

22 March 2013

Michael Crandon MP
Committee Chair
Finance and Administration Committee
Parliament House
George Street
Brisbane Q 4000



1 2 2 8

By email: fac@parliament.qld.gov.au



Dear Mr Crandon

I write on behalf of members of the Australian Manufacturing Workers' Union ("AMWU").

I refer to the *Inquiry into the Operation of Queensland's Workers' Compensation Scheme*. Please find **attached** a copy of the AMWU's submission concerning Q-Comp's proposal "*Reducing red tape for employers*".

Please direct all correspondence in relation to this matter to Industrial Officer, Katelyn Allen.

Yours sincerely

R Webb

Rohan Webb
State Secretary

**Inquiry into the Operation of Queensland's
Workers' Compensation Scheme**

Response to Q-Comp's proposal "Reducing red tape for employers"

AUSTRALIAN MANUFACTURING WORKERS' UNION



Submission to the Finance and Administrative Committee

March 2013

Enquiries:

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Inquiry into the Operation of Queensland's Workers' Compensation Scheme

Response to Q-Comp's proposal "Reducing red tape for employers"

Introduction

The Australian Manufacturing Workers' Union ("AMWU") makes this submission in response to Q-Comp's proposal with respect to "reducing red tape for employers". Q-Comp proposes legislative amendment to remove the requirement for claims to be lodged with the insurer until 50% of QOTE is reached with medical costs or compensation for loss of wages.

The AMWU notes that it made a submission to the Inquiry on 2 August 2012. The AMWU seeks for this submission to be read in conjunction with the aforementioned submission. The AMWU further notes the Queensland Council of Unions ("QCU") has made a submission in response to Q-Comp's proposal. The AMWU supports the QCU submission.

The AMWU wishes to raise concerns, as detailed below, with respect to the Q-Comp proposal.

1. Circumvention of the workers' compensation scheme

- 1.1 The AMWU is extremely concerned that the proposal would result in cases of employees being denied access to the workers' compensation scheme. In particular, we believe Q-Comp's proposal provides unscrupulous employers with an opportunity to circumvent workers' compensation claims for minor injuries.
- 1.2 The proposal provides for employers to develop and maintain a "register of minor injuries". The proposed register would serve as the sole area of documentation for injuries and illnesses that fall within the purview of equating to less than 50% of the QOTE for medical costs or compensation for loss of wages. Allowing employers to determine and document claims in this fashion, would undoubtedly lead to unscrupulous employers abusing the system and denying employees the right to workers' compensation.

2. Impact on the notification claims process

- 2.1 Many AMWU members lodge "notification claims" with WorkCover or the relevant self-insurer. Under Q-Comp's proposal these types of claims fall below 50% of QOTE, as no monies are paid with respect to medical treatment or lost wages.
- 2.2 The AMWU strongly cautions against any changes to the process of notification claims arising from the Q-Comp proposal or as a result of the *Inquiry into the Operation of Queensland's Workers Compensation Scheme*. These types of claims are essential in protecting the rights of employees who may develop diseases or injuries in the future from a workplace incident/s.
- 2.3 Asbestos exposure in the workplace is a key example of the efficacy of the notification claims process. A notification claim may be lodged with WorkCover or relevant self-insurer in circumstances in which an employee believes they have been exposed to asbestos. Asbestos related diseases have a long latency period, as such it may take many years, even decades, before symptoms arise and a diagnosis of an asbestos related disease occurs. A notification claim provides a clear and simple process in which an employee can notify of exposure. Notification claims themselves cut "red tape" by providing a simple and easy process that enables the documentation of incidents that may result in claims in the future.

