

## **EXPLANATORY STATEMENT**

Issued by the authority of the Minister for Employment

*Seacare Authority Code of Practice Approval 2017 - Seacare Authority Code of Practice  
1/2000*

*Approved under the Occupational Health and Safety (Maritime Industry) Act 1993*

This explanatory statement relates to the *Seacare Authority Code of Practice* (the Code).

Section 109 of the *Occupational Health and Safety (Maritime Industry) Act 1993* (the OHS(MI) Act) provides that the Minister may approve codes of practice prepared by the Seafarers Safety, Rehabilitation and Compensation Authority (the Seacare Authority) or any other body for the purpose of providing practical guidance to operators. Section 110 of the OHS(MI) Act provides that an approved code of practice is admissible in evidence in any proceedings for an offence under the OHS(MI) Act. The code of practice can be used as evidence of whether or not a duty or obligation under the OHS(MI) Act has been complied with.

The Code provides guidance on ways to meet occupational health and safety standards on vessels and to manage commonly understood hazards and control measures for managing health and safety risks at work on vessels. Failure to comply with the relevant provisions in the Code is treated as proving a contravention unless the accused can satisfy the court that he or she complied with the provision of the OHS(MI) Act other than by complying with the Code.

The Code was first approved by the Minister for Employment, Workplace Relations and Small Business on 10 May 2000. The Code is due to sunset on 1 April 2017 under section 51 of the *Legislation Act 2003*. The Code has been under review by a working group formed by the Seacare Authority. The Chairperson of the Seacare Authority consulted and received the unanimous support of the working group members to request that the Code be remade to allow for that review to be completed. The working group is made up of representatives from the Australian Maritime Safety Authority and employee and employer representatives (Maritime Industry Australia Ltd, the Australian Maritime Officers Union, the Australian Institute of Marine and Power Engineers and the Maritime Union of Australia).

The content of the Code is unchanged and the approval is limited to a two year period while updated guidance for industry participants is prepared, reflecting developments in work health and safety.

The Code is a legislative instrument for the purposes of the *Legislation Act 2003*. The Office of Best Practice Regulation advised that a Regulation Impact Statement was not required (OBPR ID: 22016).

The Code commences on the later of 1 April 2017 and the day after it is registered on the Federal Register of Legislation.

## **Statement of Compatibility with Human Rights**

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

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The Seacare Authority Code of Practice (the Code) 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 Legislative Instrument**

Section 109 of the *Occupational Health and Safety (Maritime Industry) Act 1993* (the OHS(MI) Act) provides that the Minister may approve codes of practice prepared by the Seafarers Safety, Rehabilitation and Compensation Authority (the Seacare Authority) or any other body for the purpose of providing practical guidance to operators. Section 110 of the OHS(MI) Act provides that an approved code of practice is admissible in evidence in any proceedings for an offence under the OHS(MI) Act. The code of practice can be used as evidence of whether or not a duty or obligation under the OHS(MI) Act has been complied with.

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The Code was first approved by the Minister for Employment, Workplace Relations and Small Business on 10 May 2000. The Code is due to sunset on 1 April 2017 under section 51 of the *Legislation Act 2003*.

The current Code is being remade for a two year period to allow for the completion of a review of its contents by a working group formed by the Seacare Authority. The Code provides guidance to the industry on meeting the duties and obligations under the *Occupational Health and Safety (Maritime Industry) Act 1993* by establishing a benchmark. The industry is free to meet those duties and obligations in ways other than set out in the Code if they choose.

### **Human rights implications**

This legislative instrument does not engage any of the applicable rights or freedoms.

### **Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

**Minister for Employment, Senator the Hon Michaelia Cash**