EXPLANATORY STATEMENT

Issued by the authority of the Minister for Employment

Safety, Rehabilitation and Compensation Act 1988
Subsection 5(6)

Safety, Rehabilitation and Compensation (Definition of \textit{Employee} – Defence Families of Australia) Notice 2015


Section 5 defines ‘employee’ for the purposes of the Act. Under subsection 5(6) of that definition, the Minister can declare that persons, being persons who engage in activities or perform acts at the request or direction, for the benefit, or under a requirement made by or under a law of the Commonwealth, are taken to be employed by the Commonwealth for the purposes of the Act.

In this notice, the Minister has declared the Executive Committee and representatives of Defence Families of Australia (DFA) are taken to be employed by the Commonwealth for the purposes of the Act when they perform acts, listed in the Notice, for the benefit of the Commonwealth. This has the effect that the Act will apply to these persons.

DFA is the official body appointed by government to represent the views of Defence Families. Its aim is to inform government and Defence on the needs of the Defence family. Its goal is to ensure quality of life for all Defence families by providing a recognised forum for their views and by reporting, making recommendations and influencing policy that directly affects families. In turn, this enhances the capability of the Australian Defence Force.

The Executive Committee of DFA is appointed by the Assistant Minister for Defence. A member of the Executive Committee will be covered by the Act when he or she, for the benefit of the Commonwealth, performs one or more of the acts listed in Column 2 of the Notice. The acts listed in Column 2 of the Notice reflect the Charter of Defence Families of Australia, which was signed by the Assistant Minister for Defence and the Chief of the Defence Force in April 2014.

The Executive Committee also appoints volunteer representatives of DFA. Such a representative will be covered by the Act when he or she, under the direction or request of the Executive Committee, and for the benefit of the Commonwealth performs one or more of the acts listed in Column 2 of the Notice. The acts listed in Column 2 of the Notice replicate the list of acts for the Executive Committee, and reflect the Charter of Defence Families of Australia, which was signed by the Assistant Minister for Defence and the Chief of the Defence Force in April 2014. Volunteer representatives will also be covered by the Act when assisting the Executive Committee in the carrying out of acts for which the Executive Committee are covered by the Act.

This declaration does not apply to a member of the Executive Committee of DFA, or a representative of DFA, who is a ‘member’ as defined under section 5 of the \textit{Military Rehabilitation and Compensation Act 2004}. This is because a person who is a ‘member’ would be covered for workers’ compensation purposes under that Act.

This declaration was made in consultation with the Department of Defence.
The Office of Best Practice Regulation was consulted regarding this declaration and indicated that a Regulation Impact Statement was not required for this declaration (OBPR ID 18835).

This notice is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The instrument will take effect from the day after it is registered on the Federal Register of Legislative Instruments.
Statement of Compatibility with Human Rights

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

Safety, Rehabilitation and Compensation (Definition of Employee – Defence Families of Australia) Notice 2015

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in 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.

The Act provides that persons may be declared by the Minister to be employees of the Commonwealth, a Commonwealth authority or a licensed corporation for the purposes of the Act. This has the effect that the specified persons will be covered by the Act.

In this notice, the Executive Committee and appointed volunteer representatives of Defence Families of Australia (DFA) are declared to be employees for the purposes of the Act.

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 ‘States parties should … ensure the protection of workers who are injured in the course of employment or other productive work’. 1

The Act provides support for employees who have been injured at work by way of rehabilitation, weekly compensation payments, payment of medical expenses, permanent impairment benefits as well as other benefits. This declaration positively engages the right to social security by extending the coverage of the Act (and therefore access to workers’ compensation) to the Executive Committee and appointed volunteer representatives of DFA who would not otherwise be covered by the Act.

Conclusion

This Legislative Instrument is compatible with human rights because it advances the protection of human rights by extending coverage of the Act, and therefore workers’ compensation coverage, to the Executive Committee and appointed volunteer representatives of DFA who would not otherwise be covered by the Act.

Senator the Hon. Eric Abetz

Minister for Employment

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