



EDUCATION, EMPLOYMENT AND SMALL BUSINESS COMMITTEE

Members present:

Ms LM Linard MP (Chair)
Mr N Dametto MP
Mr MP Healy MP
Mr BM Saunders MP
Mrs JA Stuckey MP
Mrs SM Wilson MP

Staff present:

Ms S Cawcutt (Committee Secretary)
Ms A Beem (Assistant Committee Secretary)

PUBLIC BRIEFING—INQUIRY INTO THE WORKERS' COMPENSATION AND REHABILITATION AND OTHER LEGISLATION AMENDMENT BILL 2019

TRANSCRIPT OF PROCEEDINGS

MONDAY, 16 SEPTEMBER 2019

Brisbane

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The committee met at 11.48 am.

ALLEN, Mr Craig, Deputy-Director General, Office of Industrial Relations

CHRISTIANSEN, Mr Ben, Acting Director, Workers' Compensation Policy, Office of Industrial Relations

HILLHOUSE, Ms Janene, Executive Director, Workers' Compensation and Policy Services, Office of Industrial Relations

CHAIR: Thank you for the written response to submissions that you have provided and also the written briefing to the committee. We will give you the opportunity to make an opening statement and provide any additional information you would like to and then we will open for questions.

Mr Allen: Thank you very much. We thank the committee for the opportunity to contribute to today's hearing. By way of background, the second independent five-year review of the operation of the workers compensation scheme was undertaken by Professor David Peetz of Griffith University and was tabled in parliament on 29 June 2018. The amendment bill before the committee gives effect to 12 legislative recommendations made by Professor Peetz, as well as several other amendments to improve the operation of the workers compensation scheme. The department undertook significant consultation on all proposed amendments. A stakeholder reference group comprised of unions, employer groups, insurers, allied health representative bodies and the legal community have thoroughly considered the proposals.

The proposed changes are primarily focused on enhancing claims management processes and the experience for injured workers and providing more support for vulnerable workers, particularly those with psychological injuries. The commencement dates for the proposed amendments range from assent to 1 July 2020. This will enable employers and self-insured employees sufficient time to administratively prepare for and comply with the changes. It will also allow the department time to work with stakeholders to develop guidance and educational materials on key aspects of the proposed changes.

I note that certain submissions made to the committee have raised issues not related to the amendments in the bill and some of these matters are the subject of specific administrative recommendations made by Professor Peetz as part of the review of the scheme. A whole-of-government response to the review's 42 administrative recommendations, many of which depend on the passage of the bill, is currently being considered. The department will undertake further consultation with relevant stakeholders on these recommendations to inform the government's response.

I note that we have provided the committee with a written briefing paper, albeit it was Friday afternoon, as well as written responses to the issues raised through public submissions. Given this, I do not intend to address the proposed amendments in detail. My colleagues and I are happy to address any specific questions the committee may have in relation to the bill. Thank you.

CHAIR: Thank you. I make the point that we are all getting across document 2, so I am sure we will double up and you will be telling us something that is in here, but it is always better to hear something twice than not at all. Thank you very much.

Mr Allen: Thank you.

CHAIR: I invite the deputy chair to ask questions.

Mrs STUCKEY: There is no doubt about a Friday afternoon.

Mr Allen: We were just adhering to time lines.

Mrs STUCKEY: Thank you so much for coming along today. What actuarial advice was provided on the impact of the changes on the WorkCover premium? How will those changes impact the current premium next year and over the next five years?

Ms Hillhouse: WorkCover Queensland sets its premium, not the Office of Industrial Relations or the government. I can advise that generally one cent of premium is equivalent to around \$11 million. If you are looking at a total cost of \$18.6 million then you are looking at probably 1.5 cents, if you were to make that comparison. However, that \$18.6 million does not take into account some of the benefits that may be achieved through these amendments as a result of behavioural change. While costings were able to be done in terms of what things will cost, it is very difficult to understand what potential net benefits may be achieved when you start to gain behavioural change, especially looking at the early intervention initiatives as well as the rehabilitation return-to-work programs.

Mrs STUCKEY: Are you able to shed any light on the anticipated impact on the premium for self-insurers?

Ms Hillhouse: Self-insurers do not pay a premium. It will depend on the nature of the industries they are in, the nature of the injuries and their claims experience in terms of what the impact may be for them. As a proportion, self-insurers make up around 10 per cent of the workers compensation scheme. That will give you an insight in terms of what costs may be attributable to them as a result of these changes.

Mrs STUCKEY: Is there a particular reason the bill is implementing only 12 of the 15 recommended legislative changes? What happened to the other three from the Peetz review?

Mr Allen: The reason we are doing only the 12 is that these 12 were not subject to the RIS. They were also the 12 amendments that had the most impact in terms of getting these out and starting to impact on workers compensation. The other three are still subject to further consultation and further consideration by government. They are predominantly concerned with the gig economy, so we are still doing some research around that. That is a changing feast across the nation.

