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23 November 2012



Mr Michael Crandon MP
Chair Finance & Administration Committee
Parliament House
George Street
BRISBANE QLD 4000



E-MAILED
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Via email: fac@parliament.qld.gov.au

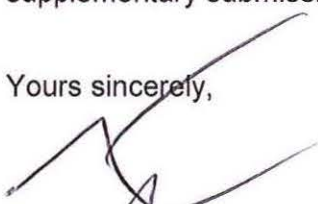
Dear Mr Crandon

RE: ENQUIRY INTO THE OPERATION OF QUEENSLAND'S WORKERS' COMPENSATION SCHEME

We refer to the committee's invitation to make any supplementary submissions in relation to the enquiry.

Thank you for the opportunity to present further submission and we **enclose** a supplementary submission for the consideration of the committee.

Yours sincerely,


Adam Tayler
Queensland Branch President
Australian Lawyers Alliance

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WorkCover Queensland Review 2012

Supplementary Submission

Australian Lawyers Alliance

Prepared for: Queensland Government Finance and Administration
Committee inquiry into the operation of Queensland's Workers'
Compensation Scheme

The Queensland Workers' Compensation Scheme has delivered the lowest premiums in the country for nearly all of the last fifteen years, providing a reliable cover for Queensland employers and employees.



1 Introduction

Further to the invitation by the Finance & Administration Committee ("F&AC") on 14 November 2012 at the public hearings of this Inquiry, the Australian Lawyers Alliance ("ALA") now provides the following by way of supplementary submissions.

2. Scheme Structure

A number of stakeholders have called for various changes to the scheme in an effort to improve matters relevant to their particular interests. In many cases the changes sought are linked to the desire to reduce scheme costs and premium levels.

The Queensland Workers Compensation Scheme remains the most successful scheme in Australia.

As evidenced by the quarterly actuarial presentations held on 21 November 2012, details of which are held by the Committee, the scheme is in increasing strong health.¹

The scheme has produced one of the best if not the single best operating result of the Schemes nationally in 2012, recording an operating profit of circa \$200M.

Actuarial data released this week, reveals that the claims numbers and payment levels continue to fall, further improving the position of the scheme, and enabling it to be in position for lower premiums to be passed onto employers.

When other schemes in the country are examined, it is apparent that the underlying reason why others schemes have fallen into significant unfunded liabilities, accompanied by soaring premium costs, is that Governments have sought to make changes to the underlying structure of the schemes that have caused this result.

By way of example, two schemes that have significant unfunded liabilities, NSW and SA², both made changes to the structure from short tail schemes to long tail schemes.

In the opinion of the ALA, the following mooted changes to the structure of the scheme, will inevitably lead to Queensland being placed in the same deteriorating positions as other schemes in Australia:-

a) Introduction of thresholds.

By definition, the introduction of thresholds will add to disputation cost soaring, increase administrative costs for scheme operators, and add to the long tail as workers migrate back to statutory frameworks.

Thresholds are also fundamentally inequitable because impairment does not equate to work disability.

¹ PWC & Finity, 2012 Quarterly Actuarial Presentations, Q-Comp

² SA Funding Ratio – 67%, NSW Funding Ratio – 94% 2011.r Source: Comparative Performance Monitoring data "(CPM) 14TH Edition

b) Restrictions to definitions for access.

Similarly, by restricting definitions, disputation will be increased adding to the underlying costs of the scheme.

The delicate balance of where to draw the line on the definitions of “injury” and “worker” has been well met by the Queensland Government, a key reason why disputation rates in the scheme are the lowest in Australia.³

It is critical that the Queensland Government not alter the structure of its scheme and thereby interrupt the successful structure of its model, which is best placed to deliver fair benefits and lower premiums.

3. Journey Claims

The proliferation of drive-in, drive-out employment arrangements in a highly decentralised State increases risks of motor vehicle injuries. Our CTP scheme only covers those injured due to the fault of a third party.

