

# Chapter 1

## Introduction

### Reference

1.1 The Seafarers and Other Legislation Amendment Bill 2016 (the bill), the Seafarers Safety and Compensation Levies Bill 2016, Seafarers Safety and Compensation Levies Collection Bill 2016 (related bills) were introduced into the House of Representatives on 13 October 2016 by the Hon. Angus Taylor MP, Assistant Minister for Cities and Digital Transformation.<sup>1</sup>

1.2 On 10 November 2016, the provisions of the bills were referred to the Senate Education and Employment Legislation Committee (the committee) for inquiry and report by 7 February 2017.<sup>2</sup>

### Conduct of the inquiry

1.3 Details of the inquiry were made available on the committee's website.<sup>3</sup> The committee also contacted a number of organisations inviting submissions to the inquiry. Submissions were received from seven organisations, as detailed in Appendix 1.

1.4 The committee decided to conduct this inquiry on the basis of written submissions and not to hold public hearings.

### Structure of the report

1.5 The report focusses on issues pertaining to the Seafarers and Other Legislation Amendment Bill 2016. This introductory chapter sets out the background to the inquiry. Chapter two of this report examines the background and detail of the bill and the existing Seacare scheme.<sup>4</sup>

1.6 Chapter three considers the key issues identified by submitters in relation to the bill, including the proposed:

---

1 *Votes and Proceedings*, No. 11, 13 October 2016, p. 211.

2 *Journals of the Senate*, No. 15, 10 November 2016, p. 448.

3 Senate Standing Committee on Education and Employment, *Seafarers and Other Legislation Amendment Bill 2016* and related bills, [www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Education\\_and\\_Employment/SeafarersBill45th](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_and_Employment/SeafarersBill45th) (accessed 21 November 2016).

4 The Seacare scheme, currently administered by the Seacare Authority, is a national scheme of occupational health and safety, rehabilitation and workers' compensation arrangements which applies to defined seafarers and, in the case of occupational health and safety, to defined third parties.

- new coverage test;
- changes to workers' compensation and work, health and safety arrangements; and
- new governance arrangements.

### **Compatibility with human rights**

1.7 According to the bill's Statement of Compatibility with Human Rights, the bill engages the following rights:

- the right to equality and non-discrimination in Article 2 and 26 of the International Covenant on Civil and Political Rights (ICCPR);
- the right to social security in Article 9 of the International Covenant on Economic, Social and Cultural Rights (ICESCR);
- the rights of persons with disabilities in Article 26 of the Convention on the Rights of Person with Disabilities (CRPD);
- the right to safe and healthy working conditions in Article 7 of ICESCR;
- the right to privacy in Article 17 of the ICCPR; and
- the right to be presumed innocent until proved guilty in Article 14 of the ICCPR.<sup>5</sup>

1.8 The bill's Statement of Compatibility with Human Rights also states that the bill is compatible with human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.<sup>6</sup>

### **Scrutiny of Bills Committee**

1.9 The Senate Standing Committee for the Scrutiny of Bills (Scrutiny of Bills Committee) has considered the three bills.<sup>7</sup> With regard to the Seafarers and Other Legislation Amendment Bill 2016, the Scrutiny of Bills Committee noted that certain provisions introduce strict liability for offences with no justification in the explanatory memorandum. The Scrutiny of Bills Committee 'expects the explanatory memorandum to provide a clear justification for any imposition of strict liability,

---

5 Seafarers and Other Legislation Amendment Bill 2016, Statement of Compatibility with Human Rights, *Explanatory Memorandum*, p. ii.

6 Seafarers and Other Legislation Amendment Bill 2016, Statement of Compatibility with Human Rights, *Explanatory Memorandum*, p. i.

7 Senate Standing Committee on Scrutiny of Bills, *Alert Digest 8/16*, 9 November 2016, pp. 40–45.

---

including commenting whether the approach is consistent with the *Guide to Framing Commonwealth Offences, Infringement Notices and Enforcement Powers*.<sup>8</sup>

1.10 Furthermore, the proposed section 25M provides that the Safety, Rehabilitation and Compensation Commission (SRCC) may make a written instrument exempting the employment of certain employees on a particular vessel from the application of the proposed Acts, without providing sufficient guidance for the administration of this discretionary power.<sup>9</sup>

1.11 The Scrutiny of Bills Committee also raised concerns about proposed section 25R, which provides that if the SRCC on its own initiative decides to make such an exemption, there is no right to seek merits review of that decision.<sup>10</sup>

1.12 With regard to the Seafarers Safety and Compensation Levies Collection Bill 2016, the Scrutiny of Bills Committee expressed concern at the abrogation of self-incrimination arising in subclause 9(7).<sup>11</sup>

1.13 The Scrutiny of Bills Committee has sought an explanation from the Minister for Employment, Senator the Hon Michaelia Cash on each of these areas of concern. The committee understands that Minister Cash has provided a response to the Scrutiny of Bills Committee. That committee will report to the Senate in due course.

## **Financial Impact Statement**

1.14 No financial impact statement was provided.

## **Acknowledgement**

1.15 The committee thanks those organisations who contributed to the inquiry by preparing written submissions.

---

8 Senate Standing Committee for the Scrutiny of Bills, *Alert Digest 8/16*, 9 November 2016, p. 40.

9 Senate Standing Committee for the Scrutiny of Bills, *Alert Digest 8/16*, 9 November 2016, p. 41.

10 Senate Standing Committee for the Scrutiny of Bills, *Alert Digest 8/16*, 9 November 2016, p. 42.

11 Senate Standing Committee for the Scrutiny of Bills, *Alert Digest 8/16*, 9 November 2016, p. 44.

