



Restaurant
& Catering

SAVOUR
AUSTRALIA



13 February 2018

Independent Review of the *Return to Work Act 2014*
GPO Box 464
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Email: RTWReview@sa.gov.au

Dear Sir or Madam,

Restaurant & Catering Australia (R&CA) welcomes the opportunity to provide a written submission in response to the Independent Review of the *Return to Work Act 2014*. R&CA is the only national industry association acting on behalf of the interests of 43,000 cafés, restaurants and catering businesses throughout Australia. In South Australia, R&CA represents the interests of over 2,400 individual cafés, restaurants and catering businesses located across the state.¹

R&CA supports the overarching principles governing the *Return to Work Act 2014* in establishing a system which maximises the return to work rate whilst lowering the levels of claims. R&CA welcomes the success to date of the *Return to Work Act 2014* in achieving these stated goals. R&CA however believes that it is difficult to evaluate the long-term success of this system given the reasonably short time frame which has elapsed since it came into full effect. R&CA's comments in specific regard to the Terms of Reference have been written in the context of the short time period in which the Return to Work Act 2014 has been fully operational.

R&CA's specific comments regarding the Review's Terms of Reference are contained underneath the relevant headings below. These comments have been written with due consideration given to the *Return to Work SA* submission published in accompaniment with the original explanatory materials for this Review.

Terms of Reference

- 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**

¹ ABS (2017) 8165.0 - *Counts of Australian Businesses, including Entries and Exits, Jun 2012 to Jun 2016*.

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and a decrease in the time taken to resolve disputes (especially when compared to the scheme and processes applying under the repealed Act);

- R&CA notes that since the establishment of the Scheme, there are still a significant number of disputes being heard in the South Australian Employment Tribunal (SAET) according to the Daily Cause Lists. It would appear that even though the time taken to handle Disputes has been reduced under the Scheme, the time taken for Judicial Determinations and subsequent proceedings are taking longer, due to an increase in caseloads.

2. without limiting paragraph (1), whether the jurisdiction of the SAET under the Act should be transferred to the South Australian Civil and Administrative Tribunal;

- R&CA believes that the current activities and output of the SAET should remain the same, given the extensive knowledge of its members in Workplace Relations. R&CA does not specifically oppose the transfer of the SAET's jurisdiction to the South Australian Civil and Administrative Tribunal provided its functioning remains the same.

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);

- R&CA is in accordance with RTWSA's comments relating to the difficulty or evaluating improvement in the resolution of medical questions between the old and new Schemes. R&CA highlights the fact that there is significant variation in regard to medical questions depending on the individual person(s) and the nature of work involved, necessitating a case-by-case evaluation.

4. the performance of RTWSA in managing claims including RTWSA's outcomes in reducing instances of work injury;

- R&CA accepts the comments made by the RTWSA in relation to reducing instances of work injury and notes the successful methods utilised to date in achieving this outcome. R&CA welcomes the ongoing focus on reducing instance of work injury and supports any further improvement on these metrics to be gained as the Scheme matures. R&CA also acknowledges its educative role as an industry association in informing business-owners of workplace health and safety issues.

5. the performance of self-insured employers including outcomes in reducing instances of work injury;

- R&CA points out to the Review that the hospitality sector is covered directly by the Return to Work Act Legislation.

- 6. changes in return to work rates at key milestones outlining factors influencing any improvement or deterioration;**
- It is R&CA's view that the comments expressed within the RTWSA submission regarding the factors influencing improvement or deterioration in return to work outcomes are broadly consistent with the hospitality sector. R&CA supports the emphasis placed on education programs in having a positive effect on return to work rates and believes that this principle is also applicable to the hospitality sector.
- 7. factors contributing to non-seriously injured workers failing to achieve a return to work within two years;**
- R&CA acknowledges the comments provided in the *ReturntoWorkSA* submission regarding the factors contributing to non-seriously injured workers failing to achieve a return to work within two years. R&CA would like to point out that the typical worker employed within the café and restaurant industry does not fit the demographic presented within the submission. According to the then-Department of Employment's 2017 *Australian Jobs Report*, a high proportion of employees within the Accommodation and Food Service sector are aged between 15 and 24 (45 per cent) and female (54 per cent).²
- 8. any additional recommendations regarding reskilling services to assist return to work outcomes;**
- R&CA welcomes the progress to date of the ReSkilling program since its introduction in July 2016. Given the short time span of the program thus far, it is difficult to determine the overall successfulness of the program, although the early signs are promising. R&CA is supportive of RTWSA in its continued evaluation of the pilot '*to assess its effectiveness and inform service design*'.³
- 9. whether the scheme has yet achieved financial stability and if not when the scheme will be likely to be mature and stable;**
- R&CA agrees with the comments made in the *ReturntoWorkSA* submission stating that '*until the ultimate outcomes of the legal processes in these significant cases is known, as well as the Government's potential legislative change response to any such outcomes, the Scheme cannot be considered to be financial stable*'.⁴ R&CA wishes to reiterate this point that until such a time as when these outcomes are known, the financial stability of the scheme cannot be determined. R&CA is also in strong agreement with the stated issues affecting

² Department of Employment (2017) *Australian Jobs 2017*

³ *ReturntoWorkSA Initial Submission* (2018), p.21.

⁴ *ReturntoWorkSA Initial Submission* (2018), p.23.

the financial performance and stability of the Scheme as raised on page 24 of the *ReturntoWorkSA* submission.

On behalf of R&CA, I would like to once again express our thanks for the invitation to provide a submission to this Review. Should there be anything further to discuss in relation to this submission, I may be contacted on (02) 9966 0055 or julianap@restaurantcater.asn.au.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Juliana Payne', written in a cursive style.

Juliana Payne
Chief Executive Officer
Restaurant & Catering Australia