

From: [REDACTED]  
To: [Legal Affairs and Community Safety Committee](#)  
Subject: Industrial Relations (Fair Work Act Harmonisation No. 2) and Other Legislation Amendment Bill 2013  
Date: Monday, 28 October 2013 4:56:20 PM

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Submission:

## Industrial Relations (Fair Work Act Harmonisation No. 2) and Other Legislation Amendment Bill 2013

Dear Sir/Madam,

As a Diagnostic Radiographer who has worked for Queensland Health for more than two decades in addition to interstate Public and Private Hospitals, I would like to submit the following for consideration in relation to the proposed Bill before the Committee.

I appreciate that the committee has the difficult role of navigating between a strong government's desire to implement the Bill, and it's own good conscience that the impact this bill will have to not just the Radiographers, or the Public Health staff , or the wider Queensland Public Service Staff, but rather the entire population of Queensland which quite rightly relies on the aforementioned elements that keep their public health system operating in a safe manner and at a quality of standard which is not compromised by radical and untested changes to service provision.

Much of my submission revolves around the intent of the Bill to 'streamline' the Health Professional (HP) award by removing Radiographer's allowances and conditions although I do also express concern on most other aspects of the bill.

If the committee will allow me, I will, on occasions ask them to note my comment, then step back and look a the bigger picture, of the wider impact and the real direction that this proposed bill is taking Queensland, it's Government, it's Employees, and the quality of services that all Queenslanders have the right to expect from it's public service.

From the Bill itself citing the Commission Of Audit.

"that awards continue to provide the basis for public sector wages and conditions, however only matters not covered by legislation or Public Service directives should be included; and the number of awards that apply in the public sector should be significantly reduced;"

I would argue that a Radiographer/Sonographer is not by any stretch of the imagination an Audiologist, nor a Physiologist, nor a Social worker, nor a Pharmacist, nor a Podiatrist, nor any of the other professionals listed in the HP stream which already too broad in it's inclusions, and which is now being proposed to be further streamlined ( broadened) into even fewer award with other streams. Neither are we a Nurse, a Doctor, nor any of the many other worthy health streams.

There are aspects to our role that require vastly diverging responsibilities, education

and safety considerations from any of the other health professionals, such as, for one example, the careful use of potentially harmful levels of ionising Radiation.

Many Radiographer's have long argued that we should separate from the HP stream to our own. Moving us to a proposed 'streamlined' award that encompasses an even broader range of Health staff is completely the wrong direction. We work in the health sector along side the other professional streams, but the similarity usually finishes there.

In the same way, one would never assume that an MP was a secretary, despite being often involved in the same working environment. Removing allowances, rights and conditions of MP's to match those of a secretary's baseline or safety net would never be considered satisfactory or appropriate, nor have they ever been proposed by this government.

With this in mind I would argue that any new streamlined award for health staff should not include Radiographers/Sonographers. Rather, that our current award, it's conditions and the certified agreement should remain in situ.

Certainly, the agreement has grown complex over the years, just as the scope of the role "Radiography/Sonography" it attempts to remunerate has grown complex. This is not a valid excuse to obliterate conditions existing in the certified agreement when the role itself has not reduced in its nature and complexity

#### Particular Issues with the Bill :

1) - Why are we aiming for the bottom of the scale of remuneration for those in such important clinical health settings and thus, the risking the quality and quantity of health professionals attracted to Queensland in the future ?

The importance of interstate wage rates (and allowances) for important Government staff (MP's) has already been acknowledged by the current and previous Queensland State Governments in the moves to decide Queensland MP's remuneration not using an individually negotiated workplace agreement, but rather to tie it to their Federal counterparts in a formulaic method of benchmarking remuneration, thus demonstrating the Government's understanding that to ensure we have MP's of high standard we need to remunerate them to a level that is benchmarked just below their Federal counterparts, and certainly not well below their NSW, Victorian, W.A., S.A, N.T., ACT or Tasmanian equals.

