

3 September 2012

The Research Director
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Dear Sir/Madam

**Re: Parliamentary Finance and Administration Committee's review of the
Queensland Workers' Compensation Scheme**

The Australian Industry Group (Ai Group) welcomes the opportunity to provide a submission to the Parliamentary Finance and Administration Committee's review of the Queensland Workers' Compensation Scheme.

Ai Group's submission is attached.

Ai Group looks forward to an opportunity to address the Committee regarding the scheme as this important review progresses. Please do not hesitate to contact Jemina Dunn, Ai Group's Manager of Policy and Public Affairs (QLD) on telephone (07) 32441767, or Cecily Tucker, Ai Group's Principal Advisor, Workplace Relations, on telephone (07) 3244 1731 should you wish to discuss this submission further.

Yours sincerely



Matthew Martyn-Jones
Director – Queensland



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Administration Committee

THE AUSTRALIAN INDUSTRY GROUP'S
Submission to the Queensland
Parliamentary Finance and Administration
Committee's review of the Queensland
Workers' Compensation Scheme

AUGUST 2012

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1.0 INTRODUCTION

The Australian Industry Group (Ai Group) has prepared this response to the to the Queensland (QLD) Parliamentary Finance and Administration Committee's review of the Operation of the QLD Workers' Compensation Scheme. Our submission is based on consultation with member companies that employ workers in QLD and is informed by our involvement as a registered organisation of employers for more than a century.

Ai Group represents industries with around 440,000 businesses employing around 2.4million people nationally. Ai Group and its affiliates have around 60,000 members and employ in excess of 1.25 million employees in an expanding range of sectors including: manufacturing; engineering; construction; automotive; food; transport; information technology; telecommunications; call centres; labour hire; printing; defence; mining equipment and supplies; airlines and other industries. In QLD Ai Group directly represents over 2000 members who employ around 30,000 employees.

Ai Group strongly supports a fair and sensible workers' compensation scheme that provides access to high quality care and support for the seriously injured and speedy and effective recovery and return for all workers who have suffered a work related illness or injury. Most importantly a workers' compensation scheme needs to be efficient, cost effective and fair.

The current scheme has recently lost its historical footing as the cheapest in Australia with a combined premium increase of 26 per cent over the last three years. Whilst QLD currently has the second cheapest premiums in the country, premiums are nevertheless increasing.

The QLD Commission of Audit in their Interim Report released in June 2012 noted that WorkCover QLD's capital adequacy has been under pressure due to increased claims and a volatile investment performance and suggests that if this position deteriorates further the State may be required to commit additional funding and/or request WorkCover QLD to increase contribution rates to restore its target level of solvency. Ai Group considers it extremely unfair and counterproductive to lump the burden of any future deficit directly onto employers. Ai Group is confident that improved and more transparent claims management processes can be delivered through appropriate reform and that this can potentially yield significant savings that may allow premiums to be stabilised and, in the medium – longer term, decreased. Ultimately if QLD is to remain strongly competitive into the future a return to the lowest premiums nationally should be an appropriate target.

QLD business and industry consistently identify workers' compensation as a key area of concern, and anecdotal evidence strongly suggests concerns around operation of the scheme have not abated. In a survey of its members in March 2010, almost 6 out of 10 QLD members expressed dissatisfaction with the WorkCover QLD scheme, with 28% being very dissatisfied and 31% being moderately dissatisfied. While it is acknowledged that those legislative changes implemented as of 1 July 2010, and subsequently, were timely, Ai Group is aware through regular feedback from its own members and from industry generally, that there is some ongoing dissatisfaction among employers with the scheme.

It is not disputed by Ai Group and its members, that employers have responsibilities to their employees to provide and maintain a healthy and safe work environment. Further, employers accept that they have a legal responsibility to provide support and compensation to a worker if they are injured in the course of performing their work under the "no fault" statutory scheme. However, in return, employers expect a workers' compensation scheme which is affordable, and internationally and domestically competitive, without compromising the proper level of benefit necessary to assist employees to rehabilitate and return to pre-injury duties.

