

EXPLANATORY STATEMENT

Safety, Rehabilitation and Compensation Act 1988

Issued by the Minister for Jobs and Industrial Relations

Safety, Rehabilitation and Compensation Amendment (Renewal Date) Regulations 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.

Section 122 of 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.

To ensure that employers have access to a group of skilled and cost effective rehabilitation program providers, Comcare manages the approval and renewal process of approved program providers.

Normally, all approved program providers must go through a renewal process with Comcare every three years. The current approval period runs until 30 June 2019.

This instrument amends paragraph 7(b) of the *Safety, Rehabilitation and Compensation Regulations 2002* (the Principal Regulations) to extend the current renewal period for the approval of rehabilitation program providers under the Act by one year.

This will allow Comcare sufficient time to finalise its approval criteria and operational standards following a recent review of the Nationally Consistent Approval Framework for Workplace Rehabilitation Providers.

Section 34 of the Act provides:

renewal date means:

- (a) a date occurring not later than 12 months after this Act receives the Royal Assent that is determined, in writing, by the Minister to be the first renewal date; and
- (b) the dates occurring, at intervals prescribed for the purposes of this paragraph, after the date determined to be the first renewal date.

Pursuant to the *Determination by Minister of First Renewal Date for Purposes of Approved Program Providers*, published in Gazette GN 14 on 10 April 2002, the first *renewal date* for the purposes of subsection 34(a) of the Act was determined to be 30 September 2002.

From 1 April 2002, regulation 7 of the Principal Regulations prescribed the following intervals for the purposes of subsection 34(b) of the Act:

- (a) 21 months after the first renewal date determined by the Minister under paragraph (a) of the definition of renewal date in section 34 of the Act;
- (b) each period of 3 years after the interval mentioned in paragraph (a).

This instrument amends paragraph 7(b) of the Principal Regulations to prescribe that:

- after the interval mentioned in paragraph 7(a) of the Principal Regulations and until 30 June 2016, the renewal date interval is a period of three years;
- after 30 June 2016, the renewal date interval is a period of four years; and
- after 30 June 2020, the renewal date interval is a period of three years.

Details of this instrument are set out in the [Attachment](#).

Consultation

This instrument has been drafted in consultation with Comcare, who requested the extension of the current renewal period.

Rehabilitation providers under the Act are also approved to provide rehabilitation programs under the *Seafarers Rehabilitation and Compensation Act 1992*, the *Military Rehabilitation and Compensation Act 2004* and the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*. The Seafarers Safety, Rehabilitation and Compensation Authority and the Department of Veterans' Affairs were notified that the extension of the 'renewal date' will therefore also extend the period of approval for rehabilitation program providers under those Acts.

Regulation Impact Statement

The Office of Best Practice Regulation was consulted regarding this instrument and indicated that a Regulation Impact Statement was not required (OBPR ID: 24083).

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

This instrument commences on the day after it is registered on the Federal Register of Legislation.

Safety, Rehabilitation and Compensation Amendment (Renewal Date) Regulations 2018

Section 1 - Name

This section would provide that the title of the Regulations is the *Safety, Rehabilitation and Compensation Amendment (Renewal Date) Regulations 2018*.

Section 2 - Commencement

This section would provide for the Regulations to commence on the day after the Regulations are registered on the Federal Register of Legislation.

Section 3 - Authority

This section would provide that the *Safety, Rehabilitation and Compensation Amendment (Renewal Date) Regulations 2018* is made under the *Safety, Rehabilitation and Compensation Act 1988*.

Section 4 - Schedules

This section would provide that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 - Amendments

Item [1] – Paragraph 7(b)

This item repeals regulation 7(b), and substitutes:

- (b) subject to paragraphs (c) and (d), each period of 3 years after the interval mentioned in paragraph (a);
- (c) the period of 4 years after 30 June 2016;
- (d) each period of 3 years after 30 June 2020.

Statement of Compatibility with Human Rights

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

Safety, Rehabilitation and Compensation Amendment (Renewal Date) Regulations 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* (the Act) establishes the Commonwealth workers' compensation and rehabilitation scheme for employees of the Commonwealth, Commonwealth authorities and licensed corporations.

Section 122 of 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.

This instrument amends paragraph 7(b) of the *Safety, Rehabilitation and Compensation Regulations 2002* to extend the current renewal period for the approval of rehabilitation program providers under the Act by one year. This will allow Comcare sufficient time to finalise its approval criteria and operational standards following a recent review of the Nationally Consistent Approval Framework for Workplace Rehabilitation Providers.

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'.¹ The workers' compensation scheme established by the Act is a form of social insurance which relevantly provides payments where an employee has suffered an 'injury' for the purposes of the Act and is incapacitated for work with a resultant loss of earnings.

This instrument does not alter the workers' compensation rights, entitlements or obligations of 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 Kelly O'Dwyer MP

Minister for Jobs and Industrial Relations

¹ 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].