REVIEW PURSUANT TO SECTION 203 OF THE RETURN TO WORK ACT 2014

SUBMISSION BY JOHNSTON WITHERS LAWYERS

FEBRUARY 2018

INTRODUCTION

Johnston Withers has a proud history of representing injured workers in relation to workers compensation claims for over 70 years in South Australia. This submission is based on our particular experiences as lawyers acting for injured workers whose situation is impacted by the new workers compensation scheme.

In this submission we will address many of the terms of reference which have been specifically established by the Minister in relation to the review required under Section 203 of the Return to Work Act 2014 (SA) ("the Act"). However, we consider that, apart from Item 10 of the terms of reference, to which we will provide a number of comments, the other terms of reference are regrettably quite restrictive in their focus and do not address many key elements and concerns which plaintiff lawyers have about the Act.

We are also concerned that, along with other parties, we have had very little time to provide a submission on such a complex scheme and its effects.

TERM OF REFERENCE NO. 1

The extent to which the scheme established by the Act and the dispute resolution processes under the Act and the South Australian Employment Tribunal Act 2014 have achieved a reduction in the number of disputed matters and a decrease in the time taken to resolve disputes (especially when compared to the scheme and processes applying under the repealed Act).

1. We understand that the SA Employment Tribunal will provide specific details as to the number of matters in dispute and the time taken to resolve disputes. However, regardless of the actual statistics, at present there is considerable uncertainty amongst lawyers and injured workers as to the meaning of many critical aspects of the Act. This is giving rise to substantial disputation and

a large number of cases which are currently on appeal to both the Full Tribunal and to the Supreme Court. Many matters that would have settled in the past cannot be settled at present, due to the uncertainty as to the interpretation of key provisions of the Act.

2. The Act itself, and in particular the transitional provisions, is complex and confusing. A review of the many decisions produced by the South Australian Employment Tribunal ("the Tribunal") in 2017 (over 180 decisions, mostly concerning claims under the Act), indicates the difficulties and complexities involved in interpreting the Act and the supporting delegated legislation. This makes it very difficult for plaintiff lawyers to provide clear timely advice to their clients. Workers who are unrepresented have little hope of being able to understand these complexities. Furthermore, we are concerned that the Return to Work Corporation ("the Corporation") and its' agents may in some cases be giving wrong advice to injured workers and not giving timely advice as to the effect of legislation deadlines, in particular in relation to making applications under Section 33 of the Act.

3. An indication of the uncertainty concerning the interpretation of the Act is a recent 2017 Full Tribunal decision of *Andrzejczak*[1] which is critical of a 2016 Full Tribunal decision of *Pennington*[2] and reaches a different opinion concerning the transitional provisions of the Act. No doubt this will be added to the long list of matters currently before the Supreme Court. Unfortunately, having regard to delays in such matters being dealt with by the Supreme Court, injured workers and their lawyers are unlikely to have greater clarity as to the appropriate interpretation of the Act, for some considerable time to come.

4. The Act introduces new terms which alter decades of understanding and interpretation of important provisions which may give rise to a benefit to injured workers. One example of this is an added requirement that not only must the injury arise out of or in the course of employment, but the employment must also be "a significant contributing cause of the injury". In the case of psychiatric injuries, the employment must be <u>the</u> significant contributing cause of the injury.

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[1] Andrzejczak v Dept for Education and Child Development [2017] SAET 183, 21 December 2017.

[2] Pennington v Return to Work SA [2016] SAET 21.

5. The experience of plaintiff lawyers has been that the Corporation is taking a strong adversarial position, causing delays, partly in a wish to "test" the provisions of the Act and partly because the Corporation sees its main role as being to reduce the cost of claims, to the detriment of injured workers. That is quite apparent from the submission of the Corporation to this Review.

TERM OF REFERENCE NO. 2

Without limiting paragraph (1), whether the jurisdiction of the SAET under the Act should be transferred to the South Australian Civil and Administration Tribunal.