Mrs STUCKEY: It is evolving very quickly, isn't it?

Mr Allen: Evolving very quickly, yes.

Mrs STUCKEY: You would have trouble keeping up with it. What is the anticipated result from lowering the threshold for psychological claims? How many additional claims per year will be accepted and how much will this cost the scheme?

Mr Allen: We can give you figures about anticipated cost. In terms of the change of the definition from 'major' to 'significant', prior to 2013 the term 'significant' was used in relation to a psychological injury. At that time about 61.5 per cent of psychological injuries were being disallowed. When the change to 'major' came about, there was very little difference in the rejection of offers; it went to 62.1 per cent. We do not really think there will be a significant change in the number. There may be a spike at the beginning, but over time it seems to balance out. The rationale for changing the definition was to align it with the physical, so it is the same terminology throughout.

Mrs STUCKEY: Thank you. If there is time at the end I will ask more questions, but I will share the time with everyone.

CHAIR: Sure. We always value our time with the department, as you can see; we have lots more questions for you.

Mr HEALY: Some of the amendments described in your written briefing about insurers' responsibility on rehabilitation and return to work appear quite technical in nature. Could you assist by explaining how the proposed amendments will affect an injured worker and employer or an insurer, including self-insurers?

Ms Hillhouse: You are talking about the extension of the obligations for providing rehabilitation and return to work?

Mr HEALY: Yes, correct.

Ms Hillhouse: At the moment within the workers compensation scheme there are a number of guillotines that exist as part of the short tail of the scheme. The one furthest out is a period of five years. No statutory claim can go beyond a five-year period in Queensland. There are a number of other times in which a worker's access to compensation may decrease; for example, if they receive permanent impairment, they no longer have any incapacity as a result of their work related injury as well as the injury resolved.

There are a number of times in which a worker's compensation may cease. What the review identified was that that does not necessarily mean that a worker's ability to gain benefit from rehabilitation and return-to-work initiatives and programs actually ceases at that same time. What they found was that there was potentially a gap that was identified in those claims that progressed to common law where the compensation had ceased and then at the common law stage in the Brisbane

legislation. The insurer then tried to re-engage with workers in relation to providing rehab and return-to-work support. It was almost too late by that point. The review recommended providing the ability for insurers to support workers post the statutory cessation of a claim for a defined period.

In terms of setting up the period of time, the proposed legislation introduces a number of safeguards to ensure that we do not in any way play with the fundamental short tail nature of the scheme. One of those safeguards is that five-year limit. Another is if there has been a payment of common law damages or redemption payment. The other is if the worker is not engaging with the program—no longer needs the program—then they will not be provided with that support past the cessation of their claim.

Mr HEALY: That is excellent, thank you. That is what I needed.

Mrs WILSON: Mr Allen, you briefly spoke earlier today about the employer groups and unions. Can you list a few of those that were part of the stakeholder group?

Mr Allen: We can provide a list. It was in the written response, I think. The list is: WorkCover Queensland, Association of Self Insured Employers Queensland, Australian Lawyers Alliance, Queensland Law Society, Housing Industry Association Australia, Masters Builders Group, AI Group, Australian Rehabilitation Providers Association, Occupational Therapy Australia, Australian Workers' Union, CFMMEU, Queensland Council of Unions, SDA Queensland, Bar Association of Queensland, Chamber of Commerce & Industry Queensland, Taxi Council Queensland, Limousine Association, Uber, Ride Share Drivers' Association, and Consultative Committee for Work-Related Fatalities and Serious Incidents.

Mrs WILSON: It is very extensive.

Mr Allen: Yes.

Mrs WILSON: If you could provide us with a list when you get a chance, that will be fantastic. It will be in Hansard anyway. Was any public consultation conducted?

Ms Hillhouse: In relation to the bill, no. It did not go out for public consultation.

Mrs WILSON: Have any of those key stakeholders provided any advice on the impact that changes to WorkCover premiums may have over the coming years, whether it be the next few years or further into the future?

Ms Hillhouse: In terms of the stakeholder reference group, I do not think the members identified any concerns in relation to costs. WorkCover Queensland is in a very strong financial position. It has a funding ratio of 171 per cent and, as outlined by the ALA, claims costs at the moment sit around \$1.7 billion. In terms of additional costs to the scheme, it is not a great cost in proportion to the size of the scheme as a whole.

Mr DAMETTO: My understanding of the policy objective of the bill is to align psychological injury claims with physical injury claims. I have noticed from working in the industry that there are a lot of tools given to industry to deal with physical injuries in the workplace; for example, safe work instructions and risk assessments. From the department's point of view, what tools would be available to industry to help reduce some of the personal injury claims associated with psychological injuries?

