EXPLANATORY STATEMENT

Issued by the authority of the
Minister for Employment and Workplace Relations

Safety, Rehabilitation and Compensation Act 1988

Subsection 5(6) ‘Employees’

The Safety, Rehabilitation and Compensation Act 1988 (SRC Act) establishes the Commonwealth workers’ compensation and rehabilitation scheme.

Section 5 defines who is an “employee” for the purposes of the SRC Act. Under subsection 5(6) of that definition, the Minister may declare that persons, being persons who engage in activities or perform acts:

(a) at the request or direction, for the benefit, or under a requirement made by or under a law, of the Commonwealth; or

(b) at the request or direction, or for the benefit, of a Commonwealth authority or a licensed corporation;

are taken to be employed by the Commonwealth, or by that authority or corporation for the purposes of the Act.

By virtue of a Notice published in Gazette S365 (30 November 1988), persons receiving treatment or training provided or arranged by the Secretary to the Department of Community Services and Health under Part III of the Disability Services Act 1986 (DS Act) were declared to be ‘Commonwealth employees’ for the purposes of the SRC Act while in the course of receiving the treatment or training.

The vocational rehabilitation services referred to under the DS Act are currently provided solely by CRS Australia, a Commonwealth agency. However, the Australian Government has recently agreed to introduce contestability of vocational rehabilitation services commencing from 1 July 2007. The original intent of the Safety, Rehabilitation and Compensation Act is to provide workers’ compensation coverage for employees of Commonwealth entities and licensed corporations. It would be inappropriate for the clients (job seekers) of the new private providers to be covered under the Act.

Thus, from 1 July 2007, clients of both CRS Australia and the new private providers will be covered under accident insurance policies similar to those taken out by employment service providers.

Following the commencement of the Legislative Instruments Act 2003 (LI Act), there is a requirement for all pre 2000 legislative instruments to be backcaptured or remade and placed on the Federal Register of Legislative Instruments by 31 December 2007, or they will cease to have effect.
Since there is now a need to amend one of the items in the legislative instrument published on 30 November 1988, it has been decided to remake the original instrument. This instrument remakes the part of the 1988 instrument that deals with extending coverage of the SRC Act to ‘volunteers’. Apart from the non inclusion of the reference to the DS Act, there is no change in policy.

The Department has consulted with CRS Australia regarding this change. Wider consultation was not undertaken as CRS Australia is the only body affected by the declaration.

An assessment was made under the new guidelines issued by the Office of Best Practice Regulation, which indicated that a Regulation Impact Statement was not required for this declaration.

This Notice is a legislative instrument for the purposes of the LI Act and takes effect from 1 July 2007.