2.0 CONSULTATION

The views expressed in this submission have been developed through a number of avenues including:

- the knowledge of Ai Group's Occupational Health and Safety (OHS) and Workplace Relations Advisors who have extensive experience in the practical application of the *Workers' Compensation & Rehabilitation Act* 2003 ("the Act"), and its interaction with industrial instruments and other legislative provisions relating to the employment relationship across a broad range of industries;
- the views of members expressed through day to day contact with them as we provide advice, training and other support, including via our call centre of which a large volume of calls from members are about workers' compensation;
- from the issues and concerns raised by members during consultation conducted by Ai Group related to the Government's review; and
- through discussions with other key stakeholders in the scheme, including AiGroup nominees' participation as directors of the Q-Comp Board, WHSQ Board and WHSQ's Manufacturing Industry Sector Committee.

3.0 IMPACT ON THE QLD ECONOMY

QLD has traditionally held a prized position as the low cost place to do business in Australia. The resources boom, the work of other States in reducing the cost burden for industry, and the impact of globalisation, have seriously affected the State's entitlement to this position. The complex web of State-based regulations, fees and charges (including increases to premiums), run counter to other objectives in relation to employment generation, private investment and economic growth – especially for non-resources related businesses that find themselves on the wrong side of the two speed economy.

Whilst QLD's economy has largely recovered from the 2011 natural disasters and is again performing strongly compared to other States (Table 1), this prosperity has largely been driven by the resources boom. The resulting two-speed economy, resulting from the high dollar, increased competition from cheap exports, and declining demand, has led to many businesses outside the resources supply-chain experiencing some of the most challenging conditions in recent memory.

Table 1: State Economic Outlook

Annual % change

	2010-11		2011-12		2012-13	
	QLD	Aus	QLD	Aus	QLD	Aus
Real gross state product	0.2	2.1	4.25	3.25	5.00	3.25
Employment	2.3	2.2	1.50	1.00	2.25	1.50
Unemployment rate	5.5	4.9	5.50	5.5	5.25	5.50
Headline Inflation	3.3	3.6	2.50	2.25	3.75	3.25
Wage Price Index	3.9	3.8	3.75	3.75	3.75	3.75
Population	1.7	1.4	1.75	1.50	2.00	1.50

Source: Queensland Treasury and Australian Government 2011-12 Mid Year Economic and Fiscal Outlook

Sectors particularly struggling include what are traditionally some of the State's largest employers, including manufacturing, tourism, education and residential and commercial construction. Nationally, manufacturing, services and construction have experienced contracting performance for five¹ (5), six² (6) and twenty-six³ (26) consecutive months respectively. QLD is also exhibiting a strong 'north-south' multi-speed pattern of growth, with rapid

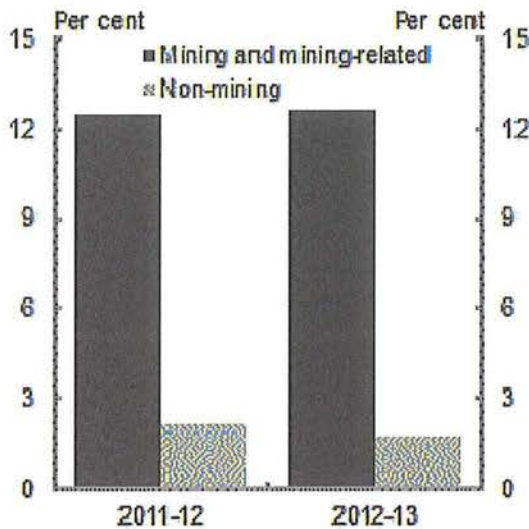
¹ Ai Group /PWC Australian Performance of Manufacturing Index – July 2012

² Ai Group / Commonwealth Bank Performance of Services Index – July 2012

³ Ai Group / Housing Industry Association Performance of Construction Index – July 2012

activity in the coal and gas regions countering the tourism and residential construction downturn in the south-east corner.

