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6 Aug 2015
Finance and
Administration Committee

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Ms Di Farmer MP
Chair
Finance and Administration Committee
Parliament House
George Street
BRISBANE QLD 4000

Email: fac@parliament.qld.gov.au

Dear Ms Farmer

Re: Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2015

The Australian Industry Group (Ai Group) welcomes the opportunity to make a submission to the Finance and Administration Parliamentary Committee regarding the *Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2015* (the draft Bill).

Ai Group is a peak industry association in Australia which, along with its affiliates, represents the interests of more than 60,000 businesses 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. The businesses which we represent employ more than 1 million employees.

Ai Group strongly supports a fair and sensible workers compensation scheme that provides access to care and support for the seriously injured and speedy and effective recovery and return to work for all workers who have suffered an illness or injury at work. Most importantly a worker compensation scheme needs to be efficient, cost effective and fairly balance the interests of employers and workers.

The amendments to the *Queensland Workers' Compensation & Rehabilitation Act 2003* that came into effect in late 2013 were welcomed by Ai Group members and industry across the state.

Ai Group and its members were extremely disappointed when the Queensland Government committed to reverse these critical reforms particularly with reference to the inevitable impact this will have on the WorkCover Queensland premium. Numerous employers have also expressed their concern that the resulting impact on premiums will force them to consider alternatives such as off shore production.

In this context Ai Group is pleased to see that the draft bill is not intended to remove all of the 2013 amendments. However, we do have some key concerns about the Bill.

The major concern that Ai Group, and our members, have with the draft Bill is the removal of the “greater than 5%” threshold, which applies to accessing common law damages claims. It is noted that the threshold introduced with the 2013 amendments is extremely modest by comparison to other jurisdictions.

Without the “greater than 5%” threshold, a worker, having been assessed as having no permanent work related impairment on the closure of their statutory claim and despite having returned uneventfully to their previous duties, can seek damages at common law in due course.

The prospect of a common law damages claim, without the need to satisfy any threshold, often leads to employers experiencing difficulty with engaging injured workers in the rehabilitation and return to work process. In this regard the employment relationship is often undermined by the worker’s verbalised compensation expectations and the employer’s frustration with the process, to the effect that return to work with the pre-injury employer is frequently unable to be sustained in the long term.

As the 2013 amendments have been in place for less than two years, it is not possible to identify whether the introduction of the threshold has had a positive impact on return to work outcomes (the most recent Comparative Performance Monitor produced by Safe Work Australia include data only up to 2012/13), and the data available at www.worksafe.qld.gov.au only extends to 2013/14. However, it is Ai Group’s strong view that the removal of the “greater than 5%” threshold will, in the medium to long term have a negative impact on return to work outcomes and scheme costs by returning that aspect of the scheme to its former unsatisfactory state.

If the amendments are passed, it is essential that there is no retrospectivity, as this would create extreme uncertainty in relation to any future amendments that may be made to the Act. Further, Ai Group is strongly opposed to any reparation scheme being introduced by the government, outside legislative specification or control, for those workers who were unable to access common law damages from October 2013 until the effective date of the amendments.

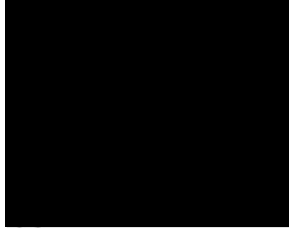
Ai Group is also disappointed to see that the Bill proposes to remove section 571D which enables an employer to see the claims history of a prospective worker, with their consent. This provision, combined with section 571A, B and C, have provided Queensland employers with the opportunity to employ and manage new employees with reference to best work health and safety practice by having access to appropriate information about pre-existing health issues. Employers have been able to realistically manage, avoid and/or minimise the risk of work related aggravation injury claims and workers have been more personally accountable in this regard. This was a very important development for many industries where aggravation injury claims have been, and continue to be, a constant and serious work health and safety risk management challenge.

Accordingly, Ai Group urges the Committee not to support any aspect of the draft Bill.

Should you have any further queries regarding this submission please do not hesitate to contact [REDACTED] Ai Group’s Manager – National Safety & Workers’

Compensation Policy and Membership Services on email
[REDACTED] or mobile: [REDACTED] or [REDACTED] Ai Group's
Principal Adviser, Workplace Relations on email [REDACTED] or
mobile: [REDACTED]

Yours sincerely

A large black rectangular box redacting the signature of Jemina Dunn.

Jemina Dunn
Director - Queensland