The importance of this matter was again highlighted with the recent attempt to recover back-pay and pay rises for those MP's who had fallen behind against other states MP's for remuneration. The government only electing to defer the decision to an independent tribunal for assessment after a public outcry.

Fortunately for the MP's in Queensland, the independent pay tribunal came to the conclusion that a 9% pay rise was appropriate despite the current difficult economic climate to help bring them back to a benchmark level to their interstate counterparts.

( <http://www.brisbanetimes.com.au/queensland/politicians-get-9-per-cent-pay-rise-20131015-2vjrh.html> ).

In reaching this decision, the tribunal used metrics such as comparisons directly against other states and federal MP's to make their final judgement. Thus the tribunal has demonstrated these criteria are valid to be used for others who have interstate comparisons available. (Unless the Committee feels such comparisons should not have been used for MP's).

To quote the tribunal:

"Our approach was to establish the role and responsibilities of an MP and assess the work value of the position," tribunal chair Tim Brailsford said.

"In doing so we found that Queensland MPs are amongst the hardest working MPs in the country, sitting longer hours than most.

"Queensland parliament does tend to sit fewer days, but these days are much longer than other state jurisdictions.

"Associated with this, Queensland MPs are amongst the lowest paid in the country." Professor Brailsford said the raise helped address this issue and made MPs salary more comparable to other states and the private sector."

I would note that Mr Brailsford did not state that Queensland MP's are the lowest or the 2nd lowest, just that they are amongst the lowest. Much the same as Radiographers/Sonographers had been previously.

I note that Mr Brailsford commented that MP's in Queensland sit for fewer days than other states while balancing this against longer sitting days, however there was no attempt to show the metrics of how this finally balanced to show their productivity is higher, lower or the same as other interstate MP's.

I also note that while Mr Brailsford deemed comparison to other states MP's, he also cited the private sector, I am not aware of any private sector MP's that exist in Australia for me to check this comparison. In my opinion, It would be incorrect to compare an MP to a CEO or vice CEO. If that was the case then one would assume that all MP's would come from such position or visa versa, flow into them when they leave office. There is no direct correlation that I am aware of to prove such a claim and so it may be a flawed comparison to benchmark against. None the less, when looking for Private sector comparisons, I can only assume that the entire range of large and small business's were used to benchmark incomes and not simply a cherry picked large business, thus ensuring a balanced comparison.

I assume that Committee would agree that we not only need and deserve MP's who are remunerated at a level commiserate with their interstate counterparts to ensure quality Government MP's, but also require Health workers to have the same basic principal applied to equally ensure quality health care professionals are attracted to our health system.

Reducing or removing award entitlements from the Queensland HP stream that currently exist in other Queensland or interstate Public/Private agreements undermines that very principal that MP's felt supported their own remuneration. That is to say, Quality of services when compared to interstate colleagues requires Quality of remuneration benchmarked against those same colleagues.

This basic principal should not have to be reargued on the behalf of the Radiographers Health stream as it has already been acknowledge to be valid for all MP's in Queensland via the independent pay tribunal with no objection from the MP's affected. I assume the government would not wish to apply double standards, one for themselves and another for the rest of government.

I would draw the committee's attention to the comparison between interstate HP staff from 2006 (prior to the current HP stream) that showed how HP's sat right at the bottom of the remuneration scale until the implementation of the current HP stream which helped address this divergence.

Assuming the aim is to compare public sector award in Queensland various other comparable awards as the independent pay commission did for MP's, then we should not simply limit ourselves to a private sector award in Queensland. In the same manner that the tribunal would not have elected the lowest paid private sector MP's (assuming they exist), the intent should not be to cherry pick the lowest remuneration of Radiographers/Sonographers as the award to aspire towards.

In a side note, if I may, sadly the current Qld Health EB negotiators have recently attempted to do just this selective low cherry picking of awards. They could easily look for a Queensland Private Award this is close to the current Public one instead of stripping current Public Radiographers entitlements and proposing we follow the 'bottom of the heap' private award. In the same vein, a balanced approach is not to cherry pick the highest award.