1. It is the view of Johnston Withers that the jurisdiction of the SAET under the Act should remain with the SAET and should not be transferred to the South Australian Civil and Administrative Tribunal. The Act is complex and how its provisions might be interpreted in the context of various factual scenarios is a very difficult legal exercise, requiring a high level of skill and experience. It requires the decision making of Judges and Presidential Members, such as the members of the SAET, who have a very good knowledge of, and experience in, workers compensation law and employment law. Such decisions can have a profound impact on injured workers and their families.

2. The SAET now deals with all employment matters. This is a welcome development as workers compensation and other employment disputes often overlap and are most effectively dealt with in the one forum.

3. It is our view that the SAET is plainly the most experienced and efficient body to determine disputes under the Act.

TERM OF REFERENCE NO. 3

The extent to which there has been an improvement in the determination or resolution of medical questions arising under the Act (especially when compared to the system applying under the repealed Act).

1. The complexity of the Act has given rise to a greater potential for disputes concerning the determination of medical questions arising under the Act than existed under the former legislation. This is particularly so when determining an assessment of Whole Permanent

Impairment under Section 22 of the Act and the Impairment Assessment Guidelines. Such assessments are not only relevant to claims for lump sum payments for non-economic loss but critically now determine whether or not a worker's payments will be discontinued after two years or otherwise, depending upon whether the injured worker is deemed to be a "seriously injured worker" under Section 21 of the Act.

2. We have noticed that the Corporation and its agents will, in drafting letters requesting medical reports, emphasise certain information or conclusions of certain medical experts and gloss over contrary expert opinion which may be in support of the worker. There have been occasions where the Corporation or its agents have failed to refer to, or omitted altogether, information or prior expert medical reports in requesting a permanent impairment assessment. This appears to be contrary to the principles set out in the Guidelines that a permanent impairment assessor must be provided with <u>all</u> relevant information including past medical reports.

3. For example, we are currently assisting one injured worker who, prior to being legally represented, was given the opportunity to select his assessor from the list of accredited assessors. His injuries were orthopaedic, but specifically included significant surgical scarring. Despite the requirement that the Corporation or its agents provide guidance to the worker in choosing an appropriate assessor, the assessor chosen was not accredited (under the Scheme accreditation) for skin body system assessment. The assessor, an occupational physician, undertook a Whole Person Impairment Assessment which included 9% WPI for the scarring component. The Corporation advised the assessor that, not being accredited to assess the scarring at more than 4% WPI according to the guidelines, the assessment for skin was non-compliant and would need to be revised. The assessor revised the permanent impairment for the scarring down to 4% WPI without explanation.

4. This matter is currently in dispute in the Tribunal. Whilst the Corporation agreed to the Tribunal requesting an independent medical adviser opinion, the Corporation sought to omit any reference to the assessor's previous assessment at 9% WPI for scarring, but to provide only the revised WPI report, despite our objection that in our view this is clearly misleading the independent medical adviser.

5. At the conciliation stage, the Tribunal's proposed solution was simply to provide no previous medical reports at all to the independent medical adviser.

6. The Impairment Assessment Guidelines ("IAG"), coupled with the difficulty of interpreting many of the provisions of the American Medical Association Guides to the Evaluation of Permanent Impairment, Fifth Edition ("AMA 5"), upon which the Guidelines are based, adds another layer of complexity and confusion to the complex provisions of the Act. There are a substantial number of disputes in the Tribunal concerning the IAG. The IAG are particularly difficult when having regard to the Guidelines chapter on "psychiatric disorders" which in turn relies on the Guide to the Evaluation for Psychiatric Impairment for Clinicians ("GEPIC").