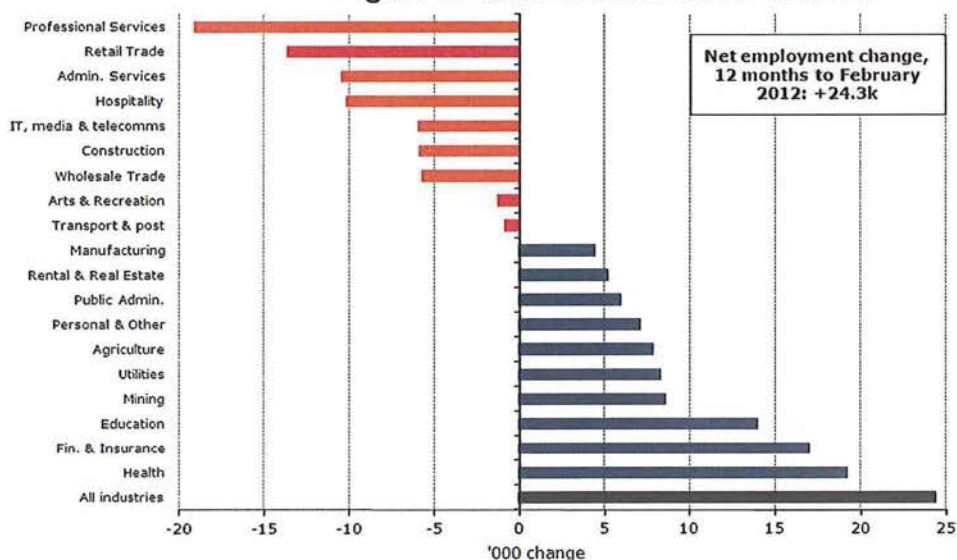
Figure 1: National growth in mining and non-mining sectors



Source: Australian Government Mid-Year Fiscal and Economic Outlook, 2011/12.

Labour market conditions have been relatively stable over the past few months, with the State unemployment rate remaining at 5.5% in the December 2011 and March 2012 quarters, and the participation rate remaining slightly above 67% (well above the national average). As of July 2012 however, the State's labour market had deteriorated along with the other eastern states. QLD's unemployment rate was 5.6% (above the national rate of 5.2%) and the participation rate was 66.3%, below its average over the past two years.

Figure 2: Queensland Labour Market



The various job advertisement series (from ANZ, SEEK and DEWR) have all deteriorated further in 2012 in QLD. This suggests that jobs growth and the unemployment rate will deteriorate further before beginning to improve from sometime later in 2013. This is supported by anecdotal evidence which suggests QLD businesses are doing it tough – in the 6 months to August 2012 employer calls to Ai Group's BIZASSIST info-line regarding redundancy have almost doubled and remain higher than during the GFC.

Other indicators of state economic conditions are also weakening at present. In August 2012 the Westpac-Melbourne Institute Index of Consumer Sentiment fell index fell from an already weak 91.7 to 83.0 points (an 8.7 percentage point fall) in QLD (scores under 100 indicate net pessimism in this survey). Also indicative of very weak confidence levels at present, residential housing construction approvals fell a further 2.4% in July 2012, while total building approvals fell by 19.7%.

Current business conditions mean there is genuine concern that capability will be permanently lost in critical sectors that provide the best potential for a diverse and robust long term QLD economy post-the current resources boom. Australia has experienced declining productivity in the last decade and it is critical that businesses invest in skilling, innovation and emerging technologies to remain competitive in an increasingly global marketplace. Evidence suggests that these key productivity drivers are some of the first to be abandoned by business in a challenging business environment.

