**EXPLANATORY STATEMENT**

*Safety, Rehabilitation and Compensation Act 1988*

Issued by the Minister for Small and Family Business, the Workplace and Deregulation

**Safety, Rehabilitation and Compensation (Subsection 5(13) Declarations)
Amendment and Repeal Instrument 2018**

The *Safety, Rehabilitation and Compensation Act 1988* (the Act) establishes the Commonwealth workers’ compensation and rehabilitation scheme for employees of the Commonwealth, Commonwealth authorities and licensed corporations.

Pursuant to the *Safety, Rehabilitation and Compensation Act 1988 – Notice of Declaration (Notice No. ACT1 of 1994)* (the 1994 Declaration), the Australian Capital Territory (ACT) has been a Commonwealth authority for the purposes of the Act since 1 July 1994.

Section 5 of the Act defines the term ‘employee’ for the purposes of the Act. Pursuant to subparagraph 5(11)(b) of the Act, a person who is an officer or employee of a body corporate incorporated under a law of the Commonwealth in which the ACT or an authority or body established by an ACT enactment has a controlling interest, and in respect of which a declaration under subsection 5(13) of the Act is in force, is taken to be employed by the ACT for the purposes of the Act.

The following bodies have previously been declared by the Minister, under subsection 5(13) of the Act, to be bodies corporate to which subsection 5(11) of the Act applies:

1. Totalcare Industries Limited – by the 1994 Declaration;
2. ACTTAB Limited – by the *Safety, Rehabilitation and Compensation Act 1988 – Notice of Declaration – ACTTAB Limited – Notice No. CA3 of 1996*;and
3. Rhodium Asset Solutions Limited – by the *Safety, Rehabilitation and Compensation (Definition of ACT Body Corporate) Notice 2004*.

The above bodies are no longer operating and the Chief Minister for the ACT has requested that the declarations made under subsection 5(13) of the Act for each of these bodies be repealed by the Minister.

The instrument repeals the Minister’s declaration under subsection 5(13) of the Act in respect of Totalcare Industries Limited, ACTTAB Limited and Rhodium Asset Solutions Limited.

The instrument also amends the 1994 Declarationto ensure that, following the repeal of the subsection 5(13) declaration from that instrument, the 1994 Declaration will deal solely with the Minister’s declaration under subsection 4A(1) of the Act. This will ensure that the 1994 Declaration remains exempt from sunsetting under Part 4 of Chapter 3 of the *Legislation Act 2003* pursuant to section 12, item 57 of the *Legislation (Exemptions and Other Matters) Regulation 2015*.

**Consultation**

Consultation was undertaken with the ACT to confirm that a declaration under subsection 5(13) of the Act is no longer required for the above bodies. The Department also consulted with the Attorney-General’s Department in relation to the application of the *Legislation (Exemptions and Other Matters) Regulation 2015* to the 1994 Declaration. The Attorney-General’s Department confirmed that, following the repeal of the subsection 5(13) declaration from the 1994 Declaration, the 1994 Declaration will remain exempt from the sunsetting provisions of the *Legislation Act 2003* pursuant to the *Legislation (Exemptions and Other Matters) Regulation 2015*.

**Regulation Impact Statement**

The Office of Best Practice Regulation was consulted regarding this declaration and indicated that a Regulatory Impact Statement was not required (OBPR ID: 23744).

This instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.

This instrument takes effect from the day after it is registered on the Federal Register of Legislation.

S**tatement of Compatibility with Human Rights**

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

**Safety, Rehabilitation and Compensation (Subsection 5(13) Declarations)
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This legislative instrument is compatible with the human rights and freedoms recognised or declared by the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

**Overview of the legislative instrument**

The *Safety, Rehabilitation and Compensation Act 1988* (the Act) establishes the Commonwealth workers’ compensation and rehabilitation scheme for employees of the Commonwealth, Commonwealth authorities and licensed corporations.

Section 5 of the Act defines the term ‘employee’ for the purposes of the Act. Pursuant to subparagraph 5(11)(b) of the Act, a person who is an officer or employee of a body corporate incorporated under a law of the Commonwealth in which the ACT or an authority or body established by an ACT enactment has a controlling interest, and in respect of which a declaration under subsection 5(13) of the Act is in force, is taken to be employed by the ACT for the purposes of the Act.

The following bodies have previously been declared by the Minister, under subsection 5(13) of the Act, to be bodies corporate to which subsection 5(11) of the Act applies:

1. Totalcare Industries Limited – by the 1994 Declaration;
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3. Rhodium Asset Solutions Limited – by the *Safety, Rehabilitation and Compensation (Definition of ACT Body Corporate) Notice 2004*.

The instrument repeals the Minister’s declaration under subsection 5(13) of the Act in respect of Totalcare Industries Limited, ACTTAB Limited and Rhodium Asset Solutions Limited.

The instrument also amends the *Safety, Rehabilitation and Compensation Act 1988 – Notice of Declaration (Notice No. ACT1 of 1994)* to ensure that, following the repeal of the subsection 5(13) declaration from that instrument, the Declaration will deal solely with the Minister’s declaration under subsection 4A(1) of the Act.

**Human rights implications**

The instrument is machinery in nature and does not engage any of the applicable rights or freedoms. It repeals three declarations made under subsection 5(13) of the Act in relation to bodies corporate that have ceased to operate without affecting the past operation of those declarations. It also removes all references to those declarations in the instrument to ensure that the instrument will remain exempt from the sunsetting provisions of the *Legislation Act 2003*.

**Conclusion**

This legislative instrument is compatible with human rights because it does not raise any human rights issues.

**The Hon Craig Laundy**

Minister for Small and Family Business, the Workplace and Deregulation