



HOUSING INDUSTRY ASSOCIATION



Housing Australians



Submission to the
Northern Territory Legislation Scrutiny Committee

Return to Work Legislation Amendment Bill 2020

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contents

ABOUT THE HOUSING INDUSTRY ASSOCIATION	3
1. INTRODUCTION.....	2
2. PREMIUMS.....	2
3. REPOSE TO THE BILL	3
3.1 JOURNEY CLAIMS.....	3
3.2 LONG TERM INCAPACITY	3
3.3 DEFINITION OF WORKER.....	3
3.4 DEFINITION OF WORKING DIRECTOR	3

Housing Industry Association contact:

Archie Wright
Executive Director
Housing Industry Association
651 Stuart Highway
Berrimah Business Park
Berrimah NT

ABOUT THE HOUSING INDUSTRY ASSOCIATION

The Housing Industry Association (HIA) is Australia's only national industry association representing the interests of the residential building industry, including new home builders, renovators, trade contractors, land developers, related building professionals, and suppliers and manufacturers of building products.

As the voice of the residential building industry, HIA represents a membership of 60,000 across Australia. HIA members are involved in land development, detached home building, home renovations, low & medium-density housing, high-rise apartment buildings and building product manufacturing.

HIA members comprise a diverse mix of companies including residential volume builders, small to medium builders and renovators, residential developers, trade contractors, building product manufacturers and suppliers and allied building professionals that support the industry.

HIA members construct over 85 per cent of the nation's new building stock.

The residential building industry is one of Australia's most dynamic, innovative and efficient service industries and is a key driver of the Australian economy. The residential building industry has a wide reach into manufacturing, supply, and retail sectors.

Contributing over \$100 billion per annum and accounting for 5.8 per cent of Gross Domestic Product, the residential building industry employs over one million people, representing tens of thousands of small businesses and over 200,000 sub-contractors reliant on the industry for their livelihood.

HIA exists to service the businesses it represents, lobby for the best possible business environment for the building industry and to encourage a responsible and quality driven, affordable residential building development industry. HIA's mission is to:

“promote policies and provide services which enhance our members’ business practices, products and profitability, consistent with the highest standards of professional and commercial conduct.”

HIA develops and advocates policy on behalf of members to further advance new home building and renovating, enabling members to provide affordable and appropriate housing to the growing Australian population. New policy is generated through a grassroots process that starts with local and regional committees before progressing to the National Policy Congress by which time it has passed through almost 1,000 sets of hands.

Policy development is supported by an ongoing process of collecting and analysing data, forecasting, and providing industry data and insights for members, the general public and on a contract basis.

The Association operates offices in 22 centres around the nation providing a wide range of advocacy, business support services and products for members, including legal, technical, planning, workplace health and safety and business compliance advice, along with training services, contracts and stationary, industry awards for excellence, and member only discounts on goods and services.

1. INTRODUCTION

On 19 February 2020 the Legislative Assembly referred the *Return to Work Legislation Amendment Bill 2020* (the “Bill”) to the Legislation Scrutiny Committee for inquiry and report. HIA takes this opportunity to provide comment and feedback on the Bill.

HIA notes that in 2013 the Territory government initiated a comprehensive review of the NT workers’ compensation scheme. Roussos legal advisory who was tasked with conducting the review released its findings and recommendations in 2014 (the “Report”).

The Report contained 58 recommendations, most of which were adopted into the *Return to Work Act 1986* and Regulations (the “Legislation”).

HIA understands that the purpose of the Bill is to reverse a number of changes made in response to the Report and amend the Legislation to expand and improve the operation of the scheme.

HIA is supportive of the proposal in the Bill that seeks to clarify that a worker is an individual who works under a contract, and in relation to the work, is a worker for the purpose of assessment for PAYG taxation withholding determined through the Australian Taxation Office’s (ATO) employee or contractor decision tool. This interactive decision tool assists in determining whether a person should be considered an employee—or an independent contractor—for PAYG taxation withholding purposes.

Of concern are proposed changes in the Bill that seek to reverse many of the recommendations in the Report including the expansion of journey claims and the removal of the cap on weekly benefits. It is likely that such changes will have an adverse impact on premiums. HIA submits that if such proposals are to proceed a regulatory impact assessment must be carried out in order to determine the costs associated with these changes.

2. PREMIUMS

The objective of any workers compensation scheme is to provide injured workers with fair and reasonable benefits at the lowest possible premium to employers.

It is HIA’s view that any proposed changes or amendment to the workers’ compensation scheme should focus on lower premiums. HIA opposes any increase in workers compensation premiums and would strongly advocate the need for a reduction in premiums.

It is foreseeable that any increase to premiums would have a detrimental effect on the financial viability of those in the residential building industry and would also have a negative impact on housing affordability across NT.

Of note, the Report also identified workers’ compensation premiums as a significant cost impacting businesses.¹

HIA broadly supports a scheme that:

- aims to reduce premiums; and
- provide(s) a closer connection between work, health and safety responsibilities and workers compensation premiums through eliminating workers compensation costs arising in circumstances over which employers have limited control.

¹ Roussos Legal Advisory And Crossinnovate Consulting ,2014 Review of (NT) Workers Rehabilitation and Compensation Act, Page 80



3. RESPONSE TO THE BILL

3.1 JOURNEY CLAIMS

HIA does not support proposed section 4 of the Bill that seeks to expand the coverage of the workers compensation scheme to injuries sustained on a journey to or from work (journey claims).

Firstly, a compensable injury or illness must truly arise out of or in the course of employment, or the employment must have played a major or significant part in the development of the injury or disease. Injuries sustained by workers while travelling to and from work should not be included in any workers compensation scheme.

Secondly, the proposal to expand the workers compensation scheme to include journey claims is considered significant. It is foreseeable that such moves will have an adverse impact on premiums.

Under these circumstances, it is appropriate that further examination of this matter, including a cost/benefit analysis of the evidence in relation to the impact of journey claims and their cost impact upon the NT scheme's viability is required.

Also significant is that vehicle accidents and injuries relating to journey claims are already covered under the *Motor Accidents (Compensation) Act 2000*.

3.2 LONG TERM INCAPACITY

HIA does not support proposed sections 65 and 73 of the Bill.

The proposal to remove the weekly benefits cap is at odds with recommendation 26 of the Report which recommended that after 26 weeks of incapacity, a workers normal weekly earnings should be capped at 250% of average weekly earnings.²

The Report further noted that workers are more inclined to make a claim and increase the duration of their claiming period when there are increases in benefit generosity.³

On the basis that no evidence has been provided to justify the changes and that it is foreseeable that such moves will have an adverse impact on premiums HIA opposes the proposed amendments.

3.3 DEFINITION OF WORKER

HIA supports proposed section 3B which seeks to clarify that a worker is an individual who works under a contract, and in relation to the work, is worker for the purpose of assessment for PAYG taxation withholding determined through the Australian Taxation Office's (ATO) employee or contractor decision tool.

3.4 DEFINITION OF WORKING DIRECTOR

HIA opposes the proposed amendment to expand coverage of workers' compensation to include working directors (section 3B(6)).

Persons running their own business should be responsible for purchasing and paying for their own sickness, accident and income protection insurance. Again, this change is likely to adversely affect premiums, as such a cost/benefit analysis must be carried out.

² Roussos Legal Advisory And Crossinnovate Consulting ,2014 Review of (NT) Workers Rehabilitation and Compensation Act, Page 57

³ Roussos Legal Advisory And Crossinnovate Consulting ,2014 Review of (NT) Workers Rehabilitation and Compensation Act, Page 57