Given the above, there must be a strong focus on creating the right environment for driving economic success in the State. This will be achieved in part through reductions to the cost of doing business in QLD including through reducing the regulatory burden and via direct reductions to taxes, charges and premiums. In an environment where businesses are struggling, reducing the cost of doing business can be a critical form of relief and a catalyst to reinvigoration.

Alarming, evidence suggests the regulatory burden weights more heavily and results in higher costs in QLD than any other State. This impacts significantly on the competitiveness of QLD business. An Ai Group / Deloitte *National CEO Survey: Business Regulation*, released in September 2011 found that the average QLD business deals with 9 regulators annually, spending around 6.5% of their total annual expenditure on regulatory compliance. QLD businesses also face the largest direct compliance costs in Australia, spending on average 17.8 hours per week – 4.5 hours a week more than businesses in other states, on compliance activities (Figure 3). The research also showed that the most time consuming area of business

regulation was WH & S and workers' compensation, with QLD businesses citing a higher proportion of time spent in this area than other States (Figure 4).

Figure 3: Direct costs of Business Regulation

	New South Wales	Victoria	Queensland	South Australia
	Average number of hours per week			
<i>Time spent by employees</i>	12.4	12.0	17.8	14.6
	Average percentage of total business expenses			
<i>Outsourcing costs</i>	3.3	3.1	3.6	2.7
<i>Government fees and charges</i>	2.5	2.5	2.9	2.7
Total	5.8	5.6	6.5	5.4

Source: Ai Group Survey, 2011

Figure 4: The 10 most time consuming areas of business regulation (Share of the total number of hours spent per week)

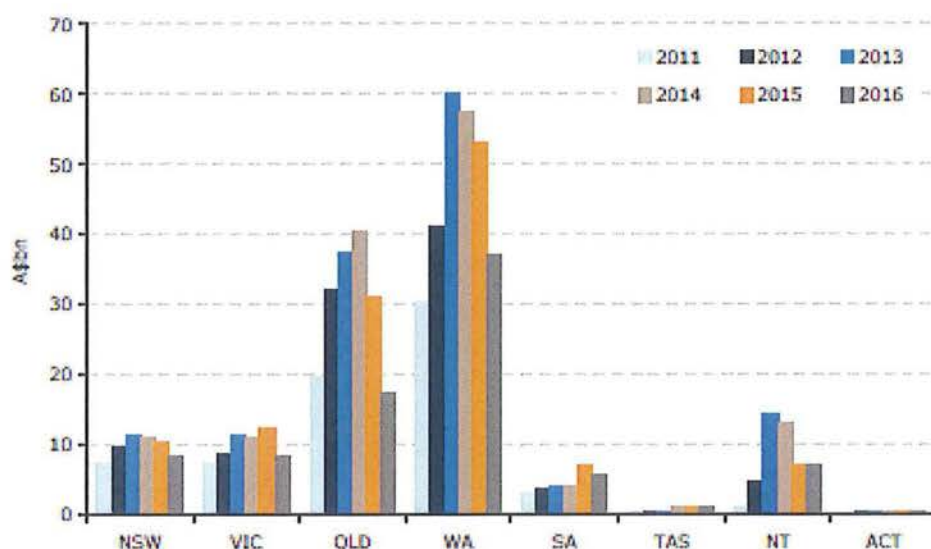
	New South Wales	Victoria	Queensland	South Australia
OH&S and workers compensation	13.1	12.8	15.4	12.9
Other employee-related regulations	10.5	12.1	10.2	12.0
Trading across national borders	12.3	10.8	11.2	8.1
Consumer protection regulation e.g. inspections & labelling	11.3	10.7	10.1	12.1
Health and food safety regulations	10.3	10.0	8.7	5.6
Corporate governance regulation	9.1	8.7	8.9	10.2
Paying taxes	8.7	9.0	9.7	10.6
Trading across state borders	8.3	9.1	9.0	8.0
Other environmental regulations	8.4	8.7	8.2	10.0
Paying fees and charges	8.0	8.2	8.5	10.5
Total	100.0	100.0	100.0	100.0

Source: Ai Group Survey, 2011

The regulatory environment plays a critical role in business innovation and growth. At a time when Australia's productivity performance is lagging behind major competitors, 57 per cent of the State's businesses report regulation is a barrier to innovation. Whilst business appreciates the need for appropriately targeted well-drafted legislation around critical areas, QLD must become smarter about how and when regulation is delivered and administered, including in the case of WorkCover QLD, claims management, to ensure the State's businesses are not put at a competitive disadvantage.

