

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2008 No. 11**

Issued by the Authority of the Attorney-General

*Electronic Transactions Act 1999*

*Electronic Transactions Amendment Regulations 2008 (No. 1)*

Section 16 of the *Electronic Transactions Act 1999* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The objects of the Act include facilitating the use of electronic transactions and enabling business and the community to use electronic communications in their dealings with the government. The Act generally provides that if a Commonwealth law requires or permits transactions to be in written or paper form that requirement is met if the transaction is made in electronic form.

Division 2 of the Act generally sets out that when a law of the Commonwealth requires information 'in writing', a signature or production or retention of a document, then these requirements may be met by means of an electronic communication. However, under subsection 13(3) of the Act, certain laws of the Commonwealth may be exempted from the operation of Division 2 of the Act by being specified in regulations. The effect of the exemption is that requirements in those laws for writing, signature and production and retention of documents cannot be met in an electronic form. The *Electronic Transactions Regulations 2000* (the Principal Regulations) specify those laws that are exempt from Division 2.

The purpose of the Regulations is to omit subsections 54(2) and 71(1) of the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act), which are currently listed in the Principal Regulations, so that these provisions are no longer exempt from the operation of Division 2 of the Act. The effect of this amendment is that a claim for compensation under subsection 54(2) of the SRC Act, and a notice to produce documents that is issued by Comcare to a Commonwealth entity, a Commonwealth authority or a licensed corporation, under subsection 71(1) of the SRC Act, may be made or given in electronic form in addition to written paper form. The capacity to both lodge claim forms and serve notices electronically offers an efficient alternative for transmission of these documents. Section 58 of the SRC Act relates to Comcare and licensed corporations seeking further information from claimants. Section 58 of the SRC Act will continue to be exempt from the Act, requiring Comcare and licensed corporations to provide a notice seeking further information in paper form.

No consultation has been taken as the effect of the Regulations is of a minor and machinery nature. The proposal does not affect private businesses except the limited number of private businesses that are self-insurers under the SRC Act. No additional compliance issues arise as a result of delivery of a notice by electronic form.

Electronic lodgement of claim forms will be optional and no additional compliance impact arises for individuals or their employers.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulations commenced on the day after they were registered on the Federal Register of Legislative Instruments.