Mr Allen: That is a good question. Obviously, the bill's aims are greater than just the alignment between psychological and physical injuries. One of the things the department does is develop materials to assist employees in terms of any psychological issues. We are in the process of working on a code of practice around bullying in the workplace. We anticipate that will be coming out later in the year. There are significant activities being undertaken by the department working with WorkCover and various other self-insurers about ensuring that people have the opportunity to have the tools to address psychological issues. This is a very complicated space, as you can imagine, and it is becoming more and more complex on a daily basis. Even today there are statements in the media from the captain of the Brisbane Broncos about the danger of social media comments and the impacts they can have. It is a very complicated space, but we are working to support employees in this space.

Ms Hillhouse: There are a number of initiatives that we support. We can provide you with some more information on these if you would like.

Mr DAMETTO: That would be great, thank you.

Ms Hillhouse: There is the People at Work resource and the LeadingWell initiative, which is a collaboration between the Office of Industrial Relations, SuperFriend and WorkCover. It is a collaboration really designed to support leaders in building and maintaining mentally healthy workplaces. We have developed a mentally healthy workplaces toolkit. There is also a frontline safety toolkit that may be available as well as a healthy workers initiative. There are a number of initiatives in addition to help support—

Mr Allen: I just want to add one other thing. The Office of Industrial Relations supports Mates in Construction, which is a significant contributor towards working with mental health in the workplace and suicide reduction.

Mr DAMETTO: It is a brilliant organisation.

Mr Allen: We are a significant supporter of that organisation.

Mr DAMETTO: Thank you for your clarification around that. I appreciate your answer.

Mr SAUNDERS: One of the things I have picked up over the years is that with WorkCover you are talking about rehabilitation and getting people back to work, but we see timber workers and road construction workers who are working in large hardware chains. I agree with the ALA: there seems to be no talk between the practitioner, WorkCover or the body that is looking after their return to work and the individual who has been injured, because they are like a duck out of water. You see them standing in a hardware chain doing return to work when it is not their field. Will that be changing?

Mr Allen: I heard the comments from the ALA and I have read the comments associated with that. I think what you are saying is common sense. Depending on how the bill progresses, obviously the department is working on a considerable amount of guidance materials and support materials, and part of that will be addressing this issue to make sure there is collaboration between all of those people who are involved in the rehabilitation. As was indicated, it is inappropriate to put a person who has spent 30 or 35 years in a particular industry into a completely different industry if you want to get a rehabilitation outcome. I am sure we will address that through the guidance materials.

Ms Hillhouse: Part of the extension of the obligation is really putting an earlier reliance on insurers' accredited return-to-work programs. Those return-to-work programs are accredited by the Office of Industrial Relations. That applies to WorkCover as well as self-insurers. This is something that can be really achieved through those programs, because those programs are designed to allow us to monitor that the insurer is really demonstrating and maintaining a level of solid performance and that they are addressing the management of the return-to-work process. Part of the return-to-work process that exists under the legislation is consultation. I suppose from our side of things there is that ability through the accreditation process for us to assist and support the achievement of greater collaboration between all of the different parties involved in the return to work of a worker.

CHAIR: Following on from the question from the member for Maryborough, you made the comment, Director-General, with regard to the material you can provide. One of the comments that Professor Peetz made in his review—I think it was also in the AMWU's submission—is that important guide with regard to reasonable management action. From my quick study of your response to submissions, it seems that is something you have absolutely accepted that you are happy to do. Is that fair to say?

Mr Allen: Obviously those guidance materials are key for making sure that the changes to the bill, if enacted, work appropriately. They are the things we are committed to ensuring.

Ms Hillhouse: I think it is very well recognised that there are a lot of complexities attached to the definition of injury, in particular reasonable management action. Yes, we are very committed to providing guidance and bringing stakeholders together to develop appropriate tools for that.

CHAIR: Firstly putting my legislator hat on, I think what has come through in all of the submissions is that the scheme is working well and it is robust; these are tweaking amendments. I think that is excellent. No-one has put in a submission saying that everything is bad and we should not have this. That is a great outcome. Now taking my legislator hat off and putting my local MP hat on, you will not be surprised to hear that the complexity of psychological injuries, what does not constitute reasonable management action and the burden of proof that an employee feels it necessary to establish are things I hear about in my electorate office. I was so interested to read your statistics, as I always am when I read your reports, that the claims have not really increased. Can you speak to that? I find that surprising.

Mr Allen: Obviously there are lots of claims. The psychological claims still only represent two per cent of accepted claims. The physical—sprains, trips and falls—comprise the bulk of workers compensation. Psychological claims are the most complex. That is part of the reason for the amendments to the bill: to get people assistance much earlier than they have in the past. In the last financial year there has been an increase in the number of psychological claims. In the 2018-19 year the lodgement rate increased 10.9 per cent over the previous year, so there has been an increase in those numbers. In terms of trend, I suppose we will see that over a period of time, but in terms of the whole workers compensation scheme it is still a very small number as part of the scheme.

