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3 September 2012

Ms D Jeffrey
The Research Director
Finance and Administration Committee
Parliament House
George Street
Brisbane QLD 4000

"By post and facsimile: 07 3406 7500"

Dear Ms Jeffrey,

RE: WORKERS' COMPENSATION REVIEW

I would like to make a submission for consideration by the committee.

Introduction

I am self-employed solicitor who practises almost exclusively in the area of personal injuries law. My experience includes both working for Workcover and representing many claimants at both the statutory and common law levels.

Why is workers' compensation important?

A successful workers' compensation scheme is vital to the economy and for its three major components:

1. The State;
2. Businesses/employers which produce the wealth; and
3. Workers.

For the State, a successful workers' compensation scheme is important in providing a positive budget outcome, thus, allowing it to divert its scarce financial resources elsewhere. This positive budget outcome is achieved by:

1. The workers' compensation scheme being fully funded through premiums and investment income and not being a burden on the State budget; and
2. Saving the State the cost of sustaining injured workers by providing replacement income and funding the cost of medical and rehabilitation services through the health or community services budget.

For employers, workers' compensation may be described as a form of insurance. If there was no workers' compensation scheme then individual employers would be liable for the lost

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income and medical and rehabilitation expenses of injured workers. This would cause a significant impact on business in general and lead to uncertainty in the market with flow on effects of uncertainty in capital raising.

For workers, a successful workers' compensation scheme is vital to provide income replacement, medical care and rehabilitation services following an injury. At the same time it must encourage the injured worker to return to work and be careful not to introduce a welfare mentality whereby injured workers rely on the State for handouts.

The Qld Scheme

Essentially, the Workers' Compensation system in Queensland remains largely identical to that which was introduced by the Borbidge/Sheldon Government in 1996.

It is my view that the Queensland system is the most successful in the country. Since 1996, the Queensland Workers' Compensation system has required no support from the State Budget and the Scheme itself, unlike other states, is without significant unfunded liabilities. As the same time, Workers' Compensation premiums in Queensland are extremely competitive in comparison to other jurisdictions, minimising the impost on employers. With respect to workers, the scheme ensures adequate income support while maintaining a focus on return to work – thus promoting ongoing security for all three components of the economy.

The Queensland Scheme achieves competitive premiums and remains profitable by:

1. Ending claims when a worker's injuries are stable and stationary. This stops so called "long tail" claims which are prevalent in other jurisdictions. These are claims which may last for years and place a heavy burden on the relevant scheme. By way of contrast, the Queensland Scheme encourages injured workers to return to work;
2. Encouraging employers to strive for safer work places. Businesses with poor claims' histories pay higher workers' compensation premiums. By improving occupational health and safety, employers save money. This carrot and the stick approach also reduces the strain of workplace injuries on the Queensland health and rehabilitation systems.

Thus, the workers' compensation scheme in Queensland is successful for:

1. The State – because it is not a burden on the budget;
2. Business and employers – because its premiums are relatively low and it actively encourages injured workers to return to work; and
3. Workers – because it provides injured workers with benefits designed to get them back to work without developing the "welfare mentality" which is so often a feature of so-called long tail schemes in other jurisdictions.

Common Law Thresholds

I understand that some submissions have proposed that the Workers' Compensation regime in Queensland be amended to introduce thresholds to the Common Law. The potential disadvantages of these changes are as follows:

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- 1) Workers unable to make common law claims would be an increased burden on the State budgets for Health, Rehabilitation and Disability Services at a time when these budgets are already severely stretched; and
- 2) An increased level of disputation as injured workers struggle to reach the threshold. This increased disputation would raise the cost of the system as the number of applications to review decisions with respect to the level of permanent impairment would grow. This would in turn place increased pressure on Q-Comp and place a greater strain on the system of Medical Assessment Tribunals. Any increase in disputation would have to be funded either by the State budget or through increased premiums for employers.

No doubt the reason behind the desire to introduce a threshold for access to common law is to reduce premiums for employers. I am firmly of the view that any introduction of a threshold would come at a cost to the Queensland budget at a time when the State can least afford any additional impost. This, itself, could impact on employers as the government seeks to fund the impost through increased taxes and charges. Perversely, because of increased levels of disputation, the introduction of thresholds may also actually cause a rise in workers' compensation premiums paid by employers.

Journey Claims

Likewise, I understand that some submissions may be calling for the abolition of journey claims. That is, the claims for injuries sustained in travel to and from work. There is little justification for this change because:

1. Unlike other types of claims, journey claims do not impact upon an individual employer's annual worker's compensation premium;
2. The abolition of journey claims would place an increased strain on the state budget as the Queensland Government would take over the cost of medical expenses and rehabilitation of workers injured in travel to and from work;
3. The abolition of journey claims may cause an increase in CTP claims; and
4. Journey claims are important for workers in regional areas who often have to travel long distances to and from work.

Industrial Magistrates

The 2010 change in the Queensland system to abolish appeals from the decisions of Q-Comp to Industrial Magistrates should be reversed. Industrial Magistrates were local Magistrates who sat around the State. Formerly, appeals to Industrial Magistrates could be used as an alternative to appeals to the Industrial Commission in Brisbane.

I believe that the abolition of appeals to Industrial Magistrates have:

1. Disadvantaged claimants and employers in regional areas by centralising the system; and

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2. Established a bottle neck in the Industrial Relations Commission as all appeals must now be heard by the Commission.

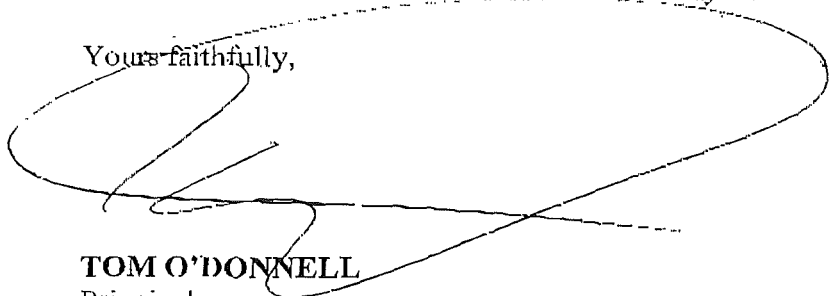
Accordingly, I urge the Committee to recommend that appeals from the decision of Q-Comp to Industrial Magistrates be reinstated so that these appeals can be heard by both Industrial Magistrates and Industrial Relation Commissioners.

Conclusion

To use an old adage, "don't fix what ain't broke". The worker's compensation system in Queensland is a Queensland success story. It works well for the Government, for employers and for workers. It provides adequate compensation and encourages workers to return to work with relatively low premiums for employers and with no impost on the significantly stretched State budget. Apart from restoring the role of Industrial Magistrates, there is no reason for it to be changed.

I thank the Committee for its consideration of my submission.

Yours faithfully,



TOM O'DONNELL
Principal

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