

# CHAPTER 1

## Reference

1.1 On 26 February 2015 Mr Luke Hartsuyker, MP, Deputy Leader of the House and Assistant Minister for Employment, introduced the Safety Rehabilitation and Compensation Legislation Amendment (Exit Arrangements) Bill 2015 (the bill).<sup>1</sup> On 19 March 2015 the Senate referred the provisions of the bill to the Senate Education and Employment Legislation Committee (the committee) for inquiry and report by 8 May 2015.<sup>2</sup>

## Conduct of the inquiry

1.2 Details of the inquiry were made available on the committee's website. The committee also contacted a number of organisations inviting submissions to the inquiry. Submissions were received from four organisations, as detailed in Appendix 1.

## Background

1.3 The *Safety, Rehabilitation and Compensation Act 1988* (the SRC Act) establishes a scheme (the Comcare scheme) to provide compensation and rehabilitation support to injured Australian Government and Australian Capital Territory employees.<sup>3</sup> Employees of private corporations who hold a licence under the SRC Act also fall under the scheme.<sup>4</sup>

1.4 The SRC Act establishes the Safety, Rehabilitation and Compensation Commission (the Commission) that administers the regulatory functions of the Act, other than those ascribed to Comcare which operates the scheme, and has an oversight role under the *Work Health and Safety Act 2011* (WHS Act).<sup>5</sup>

## Overview of the bill

1.5 The bill will amend the SRC Act to provide for financial and other arrangements for a Commonwealth authority to exit the Comcare scheme.<sup>6</sup> The framework established by these amendments will:

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1 Mr Luke Hartsuyker MP, Assistant Minister for Employment, *House of Representatives Hansard*, 26 February 2015, p.6.

2 *Journals of the Senate*, No. 86, 19 March 2015, p. 2335.

3 Safety, Rehabilitation and Compensation Legislation Amendment (Exit Arrangements) Bill 2015, *Explanatory Memorandum*, p.i.

4 Safety, Rehabilitation and Compensation Legislation Amendment (Exit Arrangements) Bill 2015, *Explanatory Memorandum*, p.i.

5 Safety, Rehabilitation and Compensation Legislation Amendment (Exit Arrangements) Bill 2015, *Explanatory Memorandum*, p.i.

6 Safety, Rehabilitation and Compensation Legislation Amendment (Exit Arrangements) Bill 2015, *Explanatory Memorandum*, p.i.

- enable Comcare to determine and collect 'exit contributions' from former Commonwealth authorities and successors of former Commonwealth authorities. This will ensure that an exiting employer does not leave the Comcare scheme without contributing an appropriate amount to cover any current or prospective liabilities that are not funded by premiums the employer has paid before exit;
- ensure that employees injured before the employer's exit continue to be supported by an appropriate rehabilitation authority; and
- enable Comcare to determine and collect ongoing regulatory contributions from exited employers or successor bodies.<sup>7</sup>

1.6 The bill has two schedules. Broadly, Schedule 1 will establish the framework to enable Comcare to determine and collect 'exit contributions' from former Commonwealth authorities and their successors, and any regulatory contributions from former Commonwealth authorities.<sup>8</sup>

1.7 Schedule 1 also amends the SRC Act to clarify that premiums for current Commonwealth authorities and entities should be calculated with regards to the principle that current and prospective liabilities should be fully funded by Comcare-retained funds and so much of the Consolidated Revenue Fund as would be available under section 90C of the SRC Act.<sup>9</sup>

1.8 Schedule 2 amends provisions related to the Commission. Items 1 and 2 replace the existing representative of the Australian Capital Territory (ACT) with a second representative of the Commonwealth, nominated by the Minister for Employment.<sup>10</sup> Item 3 provides that members are appointed to the Commission by the Minister rather than the Governor-General.<sup>11</sup>

### **Human rights implications**

1.9 The explanatory memorandum details the bill's engagement with the following human rights:

- the right to work, under Articles 6 and 7 of the International Covenant on Economic, Social and Cultural Rights (ICESCR);

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7 Safety, Rehabilitation and Compensation Legislation Amendment (Exit Arrangements) Bill 2015, *Explanatory Memorandum*, p.i.

8 Safety, Rehabilitation and Compensation Legislation Amendment (Exit Arrangements) Bill 2015, *Explanatory Memorandum*, p.2.

9 Safety, Rehabilitation and Compensation Legislation Amendment (Exit Arrangements) Bill 2015, *Explanatory Memorandum*, p.i.

10 Safety, Rehabilitation and Compensation Legislation Amendment (Exit Arrangements) Bill 2015, *Explanatory Memorandum*, p.12.

11 Safety, Rehabilitation and Compensation Legislation Amendment (Exit Arrangements) Bill 2015, *Explanatory Memorandum*, p.12.

- the rights of persons with disabilities to rehabilitation and to work and employment, under Articles 26 and 27 of the Convention on the Rights of Persons with Disabilities (CRPD); and
- the right to social security, including social insurance under Article 9 of the ICESCR.<sup>12</sup>

1.10 The explanatory memorandum states that the amendments are compatible with human rights because they advance the protection of human rights.<sup>13</sup>

### **Financial impact statement**

1.11 Nil.

### **Acknowledgement**

1.12 The committee thanks those individuals and organisations who contributed to the inquiry by preparing written submissions.

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12 Safety, Rehabilitation and Compensation Legislation Amendment (Exit Arrangements) Bill 2015, *Explanatory Memorandum*, p.iv.

13 Safety, Rehabilitation and Compensation Legislation Amendment (Exit Arrangements) Bill 2015, *Explanatory Memorandum*, p.v.

