

# Labor Senators' Dissenting Report

## Introduction

1.1 Labor senators are opposed to the package of bills currently before parliament which propose to radically alter the Seacare scheme. The Seafarers and Other Legislation Amendment Bill 2016 (the bill) in particular represents a piecemeal attempt to restructure the Seacare scheme. However it is the view of Labor senators that it will not result in any worthwhile change.

1.2 While the Department of Employment (the department) has argued that the bill represents a compromise position to strike a balance between unions and industry bodies,<sup>1</sup> submissions to this inquiry demonstrate that this could not be further from the truth. Submissions from both employer and employee representatives express significant reservations about the bills package.<sup>2</sup>

1.3 In essence, the bill would hinder injured seafarers' ability to return to work after an injury. The bill would also result in more confusion over the scheme's coverage, leading to even more costly, time-consuming and unnecessary litigation. Labor is very concerned about this development.

## Key issues

### *Coverage*

1.4 As both union and industry submissions argued, the bills package will not alleviate confusion about the Seacare scheme's coverage. These concerns are detailed in the majority report at paragraphs 3.7 to 3.8.

### *Harmonising WHS laws*

1.5 While the attempts to harmonise WHS laws across the maritime sector are a welcome development, Labor is concerned that the government did not consult adequately on this matter and as a result there are flaws in the WHS components of the bill.<sup>3</sup>

### *Workers' compensation*

1.6 The compensation provisions also demonstrate a lack of concern for injured seafarers. Labor shares the ACTU's view that the bill erodes existing protections and payments for injured seafarers.<sup>4</sup>

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1 Department of Employment, *Submission 2*, p. 5.

2 For example Maritime Industry Australia Limited, *Submission 1*; the Australian Mines and Metals Association, *Submission 3*; Australian Council of Trade Unions, *Submission 5*; and the Maritime Union of Australia, *Submission 4*.

3 Australian Council of Trade Unions, *Submission 5*, pp. 2–3.

4 Australian Council of Trade Unions, *Submission 5*, p. 6.

## **Governance**

1.7 The proposed changes to governance arrangements reveal the government's lack of commitment to effective reform. Submissions from the unions and MIAL clearly explained that if these changes come into force, maritime employees and their families will be subject to costly and time-consuming litigation, which will further damage employees' ability to undergo rehabilitation and return to work.<sup>5</sup>

1.8 Labor is also greatly concerned that the provision of maritime expertise is not a mandatory requirement of the proposed scheme. It is not satisfactory to simply give the chair of the SRCC a discretionary ability to appoint a maritime advisory panel. The reasons for this are laid out in depth in the MUA's submission and include:

- the operation and manipulation of heavy objects and machinery;
- living in the workplace;
- fatigue and isolation;<sup>6</sup> and
- being prepared to deal with an emergency at all times.<sup>7</sup>

1.9 Furthermore, MIAL stated that:

Where a separate industry scheme is to be maintained it defies logic not to retain industry expertise for the administration of it... If a body that does not have industry representation on it is tasked with administration of an industry specific scheme, then that body must be obliged to consider industry advice as part of that administration.<sup>8</sup>

## **Labor's view**

1.10 Despite many years in preparation, the seafarers bills package is not supported by either the unions or industry representatives. Other than the department, no submitters support the package.

1.11 Overall, the bills package constitutes a muddled attempt to reform the Seacare scheme. The government has wasted much time appearing to be consultative and has developed a so-called compromise option that produces a piecemeal package of bills that will ultimately undermine the Seacare scheme.

1.12 The bills won't enhance the operations of the maritime sector or the protection of workers. They will, rather, hamper the industry, as they do not alleviate coverage issues, will result in more litigation and will not cater for the specific needs of the maritime sector.

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5 Maritime Union of Australia, *Submission 4*, p. 40; Australian Council of Trade Unions, *Submission 5*, p. 6; Maritime Industry Australia Limited, *Submission 1*, pp. 12–13.

6 Maritime Union of Australia, *Submission 4*, p. 11

7 Maritime Union of Australia, *Submission 4*, p. 12.

8 Maritime Industry Australia Limited, *Submission 1*, p. 13.

**Recommendation 1**

**1.13 Labor Senators recommend that the Senate not pass the seafarers package of bills.**

**Senator Gavin Marshall**

**Deputy Chair**