The outlook suggests conditions in Australia's States will continue to reflect the multi-speed growth pattern that has been evident for some years. Western Australia continues to outperform all other states on almost every indicator in 2012 however projects may have now peaked (Figure 5). The national patchwork of growth is a manifestation of deeper structural changes that are occurring in the Australian economy due to the combined simultaneous effects of: the mining investment boom; ongoing recession, rebalancing and risk in the global economy (which is itself a multi-speed story at present); the high level of the Australian dollar over a reasonably long period (largely for global commodity pricing and financial market reasons); the current weak spot in the residential and commercial construction cycles; and significant changes in Australian consumer spending patterns.

Figure 5: Major project investments pipeline by state, 2011-2016



Source: ANZ Major Projects Update, August 2012

Whilst the new QLD Government's fiscal discipline is welcomed, Government needs to tread carefully in managing the business environment to ensure undue pressure is not placed on businesses already struggling to survive. The QLD Commission of Audit in their Interim Report released in June 2012 noted that WorkCover QLD's (WCQ) capital adequacy has been under pressure due to increased claims and a volatile investment performance. The Commission goes on to suggest that if this position deteriorates further, the State may be required to commit additional funding and/or request WCQ to increase contribution rates to restore its target level of solvency.

Ai Group considers it extremely unfair and counterproductive to lump the burden of any future deficit directly onto employers and fears further increases to premiums and/or other business costs, may significantly impact the many QLD businesses already struggling to survive the current challenging business conditions. Given the existing disproportionate regulatory burden on QLD business such action will certainly impact the competitiveness of QLD firms.

Ai Group is confident that improved and more transparent claims management processes can be delivered through appropriate reform and that this can potentially yield significant savings that may allow premiums to be stabilised and, in the medium – longer term, decreased. Ultimately if QLD is to remain strongly competitive into the future a return to the lowest premiums nationally should be an appropriate target.

Government should not take the short-sighted approach of simply increasing premiums which risks further suspension of critical productivity enhancing initiatives by QLD business, the majority of whom are SMEs. Such an approach, if adopted, would be counter-productive and could damage the growth prospects of the Queensland economy. Investments in infrastructure, productivity, technology, skills, training and innovation, are needed to improve competitiveness and survival in the high-cost Australian business environment. Such investment is also required to tackle the challenges posed by weakened growth in the global economy and stiff competition from business competitors from emerging economies, especially Asia.

4.0 CONCERNS WITH THE CURRENT SCHEME

Ai Group refers to its submission to the QLD government in March 2010 and notes that in a survey of its members in March 2010 almost 6 out of 10 members in QLD expressed dissatisfaction with the WorkCover QLD scheme with 28% being very dissatisfied and 31% being moderately dissatisfied.

While it is acknowledged that those legislative changes implemented as of 1 July 2010, and subsequently, were timely, Ai Group is aware through feedback from its own members and from industry generally that there is still ongoing dissatisfaction among employers with the scheme.

Accordingly Ai Group submits further as follows:

4.1 More accountability on the part of workers

While it is understood that the Act must be interpreted and applied beneficially, employers continue to be concerned about statutory injury claims that are accepted by WorkCover QLD where the worker has not reported the injury to the employer and/or completed an incident report. Often there is a significant time delay, there are no witnesses to the alleged injury event and employers are unaware of the injury and the alleged event until after the worker has lodged a WorkCover application.

