

Queensland Council of Unions

interim submission to

Productivity Commission

National Workers Compensation and Occupational Health and Safety Frameworks

Introduction

The Queensland Council of Unions (QCU) welcomes this opportunity to make an initial submission to the Productivity Commission *National Workers Compensation and Occupational Health & Safety Frameworks*. The QCU intends making a full submission upon the release of the Interim report.

The QCU is the peak trade union body in Queensland, representing 36 affiliated unions. This initial submission was developed after consultation with unions.

The QCU has extensive interest and experience in both Workers Compensation and Occupational Health and Safety.

The OHS Policy of the QCU commits the QCU to seeking a fair compensation system where:

“victims of occupational injury and disease ... [are] cared for by no-fault financial compensation, access to unrestricted common law action and by readily available rehabilitation and health care services” (1.4.4)

The OHS Policy also includes a commitment to appropriate rehabilitation and return to work programs (11.3).

The QCU provides the following comments on the Productivity Commissions Issues Paper.

NOHSC & National Frameworks

The QCU OHS Policy advocates that:

State governments adopt national standards in a consistent way to provide all Australian workers with equal protection, provided that this does not entail a lessening of existing standards (8.1.3)

The OHS Policy also commits the QCU and unions to supporting state and federal tripartite governmental processes for workers compensation and OHS, including the development and implementation of legislation, policy and programs and meeting the targets of the National OHS Strategy 2002-2012.

The QCU supports the National Occupational Health and Safety Commission (NOHSC) as the national tripartite OHS body and would oppose any further reduction of resources to the NOHSC.

The QCU would likewise support the establishment of a similar national tripartite body for workers' compensation.

The QCU asks the Productivity Commission to note that streamlining of many inconsistencies in workers' compensation (such as definitions and matters of statute law) can currently be achieved through the Workplace Relations Ministers' Council and Heads of Workplace Safety and Compensation authorities).

National Self-Insurance

The QCU is opposed to the introduction of self-insurance for workers compensation, and continues to oppose its expansion for the following reasons:

1. lack of effective government control over the insurance industry
2. lack of recognition by private insurers that workers compensation is primarily a compensation issue, and not merely an insurance issue
3. existence of a "culture of rejection" within private insurers due to the cost-reduction imperative is seriously affecting rehabilitation and overall systems costs

The QCU is also concerned that the more rigorous standards for self-insurance in Queensland would be undermined by a national system for self-insurance, specifically that there would be a tendency towards a regime seeks the lowest cost burden for employers and therefore the lowest standard of protection for workers. A nationally approach could also potentially increase costs in Queensland and adversely affect employment levels.

Access and coverage

The QCU supports the Productivity Commission's contention that changes in labour market trends have created problems for access to and coverage by workers' compensation. The casualisation of the labour market and the widespread use of labour hire arrangements has resulted in many of the most disadvantaged workers in Australia having insufficient or no access to compensation.

This problem is exacerbated by the increasing demarcation of many workers who would traditionally have been "employees" as self-employed or contract labour. The relatively low earning capacity of the majority of these workers limits their access to private health insurance, income protection or other arrangements that could fill the gap. This is creating a ghetto of workers whose needs are not being met, and who are reliant on social security if injured.

The QCU strongly supports action to correct this situation and supports any expansion of the definition of workers to include casual workers, workers contracted under labour hire arrangements and workers deigned as "self-employed" for the purposes of employers avoiding OHS or compensation obligations. Recent changes to the Queensland Workcover legislation have attempted to address this issue of concern.

The QCU asks the Productivity Commission to note that recent changes to the *Workplace Health and Safety Act 1995* included the creation of obligations for “person conducting business or undertaking” (29.A.1). This has placed OHS obligations on employers who use labour hire or other non-traditional workers.

Common law

The QCU has consistently opposed the diminishing ability of workers to access common law.

The QCU stresses that compensation claims occur as a result of poor OHS by employers with the majority of workplace injuries and illnesses being predictable and therefore preventable. This is particularly true of manual handling injuries (the largest compensated class of injuries) and illness from hazardous substances (the largest occupational killer).

Workers, like other members of society, must be granted the right to sue where negligence has caused them injury or illness. Common law access has functioned historically as a powerful deterrent for negligent employers and has provided workers with the ability to claim compensation which is directly relational to the degree of impact of the injury on their lives.

The QCU therefore opposes any further reduction of common law benefits.

The QCU will be pleased to present a verbal submission at the Public Hearings in Brisbane on the above matters.

Contact:

Pamela Grassick,

OHS Advisor, QCU, 07 3846 2468, pg@safework.qld.edu.au