



President: **John Battams**

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**Penalties & Sentences &  
Other Legislation  
Submission 007**

17 July 2012

The Research Director

Legal Affairs and Community Safety Committee

Parliament House

George Street

Brisbane QLD 4000

Via email: [lacsc@parliament.qld.au](mailto:lacsc@parliament.qld.au)

Dear Sir

Re: Penalties and Sentences and Other Legislation Amendment Bill 2012

The Queensland Council of Unions makes and submits the attached submission to the Legal Affairs and Community Safety Committee on the proposed changes to the above legislation.

In addition we seek the opportunity to speak on the submission at any hearings set by the Committee on this matter. In this regard please contact Barry Watson, Industrial Officer at [barryw@qcu.asn.au](mailto:barryw@qcu.asn.au) to make any necessary arrangements.

Yours sincerely

Ron Monaghan

General Secretary



Queensland Council of Unions  
Submission to the Legal Affairs and Community Safety Committee  
in relation to the  
Penalties and Sentences and Other Legislation Amendment Bill 2012

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The Queensland Council of Unions (QCU) is the peak trade union body in Queensland representing 34 affiliated unions. Up to 10 affiliates cover employees in the Health sector who are affected by these changes.

The QCU makes the following submissions with respect to the part of the Bill that foreshadows changes to the Industrial Relations Act 1999 (Act).

Firstly we register our objection to the short timeframe provided to stakeholders to make submissions on this matter. Three working days is insufficient time to properly consult on the changes and prepare submissions on a matter that has had such a negative impact on the morale of the Queensland Health workforce.

Secondly we register our objection that no consultation has taken place with employees or their unions before the Bill was put before Parliament for consideration. This lack of consultation has not been well received by employees.

With respect to the content of the Bill we make the following comments.

Enactment of the Bill will insert a new **section 396A - Recovery of health employment overpayments** into the Act which provides for the recovery of overpayments to health workers. This provision allows the employer to recover money overpaid or purportedly overpaid to an employee in error by the payroll system.

The Bill also proposes to insert a new **section 396B Recovery of health employment transition loans** into the Act. This provision provides the employer with the right to recover transitional loans that may be accessed by employees as part of changing the pay day (from 3 days after) to 10 days after the end of the normal pay period.

Both provisions put in place arrangements for health workers that go beyond the existing provisions in the Act. The existing provisions empower all employers (not only Health employers) to recover overpayments that relate to absences from work without the need for agreement by the affected employee. Recouping of other overpayments is on the basis of agreement between the employer and the employee.

These changes would not be necessary except for the fact the employer introduced a defective payroll system in 2010 that could not cope with the existing processing regime. The introduction of this system was outside of the control of employees yet it is the employees who are affected by the changes to the Act which in effect change their conditions of employment.

The employer should be focusing on rectifying the faults with the computer system and the processing regime rather than making legislative amendments to address the outcomes of these ineffective systems. These changes are unnecessary and are not supported by the Queensland Council of Unions.

There is concern that these provisions can and will be misused by health employers particularly as the powers to recover are not limited to recouping overpayments that are attributable to errors caused by the payroll system and the processing regime. These provisions can be utilised to recover other overpayments such as an employee being placed on the wrong pay level upon appointment or upon promotion, neither of which are linked to the problems with the payroll system or the processing regime.

A potential misuse of this power is that the unilateral recouping of money from the fortnightly wage without agreement may leave an employee with insufficient money to meet their obligations. Recouping of up to 25% of the pay may leave employees in the predicament where they will have to decide which bill goes unpaid. It may be the grocery bill or the mortgage payment or the money to pay their children's education fees.

Should these changes proceed then the additional powers provided to the employer should be restricted to overpayments attributable to the payroll system and the processing regime.

Also this additional power should not be ongoing but should be limited in time to the timeframe for fixing the current payroll problems the very ones caused by the actions of the employer in 2010.

In conclusion the QCU does not support these changes as they undermine an employee's right to provide consent before overpayments are recovered.