

## Peter Parker Work Injury Consultancy

\*WorkCover Advocacy

## Correspondence to:

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Monday 27 February 2023

Dear Sir/Madam,

## Proposed amendments to Abolish Independent Registered Agents

I refer to the bill tabled by Minister Bill Johnston to introduce a revised Workers Compensation Act, in particular I refer to the Explanatory Memo, page 129, clause 577

I am 1 of 4 Independent Registered Agents (IRA) in WA who assist injured workers with their workers compensation claim either through a negotiated settlement or by assisting and representing them through the dispute resolution process.

Injured workers will be seriously disadvantaged if one of their options for representation is removed. The nett result to the injured workers is that it will cost them significantly more by being compelled to instruct a lawyer (a lawyers hourly rate is double that of an IRA), plus on top of the scale rates, called party/party costs, a lawyer can charge solicitor/client costs.

IRA's are an excellent low-cost alternative for injured workers needing help. Other jurisdictions such as Industrial Relations also have available to workers non-legally qualified advocates to assist workers in WA.

Following a legislative review of the Act in 2013/2014 and the issuing of a report in late June 2014, Workcover decided to abolish Independent Registered Agents. The impact of the abolishment of IRA's is that insurers would retain the right to argue matters at WorkCover WA with the use of either a non-legally qualified Technical Officer/Case Manager or solicitor yet the worker will have no choice but to have to engage a solicitor or be unrepresented, which will be disastrous for them.

Days after the release of the final report the CEO of Workcover WA did a back flip and wrote to me advising IRA's were to be retained on a grandfather clause in the legislation. He has back flipped again.

The 3 stated reasons in the report for abolishing IRA's;

See "Final report 2014 - pages 205 - 210.

- Para's 883 and 884 "There is no unmet need in the scheme which necessitates continuing a regime for non-legally qualified agents to represent parties".
- RESPONSE... Not true, there are 3 categories of workers who will be left out in the cold. Those that are told by a lawyer that their claim is not commercially viable for the lawyer. Those that don't wish to use a lawyer because of a past bad experience or those that are with a lawyer, are dissatisfied and want an alternative See page 207, para 879, it is acknowledged by a leading plaintiff law firm "many workers prefer not to use lawyers".
- Para 885 "The four independent agents are unable to provide a complete service to injured
  workers without contravening the Legal Profession Act 2008. The inability to provide advice on
  common law matters means a registered agent cannot provide the entire suite of advice an injured
  worker may need".

- Response...It is well established, that neither IRA's nor lawyers, can provide a complete service. No one layer of representation was ever intended to provide a complete service when the current scheme was put together by Labor's John Kobelke.
- Para 886 "WorkCover WA considers that it is an inappropriate use of resources to maintain a comprehensive regime of registration, including audit, on an ongoing basis for only four individuals".
- Response.......Workcover does not just regulate 4 IRA's. Workcovers Regulatory division
  regulates approx. 1,000 scheme participants at a ball park cost per participant of around
  \$3,500.00 annually. The IRA's represent a cost to the scheme, on average of 0.0038% and
  arguably less than that average figure. In fact IRA's represent a miniscule cost to the scheme
  but provide significant benefits to injured workers.

WorkCover WA has not provided one valid, plausible sustainable argument for the abolishment of the registered agent's scheme including independent Registered Agents.

I would be happy to meet with you to discuss further this issue and to provide further detail to you and to answer any questions that may assist you when the bill is debated in parliament.

Rours faithfully

Peter Parker

Independent Registered Agent (no.40)

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## Hon Bill Johnston MLA Minister for Mines and Petroleum; Energy; Hydrogen Industry; Industrial Relations

Our Ref: 71-33603

Mr Peter Parker Work Injury Consultancy

Email: pplac58@hotmail.com

Dear Mr Parker

I refer to your letter of 27 February 2023 sent to various members of Parliament regarding your opposition to the discontinuation of the independent registered agent regime as part of the Bill to modernise WA's workers compensation laws. As you were informed your letter was sent to my office for direct response.

I also refer to your email of 4 April 2023 sent to the Premier and the email of 10 April 2023 sent to my office accusing my office of providing false and misleading information about performance and compliance issues with independent registered agents. The Premier has asked that I reply on his behalf.

In your letter of 27 February 2023 you raised the same arguments with respect to your opposition to the discontinuation of the independent registered agent regime you have raised many times before. I understand you have also raised these concerns with WorkCover WA. I do not intend to enter into debate with you on these matters.

In your email of 4 April 2023 (to the Premier) and 10 April 2023 (to my office) you raised concerns with information provided by my office to a journalist which included the following additional reason for discontinuing the independent registered agent regime:

There has been a history of substantive compliance and performance issues associated with independent registered agents. Issues have included preparedness and competency in representing clients, client-agent communication, poor record keeping and non-compliance with the statutory cost scale. Some independent registered agents have resisted any form of audit and oversight of their activities.

You believe this information is false and misleading and besmirches the reputation of independent registered agents and have asked about the source of the information and to whom it has been given.

The point about compliance and performance issues was made by WorkCover WA to my office as further background to the changes in the Bill.

It is correct that WorkCover WA's Final Report did not refer to compliance and performance issues to justify the recommendation to discontinue the registered independent agent regime.

It is, however, an additional reason to discontinue the regime based on WorkCover WA advice regarding historical WorkCover WA audit findings, complaints, compliance activities, court proceedings and dispute resolution activities including after the 2014 final report recommendations were made.

At no point did WorkCover WA or my office indicate that you personally had any compliance or performance issues. As such, your accusation on my office providing false and misleading information or defamatory comments is without merit.

The performance and compliance issues, while largely historical, goes to the regulatory burden of retaining independent registered agents in the workers' compensation scheme. A close regulatory eve must be kept of independent registered agents to ensure the same performance issues do not arise.

Nothing in your emails supports a change in the Government's position with respect to discontinuing the independent registered agent regime.

Thank you for bringing this matter to my attention and I trust that the information provided is of assistance to you.

Yours sincerely

Hon Bill Johnston MLA

Minister for Mines and Petroleum; Energy; Hydrogen Industry; Industrial Relations

cc: premiersupport@dpc.wa.gov.au

14 JUL 2023