Psychiatric Injuries

7. The Act discriminates in many ways against workers who suffer a psychiatric injury arising from their employment. This includes the following:

- A stricter causation test for determining that psychiatric injuries are compensable under the Act.
- No entitlement to a lump sum payment for either non-economic loss or economic loss for workers with psychiatric injuries.
- An arbitrary distinction between "pure mental harm" and "consequential mental harm" as defined in Section 4 of the Act.

8. Furthermore it is our experience that psychiatric injuries are, in most instances, rejected as a matter of course. It is rare that such an injury is accepted. This necessitates an application being filed in the Tribunal. This observation is endorsed by the Parliamentary Committee on Occupational Safety Rehabilitation and Compensation, which remarked in its 30th report dated 14 November 2017 that the acceptance rate for claims for psychiatric injury for the year 2016/17 was the lowest it had been in 5 years.

9. One example of this complexity has arisen in a case for which our firm acted. In June 2017 we wrote to the Corporation seeking an interim assessment for a worker who had continued to suffer a very serious psychiatric injury for several years. We sought an interim decision to the effect

that the worker would be taken to be a seriously injured worker. This was supported by a report from the worker's treating psychiatrist ("the first psychiatrist") which said that, although the worker's condition was not stable enough at that time to reach "maximum medical improvement" he was likely to have a 30% or more Whole Person Impairment.

10. The Corporation delayed in making a response. Finally it said it wished to seek its own medical assessment. Our client was then sent to a psychiatrist ("the second psychiatrist") chosen by the Corporation. That psychiatrist responded by saying that our client had a very significant psychiatric disorder of approximately 50% WPI. The Corporation then sent that assessment to a third psychiatrist of its choosing for comment. That psychiatrist said in his opinion he thought the assessment should be less. The Corporation then sought a further report from the second psychiatrist, putting certain comments made by the third psychiatrist and inviting him to change his opinion. The second psychiatrist then said he would revise his view but it would still be approximately 35% Whole Person Impairment. That psychiatrist also said that in his view the worker had probably reached maximum medical improvement.

11. The Corporation continued to refuse to make an interim determination. Instead, it decided that the injured worker now had to see a fourth psychiatrist, and not the second psychiatrist who had made an interim assessment of 35%. This was apparently on the basis of its own "Impairment Assessors Accreditation Scheme" that requires any assessment to be undertaken by a doctor who has not previously seen the worker. This matter is now in dispute in the Tribunal. The injured worker has been without weekly compensation payments for over seven months now. In our view this is just one example of the Corporation both "doctor shopping" and manipulating the Impairment Assessment Guidelines and the "Return to Work Scheme Impairment Assessor Accreditation Scheme" which it has drafted, to the detriment of injured workers. In this case the ongoing delays of the Corporation and its arbitrary decision-making has aggravated our client's psychiatric condition.

12. Johnston Withers commends the 26th report of the Parliamentary Committee on Occupation Safety, Rehabilitation Compensation dated 27 October 2016. We support the recommendations made by the Parliamentary Committee and request that this Review similarly support those

recommendations regarding amendments to the Act which propose greater support for workers who have suffered psychiatric injury arising from their employment.

13. Johnston Withers further supports the recommendations of the 30th report of the Parliamentary Committee on Occupational Safety Rehabilitation Compensation, dated 14 November 2017 and requests that the Review take those into account as well.

Pre-approval of Surgery

14. The Act generally states that injured workers will continue to receive payment of medical expenses for a period of 12 months only, following the cessation of weekly payments (Section 33(20) of the Act). A worker with an injury suffered after 1 July 2015 may, before the expiration of the period of entitlement for medical expenses, apply for pre-approval of surgery. However, for a worker who has suffered a work injury prior to 1 July 2015, ie. "an existing injury" as defined by the Act, that worker must have made an application for pre-approval of surgery prior to 1 July 2016, even if the worker continued to have an entitlement to reimbursement of medical expenses at that date and subsequently. This is by virtue of regulation 23(2a) of the Return to Work Regulations 2015.

