

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Employment

Safety, Rehabilitation and Compensation Act 1988
Subsection 100(1)

Safety, Rehabilitation and Compensation (*Licence Eligibility – DHL Supply Chain*)
Declaration 2014 (No. 1)

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

Under Part VIII of the Act, an 'eligible corporation' may apply to the Safety, Rehabilitation and Compensation Commission (the Commission) for a licence to:

- (a) accept liability to pay workers' compensation in respect of its employees in accordance with the Act; and
- (b) manage the claims of its employees in accordance with the Act.

An 'eligible corporation' is a corporation that has been declared to be such by the Minister for Employment under subsection 100(1) of the Act. Subsection 100(1) of the Act provides that if the Minister is satisfied that it would be desirable for the Act to apply to employees of a body that:

- (a) is, but is about to cease to be, a Commonwealth authority; or
- (b) was previously a Commonwealth authority; or
- (c) is carrying on business in competition with a Commonwealth authority or with another corporation that was previously a Commonwealth authority;

The Minister may, by legislative instrument, declare the corporation to be eligible to be granted a licence under Part VIII.

If the Commission subsequently decides to grant an eligible corporation a licence, State and Territory workers' compensation legislation will cease to apply to that corporation from the date the licence comes into force. Any liability or obligation incurred by the corporation under a State or Territory law in relation to the injury or death of an employee, or any loss or damage suffered by an employee, before the licence comes into force is not affected.

Applications for declarations under subsection 100(1) of the Act are assessed against the following principles:

- (a) the likely impact on employees of the applicant;
- (b) the likely impact on the applicant;
- (c) the likely impact on the operation of the Commonwealth workers' compensation scheme; and
- (d) the likely impact on the operation of the State and Territory schemes.

DHL Supply Chain (Australia) Pty Ltd (ABN 85 071 798 617) is a corporation carrying on business in competition with Australia Post, a Commonwealth authority.

DHL Supply Chain (Australia) Pty Ltd has requested that the Minister declare it to be an eligible corporation under subsection 100(1) of the Act.

Having assessed the application against the principles, the Minister is satisfied that it would be desirable for the Act to apply to the employees of DHL Supply Chain (Australia) Pty Ltd.

The declaration provides that DHL Supply Chain (Australia) Pty Ltd is eligible to be granted a licence under Part VIII of the Act.

The Office of Best Practice Regulation was consulted regarding this declaration and indicated that a Regulation Impact Statement was not required for this declaration.

Wider consultation was not undertaken as this declaration was made at the request of DHL Supply Chain (Australia) Pty Ltd itself and it is not likely to have a direct, or substantial indirect, effect on business or restrict competition.

This declaration is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*. This declaration takes effect on the day after registration 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 (Licence Eligibility – DHL Supply Chain) Declaration 2014 (No. 1)

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.

Under Part VIII of the Act, an 'eligible corporation' may apply to the Safety, Rehabilitation and Compensation Commission (the Commission) for a licence to:

- (a) accept liability to pay workers' compensation in respect of its employees in accordance with the Act; and
- (b) manage the claims of its employees in accordance with the Act.

An 'eligible corporation' is a corporation that has been declared to be such by the Minister for Employment under subsection 100(1) of the Act.

If the Minister for Employment makes a declaration for a corporation under subsection 100(1) and the Commission subsequently decides to grant an eligible corporation a licence, State and Territory workers' compensation legislation will cease to apply to that corporation from the date the licence comes into force. Instead, the Commonwealth workers' compensation scheme, as established by the Act, will apply. Any liability or obligation incurred by the corporation under a State or Territory law in relation to the injury or death of an employee, or any loss or damage suffered by an employee, before the licence comes into force is not affected.

Declaration of DHL as an 'eligible corporation'

DHL Supply Chain (Australia) Pty Ltd has requested that the Minister declare it to be an eligible corporation under subsection 100(1) of the Act.

The Minister is satisfied that it would be desirable for the Act to apply to the employees of DHL Supply Chain (Australia) Pty Ltd.

The declaration provides that DHL Supply Chain (Australia) Pty Ltd is eligible to be granted a licence under Part VIII 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. 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. Workers' compensation is generally available instead of the right of employees to sue their employer for these costs.

In Australia, there are separate but largely comparable workers' compensation jurisdictions in the Commonwealth, State and Territory jurisdictions.

This instrument does not engage human rights as existing workers' compensation entitlements will be unaffected by any subsequent decision by the Commission to grant DHL Supply Chain (Australia) Pty Ltd a licence under Part VIII of the Act. If DHL Supply Chain (Australia) Pty Ltd is granted a licence in the future all workers employed by that corporation will continue to enjoy access to comparable workers' compensation benefits under the Commonwealth scheme to those which they currently enjoy.

Conclusion

The Legislative Instrument is compatible with human rights because it does not engage any human rights issues.

Senator The Hon. Eric Abetz

Minister for Employment