The one example I have attached is a Queensland Private agreement and quite similar to the current public radiographers HP award ( Southernnex Health Professionals Enterprise Agreement 2013 PDF ).

Indeed, we should also not ignore the interstate Public Hospital awards for Radiographers/Sonographers to make the fair and reasonable comparison required as has was the methodology for the independent pay tribunal on MP remuneration.

(I bring this up to give context of where we are going with these changes, and how the rejection of such an unbalanced and obviously cherry picked low ball offer is now going to be responded by simply forcing the Radiographers/Sonographers to accept it via the changes proposed in this Bill).

2) - Why would a new basic award which removes current allowances and entitlements for Radiographers/Sonographers be proposed with the stated aim of then building on future productivity negotiations rather than accepting current allowances and entitlements on current productivity baseline ?

To cite the following quote from the COA which is used in the Bill:

"that certified agreements only contain wages and conditions for specific groups of employees which are outside award conditions and that these are linked to improvements in productivity and performance."

The stated intention of the bill is in direct odds with the reality of how we got to the point where we are now. That is to say that the current remuneration of HP stream has evolved over many years, and has already had many requirements to show productivity.

The remuneration changes were not achieved by simply applying routine wage and allowance rises each EB round, but rather through long, drawn out and often difficult EB negotiations where the Qld Health counterpoint to many proposals to the HP bargaining team has often been the challenge of showing real or potential productivity gains in exchange for allowance or entitlement increase, or to show more flexible working arrangements which give Queensland Health the ability to provide a modern, flexible workforce and thus improve its productivity through efficient use of this resource. We have a workforce that is greatly more flexible than it was 20 years ago thanks to the process already in place.

One must ask how is it appropriate to remove allowances for HP staff that currently exist in such a way as to impact their overall income while simultaneously ignoring the productivity gains that have been achieved against those allowances and entitlements over the many years. The double standard of doing so is shown when one looks to the MP situation yet again and takes note that despite the tribunal's finding to alter/reduce some allowances (which were always intended to be spent in the community or for community work), the final remuneration to the MP's was not impacted downwards.

If I am correct in understanding some of the proposed removal of allowances to the HP stream from the Qld Health EB Negotiating team, many HP staff would see between 10 and 20% decrease in the remuneration. This is certainly the set of proposals that the Queensland Health EB negotiation team were bringing to the table. (An attached spreadsheet 'calculate EBv4.xls) was distributed to demonstrate the level of cuts being proposed before this streamline. They were rejected by the workforce EB team, and now the entire process of EB agreements which is currently in place is being looked to be removed which will only help to achieve the same outcome of greatly reduced remuneration.

Please consider :

What kind of incentive is there in future negotiations for the employees when previous entitlements are removed but the productivity and flexibility that were exchanged for these entitlements remains as an expected deliverable ?

Is the government expecting to wipe the entitlements and also allow employees to revert back to the previous inflexible workforce conditions ? (I would personally

embrace my old 'inflexible' 35 hour week on full pay with 1 hour paid lunch that Radiographers negotiated away all those years ago for the entitlements that the government is now proposing to be removed).

The committee might ask itself, what evidence is there to show that this methodology was ever used by the independent tribunal for MP's pay ? Or are we proposing a double standard ?

Did the tribunal reduce take home pay for MP's and tell them that they will have to negotiate a more flexible and productive set of new conditions if they wish to get their remuneration back up to the level if previously was ? I think not.

( So we now have a clear double standard being proposed, one set of metrics for the MP's and another for the rest of government ? )

3) - The Bill provides an industrial relations framework in Queensland comprising of:

an award modernisation process to make awards that provide a fair, minimum safety net of enforceable terms and conditions for the employment relationship between the employee and the employer; certified agreements which only contain wages and matters linked directly to the employment relationship and improvements in productivity and performance”

The stated intention of the Bill regarding industrial relations framework paints over the very real financial impact to the employees.