15. This anomalous and unfair provision has caused wrong advice to be given by Gallagher Bassett to injured workers and to doctors. In May 2016 Gallagher Bassett were advising those injured workers who had an existing injury but who continued to have an entitlement to reimbursement of medical expenses, that they could apply at any time prior to the expiration of that entitlement to medical expenses. They were not informed that they must apply prior to 1 July 2016.

Seriously Injured Workers

16. The arbitrary and very high 30% WPI threshold, coupled with the 2-year entitlement restrictions have led to significant disputation in the SA Employment Tribunal. For example, in the decision of *Puccio*[3], the injured worker received a report from Dr Bastian, Occupational Physician, in 2013 that he suffered a 28% Whole Person Impairment Assessment. He then sought a lump sum payment for non-economic loss which resulted in a determination awarding him a lump sum

[3] *Puccio v Return to Work SA [*2016] SAET 75, 11 September 2016

payment on 26 March 2014. About March 2015 the worker then sought advice about changes brought about by the forthcoming enactment of the Act. His solicitors then sought a further assessment from Dr Bastian who gave him an assessment, after reviewing the criteria again on 13 June 2015, that he did suffer a 30% whole person impairment. The worker then sought a decision that he should be assessed as having a 30% whole person impairment. He also sought to challenge the earlier determination and applied for an extension of time to do so. The Tribunal however, held that there were no good reasons to grant the extension. The compensating authority's determination that the worker was not a seriously injured worker for the purposes of the Act was therefore upheld.

17. In our view this is an unjust decision significantly affecting the worker and his family. It would have required the worker to have had a crystal ball to foresee the new legislation which would come into operation over 2 years after the initial assessment of Dr Bastian and the significant impact that a further 2% whole person impairment would have on his future entitlements or otherwise.

18. We consider that the 30% threshold is far too high and is unjust. In our view such a threshold should be reduced to at most 20% whole person impairment. Furthermore we consider that a "narrative test" as applies under the Victorian Scheme, should be introduced which would allow the Corporation and the Tribunal to have the discretion to assess cases where, notwithstanding the worker not being assessed as reaching the relevant threshold, the worker has a significant partial incapacity or a total incapacity for work which is likely to continue for the foreseeable future. In such cases the worker should be entitled to ongoing weekly payments after the 2 year cut-off date. A particular problem with the current threshold is that it bears no relationship to a worker's age or actual functional incapacity ie. the restriction on his or her ability to perform work, obtain employment and earn an income. Furthermore the Act and the IAG do not permit separate injuries from separate causes to be combined and assessed for the purposes of the 30% threshold, despite the obvious impact that all those injuries have on incapacity for work.

19. Clause 34(2) of Schedule 9 to the Act provides that the Corporation has a discretion, where a worker has an "existing injury" ie. an injury that occurred prior to 1 July 2015, then the Corporation may determine that in some cases a worker will be taken to be a seriously injured

worker. We have been informed, however, in the case of an injured worker who has been assessed as 29% WPI, that the State Government has advised claims managers that if a worker does not reach 30% WPI, then a worker is not to be determined as a seriously injured worker regardless of the circumstances. It appears that the State Government is making a mockery of its own discretionary legislative provision.

20. All those workers with an existing injury had their payments discontinued on about 28 June 2017. We have heard numerous accounts from clients as to the great stress this has placed on both injured workers and their families. We have been informed by clients of the breakdown of family relationships and of workers potentially losing the family home. The 30% threshold which is required in order to be deemed a "seriously injured worker" is an arbitrary figure and does not take into account the extent of the incapacity of the worker and their potential earning capacity or lack of it, in the future.

TERM OF REFERENCE NO. 4

The performance of RTWSA in managing claims including RTWSA's outcomes in reducing incidences of work injury.