CHAIR: I think there are a number of reasons that would be the case. One, I would imagine—and perhaps the lesser—would be that a physical injury is very easy to see and hopefully treat, whereas a psychological injury often presents later. I think it is often the main topic of conversation because it is so difficult for employees to meet the threshold of what constitutes a psychological injury caused by work. I think the good thing is that you have given effect to paragraph 28 on page 11 of the Peetz review—that is, the importance of early intervention and getting early treatment for these employees whose condition may otherwise be exacerbated by the stress of the process overall.

The other comment I often get is that they may see different practitioners who do not have the history, and they have to see someone new and explain the process and then someone new again. Can you speak to some of the process and practice issues that the ALA raised in that regard? I know you did briefly with regard to my colleague, but I would love you to extrapolate on that.

Ms Hillhouse: In term of psychological injuries, is your concern in relation to rehab and return to work or the starting process?

CHAIR: It is the starting process.

Ms Hillhouse: It can be a very complicated process. Some of that, as you said, is due to the nature of the injuries, the causation and the stressors. Sometimes it can be very difficult to articulate what events may have caused or contributed to an injury, which makes the decision-making process hard. It also has those other exclusions within the definition which go to reasonable management action. What this means is maybe not only just medically in terms of understanding the medical cause of the injury but also from a practical perspective what has actually occurred within a workplace. What we find is that these claims take a lot longer to decide, both from an insurer's side and from the Office of Industrial Relations' side if they come in for review. There tends to be a lot of sharing of information.

We very much accord to principles of natural justice, which means that if a statement is made by either party then the other party gets a chance to respond to that statement. We find that that process itself can take a long period of time. It can also be quite stressful for a worker. One of the reasons the early intervention proposal was introduced was to make sure that the worker is getting the appropriate support they need through that process. I think we would all agree that the process can be stressful on its own. This ensures that for the injury they are applying for compensation for, we know that they are actually getting the support they need with what can be up to a 30-day, on average, process before a decision is made.

CHAIR: I am sure that is also based on the evidence which you are well aware of—that is, if an employee is not back in the workplace within six months then you have a diminishing success rate with regard to being able to rehabilitate them.

Ms Hillhouse: It is very difficult if you have had anywhere between four and six weeks where a worker has had potentially no support or assistance in terms of managing their injury.

Mr Allen: I think the other change around being able to put in a claim outside of the six months recognises the cumulative effect of some psychological injuries, particularly for our frontline workers—our ambulance workers, our fireys, our emergency nurses and police and people like that. There might be an incident that may not be very significant to the person at the start, but a number of those incidents over a period of time can lead to a significant psychological event for them.

CHAIR: I am conscious that we have another five minutes with you and I want to allow supplementary questions. I am sure you have addressed the Independent Education Union's suggestion. They think the onus of proof should be reversed onto the employer to prove reasonable management action. Is that addressed in here?

Ms Hillhouse: Yes, it should be.

CHAIR: I will read that. Secondly, in terms of your response with regard to the Queensland Law Society about putting the apology essentially in and the effect that that may have on any criminal matter that is brought under the manslaughter provisions in the act, is there anything additional you can provide to what is here? They did not have a proposal as to how to address or solve that problem, so it is quite complex.

Mr Allen: It is a very complex problem. We tried to align it with the Civil Liability Act so that, in terms of a common law claim, a statement of apology or a statement of regret is not factored into that. When you go into the criminal law space and the prosecution space, there is the capacity for a court to determine based on statements of fact that might be in that apology. As I have mentioned before, with the guidance materials and the advice that we will give to people, we will also be giving them advice around what that statement may mean for them. We are not telling them how to make the statement but how that statement might impact on further legal action.

CHAIR: Do you mean in recognition that the statement itself may be persuasive if a matter goes into the criminal jurisdiction?

Mr Allen: We will make people aware that in a criminal proceeding it is up to a criminal court to determine that but it will be governed by what is in the statement and facts that can be derived out of that statement, so it is complex.

CHAIR: It is complex. There is no clear answer I think is what we have gleaned.

Ms Hillhouse: No. It very much depends on the nature of the apology or statement that has actually been given. For example, 'I'm really sorry that this happened to you,' is very different from, 'I'm really sorry that this happened because on this day'—

CHAIR: 'I did this.'

Ms Hillhouse: Yes.

CHAIR: Sure. I appreciate that.

Ms Hillhouse: Yes, there is that line there.

Mr Allen: Talking to people who have been participants in the WorkCover claims and workers compensation claims, the impact of an apology to them is significant.

