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Ms Deborah Jeffrey
Research Director
Finance and Administration Committee
Parliament House

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Dear Ms Jeffrey,

Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2015

HIA appreciates the opportunity to make a submission to the Committee on this Bill.

The legislation is opposed by the residential building industry: it is unnecessary and is uncoded. As an initial observation, HIA considers that the Bill and its Explanatory Notes provide insufficient information for the Parliament to make a properly considered decision on the passage of this legislation.

The Explanatory Notes fail to detail any quantitative assessment of the cost to the workers compensation system of the policy changes outlined in the Bill. For instance the Notes estimate that the policy changes "... can be achieved without an increase in the average premium rate..." but then goes on to explain that WorkCover's "... substantial reserves will reduce". The question that remains unanswered in the Notes is how long will it be before the reduction in the scheme's net assets require a top-up by increasing premiums?

For self-insurers, the Explanatory Notes are even more vague, simply stating that "There will be some financial impacts...".

The clear implication of the Notes is that without the policy changes introduced by the Bill Queensland's employers could enjoy an even greater competitive advantage in their respective markets through lower workers compensation premiums. Moreover, there is also an implication that premiums will rise at some point in the future and no attempt has been made to assess this timetable.

Employment levels and economic activity in Queensland will be worse off, compared with the status quo, as a result of this Bill. But there has been no assessment made of these impacts so that they can be weighed up by the Committee and ultimately Parliament, against the benefits that the Bill claims to deliver.

Turning to the substantive content of the legislation, HIA does not support the removal of the 5% degree of permanent impairment threshold for making common law claims.

According to the Explanatory Notes and the Minister's speech that introduced the Bill, the Bill removes an unfairness in the current policy. Yet at 5%, the impairment threshold in Queensland is already well below the level applying in many other States, so it is currently a "fairer" scheme than applies in most other jurisdictions. HIA notes for example that the threshold for access to common law in Tasmania is 20% WPI, in NSW it is 15%, whilst in Victoria it is 30%.

The impact of the threshold also needs to be considered against the level of statutory benefit and the net benefit of a common law claim after legal and other costs. Every worker is automatically covered under statutory, no fault workers compensation insurance.

HIA notes that in 2010 the Queensland Government indicated that common law claims in that state were less than 5 per cent of the total number of all claims, yet accounted for just over 40 per cent of the cost of running the Scheme. These costs are ultimately borne by employers in the form of higher premiums. For instance, between 2009 and 2012 premiums increased by almost 20%.

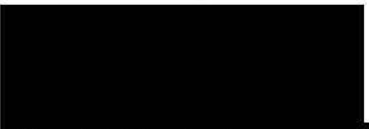
Where there is dual access to statutory and common compensation, common law rights should be restricted to those seriously injured, leading to severe disability or death and balanced against the total benefits provided to injured workers under the scheme.

Whilst HIA understands certain parties, with a vested interest in restoring previous thresholds (or enabling unrestricted access to common law claims) have consistently opposed the previous government's legislation, in HIA's submission the current 5% DPI threshold is appropriate, and strikes the right balance and should be maintained.

Another significant deficiency in the Bill is that provision is made (in Clause 33) for the payment of lump sums to a subset of compensation recipients who were injured during the period that the 5% threshold was in force. Not only is the retrospective application of the provision contrary to the rule of law, in HIA's view it is insufficient to rely on the Regulations to deliver the detail of the eligibility for, and extent of, payments to this group.

Notwithstanding the lack of detail about what is proposed for this group, HIA does not believe that a case has been made that a subset of this group should receive additional financial support.

Yours sincerely



Warwick Temby
Executive Director