1. In our view the submission of the Corporation to this Review has underlined the partial attitude of the Corporation against the interests of injured workers. Examples of this include the comment, at page 4 of its submissions, where the Corporation states *"disputes (and complaints) in relation to the impact of new legislation and new boundaries are expected to be tested through disputes brought by claimant's legal representatives"*. What the Corporation fails to point out is that it is the Corporation itself and its agents who make the original decisions, rejecting benefits to injured workers. As indicated above, our experience is that decisions adverse to injured workers are being deliberately made by the Corporation and its lawyers to "test the waters" as to the interpretation of the new legislation. This is not the fault of the injured workers and its representatives. Of course, the Corporation played a substantial role in the drafting of the legislation, which it now seeks to "test".

2. We further note that at page 7 of its submission to the Review, the Corporation appears to query whether injured workers should be paid costs on appeal at the SAET Full Bench and Supreme

Court. There is a clear disadvantage to injured workers in the resources available to the Corporation as against the very limited resources available to injured workers. Having regard to the complexity of the Act and the attitude of the Corporation in rejecting claims and otherwise interpreting the legislation against the interests of injured workers, it is our submission that injured workers should continue to have costs available to them in relation to matters that may be appealed.

3. At page 8 of its submission the Corporation refers to the case of *Mitchell*[4] which has been appealed by the Corporation to the Supreme Court. Its main reason for appealing appears to be "the cost basis of the new Scheme including the average premium rate, is contrary to this interpretation [ie. of the Full Tribunal] of the Act. RTWSA has appealed this matter at the Supreme Court". It seems somewhat contradictory for the Corporation to then say (at page 9 of their submission) that its "view is that, aside from the significant financial risks a decision by *Mitchell* presents to the Scheme, it also runs contrary to the objects of the legislation, in that it encourages a culture of litigiousness". It is hypocritical for the Corporation to be complaining about litigiousness when in fact it is the Corporation that is appealing the Tribunal's decision to the Supreme Court, in this case and in a number of other cases.

4. We believe that there is likely to be in existence various incentive criteria for the Corporation's agents in South Australia to minimise the benefits being paid to injured workers, to discontinue payments and the payment of medical expenses, and to otherwise reduce the costs to the Scheme. Such information has not been disclosed to date. We request that this Review investigates the existence of any such criteria and the impact this may be having on decision-making by the agents. This is particularly so in the context of workers who may be on the threshold of being deemed "seriously injured workers". We refer in this respect to the report of the Victorian Ombudsman – "*Investigation into the Management of Complex Workers Compensation Claims and WorkSafe oversight*" published in September 2016. This detailed report includes an analysis of the impact of such incentive criteria on decision-making under the Victorian Scheme and is very critical of the practice of certain agents in that State.

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[4] [2017] SAET 81

TERM OF REFERENCE NO. 5

The performance of self-insured employers including outcomes in reducing instances of work injury.

1. We have no particular comment to make on this term of reference.

TERM OF REFERENCE NO. 6

Changes in return to work rates at key milestones outlining factors influencing any improvement or deterioration.

1. In relation to this term of reference, it is likely that the Corporation and self-insured employers would hold statistical information about this topic. The interpretation of such information could be scrutinised by the Review. For instance, what is recorded as a return to work? A one day failed attempt may still be recorded in such statistics, but not provide meaningful information as to the real success or otherwise of return to work rates.

2. A further comment is that in our experience where suitable employment is sought by injured workers who are on modified duties having regard to medical restrictions, there is often significant resistance from employers and a lack of interest or engagement by the Corporation, particularly where the Corporation's liability to pay income maintenance is soon to expire under the Act.

TERM OF REFERENCE NO. 7

Factors contributing to non-seriously injured workers failing to achieve a return to work within 2 years.

1. As indicated above, a worker may be totally and permanently incapacitated (for example with multiple trauma injuries and the accumulated impact) but may not be assessed according to the scheme's very restrictive guidelines, as 30% or more ie. a "seriously injured worker".

