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LawTalk Blog



An overhaul of the workers compensation system in South Australia

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In January 2014, the Weatherill State Labor Government announced a drastic shake-up of the workers compensation (WorkCover) system in South Australia.

Whether you're an injured worker, an employer or WorkCover itself, it is easy to argue that the current laws are inherently flawed and unfair to anyone caught up in the workers compensation system.

Whether it's the workers arguing that their entitlements have been eroded over the years and compensation is too difficult to obtain, or employers arguing that their premiums are too high, workers compensation law is a minefield of complexity that successive governments have attempted to rectify.

The Weatherill Government has released a policy paper entitled 'A new recovery and return to work system for South Australians'. It appears that the Government wants to prioritise returning injured workers to work quicker with a strong focus on rehabilitation.

Although a system focused on rehabilitation and return to work sounds reasonable, at Andersons, we believe that any workers compensation system should provide a safety net and reasonable protections to those workers who are unable to rehabilitate and return to work.

In their media release, Premier Weatherill and the Hon John Rau MP (Minister for Industrial Relations) have indicated that 'as a package, the changes will give workers greater control over their lives and greater certainty and savings for business.'

The new scheme intends to strongly distinguish between seriously injured workers (with increased compensation), and less seriously injured workers (with a capped scheme and likely cessation of income maintenance after 2 years of being on the WorkCover system).

The Government is also looking at reinstating 'common law', so if a worker is injured as a result of the negligence of their employer, the worker can sue their employer for damages. Currently, in South Australia, workers are prohibited from suing their employer for negligence. It is difficult to tell at this stage whether a reversion to 'common law' will be beneficial to injured workers, and it will depend on the way the new laws are drafted.

Another priority of the proposed new scheme is to reduce the growing 'unfunded liability' of the existing scheme. The Weatherill Government has announced that the proposed changes should save registered businesses in South Australia around \$180 million per year (presumably with reduced WorkCover premiums coupled with faster return to work for injured workers).

Small businesses could save around \$5,000 annually and larger businesses with more than 200 employees could save in excess of \$120,000.

Although the conservative Liberal opposition has been quick to condemn Premier Weatherill's plan to overhaul the system, the following is not entirely clear:

a) the basis for their criticism ; or

b) what is their alternative policy and plan to fix the WorkCover system should they win Government on 15 March 2014?

The latter point is particularly worrying, given that the State Election is only a matter of weeks away, yet workers and employers are blind as to the Opposition's policy regarding workers compensation. We hope that some policy announcements from the Opposition are forthcoming soon.

For more detailed information about the proposed changes, have a read of the [Government's policy document](#). At Andersons, we will carefully review any proposed legislative amendments and work closely with clients and Unions throughout the Parliamentary debate.

Please note, this Blog is posted in Adelaide, South Australia by Andersons Solicitors. It relates to South Australian legislation. Andersons Solicitors is a medium sized law firm servicing metropolitan Adelaide and regional South Australia across all areas of law for individuals and businesses.