



INDEPENDENT EDUCATION UNION OF AUSTRALIA  
QUEENSLAND AND NORTHERN TERRITORY BRANCH

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21 November 2012

The Research Director  
Finance and Administration Committee  
Legislative Assembly of Queensland  
Parliament House  
George Street  
Brisbane Qld 4000



By email: [fac@parliament.qld.edu.au](mailto:fac@parliament.qld.edu.au)

Dear Sir/Madam

**RE: Review into the Operation of Queensland's Workers' Compensation Scheme**

We thank you for the opportunity to participate in the Public Hearings on Wednesday 31 October 2012. We note from these hearings that further information from stakeholders would be considered if submitted by Friday 23 November 2012.

We rely on the submissions we have already made, and now ask that the following information be considered as part of this process:

**1. The importance of an employee's workers' compensation history being withheld**

We fully endorse the current restrictions around the use of an employee's workers' compensation history. If a person's workers compensation history is requested by an employer, or alternately is mandatorily declared to an employer, this will prejudice the employment or prospective employment of that person. This would be contrary to the principles of equal opportunity. This would also be in direct contravention of Section 124 of the *Anti-Discrimination Act 1991*, which prohibits the request of unnecessary information. Unnecessary information is defined in the Act as information upon which unlawful discrimination could be based.

**2. Changes to the definition of "worker"**

We strongly support the submissions made in writing and at the Public Hearings around maintaining the current definition of "worker". Like our affiliates, we have members who work on precarious contracts in our independent sector and who would by all other industrial definitions be considered employees and not contractors. Such employers engage in sham contracting to evade their statutory obligations. Restricting the definition of worker serves only to reward those employers. Should the definition of "worker" be further restricted, the employees who are already subject to the dubious operations of their employers, will be placed at further unnecessary disadvantage and this will simply place an added financial burden on our community sector.



### **3. Changes to the definition of “injury”**

We strongly support the current definition of injury as outlined in the Act. To further restrict this definition will both disadvantage and prejudice workers who injure themselves at work, particularly if they have a pre-existing injury that is aggravated as a result of their work. There should not be any change in the current definition of “a significant contributing factor”, nor should there be any % threshold of injury introduced to determine acceptance.

### **4. Access to common law**

We fully support the current arrangements around access to common law. There is clear evidence that the recent reforms have reduced the number of common law damages claims. To restrict access in any way would be inequitable at law. Restricting access to common law claims under workers compensation will require the removal of restrictions on work-related injuries in the *Civil Liabilities Act 2003* to ensure that all Queenslanders are treated equally in the eyes of the law when it comes to personal injury. The Queensland scheme as it stands is equitable for workers and cost efficient for employers as it is focussed on speedy resolutions and avoids the unnecessarily prolonged legal processes that personal injury claims generate.

### **5. Changes to access to journey claims**

We strongly oppose the removal of journey claim provisions. Many of our members are required to travel to various campuses for their work and often travel in the course of their work, many in their own vehicle and in their own unpaid time. Access to journey provisions is also significant for shift workers who are subject to working arrangements that cause fatigue and who may not be able to rely on public transport to get to and from work. Any removal of journey claims will prejudice our regional and remote communities where substantial travel is often required for employees to get to and from work. A majority of vehicle claims are off-set by third party insurance, so these claims costs are recoverable. The employer is in control of the hours of work, the system of work and the location of work and so it is only fair that injuries that occur in transit remain as part of the scheme. Only 6% of workers compensation claims are journey claims, so the burden of these claims on the scheme is very small. The speed with which they are dealt with by the workers compensation process prevents extended costs to workers, employers and our community. Workers who are forced to rely on third party claims can wait months and even years before an insurer is willing to accept their claim.

### **6. Changes to the self-insurance arrangements**

As a minimum, the current system of self-insurance provides security and certainty for affected workers, due to the necessary restrictions imposed and surety required for employers to participate. We oppose any moves to further relax participation in self-insurance. The retention of these restrictions is necessary to ensure the sustainability of the scheme. Any increase in the number of insurers will impact on the financial viability of the scheme.

As we have indicated in our submissions to date, it is the view of our membership that prevention is much better than cure. We support all initiatives that will prevent injury occurring in the first place. We believe that investment in injury prevention will bring about

the most significant cost reductions both in our workers' compensation scheme and within our community at large.

As a final point we say the Queensland Workers' Compensation is currently fully funded and this is significant. Our premiums are the lowest among the state schemes. The recent reforms have generated significant improvement in all key areas of operation including reduced common law claims, increased return to work participation, increased employer compliance and shorter claims length. All businesses know where they stand, have a scheme they can rely on and have capacity and incentive to continue improving their premium and claims experience. We can see no justification for any change to the current arrangements in the scheme.

Please feel free to direct any queries to our Industrial Officer, Danielle Wilson.

Yours faithfully

A handwritten signature in black ink, appearing to read 'T. A. Burke', written in a cursive style.

**TERRY BURKE**  
**BRANCH SECRETARY**