For example to streamline awards by reducing the number of awards may indeed make things easier and thus save on costs, but in reality it the bulk of the savings will come at the expense of the individual HP worker's remuneration.

If the intention was to make a simple agreement with no financial pain suffered to the employees, a formula could be used to make the adjustment for each employee based on their current role in the organisation and an adjustment made to counter the simplified award each pay. The fact that no effort is being made to do this should tell the committee that the real purpose of this change is to cheapen the workforce not by simplification alone, but by reducing payments to the employees. It is not an impossible task, nor a particularly difficult one, in fact one of the unions has created a spreadsheet (attached as 'calculate EBv4.xls' ) which allows any radiographer to calculate the impact to income if each of the proposed award conditions are removed.

4) – The Bill provides an industrial relations framework in Queensland comprising of:

“streamlined arrangements for bargaining and taking protected industrial action. These arrangements include measures to reduce protracted dispute and disruption to service delivery; and the introduction of specified timeframes in which assisted conciliation and arbitration is to occur”

The premise of these changes is that specified timeframes will assist conciliation and arbitration to occur.

This can only be correct if the timeframes cause stress to both sides of the negotiation. Otherwise they can be used by one side to simply bulldoze their offer through knowing that negotiation is simply a formality which will be passed over by a set deadline date. I am yet to see any measures introduced to ensure this change will stress both the employer and the employee (or their negotiating team) equally.

5) - The proposed fixed term QIRC and removal of tenure for appointments.

Quote:

"The bill amends the IR Act to allow the Governor in Council to appoint a QIRC deputy president or commissioner on a fixed term appointment of not less than one year. Currently, all appointments to the QIRC can only be made on tenure to age 70. This amendment will provide greater flexibility for the government to address short-to medium-term workload pressures within the QIRC. Fixed term appointment arrangements were a feature of the QIRC prior to 1999 and are currently provided for in the New South Wales Industrial Relations Commission and the Fair Work Commission federally. "

The independence of the QIRC is its major strength. It acts as the judge when two parties are unable to reach agreement. To give power to one of those parties over the QIRC is to undermine its stated purpose.

One should never, in a democracy, look to undermine the separation of powers, nor the perception of them

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If we are to accept that the QIRC has a role to act on judgements between Qld Government as an employer and its employees, we should look to ensure it can perform that role without fear or favour.

<http://australianpolitics.com/democracy-and-politics/key-terms/separation-of-powers>

Giving any government more control over the QIRC than it currently has threatens that separation. While last year's AWU challenge was unsuccessful, it was not a rubber stamp for any government to expand powers into the QIRC which has been historically considered an unbiased and impartial adjudicator.

6) - Individual employment Contracts ( Queensland Work choices)

Quote

"The fifth element of the IR framework is individual employment contracts for highly paid senior staff. The bill introduces a facility for an employer and an

employee to enter into an individual employment contract."

The AMA has expressed its concern on this matter far better than I ever could and so I would simply echo their words with the request that all of their statements can be equally applied to the Radiographer/Sonographer situation.

( <http://www.abc.net.au/news/2013-10-22/serious-concerns-raised-about-contracts-imposed-on-doctors/5038550> )

The right for workers to have a unionised body as a negotiation instrument is the only way that many people can ever hope to compete with a large, well staffed and well resourced government department that has been set up, resourced and is dedicated to compete against those individuals in what is normally quite a combative negotiation setting.

In the democratic country of Australia that we enjoy, I feel most people do not support the concept of forcing individuals whose primary education training and scope of practice is on the health of patients to have to pit themselves against a team of people whose primary focus is on negotiating in workplace agreements (Work Choices). This is clearly an unfair and unbalanced setting for any 'negotiation' and a mandate against such practices was clearly shown in at least two previous federal elections .