2. Section 3 of the Act which sets out the objects of the Act, states that the Act has a "*primary objective to provide early intervention in respect of claims so as to ensure that actions taken to*

support workers … in recovering from injury, in returning to work or being restored to the community when return to work is not possible".

3. In our view the 12 month cut off date for medical expenses post the cessation of weekly payment is unduly restrictive and arbitrary. An injury does not necessarily resolve within 12 months. Indeed, those stoic workers who labour on, delaying surgery, but who subsequently do require surgery, are grossly disadvantaged.

4. In our experience, if any workers do make a successful return to work, they often do so on the basis that they continue to receive medical treatment from time to time to support them in performing their duties. This assistance can take a wide range of options, including ongoing medication for pain relief, physiotherapy, counselling and consultations from time to time with their GP. The Act should be amended to allow such workers ongoing reimbursement of reasonable medical expenses.

TERM OF REFERENCE NO. 8

Any additional recommendations regarding re-skilling services to assist return to work outcomes.

1. In our experience, having regard to the 2 year cut off date for most injured workers, there is no incentive for the Corporation or agents to invest in significant re-skilling of an injured worker, eg. providing for the cost of a university course, as a Corporation's liability under the Act for paying weekly payments is limited.

TERM OF REFERENCE NO. 9

Whether the scheme has yet achieved financial stability and if not, when the scheme would be likely to be mature and stable.

1. We request that the Review carefully review the actuarial assumptions that have been made as to whether and when the Scheme has achieved "financial stability". It appears to us that this term is often used without any critical analysis of what the actual assumptions are. In general it would seem, and this is apparent by the submission of the Corporation to the Review, that keeping down the costs of the Scheme, at the expense of injured workers, is the main priority.

2. It would appear that the Scheme has achieved "financial stability" as employers have received a significant cut in premiums. The Government has also taken out approximately $73 million from the Scheme in the 2016/2017 financial year. Again this is at the expense of cuts to the compensations for injured workers.

TERM OF REFERENCE NO. 10

Any other recommendations based on your review of the administration and operation of the Act which you consider appropriate and consistent with the objects of the Act.

1. The intent of the Act appears to have been to push as many workers as possible onto Commonwealth funded Social Security. However, the Commonwealth Government is in turn applying even stricter criteria for access to the Disability Pension. In such cases, workers are likely to be required on an ongoing basis, to attempt to seek employment under the Centrelink criteria, which will place even further stress on those workers and their families. Many families have mortgages which they will be unable to meet. We have been informed that clients may have to sell the family home after the discontinuance of weekly payments.

2. When the former Minister, the Honourable Jack Wright, first introduced the Workers Rehabilitation and Compensation Act 1986 (SA) into Parliament, the State Government explained that the intention was that the new statutory authority ie. the WorkCover Corporation, would be a body truly independent of employers, insurers and workers.

3. One of the primary statutory objects of the Corporation, as set out in Section 12 of the Return to Work Corporation of South Australia Act 1994, is "to ensure that the early intervention, recovery and return to work scheme under the Return to Work Act 2014 operates in a fair, effective and efficient manner". A further object is "to provide fair compensation for work-related injuries". Both the former legislation and the current Act places substantial power in the hands of the Corporation to determine the fate of injured workers. Our experience to date is that the Corporation has in fact simply acted like any other insurer at the expense of the injured worker. Concerns have been raised that the State Government may be making plans to privatise the Corporation, as it has with the Motor Accident Commission. Placing the Scheme in the hands of

a private corporation which is driven by profit, will only exacerbate the unfairness to injured workers.

