



**Small Business  
Development Corporation**

Our ref: D21/7218

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## **MODERNISING WA'S WORKERS COMPENSATION LAWS**

The Small Business Development Corporation ('SBDC') welcomes the opportunity to provide feedback to WorkCover WA on the Workers Compensation and Injury Management Bill 2021 (Consultation Draft) ('Draft Bill'), aimed at modernising the State's workers compensation laws.

The SBDC is an independent statutory authority established to support and facilitate the growth and development of small businesses in WA. An important component of the SBDC's mandate is to advocate for a fair, conducive and productive operating environment for small businesses, and to influence the policy and regulatory settings affecting the sector. In this regard, the SBDC regularly contributes to policy and legislative reviews, inquiries and regulatory reform proposals undertaken across all tiers of government.

The following feedback is provided on the Draft Bill, noting that the SBDC is not a subject matter expert in regards to specific workers compensation matters.

### ***Modernising the laws***

The SBDC supports the modernisation of legislation that addresses the area of workers compensation in the workplace, and is pleased to see the updating of the laws progressing.

From a small business perspective, the rewriting of the legislation to modernise and simplify its provisions and make it workable and easier to understand is welcomed. In particular, including regulation-making powers enables important features of the laws (including definition of a 'worker', prescribed diseases, worker entitlements, approved treatments, etc.) to be amended and remain contemporaneous of the rapidly evolving work environment, and more appropriately deal with technical and procedural matters (such as noise induced hearing loss).

## ***Insurance premium rates and review***

The SBDC notes that the Draft Bill proposes to amend the *Workers' Compensation and Injury Management Act 1981* ('the current Act') to remove the provisions that prohibit an insurer from charging a loading of more than 75 per cent on a recommended premium rate, unless permitted by WorkCover WA (section 152 of the current Act).

Although the provisions for appeal of the premium rate (section 154 of the current Act), now called 'review of premium charged', have been retained and clarified in Clause 258 of the Draft Bill, this allows for an appeal of the premium rate by the business **after** the premium has been charged. Section 152 of the current Act exists to prevent an excessive premium from being charged **prior to it occurring**.

Under the proposed changes, the onus is on the **business** to seek a remedy and lodge an appeal after the detriment has occurred, whereas currently the onus is on the **insurer** to obtain an approval to charge a higher rate prior to its imposition.

The revocation of this provision may be seen by some insurers as a green light to further increase their premiums beyond the 75 per cent loading, potentially making the insurance premiums cost-prohibitive for some small businesses.

**As a consequence, the SBDC does not support the removal of this provision and does not see the benefit of removing this protection for employers.** If there is evidence that the detriment of this process (for example, cost to WorkCover WA of receiving and assessing these applications) outweighs the benefits for employers, the SBDC may reconsider its position.

In addition, the SBDC also notes that under the proposed provisions, a review of the premium charged can only be undertaken if the premium charged is at least 75 per cent greater than the relevant recommended premium rate. In the current Act, there is no such limitation.

This change could be used by some insurers to increase their premiums up to the 75 per cent limit, knowing that a business is unable to lodge an appeal against the rate. This could potentially lead to increased insurance costs for small businesses, making the insurance unaffordable for some small businesses and potentially resulting in business closures. **The SBDC therefore does not support the introduction of this limitation.**

## ***Cost of implementing the proposals and staying abreast of changes***

The SBDC supports regulation that does not place unnecessary, overly complex or inequitable compliance burdens on small business market participants.

One of the primary concerns with the introduction of any new regulatory framework relates to the time, effort and costs associated with small businesses familiarising themselves with the new requirements and specific details of the laws. It is imperative that the costs associated with introducing and complying with the workers compensation reforms are minimised for the State's small business sector. In this regard, for example, the SBDC welcomes the decision to not introduce a licensing regime for workers compensation insurance brokers and maintain the current system of self-regulation, unless needed in future.

Central to helping ease the burden more broadly on the small business sector is appropriately educating, guiding and communicating the compliance process to those impacted. This is especially the case for small businesses who have limited time, resources and expertise to commit to learning about new requirements and keeping up to date with amended concepts or matters.

The provision of clear and concise guidance and support will be critical to enable smaller employers in particular to prepare for the new regulatory requirements. As such, it will be essential to allocate sufficient resources to educate small businesses about their obligations, and to raise their awareness of the new legislative framework through the development of comprehensive educational material and checklists.

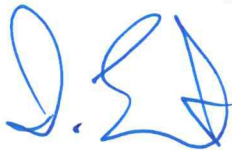
In line with this, the SBDC expects that WorkCover WA will develop resources specifically targeting small businesses and, if needed, at an industry-specific level.

***Concluding comments***

The SBDC appreciates being kept informed of developments and would be keen to assist WorkCover WA in the development of guidelines to educate the small business sector about the new provisions prior to the revised legislation coming into effect.

If you would like to discuss this submission in more detail, please contact [REDACTED]  
[REDACTED]

Yours sincerely



David Eaton  
**SMALL BUSINESS COMMISSIONER**

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