

SUBMISSION TO

THE FINANCE AND ADMINISTRATION COMMITTEE
(QUEENSLAND PARLIAMENT)

WORKERS' COMPENSATION AND REHABILITATION AND
OTHER LEGISLATION AMENDMENT BILL 2015

THE AUSTRALIAN MEAT INDUSTRY COUNCIL

August 2015

Introduction

1. The Australian Meat Industry Council (AMIC) desires to make short submissions concerning the *Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2015* (the Bill).
2. The Bill was introduced into Parliament 15 July 2015 and referred to the Finance and Administration Committee for 'detailed consideration'.
3. We do not need to outline the representative interests of AMIC. They were detailed in submissions filed September 2012 when similar issues were before the same named Committee for consideration. The representative interests of AMIC were also briefly set out in a letter, dated 26 June 2015, sent to all members of the current Parliament.
4. Our comments on the present Bill are primarily directed towards the reinstatement of access to common law for employees the subject of workplace injury.
5. In the 2012 submission AMIC detailed the faults of a system where access to common law contained no threshold. We detailed why changes were necessary to the then system. Industry was still bleeding in 2012 irrespective of earlier 2010 amendments.

The Bill

6. We understand the ideological basis of the Government's Bill. We've taken note of the parliamentary comments of the Minister when the Bill was introduced into Parliament. We understand Labor Party policy on the issue. We understand that the union movement agitated the then Opposition leading up to the 2015 election to restore full common law access.
7. Governments, however, are elected to govern for all the people and all interests. That includes employers who provide the jobs that drive the economy in the state of Queensland. Increased costs to business invariably results in fewer jobs.
8. Restoring unlimited access to common law for injured employees can only be regarded as a retrograde step.

9. Every indication shows that the passing of the Bill into legislation appears signed and sealed. We can see no evidence or reference terms that indicate any inquiry will involve 'detailed consideration.' Reference to the Committee appears merely to claim a rubber stamp.

Workers' Compensation and access to common law

10. Workers' Compensation, in every jurisdiction, is a no-fault system. As such, in to-day's environment of spiralling litigation costs and legal sharks advertising 'no win no fee', care is needed when considering the ramifications of access to common law for injured employees.
11. No matter how vested interests may argue, full restoration of access common law will increase business costs. It must.
12. Access to common law has been reduced or abolished in various jurisdictions. The reason for this is clear – how, in to-days economic environment, can a no-fault system operate alongside unlimited access to the 'common law' civil courts? It does not make sense. It certainly does not make sense given the costs associated with common law litigation.
13. Business cannot operate effectively and with certainty when a Queensland government of one political persuasion implemented changes and now, a subsequent government of a different persuasion, seeks to turn back the time. Business cannot operate under these circumstances.
14. The present Government's answer is simply that the 2012 Committee did not recommend the changes implemented early 2014. However, it is not as simplistic as that statement. By the government's own admission in the words introducing the Bill, the full impacts of the 2010 legislative changes were 'yet to be fully realised'. Likewise, one will never know the true effects of the 2014 amendments if the Bill becomes legislation. Our sources say a proper period of analysis would be 5 years.

15. The current situation concerning access to common law in various jurisdictions around Australia is as follows:

New South Wales – substantially modified and one of the criteria is the worker must have at least 15% WPI;

Victoria – limited and first a worker must be granted a 'serious injury certificate and one method for obtaining a certificate is during the impairment assessment for a worker assessed as having at least 30 % WPI;

Western Australia – limited access with at least 15% WPI;

South Australia – no access;

Tasmania – limited access and the worker must suffer at least 20 % WPI

Northern Territory – no access;

C'wealth Comcare – limited access.

16. Some of the changes in these jurisdictions have occurred since the beginning of 2012. Note also that New Zealand provides for no right to sue for personal injury.
17. Queensland, if the Bill becomes legislation, will be the largest jurisdiction in Australia offering unlimited access to common law.

The Minister's Parliamentary speech

18. For every real life example given in relation to injured employees one can counterbalance with examples showing cost and impact issues for employers over a period.
19. For the Minister's example that was given when he introduced the Bill, we simply pose one question. For the jurisdictions summarised in paragraph 15 above, would the 36 year-old plumber have had access to common law? The answer is 'no'.

Australian Meat Industry Council – August 2015

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