

SAFETY, REHABILITATION AND COMPENSATION (COMMONWEALTH AUTHORITY) DECLARATION 2024

EXPLANATORY STATEMENT

Issued by authority of the Minister for Employment and Workplace Relations

PURPOSE AND OPERATION OF THE INSTRUMENT

The *Safety, Rehabilitation and Compensation Act 1988* (SRC Act) establishes the Commonwealth workers' compensation and rehabilitation scheme for employees of the Commonwealth, Commonwealth authorities and licensed corporations.

Subsection 4(1) of the SRC Act includes the definition of 'Commonwealth authority'. Under subparagraph (d) of that definition, the Minister may declare a body corporate to be a body corporate to which the SRC Act applies. Where a body corporate is subject to such a declaration by the Minister and is a body corporate in which a body corporate declared under subparagraph (c) of that definition has a controlling interest, the body corporate will be a Commonwealth authority.

This declaration makes Inland Rail Pty Ltd (ACN: 094 819 520) (IRPL) a Commonwealth authority for the purposes of the SRC Act on the basis that:

- IRPL is a proprietary limited company, incorporated under the *Corporations Act 2001*;
- in which the Australian Rail Track Corporation (ARTC) has a controlling interest (ARTC is a body corporate and was declared a Commonwealth Authority under subparagraph (c) of that definition in Notice of Declaration No.4 of 1998 (*Gazette* No 217 of 18 May 1998));
- that is declared by the Minister to be a body corporate to which the SRC Act applies.

CONSULTATION

The Department has consulted the Department of Finance, the Department of Infrastructure, Transport, Regional Development, Communications and the Arts, Comcare and IRPL regarding the proposed declaration. Those stakeholders are in favour of prescribing IRPL as a Commonwealth authority to which the SRC Act applies.

IRPL consulted affected staff, the Rail Tram and Bus Union, Australian Services Union, and Professionals Australia. No concerns were raised by any of the parties that were consulted.

REGULATION IMPACT STATEMENT

The Office of Impact Analysis has confirmed that an Impact Analysis is not required (OIA Ref: OIA24-07089).

This instrument is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* and is not exempt from sunset or disallowance.

This declaration will take effect on the day after this instrument is registered.

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 2024

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* (SRC Act) establishes the Commonwealth workers' compensation and rehabilitation scheme for employees of the Commonwealth, Commonwealth authorities and licensed corporations.

Subsection 4(1) of the SRC Act includes the definition of 'Commonwealth authority'. Under subparagraph (d) of that definition, the Minister may declare a body corporate to be a body corporate to which the SRC Act applies. Where a body corporate is subject to such a declaration by the Minister and is a body corporate in which a body corporate declared under subparagraph (c) of that definition has a controlling interest, the body corporate will be a Commonwealth authority.

This declaration makes Inland Rail Pty Ltd (ACN: 094 819 520) (IRPL) a Commonwealth authority for the purposes of the SRC Act on the basis that:

- IRPL is a proprietary limited company, incorporated under the *Corporations Act 2001*;
- in which the Australian Rail Track Corporation (ARTC) has a controlling interest (ARTC is a body corporate and was declared a Commonwealth Authority under subparagraph (c) of that definition in Notice of Declaration No.4 of 1998 (*Gazette* No 217 of 18 May 1998));
- that is declared by the Minister to be a body corporate to which the SRC Act applies.

Human rights implications

Article 7 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) provides for the right of everyone to the enjoyment of just and favourable conditions of work. Article 11 of the ICESCR provides for the right of everyone to an adequate standard of living. Article 9 of the ICESCR provides for the right of everyone to social security, including social insurance. General Comment 19 by the Committee on Economic, Social and Cultural Rights sets out the essential elements of the right to social security, including that 'States parties should ... ensure the protection of workers who are injured in the course of employment or other productive work'.¹

Workers' compensation legislation ensures the protection of injured workers by way of compensation payments, payment of medical expenses, permanent impairment benefits and other benefits, such as access to rehabilitation support. By doing so, it also supports the rights to just and favourable working conditions and to an adequate standard of living.

This declaration positively engages the right to social security by extending coverage of the SRC Act (and therefore access to workers' compensation entitlements) to employees of IRPL 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)*, U.N. Doc E/C.12/GC/19 (2008), [17].

Conclusion

The legislative instrument is compatible with human rights as it does not raise any human rights issues.

The Hon Tony Burke

Minister for Employment and Workplace Relations

NOTES ON SECTIONS

Section 1 – Name

Section 1 provides that the name of the instrument is the *Safety, Rehabilitation and Compensation (Commonwealth Authority) Declaration 2024*.

Section 2 – Commencement

Section 2 provides that the instrument commences on the day after it is registered on the Federal Register of Legislation.

Section 3 – Authority

Section 3 provides that the instrument is made under subparagraph (d)(ii) of the definition of Commonwealth authority in subsection 4(1) of the *Safety, Rehabilitation and Compensation Act 1988*.

Section 4 – Declaration

Section 4 provides that, for the purposes of subsection 4(1) of the Act in relation to the definition of Commonwealth authority, the Minister declares that under subparagraph (d)(ii) of that definition that Inland Rail Pty Ltd (ACN 094 819 520) is a body corporate to which the *Safety, Rehabilitation and Compensation Act 1988* applies.