

IEUA-QNT SUBMISSION

[21 April 2022]

Submission: Personal Injuries Proceedings and Other Legislation Amendment Bill 2022

The Independent Education Union – Queensland and Northern Territory Branch (IEUA-QNT) welcomes the opportunity to provide feedback regarding the *Personal Injuries Proceedings and Other Legislation Amendment Bill 2022* [1] (the Bill), under consideration by the Legal Affairs and Safety Committee of the Queensland Parliament.

About IEUA-QNT

IEUA-QNT represents ~16,000 teachers, support staff and ancillary staff in non-government education institutions in Queensland and the Northern Territory and consistently engages in debate concerning educational and industrial issues through its Education and Industrial Committees and through its national counterpart, the Independent Education Union of Australia, which receives input from teachers in all States and Territories.

As a union of education professionals in the non-government sector, our interest in the changes proposed via the Personal Injuries Proceedings and Other Legislation Amendment Bill 2022 primarily concerns its impact on workers compensation claims brought by our members. In that context, we make several relatively brief submissions focussed on the attempt to prevent claims farming, and the reversal of previous changes which removed time limits on lump-sum payments to workers diagnosed with a terminal illness.

Comments regarding the prevention of claim farming

1. Our union strongly supports legislative changes that will prohibit claims farming in relation to personal injury matters.
2. In that context, we support the prohibition of giving or receiving a fee or other benefit for referring a claimant or potential claimant.
3. We also support the prohibition of personal approaches or contact for the purposes of soliciting or inducing an individual to make a claim.
4. We accept that the exception to the first offence is appropriately confined to a law practice that is selling its business to another law practice, provided the amount is consistent with the current fees and costs the law practice is entitled to charge for the claim.
5. We do however, question the decision not to prohibit advertising for the purposes of promoting a service or person to the public or a group as inconsistent with the broader intent of the bill.
6. With regard to the exception for the second offence, we accept that there must remain some provision for law practices or lawyers to contact people under specific

Submission: Personal Injuries Proceedings Amendment Bill 2022

circumstances but would suggest that the exemption is open to exploitation by unscrupulous individuals.

Comments regarding the confirmation of policy intent for terminal workers compensation

7. In relation to the proposed changes to compensation for workers diagnosed with a terminal illness, we are not satisfied that the proposed amendments are necessary to limit financial impacts to workers compensation schemes, as claimed in the Explanatory Notes [2].
8. The most recent (2018) five yearly review of Queensland's Workers Compensation Scheme (WorkCover) indicated that :

“...the scheme is performing well, is financially sound, involves low costs for employers, and provides fair treatment for both employers and injured workers.” [3]
9. The initial removal of limits on when a worker can access terminal compensation was designed to provide workers with greater flexibility in terms of how they utilise their payment. As noted in the Explanatory notes for the 2019 Bill [3]:

“A worker with a terminal condition has an entitlement to the latent onset terminal lump sum compensation of up to \$743,041 under the WCR Act. The WCR Act currently defines a terminal condition as a condition that is expected to terminate the worker's life within two (2) years after the terminal nature of the condition is diagnosed (section 39A). However, some workers are diagnosed with a terminal work-related condition with a life expectancy greater than 2 years (for example 3 or 5 years) which means they are excluded from accessing this payment. The Bill amends the WCR Act to extend entitlement to the latent onset terminal entitlements by removing the reference to two years and replacing it with an assessment that the insurer is satisfied that the worker has a latent onset condition that is terminal.”
10. Reversal of the 2019 provision will remove the right of a worker diagnosed with a terminal illness to make their own, considered, and personal, decisions about what supports they require in their final years of life.

Concluding Comments

Our union thanks the Legal Affairs and Safety Committee for the opportunity to engage in consultation regarding the Personal Injuries Proceedings and Other Legislation Amendment Bill 2022.

We strongly support amendments designed to prevent claim farming and would argue that the Bill would provide greater protection for workers if prohibitions also included advertising.

We do not support changes to compensation for workers diagnosed with a terminal illness. The proposed changes will unnecessarily, and unjustifiably, remove the right of a worker diagnosed with a terminal illness to make their own, considered, and personal, decisions about what

Submission: Personal Injuries Proceedings Amendment Bill 2022

supports they require in their final years of life. Further, we are not satisfied that the proposed amendments are necessary to limit financial impacts to workers compensation schemes.

We look forward to the opportunity to participate in further discussions as the Bill is progressed.



Terry Burke
Branch Secretary
Independent Education Union of Australia -Queensland and Northern Territory Branch
Thursday 21 April 2022

References

1. *Personal Injuries Proceedings and Other Legislation Amendment Bill 2022*. 2022.
2. *Personal Injuries Proceedings and Other Legislation Amendment Bill 2022 Explanatory Notes*. 2022.
3. *Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2019 Explanatory Notes*. 2019.