
Carpet Call (Qld) Pty Ltd

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The Chairman
Finance & Administration Committee
Queensland Parliament
Parliament House
George Street
BRISBANE QLD 4000

Email: fac@parliament.qld.gov.au



Dear Mr Crandon

OPERATION OF QUEENSLAND'S WORKERS' COMPENSATION SCHEME

Submission

Our submission to the Committee is that the scheme is working unfairly in a particular situation and that the legislation should be amended to remove that unfairness.

We refer particularly to the manner in which floor covering installers who are not "workers" under section 11(1) of the Workers' Compensation and Rehabilitation Act 2003 ("Act") are asserted nevertheless to be workers under paragraph 1 or 2 of Part 1 of Schedule 2 of the Act.

Background

This company is a wholly owned subsidiary of Carpet Call (Holdings) Pty Ltd which conducts the business of selling and installing floor coverings in the mainland states of Australia. That business is conducted through this company in respect of the state of Queensland.

The broad business model of the industry is that floor coverings sold to customers are installed by independent (ie non-employee) installers who operate as independent contractors. This situation has obtained for a very long time and arose organically rather than, and never as, an attempt to in any way circumvent any application which the Act would otherwise have had to those installers.

The installers conduct their own independent business supplying floor covering installation services to us as agreed from time to time and to members of the public generally.

In addition to their labour they supply and maintain their own motor vehicle, supply all tools of trade, supply materials for incorporation into the work, employ others if they wish to assist in the work, charge us GST, maintain their own insurances of various types in connection with the services they provide, are responsible for rectifying defective work and/or damage caused in carrying out the work and generally conduct themselves as self-employed business people as they in fact are.

For example, the arrangements with installers could in no way be described as anything like "sham arrangements" under the Fair Work Act (Cth).

WorkCover, while accepting that the installers are not workers under section 11(1), nevertheless from time to time asserts that some installers are workers under the provisions of Schedule 2 Part 1 referred to above – ie on the basis that they are supplying "labour only or substantially labour only ..." or that they fail the "results" test.

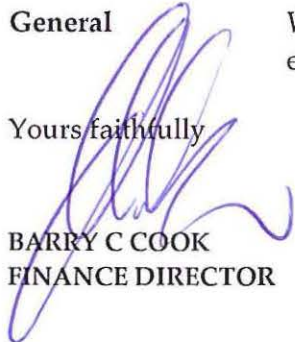
We believe, at least in the case of this company, that our arrangements with our independent contractor installers do not attract the adverse operation of paragraphs 1 or 2 of Part 1 of Schedule 2 but the necessity to respond to repeated WorkCover investigations and inquiries and to object to any assessments in respect of installers is a continuing unwelcome burden and distraction.

Suggested Solution To overcome these difficulties we suggest that, in appropriate language, floor covering installers not caught by section 11(1) be listed in Part 2 of Schedule 2 ("Persons who are not workers").

General

We would be happy to provide any further information or explanation which might be of assistance to the committee.

Yours faithfully



BARRY C COOK
FINANCE DIRECTOR