

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Employment

Safety, Rehabilitation and Compensation Act 1988
Subsection 4 (1)

Safety, Rehabilitation and Compensation (Commonwealth Authority)
Declaration 2017

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.

Subsection 4(1) of the Act includes the definition of 'Commonwealth authority'. Under paragraph (c) of that definition, the Minister may declare certain types of bodies corporate to be a body corporate to which the Act applies. Where a body corporate is subject to such a declaration by the Minister, and was incorporated under a law of the Commonwealth, and is a body corporate in which the Commonwealth has a controlling interest, the body corporate will be a Commonwealth authority.

This instrument declares Aboriginal Hostels Ltd to be a body corporate to which the Act applies.

Aboriginal Hostels Ltd was originally declared to be a body corporate to which the Act applies, and therefore a Commonwealth authority, in 1989 (*Gazette* No GN 32 of 23 August 1989). That declaration was remade in 2007 by the Safety, Rehabilitation and Compensation (*Declaration and Specification*) Notice 2007 (1) (the 2007 Notice) and published on the Federal Register of Legislation as a legislative instrument. Due to uncertainty regarding the operation of sunset provisions of the *Legislation Act 2003*, the 2007 Notice is remade as a precautionary measure. The instrument commenced on 1 October 2017 to provide certainty of coverage to employees of Aboriginal Hostels Ltd.

In the event the 2007 Notice was not repealed due to the operation of the *Legislation Act 2003*, this instrument repeals item 3 of the 2007 Notice which declares Aboriginal Hostels Ltd and Australian River Co. Ltd to be bodies corporate to which the Act applies under s 4(1)(c)(iii) of the definition of Commonwealth authority.

This instrument preserves Aboriginal Hostels Ltd's status as a Commonwealth authority for the purposes of the Act from 1 July 1989.

This instrument does not affect the application of the *Work Health and Safety Act 2011* to the Aboriginal Hostels Ltd due to the broader definition of 'public authority' prescribed by the *Work Health and Safety Act 2011*.

This instrument was made following consultation with Comcare and the Attorney-General's Department. Further consultation was not undertaken as the instrument was made as precautionary measure to ensure continuing coverage for Aboriginal Hostels Ltd.

The Office of Best Practice Regulation was consulted regarding this declaration and indicated that a Regulatory Impact Statement was not required (OBPR ID: 23032).

This declaration is a legislative instrument for the purposes of the *Legislation Act 2003*.

This declaration takes effect from 1 October 2017.

Statement of Compatibility with Human Rights

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

Safety, Rehabilitation and Compensation (Commonwealth Authority) Declaration 2017

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 the Minister may declare certain types of bodies corporate to be a body corporate to which the Act applies.

This instrument declares Aboriginal Hostels Ltd to be a body corporate to which the Act applies. Aboriginal Hostels Ltd was originally declared to be a body corporate to which the Act applies in 1989. The original declaration was remade in 2007 and published on the Federal Register of Legislation. Due to uncertainty regarding the operation of sunset provisions of the *Legislation Act 2003*, this instrument remakes the relevant section of the Safety, Rehabilitation and Compensation (*Declaration and Specification*) Notice 2007(1) to ensure coverage for employees of Aboriginal Hostels Ltd. For this purpose, the instrument commenced on 1 October 2017.

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 weekly compensation payments, payment of medical expenses, permanent impairment benefits as well as other benefits. This instrument positively engages the right to social security by continuing the extension of the coverage of the Act (and therefore access to workers' compensation) to employees of Aboriginal Hostels Ltd who would not otherwise be covered by the Act.

¹ Committee on Economic, Social and Cultural Rights, *General Comment 19: The Right to Social Security (art. 9)*, 39th Session, U.N. Doc E/C.12/GC/19 (4 February 2008, adopted 23 November 2007), [17].

Conclusion

The 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 employees of Aboriginal Hostels Ltd.