Accordingly, employers not only require more accountability and responsibility on the part of individual workers to report injuries that occur within the workplace in accordance with usual workplace protocols but also more rigor on the part of WorkCover with regard to examining *causation* issues. Presently there is a perceived over reliance on treating medical practitioner certification where the practitioner clearly has simply accepted the worker's version of events in terms of *causation*. This is compounded by WorkCover's need to make decisions on all claims within a limited timeframe.

Given that, subject to the exception of journey claims, most statutory claims have the potential to become common law damages claims where *causation* is a live issue employers are frequently left with no option but to engage in a costly process of engaging independent experts (both medical and non medical) to provide reports on causation with the view to seeking a Q-comp review of the decision by WorkCover to accept the statutory claim. This further action also has potential to fundamentally damage the employment relationship because of its unavoidable adversarial nature.

Employers also require more accountability and responsibility on the part of workers to report non-work related conditions which are susceptible to exacerbation (i.e. work relevant) or aggravation (i.e. work related) within a reasonable time frame.

For example, at present in the “no fault” statutory claims stage worker who have failed or deliberately neglected to report conditions such as carpal tunnel syndrome or non work related hernias to the employer, and who have sought medical advice but have chosen not to follow that advice are still able to make a statutory claim many months or years later when the condition has worsened and is more likely to leave the worker with a permanent work related impairment even after surgical correction. Again such scenarios frequently lead to a common law damages claim.

4.2 Definition of “worker” under the Act

The present definition of “worker” under the Act is too wide. It continues to impact in a significantly negative manner both on employer’s prospective premium assessments and retrospective premium audits particularly in industries when sub-contractors often operate their small businesses as individuals with an ABN rather than as incorporated entities. It also causes frequent confusion in this context as to whether an injured individual sub-contractor is covered by their own WorkCover QLD insurance policy or that of their head contractor. Ai Group submits that a definition closer to that under the Tax legislation would be more appropriate.

4.3 Harmonisation

Ai Group is in agreement with other QLD industry associations that simple harmonisation of workers’ compensation laws and/or schemes could result in premiums increasing, as would easier access to multi-State self insurance. This would likely result in Queensland’s competitive advantage being diminished. However increased uniformity in terms of the concepts applied within each state scheme and its legislation would be beneficial to those employers who conduct their business in a number of state jurisdictions.

4.4 Common law claims threshold

Ai Group is aware of the various compelling arguments that were previously submitted in the responses to the 2010 discussion paper in relation to the implementation of a common law threshold and note that this is a very complex matter, including with regard to the contentious distinction between

whole person impairment (WPI) vs work related impairment (WRI) assessments.

Ai Group also respectfully notes that the Plaintiff lawyer lobby would be expected to argue that the present situation where all workers who have had an accepted statutory claim are potentially eligible to lodge a common law damages claim (subject of course to the limits imposed in relation to the acceptance of statutory offers on the closure of statutory claims) should be maintained.

At present in QLD even where a worker has been assessed as having a zero permanent work related impairment percentage on the closure of their statutory claim, and despite the worker having returned uneventfully to their previous duties (or even to another more lucrative position), they are presently not barred from being able to also seek damages at common law in due course. While it is understood in this regard that WorkCover QLD is reporting an increase in NIL settlements of common law claims it is also reported by members that the expectation held by most common law claimants in this context appears to rely on the pragmatism of the respective parties to the effect that more often than not a confidential "go away" offer is made and accepted.

Ai Group submits that because of the prospect of common law damages being potentially open to the majority of injured workers, employers often experience extreme frustration and difficulty with engaging injured workers in the rehabilitation and return to work process. The employment relationship in terms of the mutual trust and confidence is also frequently undermined by workers verbalizing common law damages expectations (unfortunately often over inflated with reference to the subsequent reality of the compulsory settlement conferences) very early in the statutory claims process. When coupled with the employer's exasperation with certain aspects of the process, return to work with the same employer is frequently unable to be sustained in the longer term. In view of this Ai Group requests that WorkCover QLD gather more specific information than presently available on the impact of common law damages expectations particularly with reference to the number of workers who were able to return to their pre-injury employer and who remain with their pre injury employer up to 12 months after return to work.

