EXPLANATORY STATEMENT

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

Safety, Rehabilitation and Compensation Act 1988

Definition of ‘Employee’ - subsection 5(6)

The Safety, Rehabilitation and Compensation Act 1988 (the Act) provides workers’ compensation coverage for employees of the Commonwealth, Commonwealth authorities and licensed corporations.

Section 5 defines who is an “employee” for the purposes of the Act. Under subparagraph 5(6)(a)(i) of that definition, the Minister can declare that persons, being persons who engage in activities or perform acts at the request or direction, or for the benefit of, the Commonwealth, are taken to be employed by the Commonwealth for the purposes of the Act.

This declaration seeks to provide workers’ compensation coverage for persons, other than Australian Government employees, who are members of the wildfire expert response team travelling to Greece to provide assistance in response to the wildfires that burnt throughout Greece from August 2007. Emergency Management Australia will deploy the team to provide assistance under the authority of the Attorney-General in consultation with the Prime Minister. The team includes personnel from the Australian and State and Territory governments including fire authorities, and other individuals.

Coverage would apply to acts performed by this team in connection with providing follow up response to the wildfires pursuant to arrangements made between the Attorney-General, the Prime Minister, Emergency Management Australia and the Greek Government.

It is appropriate that the teams have workers’ compensation coverage for activities undertaken to assist in the response to the wildfires as the operation is at the direction of the Attorney General and for the benefit of the Commonwealth.

Accordingly, the declaration by the Minister for Employment and Workplace Relations under the Act will ensure that it applies to such persons when they perform relevant acts.

Consultation has been undertaken with the Attorney-General’s Department, Emergency Management Australia, and Comcare. Relevant State and Territory governments have also been consulted concerning release of staff. An assessment was made under new guidelines issued by the Office of Best Practice Regulation, which indicated that a Regulation Impact Statement was not required as the declaration is not likely to have a direct, or substantial indirect, effect on business or restrict competition. It is a matter of urgency that assistance be provided in response to the wildfires that spread through Greece and that workers’ compensation arrangements for those providing assistance are in place as soon as possible.

This notice is a legislative instrument for the purposes of the Legislative Instruments Act 2003. The declaration will take effect on the day after it is registered on the Federal Register of Legislative Instruments.