



Parliamentary Committee inquiry into South Australia's Return to Work scheme hands down its findings

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In July 2015 the [South Australian workers compensation](#) laws underwent a massive overhaul, culminating in the introduction of a new scheme called "Return to Work".

This new scheme has resulted in major changes to the management of workers compensation claims and the rights and entitlements of injured workers.

Given the magnitude of the legislative changes, a Parliamentary Committee invited stakeholders to put forward submissions into problems with the scheme, suggestions as to how it could be improved and any other recommendations.

Andersons' submission was aimed at improving the rights of injured workers

On 30 September 2016 Andersons Solicitors [prepared and lodged a submission to the Parliamentary Committee](#) outlining several areas of concern. We made numerous recommendations regarding how the scheme could be improved to enhance the rights of injured workers. We provided numerous real-life examples of how the Return to Work scheme had resulted in some harsh, unreasonable and unfair outcomes for South Australian workers.

In November 2017, we received a copy of the final report from the Parliamentary Committee. This report was tabled in the South Australian Parliament in November 2016.

Andersons Solicitors is very pleased that many of our proposed recommendations were accepted/supported by the Parliamentary Committee, including but not limited to:

1. Reducing the legal threshold for psychological injury claims from 'the significant cause' to 'a significant cause'. This might seem like semantics, but changing this one small word will have a huge impact on a worker's eligibility to claim compensation;
2. Removing the term 'seriously injured worker' and removing that high threshold to be classified as seriously injured. The Committee has recommended a change to the NSW style of 'worker with high needs' with a permanent impairment exceeding 20% and 'worker with highest needs' being a worker exceeding 30%;
3. Broadening the coverage of medical expenses, including no time limit for medication expenses and no time limit where it can be shown the treatment is required to maintain a worker's work capacity;
4. Removal of the pre-approval requirement for surgery – surgery should be compensated even if outside the medical support period, and even if pre-approval hasn't been sought;
5. The 104 week income maintenance period be based on an aggregate period, whether consecutive or not. This is important for workers who make multiple failed attempts to return to work. Those periods back at work currently cut into their 104 week entitlement;
6. Holding all employers accountable with their return to work and section 18 obligations, being their obligation to provide ongoing employment to an injured worker rather than simply terminating the employment relationship;
7. Provide economic and non-economic loss compensation for psychological injuries, currently prohibited in the legislation;
8. Parliament to review the Common Law provisions. Common Law relates to the potential ability to sue your employer if the employer's negligence/recklessness caused the injury. Currently there are very strict preclusions as to when a common law claim can be made; etc.

Each of the matters listed above will be discussed in separate blogs, but this blog is designed to provide an overview of some of the outcomes included in the Parliamentary Committee report.

Some other recommendations include:

1. A better regional engagement – workers from regional SA have experienced poor communication and engagement with Return to Work SA and the agents;
2. Strengthening ReCONNECT service to assist workers transitioning back to work and the community after an injury;
3. Review of Return to Work SA's compliance with their service standards;
4. The Minister to review the significant reductions in the expenditure for rehabilitation and Return to Work providers and how this has impacted workers etc.

Will the Committee findings drive changes in the Return to Work legislation?

Of course, there is no guarantee that any or all of the recommendations will be implemented by Parliament. The report notes that many of the recommendations may result in a significant cost increase to the Scheme. The financial implications will obviously be carefully considered when determining whether or not to adopt any of the recommendations.

But the report definitely represents a step in the right direction and demonstrates that our elected Parliamentarians are prepared to listen to the concerns of their constituents and recommend changes for the benefit of all South Australian workers.

If you have experienced a workplace injury and want to discuss your options around workers compensation, please get in touch with us.

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.