In the premises Ai Group submits that a working group should be established to consider the above issues and the matter of a common law threshold in more depth and to particularly determine what threshold should be introduced (e.g. 0-15 percent?).

It is also noted that previously WorkCover QLD suggested the implementation of a threshold of 10 percent but now appear to have resiled from that position.

4.5 Journey to work and recess claims

Ai Group notes that these claims can be often vague and contentious and that more rigorous investigation of them should be undertaken by WorkCover particularly where a worker may have exposed themselves to abnormal risk.

It is further noted with reference to anecdotal evidence provided by Ai Group members that workers affected by a journey or recess injury are more likely to access the benefits of the Return to Work Assist program than other common law damages claimants.

Accordingly, Ai Group requests that more data in this regard be made available for scheme stakeholders' consideration in this regard.

4.6 Employment as a significant contributing factor

Ai Group members constantly report grievance with section 32(1) of the Act:

"An injury is personal injury arising out of, or in the course of, employment if the employment is a significant contributing factor to the injury" ,

and the fact that *employment* need only be determined on the balance of probabilities to *be a significant contributing factor* to an injury for it to be accepted by WorkCover QLD as a work related injury.

This is particularly difficult where there are any number of other *non* work related significant contributing factors (sometimes of equal or greater significance) present. For example, with regard to a stand alone or primary psychological injury (i.e. "stress") claim where there may be multiple psycho-social factors involved and the alleged employment relationship is extremely tenuous.

Ai Group submits that it is more reasonable overall for *employment* to be required to be *the major significant contributing factor employment* or, at the least, for *employment* to be *a major significant contributing factor*, and that the legislation should be amended accordingly.

4.7. Secondary psychological injury claims

Ai Group members particularly report dissatisfaction and dismay with the increasing number of secondary psychological injury claims and the manner in which they are assessed and managed by WorkCover QLD.

Ai Group considers that this somewhat informal sub-category of injury either has become or is in danger of becoming a significant hidden cost to the scheme and that its effect deserves closer scrutiny.

While Ai Group acknowledges that many serious physical injuries can have a post traumatic stress disorder component and that anxiety and depression can be a very significant factor in situations where recovery is slow and painful, however it particularly noted that:

- the Act is silent on this topic;
- from anecdotal evidence available there appears to be heavy reliance on general practitioner certification of secondary psychological injuries and that “doctor shopping” is often a feature of these claims;
- case managers are not obliged to consult with or involve the employer in the process because secondary psychological injury claims are simply included in the original physical injury claim and under the same claim number (and therefore must be distinguished from stand alone or primary psychological injury claims);
- employers have no right to challenge the decision by WorkCover to extend a physical injury claim to include a secondary psychological injury claim via a Q-comp review applications;
- as is often the case in relation to primary psychological injury claims (as mentioned in sub-paragraph 4.6 above), secondary psychological injury claims can also be multi-factorial in origin and the alleged causal connection with the primary physical injury or event may be vague or even contrived and overstated with the (either conscious or unconscious) view to avoiding or delaying a return to work.

Accordingly it is Ai Group’s submission that because secondary psychological injury claims and their management have potential to not only extend, delay or even comprehensively overtake a relatively short term primary physical injury and therefore have a profound impact on potential common law claim prospects, they should be subject to rigorous scrutiny and justification particularly on the respective parts of the injured worker, the treating practitioner/s involved and WorkCover QLD.

It is further submitted that given the greater frequency with which such secondary psychological injury claims are being accepted by WorkCover

QLD, the Act should be amended to expressly address this situation and to provide similar review rights to those applying to all primary injury claims.

4.8 Strategies to increase correlation between employer initiatives and premium reduction

It is generally recognised by all industry groups in QLD that employers should get a return on their investments in training, improved WorkCover related processes, improved workplace health and safety processes including updated plant and equipment, via lower WorkCover premium levels.

