Return to Work Bill 2014 – an update

In this special release update, we outline the recently proposed amendments being placed before Parliament at the Legislative Council Committee stage.

Clearly there has been some furious lobbying of various politicians of late, judging particularly by the Darley and Franks amendments. They have the effect of shifting the focus of the amendments away from the governments intended emphasis on creating the best legislative framework and environment for return to work to be successful, and seemingly back to a model where compensation becomes the main focus, and opportunities for litigation are expanded. The events of the past are coming back to haunt the government, as radical attempts to reframe the legislation produce multiple amendments that can possibly serve to dilute the overall intended impact of the proposed changes.

Below is a summary of proposed amendments being moved at the moment at the Legislative Council Committee stage, by various members of the state's Upper House.

Rob Lucas MLC

Seeks to place the RTW jurisdiction with the SACAT from **1/7/2018** (and the amendments relating to group training schemes will not be proceeded with).

John Darley MLC

Seeks to:

- lower the hurdle for psych injuries
- restore secondaries
- restore the current step-downs
- delete the 1-assessment limit on permanent impairment assessment
- raise the IM cap from 2 years to 5 years
- delete clause 73 (obligation to elect between redemption and common law for seriously injured workers)
- remove the bar on seriously injured workers recovering damages for support services (in effect allowing a 'double dip')
- allowing common law damages for nervous shock
- extending the appeal time limit from 1 to 3 months and delete the ability to give extensions of time
- delete the '10% rule' on costs of appeals against a permanent impairment assessment
- removing the separation of physical and psych injuries from permanent impairment assessment
- requiring the scheme to be reviewed every 3 years
- significantly increase the prescribed sum for WPI greater than 20%
- altering the application of the IM cap to existing claims.

Tammy Franks MLC

Seeks to:

- lower the hurdle for psych injuries
- restore secondaries
- lower the common law threshold to 15%
- delete the bar on assessing consequential mental harm
- delete the 1-assessment limit on permanent impairment assessment
- delete the cap on medical benefits
- delete the requirement for a medical practitioner's sign-off on stability of injury before redemption
- allow applications to the Tribunal where no redemption agreement has been reached within 3 months
- allow medical redemption for seriously injured workers
- allow psychiatric impairment to be added to physical for threshold purposes

- remove the bar on seriously injured workers recovering damages for support services (in effect allowing a 'double dip')
- allowing common law damages for nervous shock
- delete the '10% rule' on costs of appeals against a permanent impairment assessment
- delete the bar on legal costs in excess of the regulations
- delete all of Schedule 7 after 14% WPI.

Rob Brokenshire MLC

Seeks to:

- require that RTW service providers be accredited by the Corporation
- stiffen the requirement that the Corporation 'encourage and support' organisations that assist injured workers (obviously with a view to accrediting them as well).

If there has been an agreement between the Labour Party and the Liberal Party as to Rob Lucas' proposed amendment, then it is likely that an overall agreement between the two major parties has been reached to pass the legislation as it is currently drafted.

Debate regarding the proposed amendments continues in Parliament.

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