CHAIR: And incredibly sympathetic to it. I think it is often what is missing—some sense of validation of the issue. Just from a legal point of view and drafting point of view, I appreciate your clarification.

Mrs STUCKEY: Were all of the 57 recommendations from the Peetz review accepted by government? If not, which were not?

Ms Hillhouse: The government is still considering them all as a group. The government has not provided a statement in relation to all of the submissions as yet.

Mrs STUCKEY: We do not know when that might be for the recommendations—that is, of the 57 recommendations from the Peetz review?

Ms Hillhouse: My understanding is that the government will be outlining its response to all of the recommendations at the finalisation of the regulatory impact statement process that is currently occurring in relation to the gig worker and interns, so it is a broader piece of work.

Mrs STUCKEY: Does that mean we are not able to say how many have been implemented to date?

Ms Hillhouse: I suppose this bill, in terms of all of the legislative recommendations, implements all bar the three in relation to gig workers.

Mrs STUCKEY: The rest are still outside that? I am just clarifying.

Ms Hillhouse: The rest are administrative, and there is various work being done on those other proposals.

Mrs STUCKEY: Are there any time lines for that? Are they going to come out in dribs and drabs or is it that it had all been looked at as one?

Ms Hillhouse: It is all being looked at as a broader project, yes.

Mrs STUCKEY: Okay.

Mrs WILSON: Given that the report was tabled over 14 months ago now, has there been any consultation that suggested when the recommendations would be occurring?

Ms Hillhouse: There has obviously been significant consultation in relation to those key legislative recommendations. A number of the other recommendations relate to internal practices within the Office of Industrial Relations or within WorkCover Queensland, so it depends on the nature of the recommendations themselves as to what consultation has actually occurred.

Mrs WILSON: Since the report have these—

Ms Hillhouse: The report has been released and it has been tabled.

Mrs WILSON: Yes, 14 months ago, but has there been any further consultation with regard to the recommendations that were in the report?

Mr Allen: Obviously with the consultation with all of the people that we identified, there has been significant consultation with those groups.

CHAIR: As there are no further questions, thank you all so much for coming. We appreciate it.

Proceedings suspended from 12.19 pm to 12.30 pm.

GOODMAN, Mr Mike, Director, Office of the Commonwealth Games, Department of Innovation, Tourism Industry Development and the Commonwealth Games

KOCH, Mr Steven, Acting Deputy Director-General, Engagement, Department of Employment, Small Business and Training

STEPHENS, Mr Wayne, Director, Queensland Apprenticeship and Traineeship Office, Department of Employment, Small Business and Training

CHAIR: I welcome officials from the Department of Employment, Small Business and Training and the Department of Innovation, Tourism Industry Development and the Commonwealth Games. Thank you for your written material to assist the committee to get across the amendments. Do you wish to provide an opening statement?

Mr Koch: Good afternoon, Chair and members of the committee. I would like to thank the committee for giving the department the opportunity to provide a briefing on the Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2019 to amend the Further Education and Training Act 2014 and the TAFE Queensland Act 2013.

In this opening statement I propose to provide the committee with some background to the amendments in the bill relative to both the Further Education and Training Act and the TAFE Queensland Act. I am joined by my colleague Mr Wayne Stephens, Director of the Queensland Apprenticeship and Traineeship Office, who has detailed knowledge and expertise in Queensland's apprenticeship and traineeship system. I am also joined by Mr Mike Goodman, who is here regarding the repeal of the Commonwealth Games Arrangements Act.

The proposed changes to the Further Education and Training Act 2014, or the FET Act as we call it, aim to strengthen fairness within the apprenticeship and traineeship system which will enable the department to assist stakeholders in contested cancellations, temporary suspensions or inadequate training. The FET Act was enacted in 2014 with the intention of removing duplicative and conflicting employment related matters from the training legislation. In addition, the establishment of the FET Act was to provide a framework to allow employers and their apprentices or trainees to resolve issues in relation to the training contract which is associated with an apprenticeship or traineeship. This also enabled the department to focus on providing support to the parties. However, an unexpected consequence of some aspects of this framework is that the department lost the line of sight to issues arising in the workplace and the ability to assist in negotiating positive training outcomes.

Since the proclamation of the FET Act, stakeholders have raised concerns about the fairness of certain provisions within the act in relation to cancellations, temporary suspensions and training delivery modes, which is a key component in establishing the apprentice or trainee's training plan. It has also been recognised that the relationship between an employer and the apprentice or trainee is not always equal, and this may result in those who are most vulnerable not being properly equipped or assisted in understanding, navigating or utilising the remedies available to them under the act.

The Queensland Training Ombudsman also released a report into the review of group training arrangements in Queensland in January 2018. Following extensive stakeholder consultations this report identified deficiencies in areas such as cancellation practices with the group training organisations as well as the inappropriate use of suspension instead of a standdown provision within awards.

