

The SAFETY, REHABILITATION AND COMPENSATION (SPECIFIED PERSONS AND ACTS) AMENDMENT (CHIEF SCIENTIST) DECLARATION 2021

EXPLANATORY STATEMENT

Issued by authority of the Minister for Industrial Relations
under subsection 5(6) of the *Safety, Rehabilitation and Compensation Act 1988*

PURPOSE AND OPERATION OF THE 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:

- (a) that specified persons who engage in activities or perform acts:
- (i) at the request or direction, for the benefit, or under a requirement made by or under a law of the Commonwealth; or
 - (ii) 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
- (b) that the employment of the specified persons shall be taken to be constituted by the performance of the acts specified in the instrument.

Declaring the Chief Scientist to be an employee of the Commonwealth for the purposes of the SRC Act

In this instrument, the Minister declares the Chief Scientist to be an employee of the Commonwealth (as represented by the Department of Industry, Science, Energy and Resources) for the purposes of the SRC Act. This has been done at the request of the Acting Secretary of the Department of Industry, Science, Energy and Resources. The Chief Scientist's employment is taken to be constituted by his or her acts performed in accordance with the role of Chief Scientist.

In the role of Chief Scientist, the Chief Scientist engages in activities and performs acts for the benefit of the Commonwealth. The Chief Scientist:

- provides advice, as requested, to the Prime Minister, the Minister for Industry, Science and Technology, and other areas of government covering the span of science, including education, research and innovation;
- raises awareness of emerging issues in science, technology, engineering, mathematics (STEM), research and innovation in the broader Australian community;
- contributes to Government priorities in STEM, including key areas such as increasing the participation of historically underrepresented groups in STEM, space and emerging technology, and cross-sectoral collaboration;
- acts as an advocate for STEM, promoting education, skills development, and career information across the education and research sectors through participation in education initiatives;

- fosters collaborative relationships with and between key stakeholders, including scientific and research institutions, industry and State and Territory governments; and
- participates, as requested, on government advisory and other bodies to promote a whole of government approach to science.

This satisfies the pre-requisite in subparagraph 5(6)(a)(i) of the SRC Act for the Minister to make this declaration.

The Chief Scientist is appointed by the Minister for Industry, Science and Technology. The Chief Scientist is also sometimes referred to as the Chief Scientist of Australia. The declaration also covers a person who is appointed by the Minister for Industry, Science and Technology as Chief Scientist in an acting capacity.

This instrument amends the *Safety, Rehabilitation and Compensation (Specified Persons and Acts) Declaration 2019* to include the Minister's declaration in relation to the Chief Scientist in the consolidated subsection 5(6) instrument.

CONSULTATION

This instrument was made in consultation with, and at the request of, the Acting Secretary for the Department of Industry, Science, Energy and Resources.

REGULATION IMPACT STATEMENT

The Office of Best Practice Regulation was consulted regarding this instrument and indicated that a Regulation Impact Statement is not required (OBPR ID: 43461).

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

This instrument commences 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 (Specified Persons and Acts) Amendment (Chief Scientist) Declaration 2021

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. The SRC Act also allows the Minister to declare certain persons to be employees for the purposes of the SRC Act.

In this instrument, the Minister for Industrial Relations declares the Chief Scientist (also sometimes referred to as the Chief Scientist of Australia) to be employed by the Commonwealth for workers' compensation purposes under the SRC Act.

The Chief Scientist is appointed by the Minister for Industry, Science and Technology and undertakes a number of activities for the Commonwealth, including the provision of independent advice to the Prime Minister, Minister for Industry, Science and Technology, and other areas of government on issues covering the span of science, including education, research and innovation.

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

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.

This instrument extends workers' compensation coverage under the SRC Act to the Chief Scientist.

Conclusion

The legislative instrument is compatible with human rights because it promotes human rights.

Senator the Hon Michaelia Cash

Minister for 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].

NOTES ON SECTIONS

Section 1 – Name

Section 1 provides that the title of the instrument is the *Safety, Rehabilitation and Compensation (Specified Persons and Acts) Amendment (Chief Scientist) Declaration 2021*.

Section 2 – Commencement

Section 2 provides that the instrument commences on the day after it is registered on the Federal Register of Legislation.

Section 3 – Authority

Section 3 provides that the instrument is made under subsection 5(6) of the *Safety, Rehabilitation and Compensation Act 1988*.

Section 4 – Schedules

Section 4 provides that each instrument that is specified in a Schedule to the instrument is amended or repealed as set out in the applicable items in that Schedule and any other item in the Schedule to the instrument has effect according to its terms.

Schedule 1 – Amendments

The Chief Scientist is declared to be employed by the Commonwealth (as represented by the Department of Industry, Science, Energy and Resources) for the purposes of the SRC Act. The Chief Scientist's specified acts are taken to be constituted by his or her acts performed in accordance with the role of Chief Scientist.