While it is also generally recognised that tangible incentives provided to employers who introduce initiatives that promote and result in measurably safer workplaces, and who invest time and money in preventing workplace accidents, would be an attractive initiative experience indicates that in other jurisdictions where this has been attempted it was difficult to sustain because of the inevitable inequities that result. Therefore the implementation of such initiatives must include appropriate checks and balances.

4.9 Strategies to increase employee responsibility in the workplace

Ai Group and its members submit that while the concept of *contributory negligence* was expressly addressed in the 2010 amendments of the Act the general perception of Ai Group members is that WorkCover QLD is still somewhat tentative about pressing this point in negotiations to settle common law claims.

Ai Group and its members would also like to see a more robust approach taken with regard to the application of section 130 of the Act by way of declining statutory injury claim applications on the ground of the serious and wilful misconduct of the worker. It is also the perception of Ai Group that despite the inclusion of this provision in the Act WorkCover QLD does not advise employers of its existence to the effect that few employers are aware of it and are of the understanding that the “no fault” tenet that applies in the statutory claim stage is all encompassing and all forgiving.

Ai Group also endorses more positive pressures being placed on workers to more actively co-operate with rehabilitation and return to work initiatives and to actively access such programs as Return to Work Assist particularly by way of demonstrated mitigation of loss.

Ai Group also repeats and relies on the concerns raised earlier herein to the effect that workers’ over inflated expectations of common law damages

prospects are frequently reported by its members to have a negative impact on a worker's willingness to wholeheartedly engage in rehabilitation and return to work processes. It is understood this is the result of fear of compromising the future damages prospect.

4.10 Competition in the workers' compensation insurance scheme

Ai Group is in accordance with the general view in QLD that WorkCover QLD should remain (in conjunction with the self-insurers), the sole insurer of workers' compensation claims in Queensland.

4.11 Employer experiences dealing with WorkCover QLD

While Ai Group membership reports some improved customer service since the decentralising of the service, and the more industry specific approach taken is generally recognised as being more satisfactory, however there is room for improvement and in this regard Ai Group repeats and relies on the submissions above.

4.12 Other

Section 119A of the *Workers Compensation and Rehabilitation Act 2003* allows workers to continue to accrue and take annual leave, sick leave and long service leave while receiving workers compensation entitlements. As Section 130 of the *Fair Work Act 2009* (Cth) stands in contrast to this provision clearly this is yet another contentious area for QLD employers particularly where claims extend for lengthy periods and also where secondary psychological injuries, as mentioned earlier, may be involved.

Ai Group members who attend WorkCover common law compulsory settlement conferences also regularly report concern about the expertise of WorkCover representatives (including panel lawyers) in the process of negotiating a settlement of a claim to the effect that there is a general perception that the Plaintiff lawyers appear to have the upper hand in this regard. While Ai Group is mindful of the *Model Litigant* principles with which WorkCover complies and the constraints that these principles impose, Ai Group considers that this is nevertheless should be an area for further education and training for WorkCover representatives.

Ai Group also continues to be of the view that WorkCover QLD needs to be more actively engaged with employers in the common law claims process and that there needs to be greater disclosure and transparency at this stage. While larger employers are generally more able to be proactive in this stage on their own behalf, smaller employers continue to report that they feel largely

marginalised in this late stage to the effect that their inclusion in the mandatory settlement conference is little more than a token gesture.

5.0 CONCLUSION

Ai Group strongly supports a fair and sensible workers' compensation scheme that provides access to high quality care and support for the seriously injured and speedy and effective recovery and return for all workers who have suffered a work related illness or injury. Most importantly a workers' compensation scheme needs to be efficient, cost effective and fair. Ai Group believes the measures put forward in this submission will improve claims management whilst still providing necessary support to injured workers and providing for a robust and sustainable workers' compensation scheme into the future.



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