The Queensland Training Ombudsman 2017-18 annual report also identified a number of complaints from apprentices whose employment has ceased and subsequently their training contract cancelled. These apprentices or trainees may have benefited from earlier intervention from the department. Accordingly, the bill addresses a legislative gap that exists within the FET Act. This gap relates to circumstances where the employer is able to dismiss an apprentice or trainee without the employer first obtaining permission from the chief executive from the department under the act to cancel the training contract.

The bill reintroduces a single-party cancellation provision that enables the chief executive to decide on one-party training contract cancellation applications. This also enables parties to make a submission to the chief executive under fair procedures, which is also appealable to Queensland Industrial Relations Commission. The current section 36(i) provisions of the FET Act that enable the chief executive to cancel a training contract if the chief executive is reasonably satisfied that the employment of the apprentice or trainee by the employer has ceased is also to be clarified to reflect our current practice.

The current practice for this section provides that a training contract is only cancelled after 21 days has passed from the date that employment has ceased or after any unfair dismissal or similar proceeding in relation to the employment contract is finalised. The 21 days represents the applicable time allowed to make an unfair dismissal application. The bill clarifies this practice, however, in order to give effect to this and to include training contracts cancelled on applications by both parties to the training contract. Under section 33 of the act there is proposed to be a requirement for the apprentice or trainee to advise the department that they will be contesting the cessation of employment in an unfair dismissal or similar proceeding. An amendment to current section 58 obligates the employer to also notify the department if the employer becomes aware that the apprentice or trainee makes an application for unfair dismissal or similar proceeding. A further provision allows for the reinstatement of a cancelled training contract if necessary, if the employment contract is reinstated to the same or similar position as an order of an industrial relations proceeding.

Additionally, the introduction of a temporary suspension provision is a variation of the previous employment related standdown provisions under the Vocational Education, Training and Employment Act 2000. The FET Act currently provides for the suspension of a registered training contract through mutual agreement. However, stakeholders have expressed concern that an apprentice or trainee may be pressured to agree to a suspension when the circumstances indicate that it is likely to be a type of work or training availability for a later standdown situation.

In order to improve compatibility with the industrial relations provisions, the bill includes a new provision that provides that an employer of an apprentice or trainee may apply to the chief executive for approval to temporarily suspend the registered training contract for a period of no more than 30 days. This provision is to address situations where the employer temporarily is not able to provide the training stated in the training plan for the apprentice or trainee. It will also assist in supporting the eventual completion of the apprenticeship or traineeship and therefore avert the possibility of cancellation. The decision of the chief executive under this proposed new provision is also appealable to the Queensland Industrial Relations Commission.

The bill also introduces a new provision relating to concerns over quality of training which allow the chief executive to amend the delivery mode of the training plan for an apprentice or trainee. The establishment of the Queensland Training Ombudsman was an early response of the Palaszczuk government to address training quality issues for apprentices or trainees. A number of training quality issues can stem from inappropriate delivery modes—for example, online delivery versus face to face.

Stakeholders are concerned that apprentices and trainees may not have the latitude to negotiate the training plan if the employer and the supervising registered training organisation, known as the SRTTO, are in concert. The end effect of this could be the apprentice or trainee's inability to make progress due to an inappropriate delivery mode.

Other minor changes proposed resolve practical implementation issues with certain provisions within the FET Act, including ensuring the role of a parent or guardian in applications to extend a training contract. Additionally, it is also proposed to amend current suspension provisions to enable applications to be considered where circumstances prevent one party from being able to consent to a mutual application for suspension of a training contract. This type of situation may be a medical situation where one party is in coma, for example. That is the purpose of that provision. The intention of the party applying would be to preserve a training contract which may otherwise be cancelled due to the other party being unable to meet their obligations under the contract. One-party suspension decisions are also appealable to the QIRC. I also highlight that the proposals within the bill have been developed in consultation through ministerial round tables.

CHAIR: Mr Koch, I feel like you are getting to end of your opening statement. I am conscious of time.

Mr Koch: I will touch quickly on the TAFE Queensland Act amendments as well. The TAFE Queensland Act establishes TAFE Queensland as the statutory body and body corporate. TAFE Queensland is one of the largest vocational education and training providers in the country. The proposal and focus of the legislative amendment is to ensure Aboriginal or Torres Strait Islander representation on the board of TAFE Queensland. This is to support the role that TAFE Queensland plays in providing training and skilling opportunities to Aboriginal and Torres Strait Islander people across Queensland.

