

## 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 Directions Amendment Instrument 2018**

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

The Safety, Rehabilitation and Compensation Commission (the Commission) is established by the SRC Act. The Commission has a number of functions and powers under the SRC Act, including the granting of licences to eligible applicants under Part VIII of the Act.

Pursuant to section 89D of the SRC Act, the Minister may give a direction to the Commission with respect to the performance of its functions and the exercise of its powers under the SRC Act. Section 101 of the SRC Act provides that the Minister's power to give directions to the Commission under section 89D of the SRC Act extends to directions concerning any matter relating to the grant of licences under Part VIII of the Act.

On and from 1 April 2002, the Commission has been subject to the Ministerial directions contained in the *Safety, Rehabilitation and Compensation Direction 2002* (the Directions).

This instrument amends the Directions to exclude the Australian Capital Territory (ACT), a declared Commonwealth authority under the SRC Act, from sections 4 and 9 of the Directions. Accordingly, from the commencement of this instrument, the Commission is no longer directed to:

- (a) be satisfied that claims for compensation made by employees of the ACT will be managed by one of the parties prescribed by section 4 of the Directions in order to be satisfied that it is appropriate to grant the ACT a licence; and
- (b) authorise only the parties prescribed by section 9 of the Directions to manage claims on behalf of the ACT.

### **Consultation**

Consultation was undertaken with the ACT and Comcare.

### **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: 23838).

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.

## Statement of Compatibility with Human Rights

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

### Safety, Rehabilitation and Compensation Directions Amendment Instrument 2018

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* (SRC Act) establishes the Commonwealth workers' compensation and rehabilitation scheme for employees of the Commonwealth, Commonwealth authorities and licensed corporations.

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- (a) be satisfied that claims for compensation made by employees of the ACT will be managed by one of the parties prescribed by section 4 of the Directions in order to be satisfied that it is appropriate to grant the ACT a licence; and
- (b) authorise only the parties prescribed by section 9 of the Directions to manage claims on behalf of the ACT.

#### Human rights implications

Article 9 of the *International Covenant on Economic, Social and Cultural Rights* provides for the right of everyone to social security, including social insurance. General Comment 19 by the Committee on Economic, Social and Cultural Rights elaborates on Article 9, stating that the 'States parties should ... ensure the protection of workers who are injured in the course of employment or other productive work'.<sup>1</sup> Workers' compensation is analogous to social insurance in that it provides payment of wages and medical costs to employees for injuries occurring as a result of their employment.

The SRC Act provides rehabilitation, compensation and other benefits to, or in respect of, injured employees.

This instrument, which is made under the SRC Act, engages but does not limit human rights. It effectively permits the ACT to enter into a contract with another person for the management, on the ACT's behalf, of any SRC Act claims that the ACT may be authorised to manage under a licence.

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<sup>1</sup> Committee on Economic, Social and Cultural Rights, *General Comment 19: The Right to Social Security (art. 9)*, U.N. Doc E/C.12/GC/19 (2008), [17].

This instrument does not alter the workers' compensation rights, entitlements or obligations of ACT employees and so does not limit the right to social security.

**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