

## EXPLANATORY STATEMENT

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

*Occupational Health and Safety (Commonwealth Employment) Act 1991*

### **Definition of ‘Employee’ - subsection 9(5)**

The *Occupational Health and Safety (Commonwealth Employment) Act 1991* (the Act) provides occupational health and safety coverage for Commonwealth employees.

Section 9 defines who is an “employee” for the purposes of the Act. Under subparagraph 9(5)(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 legislative instrument seeks to provide occupational health and safety coverage for persons who assist in the operation of the Australian Federal Police (AFP) in various capacities.

The class of persons described at Item 1 of the Schedule includes persons acting in a support capacity to Australian Capital Territory policing via participation in the Volunteers in Policing program. Volunteers also include persons involved with crime prevention and community outreach activities, police scouts, Police and Citizen Youth Club programs, the local business key holder registry update project, as well as training, forensic, media and ceremonial support.

The class of persons described at Item 2 of the Schedule include persons participating in training exercises for the International Deployment Group.

It is appropriate that persons assisting the AFP in a voluntary capacity be covered by the Act, as they provide services at the request of the Commonwealth, which confer a public benefit. 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.

Members and protective service officers are covered by the Act because they come within the definition of ‘AFP employee’. Special members and special protective service officers work along side members and protective service officers but are not AFP employees and therefore not automatically covered by the Act. It is therefore appropriate that special members and special protective service officers be covered by the same occupational health and safety arrangements as their colleagues. Items 3, 4 and 5 of the Schedule extends occupational health and safety coverage to persons appointed as special members or special protective service officers, or secondees to the AFP, under the *Australian Federal Police Act 1979*.

The declaration was requested by Senator the Hon Chris Ellison, Minister for Justice and Customs and consultation was undertaken with the Australian Federal Police as the affected body. Further consultation was unnecessary as no other body is affected by the declaration. An exemption from the preparation of a Regulation Impact Statement was granted by the Office of Regulation Review.

This instrument is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* by virtue of being a disallowable instrument under subsection 9(6) of the Act.

This declaration is expressed to commence on registration.