In terms of the implementation of that provision under the TAFE Queensland Act, it is proposed that, following commencement of the bill, if the TAFE Queensland board does not consist of an Aboriginal or Torres Strait Islander member, transitional provisions allow the board to be taken as validly constituted until the first day on which, after the commencement, a member is appointed to

the board. It is then anticipated that an Aboriginal or Torres Strait Islander representative will be appointed in the next round of appointments or if a vacancy arises in the interim. I thank you for your time today. We would be pleased to answer any questions.

CHAIR: I am sorry to put you under that time pressure, but I am mindful that members may have questions. Much of the information you have provided was not provided in the explanatory notes or the initial briefing, so I appreciate it is all value add. Mike, I have no questions for you. The repeal is fairly straightforward. Thank you for coming.

Deputy Director-General, you used the term that we lost sight of apprentices and trainees who can often be the more vulnerable party. I would assert that they would almost always be the more vulnerable party in that negotiating arrangement. They do not have the power. Can you explain why the department lost sight of that? I see that the explanatory notes refer to the Further Education and Training Act 2014. I was not a member of the House at that time. Why did that occur in the first place?

Mr Koch: When the Further Education and Training Act was enacted, it had the intention of removing some of the employment related matters from the legislation. At that time there were a number of provisions that were previously in the Vocational Education, Training and Employment Act that were removed. A number of the proposed amendments are to reintroduce some of those provisions that will provide the department with further oversight of the apprenticeship and traineeship matters. Probably importantly for us, it is to really have a greater line of sight earlier on, as issues arise, to enable us as a department to intervene and work with the parties—such as the employer, the apprentice or trainee and the registered training organisation—to try to negotiate more positive training outcomes.

CHAIR: Were those protections and provisions removed from the act on the recommendation and advice of the department or was that a decision of the government of the day? If it was the latter, I can ask you no further questions because it is not open to you to answer that or provide more information. Did it come from the department or not?

Mr Stephens: I can answer that because I was around at that time. We made a conscious decision to remove those provisions and concentrate on primarily a training act to look after training matters. It was never our intent, however, to move away from providing mediation and support services to employers and apprentices. By removing the one-party cancellation provision, our intent was that employers would always ring us or apprentices would ring us if they were having problems at work and negotiate an outcome. What happened was that typically they did not phone and employers would terminate and give two weeks notice. Apprentices would terminate and give two weeks notice and walk without contacting the department.

CHAIR: So it was an unintended consequence, essentially?

Mr Stephens: It was an unintended outcome. We got feedback not only from apprentices but also from employers around the fact that the training contract did not hold the same weight that it held under the previous legislation.

CHAIR: This is on the basis of evidence of an unintended consequence?

Mr Stephens: Yes.

CHAIR: That is all I needed. Thank you. It was before my time.

Mrs STUCKEY: But not before mine. I have a couple of questions around the Commonwealth Games. Was the time line for repealing this act overdue? Was it meant to be 12 months after the games or was there no time line on it?

Mr Goodman: There was no time line on the repeal of the act. Under the act, there was a time line on the wind-up of the organising committee. The government actually passed a regulation to bring that forward to 31 December last year, which is when Goldoc was actually wound up. We have just been waiting for a suitable bill that we could put the repeal into, because it is an administrative matter. It really did not need to happen at any specific time frame. All of the administration relating to it has happened. It has all been transferred and everything else. The Department of Innovation, Tourism Industry Development and the Commonwealth Games is the successor in law to the corporation and we are continuing to handle any residual issues. There was no specific time frame for the repeal of the act.

Mrs STUCKEY: Thank you. I understand there was around \$167 million left in contingency after the games. Considering you have wrapped up Goldoc, has that funding been returned to government?

Mr Goodman: Yes.

Mrs STUCKEY: And that has gone into Treasury?

Mr Goodman: It has gone to the consolidated fund, yes.

Mrs STUCKEY: Are there any outstanding disputes with the non-payment or underpayment of workers and contractors from the games?

Mr Goodman: Everything that could have been settled has been settled. There are residual issues that come up from time to time. On Friday I had a new issue come up that was a workers compensation issue. Those things will come up as people raise things. All of the contracts were in place at games time. For example, even though a workers compensation issue comes up now, the insurance policy that was around at the time can cover all of those. There is nothing of substance that is outstanding at the moment. It is all little bits and pieces.

Mrs STUCKEY: My question was whether there were any outstanding disputes. Is that a no?

Mr Goodman: No.

Mr HEALY: Mr Goodman, I have looked through the bill and I am glad you have said something. I do not really have anything on the Commonwealth Games, but it was a great event so thank you for that. Mr Koch and Mr Stephens, I have been reading through the objectives of the amendments and there are a couple of very good points. I am more worried about application and how we get there. One of the objectives is to 'protect the positions of apprentices and trainees, who are vulnerable workers and do not have the same bargaining powers'. I know that the chair raised that. Can you talk to me in normal terms on how the legislation will protect them and what it will do that we are not currently doing?

