**EXPLANATORY STATEMENT**

*Safety, Rehabilitation and Compensation Act 1988*

Issued by the Minister for Jobs and Industrial Relations

**Safety, Rehabilitation and Compensation (Specified Persons and Acts)
Declaration 2019**

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.

Section 5 of the SRC Act defines the term ‘employee’ for the purposes of the SRC Act. Subsection 5(6) of the SRC Act provides that the Minister may, by legislative instrument, declare:

1. that specified persons who engage in activities or perform acts:
2. at the request or direction, for the benefit, or under a requirement made by or under a law of the Commonwealth; or
3. at the request or direction, or for the benefit, of a Commonwealth authority, or a licensed corporation;

shall, for the purposes of the SRC Act, be taken to be employed by the Commonwealth, or by that authority or corporation, as the case may be; and

1. that the employment of the specified persons shall be taken to be constituted by the performance of the acts specified in the instrument.

Pursuant to subsection 5(6) of the SRC Act, this instrument declares that persons who, under the control or direction of a Commonwealth officer, assist, without receiving any remuneration (other than payment of expenses incurred), in the running of:

1. the Australian War Memorial; or
2. the Great Barrier Reef Marine Park Authority,

shall be taken to be employed by the Commonwealth, as represented by the Australian War Memorial or the Great Barrier Reef Marine Park Authority, as the case may be, for the purposes of the SRC Act, when rendering such assistance.

This instrument remakes the declarations previously made by the Minister under subsection 5(6) of the SRC Act in the:

1. *Commonwealth Employees’ Rehabilitation and Compensation Act 1988 - Notice of Declarations and Specification (Notice No. 5 of 1991)* (the 1991 Instrument)*—*in respect of persons assisting in the running of the Australian War Memorial; and
2. *Commonwealth Employees’ Rehabilitation and Compensation Act 1988 - Notice of Declarations (Notice No. 2 of 1992)* (the 1992 Instrument)—in respect of persons assisting in the running of the Great Barrier Reef Marine Park Authority,

which would otherwise sunset on 1 April 2019 pursuant to section 50 of the *Legislation Act 2003* because both instruments included declarations made pursuant to other provisions in the SRC Act that are not exempt from sunsetting.

For the avoidance of doubt, and to ensure that there is no gap in coverage under the SRC Act for persons who assist in the running of the Australian War Memorial and the Great Barrier Reef Marine Park Authority, the declarations are remade in this instrument.

The *Safety, Rehabilitation and Compensation (Declarations and Specifications) Repeal Instrument 2019* will commence at the same time as this instrument. That instrument repeals the 1991 Instrument and the 1992 Instrument.

**Consultation**

This instrument was made following consultation with Comcare. Further consultation was not undertaken as the instrument is machinery in nature. It remakes and thereby preserves certain declarations previously made by the Minister under subsection 5(6) of the SRC Act.

**Regulation Impact Statement**

The Office of Best Practice Regulation was consulted regarding this instrument and indicated that neither a Regulation Impact Statement, nor a certification letter, was required (OBPR ID: 24734).

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

This instrument takes effect from the day 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 (Specified Persons and Acts)
Declaration 2019**

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.

Section 5 of the SRC Act defines the term ‘employee’ for the purposes of the SRC Act. Subsection 5(6) of the SRC Act provides that the Minister may, by legislative instrument, declare:

1. that specified persons who engage in activities or perform acts:
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3. at the request or direction, or for the benefit, of a Commonwealth authority, or a licensed corporation;

shall, for the purposes of the SRC Act, be taken to be employed by the Commonwealth, or by that authority or corporation, as the case may be; and

1. that the employment of the specified persons shall be taken to be constituted by the performance of the acts specified in the instrument.

Pursuant to subsection 5(6) of the SRC Act, this instrument declares that persons who, under the control or direction of a Commonwealth officer, assist, without receiving any remuneration (other than payment of expenses incurred), in the running of:

1. the Australian War Memorial; or
2. the Great Barrier Reef Marine Park Authority,

shall be taken to be employed by the Commonwealth, as represented by the Australian War Memorial or the Great Barrier Reef Marine Park Authority, as the case may be, for the purposes of the SRC Act, when rendering such assistance.

This instrument remakes the declarations previously made by the Minister under subsection 5(6) of the SRC Act in the:

1. *Commonwealth Employees’ Rehabilitation and Compensation Act 1988 - Notice of Declarations and Specification (Notice No. 5 of 1991)* (the 1991 Instrument)*—*in respect of persons assisting in the running of the Australian War Memorial; and
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which would otherwise sunset on 1 April 2019 pursuant to section 50 of the *Legislation Act 2003* because both instruments included declarations made pursuant to other provisions in the SRC Act that are not exempt from sunsetting.

For the avoidance of doubt, and to ensure that there is no gap in coverage under the SRC Act for persons who assist in the running of the Australian War Memorial and the Great Barrier Reef Marine Park Authority, the declarations are remade in this instrument.

**Human rights implications**

The instrument remakes and thereby preserves declarations previously made pursuant to subsection 5(6) of the SRC Act to ensure that the declarations are not automatically repealed pursuant to the sunsetting provisions of the *Legislation Act 2003*. This instrument is therefore machinery in nature and does not engage any of the applicable rights or freedoms.

**Conclusion**

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

**The Hon Kelly O’Dwyer**

Minister for Jobs and Industrial Relations