Inquiry into the Operation of Queensland's Workers' Compensation Scheme

Response to Q-Comp's proposal "Reducing red tape for employers"

3. Determination of claims, management of register and disputed claims

- 3.1 The AMWU notes that WorkCover and other workers' compensation insurers have specifically trained personnel to determine claims of compensation. The determination of claims is undoubtedly a central role for insurers within the Queensland workers' compensation scheme. The Q-Comp proposal creates more red tape, as it requires employers to take on additional work. Moreover, the AMWU is concerned that many employers, especially small and medium businesses, would not have the expertise or time to determine and manage claims.
- 3.2 The Q-Comp proposal fails to provide a required time frame in which claims will be determined by an employer.
- 3.3 The proposal that employers develop and maintain a "register of minor injuries" is deeply concerning. The imposition on employers to develop and maintain a fulsome injuries register creates greater amounts of red tape and adds a further layer of bureaucracy to the workers' compensation scheme. The imposition of the proposal would create more work for employers, particularly those operating small and medium businesses.
- 3.4 The proposal does not particularise how this scheme would be regulated. Who is going to ensure employers adhere to developing and properly maintaining appropriate registers? How would such a scheme be adequately regulated to ensure compliance by all employers in Queensland?
- 3.5 The AMWU notes that the Q-Comp proposal fails to provide a clear process for how disputed claims would be dealt with. We are particularly concerned employees would not be able to freely and easily raise matters related to disputed claims. Furthermore, what access would employees have to the register to ensure that the employer has indeed documented individual claim/s?

4. Impact on Common Law claims

- 4.1 The AMWU is extremely concerned with the possible impact the Q-Comp proposal would have on the rights of employees to pursue common law claims for personal injuries or illness arising from employment.
- 4.2 The AMWU notes that the proposal provides the employer with the responsibility to develop and maintain a "register of minor injuries". What happens to the rights of an injured employee seeking to pursue common law claims when an employer has failed to properly maintain or keep a register? Or, fails to document a workers' compensation claim? Or, fails to accept a genuine claim? Or, what happens if an employer closes down? Where such evidentiary uncertainties occur in the context of employees needing to prove injury to pursue a damages claim, the potential for disputation is higher. This disputation adds to scheme costs and is an administrative burden on employers.

Inquiry into the Operation of Queensland's Workers' Compensation Scheme

Response to Q-Comp's proposal "Reducing red tape for employers"

4.3 The Q-Comp proposal implies that any injury or illness that is initially "minor" does not have the possibility of developing into a more serious condition or even permanent impairment. This is simply not the case. In the experience of many AMWU members, relatively minor injuries or illnesses can develop into serious conditions which cause permanent impairment. All claims for workers' compensation therefore need to be properly assessed, determined and management by WorkCover or the relevant self-insurer.

5. Coercion and discrimination arising from employers managing claims

5.1 The AMWU is extremely concerned that the Q-Comp proposal may lead to some employees being coerced into not making claims for workers' compensation. Moreover, we also submit the proposal provides a greater risk of discrimination for employees suffering from illness, injury and/or wishing to lodge workers' compensation claims.

Conclusion

The AMWU submits that the Workers' Compensation scheme in Queensland has a relatively straightforward process with respect to the notification, lodgement and determination of claims. As outlined in our initial submission to this Inquiry, there is no financial or other reason for the Newman Government to make changes to the Queensland Workers' Compensation scheme. The scheme is highly solvent which offers strong and fair protection for working Queenslanders. Moreover, it provides for low premiums.

The Q-Comp proposal would not result in "reducing red tape for employers". We submit that the proposal would actually result in an increase of red tape and the administrative burden for employers. Moreover, the Q-Comp proposal would have a broad ranging impact on the scheme itself. We submit the proposal would alter many facets of the scheme to the detriment of the very people it is designed to protect – employees suffering from illness and injury as a result of their employment.

It is important for the Inquiry to look beyond the basic mechanics of Q-Comp's proposal. This is not an issue simply about how "minor injuries" are determined, managed and documented. We respectfully seek for the Inquiry to consider the serious consequences the proposal would have on employees, employers, insurers and the scheme itself. Accordingly, the AMWU strongly urges the *Inquiry into the Operation of Queensland's Workers' Compensation Scheme* not to adopt Q-Comp's proposal.

Submission end.