Mr Koch: I will ask Mr Stephens to answer that. His team is currently preparing for the implementation.

Mr Stephens: With the advent of the single-party cancellation, as an example, that will basically enable either party to approach and apply to us. The training contract cannot be cancelled unless all parties agree to the cancellation or within current provisions in the legislation where there are circumstances of fact. For example, if the business has gone belly up and broke so that the training environment does not exist there in an employment sense either, we would terminate. Where there are disputes around, 'I don't think I should be terminated'—

Mr HEALY: That is probably the bit I am interested in.

Mr Stephens:—or 'I want to walk down the road for an extra \$50,' for example, they will not be allowed under the new legislation. They can still apply for the training contract to be terminated, but we would then go out and mediate that situation. We make a decision around whether there are grounds for cancellation of that training contract or not. Our decision is then appealable in the Queensland Industrial Relations Commission.

Mr HEALY: That process was not available before?

Mr Stephens: It is not available under the current act but it was available under the previous act.

Mr HEALY: Which we talked about earlier.

Mr Stephens: We tried to concentrate more on the training aspects. As I said before, the consequence of moving out of that space was that we lost sight of some of that employment related bit and some of those opportunities where we become involved before the training contract is actually cancelled.

Mr HEALY: That is good. The other question is in relation to the objective to 'provide greater clarity to enable the chief executive to resolve any issues related to issuing an apprenticeship or traineeship completion certificate'. Can you speak to me about how that pans out?

Mr Stephens: At this time, we have issues with the completion arrangements for apprenticeships and trainees when the registered supervised training organisation goes belly up, closes, and we do not have the required paperwork. The act requires a completion agreement to be signed by the employer, the SRTTO and the apprentice or trainee to say, 'I'm competent. I complete.' If there is no RTO, we have a bit of a problem around completing those apprentices and trainees now because the RTO cannot verify that the training has been delivered and that they have negotiated with the employer that they are actually competent in the workplace.

The new legislation will give us capacity to make a decision around that based on facts. RTOs, for example, would claim moneys through the department on the way through in the delivery of training and assessment so we can see where they have actually delivered training and assessment. We can go and get evidence from the apprentice and trainee and the employer around that

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assessment. If there is a statement of attainment that is there that covers the competencies that have been issued by the RTO but we do not have the completion agreement, we can then make a decision around completion rather than cancellation, going to another training contract and completing under another RTO. That really is a time-consuming matter and puts stress on both the employer and the apprentice.

Mr HEALY: Mr Stephens, what sorts of changes have taken place in the department to enable you to get out and do that? Do you have more labour? Do you have additional resources?

Mr Stephens: The workforce currently exists as it exists and we will not need any more in the space. What this will do is help us also better engage with our employers, our apprentices and our trainees and to provide advice. That in itself will help lessen the workload around other issues that come up as part of the process. There will be an increased workload there but it can be assumed within the current resources.

Mr HEALY: Any forum where there is a greater connection between government departments and what is happening out there in what we assume is the real world is terrific. Well done.

Mr Stephens: Thank you. Just to finish on that, it is not as if there are hundreds and thousands of these complaints. It is restricted to a limited number, but they are the ones that we want to try to fix.

Mrs WILSON: In the HIA submission under 'Suspension, termination and cancellation of the training contract', I note that the HIA opposes the further 'muddying of the waters'. Can you speak to that in regard to the employment contract and the training arrangements?

Mr Stephens: They would be referring to the fact that the employer would now have to apply to us for cancellation of the training contract. Typically, at the moment, an employer can give an apprentice or trainee in Queensland two weeks notice to terminate under a modern award. That is not the case in any other jurisdiction. Every other jurisdiction has safeguards for state training authorities to intervene to try to get an outcome. If there are grounds for cancellation, they will be cancelled—no ifs, buts or maybes—but if there is capacity around saving the training contract then we will try to negotiate that outcome. That could be a change of RTO. It could be a change of employer and transfer to another employer. The employer might have a lack of work for a short period of time so we can try to facilitate a transfer to another employer for the ongoing of that training contract and then they can go back to that employer.

In larger organisations it might be a personality issue. We try to engage with the employer to transfer to another section or another area where there is a different supervisor or a different relationship can be built. There are a whole range of things that sit in there. They would be referring to the fact that we are bringing some of those employment related matters back into our legislation. We will try to compensate as best we can, and that will be with our field office providing advice to the employers and apprentices and the education around that.

CHAIR: Thank you very much for your time here today and the additional information you provided.

Mr Koch: Thank you.

CHAIR: As we have no further questions, that concludes the briefing. Thank you to all of the stakeholders and officials. Thank you to our secretariat and Hansard. The video of these proceedings will be available later today or tomorrow morning. The transcript will be available on the committee's web page in due course. I declare this public briefing closed.

The committee adjourned at 12.46 pm.