4. Under the New South Wales scheme, it has been recognised that emergency service workers, who place their health and safety at particular risk, for the benefit of the community as a whole, should be entitled to special consideration under the workers compensation scheme. In particular, they should be entitled to continuing receipt of income maintenance post the cut-off date for other injured workers. The State Government has been negotiating with unions such as the Police and the Ambulance Employees Association (for whom we act) to have special provisions inserted in the relevant award or enterprise agreement, to allow income maintenance to continue in specific circumstances. In our view this is a somewhat makeshift arrangement. A more appropriate arrangement would be to amend the Act itself to provide that all ambulance officers, police officers, firefighters and other public service employees who put themselves at risk in their jobs, for the safety and benefit of the public who are injured in the course of their employment, and who continue to suffer that injury after the relevant cut-off date, should be considered to be "seriously injured workers" for the purposes of the Act, for so long as they continue to be incapacitated for work.

5. A further issue currently affecting ambulance officers concerns recent negotiated increases to wages under their enterprise agreement. These were finalised in 2017 but backdated to January 2015. Under the former scheme injured workers would have received the full effect of this increase. However under Section 45 of the Act, the SA Ambulance Service has determined that many injured workers will only receive a partial increase and that some will receive no increase at all. This is also currently in dispute.

Recommendations

6. Having regard to our submissions above, we suggest the following <u>recommendations</u> be included as an outcome of the Review:

   6.1 Clause 5 of Schedule 5 to the Act provides that individual complaints may be made to the Ombudsman. The Ombudsman should also have a special function to independently review the operation and administration of the Act by the Corporation and its agents on a

continual basis and to publish annual reports to Parliament. The Corporation should have as its primary objective to act fairly and impartially towards all parties rather than simply to keep costs down to a minimum.

6.2 The jurisdiction to determine disputes under the Act should remain with the SAET.

6.3 The 30% threshold for determining that a worker is a "seriously injured worker" is far too high and is unjust. In our view such a threshold should be reduced to at most 20% Whole Person impairment. Furthermore a "narrative test" should be introduced which would allow the Corporation and the Tribunal to have the discretion to assess cases where, notwithstanding the worker not being assessed as reaching the relevant threshold, the worker has a significant partial incapacity or a total incapacity for work which is likely to continue for the foreseeable future. In such cases the worker should be entitled to ongoing weekly payments after the two-year cut off date. Separate injuries from separate causes should be permitted to be combined and assessed for the purpose of the relevant threshold. The degree of permanent impairment should also be based on a combination of physical and psychiatric injuries for the purpose of assessing a seriously injured worker rather than the existing artificial separation of such faculties.

6.4 The Act should be further amended to provide:

6.4.1 For greater clarity as to the interpretation of its provisions, in particular having regard to the transitional provisions. We also suggest that the Corporation be required to produce an accurate plain English annotated version of the Act to assist unrepresented workers.

6.4.2 For equality in the access to benefits by those workers suffering psychiatric injuries. This should include amending the causation test to provide that employment be a significant cause, not the significant cause.

6.4.3 That emergency service workers and other public servants who are placed in a dangerous or at risk situation in carrying out their normal duties, and who

continue to suffer a compensable injury after the relevant cut-off date, be deemed to be “seriously injured workers” for the period of their incapacity.

6.4.4 That all workers should continue to receive reimbursement of reasonable medical expenses. In particular injured workers who have returned to work either on modified duties or on full duties, but who continue to require medical assistance to enable them to continue at work, should continue to be reimbursed the cost of reasonable medical expenses.

6.4.5 That the Impairment Assessment Guidelines and the Impairment Assessor Accreditation Scheme be amended to provide fairness and clarity for injured workers. In particular, that treating doctors be accredited to assess Whole Person Impairment of their patients.

6.4.6 That Section 45 of the Act be amended to clarify that, in the event of wage rates under an industrial instrument being increased and backdated, relevant injured workers should receive the full increase in their income maintenance.

6.4.7 Clause 34(4) of Schedule 9 to the Act should be amended so that a decision of the Corporation under Clause 34(2) of Schedule 9 to the Act, to refuse to exercise its discretion, to determine that a worker with an existing injury be considered a seriously injured worker, is reviewable.

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8 February 2018