other matter by reference.

Background

One of the commitments the Government made in establishing the International Register was that it would include workers' compensation arrangements consistent with the International Labour Organization's *Maritime Labour Convention 2006* (the MLC). Standard A.42 of the MLC provides that ship owners shall provide financial security to assure compensation in the event of the death or long-term disability of seafarers due to an occupational injury, illness or hazard.

This requirement is reflected in section 61AM of the Act. Subsection 61AM(1) of the Act requires the owner of a ship that is registered in the International Register to have a policy of insurance or indemnity that insures or indemnifies the owner for any liability of the owner to pay compensation for the death or long-term disability suffered by a seafarer as a result of sickness or injury occurring while on board the ship. This subsection further provides that the level of insurance must be sufficient to cover the amount of compensation that is determined by the Minister under subsection 61AM(2).

In turn, subsection 61AM(3) provides that the amount of compensation determined by the Minister must not be less than the amount of compensation specified in the International Transport Workers' Federation Uniform Total Crew Cost Collective Agreement (the ITF template Agreement). The amounts of compensation for the death or long-term disability of a seafarer specified in the Determination are the same as those in the ITF Template Agreement at the time of making the Determination.

Details of the Determination are in the Attachment.

Consultation

No formal consultation was undertaken specifically in relation to this Determination as it is a replacement for the *Australian International Shipping Register (Minimum Compensation) Determination 2012* only set minimum compensation rates until 31 December 2014. The Determination puts into place compensation amounts utilising the ITF Template Agreement that is internationally recognised as the benchmark for the maritime industry.

There has never been a vessel registered on the Australian International Shipping Register

Regulatory impact analysis

Before this Determination was made, its expected impact was assessed using the Preliminary Assessment tool approved by the Office of Best Practice Regulation (OBPR). That assessment indicated that it would have no or low impact on business, individuals and the economy.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Shipping Registration (International Register—Minimum Compensation)

Determination 2016

The Determination is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Determination

The Determination sets out the minimum amount of compensation for the death or long-term disability suffered by a seafarer as a result of sickness or injury occurring while on board a ship registered in the Australian International Shipping Register (the International Register). This is a requirement under subsection 61AM(2) of the *Shipping Registration Act 1981*.

Human rights implications

Article 7 of the International Covenant on Economic, Social and Cultural Rights protects the right of workers to the enjoyment of just and favourable conditions of work. This includes fair wages, equal remuneration for work of equal value, safe and healthy working conditions, equal opportunity in promotion, and rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

The Determination protects the right of workers to just and favourable conditions of work. In the absence of this Determination, there would be no minimum safety net for the amount of insurance or indemnity a ship owner is required to have to assure compensation is payable in respect of the death or long-term disability suffered by seafarers as a result of sickness or injury occurring while on board a ship registered in the International Register.

Conclusion

The Determination is compatible with human rights because it is part of a legislative framework that protects the human rights of seafarers on International Register ships.

Minister for Infrastructure and Transport, the Hon Darren Chester MP

Details of the *Shipping Registration (International Register—Minimum Compensation) Determination 2016*

Section 1 – Name

Section 1 provides that the name of the Determination is the *Shipping Registration (International Register—Minimum Compensation) Determination 2016*.

Section 2 – Commencement

Section 2 provides that the Determination commences on the day after it is registered.

Section 3 – Authority

Section 3 provides that the Determination is made under subsection 61AM(2) of the *Shipping Registration Act 1981*.

Section 4 – Schedules

Section 4 states that the instrument specified in the Schedule to this Determination is repealed.

Section 5 – Definitions

Section 5 details some of the terms used in the Determination.

Section 6 – Amount of compensation for death 2016

Section 6 provides for the amount of compensation for a seafarer's immediate next of kin, for the period from the date this Instrument is made until 31 December 2016, in respect of the death of that seafarer as a result of sickness or injury occurring while on board a ship. This section also provides that the amount of compensation for each of the seafarer's dependent children under the age of 18 (up to a maximum of 4), for the period from the date this Instrument is made until 31 December 2016.

Section 7 – Amount of compensation for death 2017

Section 7 provides that the amount of compensation for a seafarer's immediate next of kin, for the period from 1 January 2017 until 31 December 2017, in respect of the death of that seafarer as a result of sickness or injury occurring while on board a ship. This section also provides that the amount of compensation for to each of the seafarer's dependent children

under the age of 18 (up to a maximum of 4), for the period from 1 January 2017 until 31 December 2017.

Section 8 - Amount of compensation—long term disability suffered as a result of sickness or injury occurring in 2016

Section 8 provides for the amount of compensation, for the period until 31 December 2016, in respect of a seafarer who has suffered long-term disability as a result of sickness or injury occurring while on board a ship.

Section 9 – Amount of compensation—long term disability suffered as a result of sickness or injury occurring in 2017

Section 9 provides for the amount of compensation, for the period from 1 January 2017 until 31 December 2017, in respect of a seafarer who has suffered long-term disability as a result of sickness or injury occurring while on board a ship

Section 10 – Repeal of this instrument

Section 10 repeals this instrument at the end of 31 December 2017 to align with the cessation of the ITF Template Agreement.

Schedule 1

The Schedule repeals the *Australian International Shipping Register (Minimum Compensation) Determination 2012*.