Abolition of journey coverage would deprive employees of the opportunity to see workers injured in those circumstances receive rehabilitation support from the WorkCover scheme to facilitate a return to productive employment in a skills-shortage environment.

And the dependants of those killed in such circumstances would be deprived of any compensation.

Journey claims do not affect employer premiums.

4. Can the Queensland Scheme be Improved ?

There are a number of ways the Queensland Scheme can be further enhanced to enjoy unrivalled success as the premier workers compensation scheme in Australia.

These include:

4.1 Premium Reduction

The average premium rate in Queensland currently sits at \$1.42.⁴

The ALA has commissioned actuarial forecasting which supports the increasing ability to reduce premiums based on the 2012 reforms to the scheme, to put Queensland even further ahead of other schemes thus enabling sensible premium reduction. The actuarial presentation on 21 November substantially supports that forecast.

ALA believes some small changes to the Statutory frameworks in the scheme, coupled with the flow on of scheme improvements from the 2010 reforms, as evidenced by actuarial analysis, will place Queensland in the enviable position where it can sustainably hold a low premium rate. This will provide a significant boost for Employers in

³ Qld Disputation Rate 3.1%, CPM 14th Edition, 2011

⁴ WorkCover Published Average Premium Rate, 2011/2012

Queensland and attract other businesses to Queensland that are considering where to base their operations.

4.2 Fraud

Fraudulent conduct by employers and workers has two significant effects on the Scheme. Firstly it adds a cost burden that should be eliminated and secondly, it encourages unscrupulous conduct by others.

Queensland enjoys among the strictest fraud legislative provisions of all schemes in Australia.

That said, the ALA welcomes changes that would further discourage fraudulent conduct in the scheme.

4.3 Employer Relations

A key theme among submissions lodged in the Inquiry to date, from Employer and Employer Organisations, is an apprehension that some elements of the Scheme are unfair to Employers. Nevertheless, we note that a significant majority of employers are happy with WorkCover's performance.

In a number of key instances, the ALA observes that the source of apprehension appears to be a misunderstanding or misinterpretation of the Scheme.

ALA would welcome initiatives by WorkCover Queensland and or Q-Comp to provide key education to Scheme stakeholders as to all elements of how the Scheme operates for the benefit of stakeholders.

4.4 Return to Work

A key driver for further improvement to the Scheme is the level and success of Return to Work programs.⁵

Although the Queensland Scheme enjoys a competitive RTW rate nationally, there are some key improvements which can be made which will enhance the scheme and deliver key benefits for stakeholders.

Two initiatives the ALA would invite the Queensland Government to consider include:-

- (1) Consolidation of the current Q-Comp and WorkCover RTW programs into a single program;
- (2) Legislative
mandating for RTW participation, on reasonable terms.

Workers prefer a meaningful and sustainable return to work and compensation process if possible.

Enhancement of return to work initiatives will reduce the impetus to bring claims.

⁵ Qld Durable Return to Work Rate, 76%, CPM 14th Edition 2011

This will lower scheme costs and further drive premium reduction capability on a sustainable basis.

4.5 Premium Smoothing

The ALA would encourage WorkCover to work with experts and stakeholders to devise equitable methods by which premium increases can be smoothed across an extended period.

5. Conclusion

The Queensland Workers Compensation scheme IS the strongest scheme in Australia. This is not by accident. It is because the Governments of this State over the last several decades have diligently kept the right structure in place for the scheme to be sustainably successful.

Painful lessons have been learnt by other State Governments that have altered their models, and have now the legacy of unfunded liabilities that could take decades to unwind.

We note that many employer groups have strongly endorsed the fundamental structure of our current scheme.

The Newman Government does have an opportunity to further enhance the Scheme and we welcome changes in the key areas noted above.

It is important for the Scheme to deliver for the benefit of all stakeholders on a sustainable basis.

We believe the Queensland Workers Compensation Scheme is well placed to do this.