

EXPLANATORY STATEMENT

Select Legislative Instrument 2010 No. 193

Issued by the authority of the Minister for Employment and Workplace Relations

Safety, Rehabilitation and Compensation Act 1988 (SRC Act)

Safety, Rehabilitation and Compensation Amendment Regulations 2010 (No. 1)

The *Safety, Rehabilitation and Compensation Act 1988* (SRC Act) establishes a workers' compensation and rehabilitation scheme applying to Commonwealth employees and employees of non-Commonwealth licensees.

Section 122 of the SRC 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.

Under the SRC Act, a 'rehabilitation authority' means the principal officer of an 'Entity' and an 'Entity' relevantly includes a Public Service Act Agency, the principal officer of which is the Agency Head.

Similarly, the Act provides that an 'Entity' is liable to pay a premium and regulatory contribution (premium) as determined by Comcare each financial year.

At present, the Secretary of the Department of Foreign Affairs and Trade (DFAT) is responsible for the rehabilitation of Australian Agency for International Development (AusAID) employees who suffer injuries resulting in incapacity for work or impairment. In other words, the Secretary of DFAT is the 'rehabilitation authority' for AusAID employees. Also DFAT is the premium payer for AusAID.

AusAID is an administratively autonomous agency within the Foreign Affairs and Trade portfolio. The Director-General of AusAID is responsible for the administration and performance of the agency and for its financial and personnel management. The Minister for Foreign Affairs and Trade has requested that the Director-General of AusAID should be the 'rehabilitation authority' for AusAID employees.

The definition of 'Entity' in section 4 of the SRC Act allows regulations to be made prescribing a 'person, body, organisation or group of persons' as an 'Entity'. The definition of 'rehabilitation authority' provides that, in relation to an employee employed by an 'Entity', 'rehabilitation authority' means the 'principal officer' of the Entity in which the employee is employed.

The expression 'principal officer' in relation to an 'Entity' is defined in section 4 of the SRC Act to include 'the person prescribed as the principal officer'.

The *Safety, Rehabilitation and Compensation Regulations 2002* are amended to prescribe AusAID as an 'Entity' and the Director-General of AusAID as the 'principal officer' of the 'Entity'. This will mean that the Director-General of AusAID will be responsible for the rehabilitation of AusAID employees, and for the payment of its premium.

Details of the Regulations are included in the Attachment.

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

Consultation was undertaken with DFAT, AusAID and Comcare.

A preliminary assessment regarding the impact of the Regulations prescribing 'AusAid' as an 'entity' under the SRC Act was undertaken. The Regulations have no compliance cost to business or impact on business and individuals or the economy.

The Regulations will commence on the day after they are registered on the Federal Register of Legislative Instruments.

ATTACHMENT

Details of the *Safety, Rehabilitation and Compensation Amendment Regulations 2010 (No. 1)*.

Regulation 1 – Name of Regulation

This regulation provides that the title of the Regulation is the *Safety, Rehabilitation and Compensation Amendment Regulations 2010 (No. 1)*.

Regulation 2 – Commencement

This Regulation provides that the Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.

Regulation 3 – Amendment of the *Safety, Rehabilitation and Compensation Regulations 2002*

This regulation amends the *Safety, Rehabilitation and Compensation Regulations 2002*.

Schedule 1 - Amendments

Item 1 – Schedule 4, item 10

The reference to the “Australian Archives” is omitted as it is no longer accurate.

Item 2 – Schedule 4, after item 11

This item prescribes the Australian Agency for International Development, with the Director-General as the principal officer, as an ‘entity’ for the purposes of section 4 of the *Safety, Rehabilitation and Compensation Act 1988*.

‘Employees of the Australian Agency for International Development’ covers those persons engaged as Commonwealth employees to perform duties in AusAID, as well as, Commonwealth employees that move to AusAID under section 26 of the *Public Service Act 1999*.