While the current Queensland Government may claim to have a mandate to bring in some changes, there has never been a mandate in Australia for Workchoices or any variant of it in the Public Health Sector. I would hope that the committee would take into consideration just what mandate really exists and how it really applies against this proposed element.

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In closing I would ask the committee yet again to take a step back and look at the bigger picture when discussing this bill's merits and failings.

Where are we looking to go with this ? Lower wages for health workers ? Luring private enterprise to take up outsourcing opportunities in Public Private Partnerships ?

The lure of cheaper public health sector thanks to a streamlined industrial award construct implies that we can do more with less. Certainly a very attractive and honourable mantra.

However it masks the bigger picture of how savings are really being made. The envisaged cheaper health sector is being heavily subsidised by inflicting very real financial harm on the same staff that are essential to support this health sector. Significant changes to awards, certified agreements and Industrial relations are all exposing them to substantial reduction in remuneration and placing them at the 'bottom of the heap' Australia wide.



If we wish to look elsewhere at correlation between a lower paid health worker translating to a higher quality and more affordable health system, one only has to look towards the American health sector as a disturbing example of how the opposite can be true.

Wage cost savings do not automatically translate to financial savings or improved efficiency to the health system as the relationship is far more complex than that. In the same way that cost shifting from State to Federal budgets does not actually save money, it actually costs more. Both methods of projected savings can be illusionary at best, disastrous at worst.

In the same vein, the recent resurgence of Public Private Partnerships (PPP's) often project vast savings, but previous governments equally keen to go down this path very rarely deliver on those wonderful projections.

The health staff who are directly affected by this proposed bill are the very people who have already suffered financial harm thanks to the previous governments Public Private Partnership (PPP) with IBM for the Payroll, a partnership in which the current government failed to recoup costs for despite, no doubt, having every desire to do so.

If nothing else, the payroll fiasco should have demonstrated to previous and future governments how difficult it is for a government to negotiate large complex and water tight agreements with the private sector. It was the very large canary in the coal mine that should warn governments on the pitfalls of governments attempting to tie down large companies in partnerships.

In many cases, when things don't go according to plan, these PPP's cause significant harm to one or both parties.

Australian history is littered with PPP failures (a small sample of them are recorded on the website

[http://www.uow.edu.au/~bmartin/dissent/documents/health/privat\\_au\\_states.html](http://www.uow.edu.au/~bmartin/dissent/documents/health/privat_au_states.html)

and the website <http://grattan.edu.au/publications/news-and-opinion/post/public-private-hospital-partnerships-are-risky-business/> ) where various state government thought they could negotiate a better deal by outsourcing health services to the private sector.

While the current government is happy to promote the few examples of claimed successful PPP's, there are many more that are not openly discussed which have cost the public purse, health sector and government reputation significant financial and emotional pain as they unravelled. More often than not, as was the case in with the Robina Hospital, the public had to pick up the pieces to re-establish public services at great expense when the private sector failed to deliver. (

<http://grattan.edu.au/publications/news-and-opinion/post/public-private-hospital-partnerships-are-risky-business/> ).

Instead of heeding the Payroll canary, the government is keen to continue down this path with the belief that it can avoid the costly and embarrassing pitfalls that so many previous governments from both sides of state politics have not been able to avoid.

Right now, the Queensland economy is fragile, unemployment is high, with the large scale redundancies and downsizing to the public sector having had major impact on services across all sectors. The flow on effects to the private sector has been significant. It will take some time for these changes to allow the services to recover to their previous level of operations and it will take dedicated staff who are still remaining employed to carry additional workload going forward to steady the ship.

Now is not a time to make large scale changes to Industrial instruments and mechanisms. Minor changes which can be measured and adjusted as required perhaps, but such proposed wholesale and massive lurches towards untested waters such as this Bill proposes almost always end up blowing up in everyones faces. The last thing we need is an industrial relations and PPP adventure that dwarfs the Payroll fiasco.

Regards

Heather Green

