



Safety, Rehabilitation and Compensation Amendment Bill 2009

Juli Tomaras
Law and Bills Digest Section

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Safety, Rehabilitation and Compensation Amendment Bill 2009

Date introduced: 21 October 2009

House: House of Representatives

Portfolio: Education, Employment and Workplace Relations

Commencement: Royal Assent

Links: The [relevant links](#) to the Bill, Explanatory Memorandum and second reading speech can be accessed via BillsNet, which is at <http://www.aph.gov.au/bills/>. When Bills have been passed they can be found at ComLaw, which is at <http://www.comlaw.gov.au/>.

Purpose

To provide the Minister for Education, Employment and Workplace Relations with the absolute discretion to consider requests for declarations of eligibility for a licence under the *Safety Rehabilitation and Compensation Act 1988* (the SRC Act).¹

Background

The SRC Act is the legislative basis for the Commonwealth workers' compensation scheme. It establishes and regulates the scheme for compensating and rehabilitating Commonwealth workers who are injured either out of or in the course of their employment.² It also covers private corporations that are licensed to self-insure their worker's compensation liabilities under the Comcare scheme.

In 1992, the SRC Act was amended to enable privatised Commonwealth government business enterprises to remain under the scheme. Corporations competing in the market place with formerly Commonwealth owned businesses were also able to apply to join the scheme as self insurers.

The Howard government extended the eligibility to apply to be a self-insurer under the scheme, making it possible for Optus to be eligible to apply for a self-insurance licence. This opened the gate for a number of corporations with no historical connection to the Commonwealth to apply to be granted self-insurance licences.

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1. Explanatory Memorandum, Safety, Rehabilitation and Compensation Amendment Bill 2009, p. 1
 2. Subsection 6(1) SRC Act.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

In the past year and a half, there has been a sizable increase in the number of employees covered by the Comcare scheme (410 000) with the current number of licensees under the scheme having reached 29. The expansion of responsibility in the number and range of industries covered by the scheme has raised certain concerns and a desire that all employees are sufficiently protected by robust occupational health and safety³ safeguards and appropriate worker's compensation benefits.⁴

On 11 December 2007, Julia Gillard, Minister for Education, Employment and Workplace Relations, announced a review of the Comcare scheme and a moratorium on granting further self-insurance declarations (of eligibility to apply for a self-insurance licence under the Comcare scheme).⁵ Issues of particular interest under the review are:

the appropriateness of OHS and workers' compensation coverage under the Comcare scheme for workers employed by self-insurers;

whether the current arrangements for self-insurers pose any risk to the Commonwealth or to state and territory schemes;

why corporations seek to join the scheme; and

whether there should be changes to the eligibility rules for obtaining a licence to self-insure.⁶

Financial implications

According to the Explanatory Memorandum, the amendment will be of 'no financial cost to the Commonwealth'.⁷

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3. Changes made to the Commonwealth's *Occupational Health and Safety Act 1991* by the Howard government have meant that licensed private sector self-insurers under the Comcare scheme also face a single national workplace health and safety regime.
 4. Department of Education, Employment and Workplace Relations, *Report of the Review of Self-insurance arrangements under the Comcare scheme*, January 2009, viewed 3 November 2009, <http://www.deewr.gov.au/WorkplaceRelations/Policies/ComcareReview/Documents/DEEWRRReportComcareReview.pdf>, p. 8.
 5. Ibid.
 6. Ibid, pp. 8-9.
 7. Explanatory Memorandum, Safety, Rehabilitation and Compensation Amendment Bill 2009, p. 1.

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Main provisions

Schedule 1—Main Amendments

Item 2 amends section 100 of the SRC Act providing that the Minister is empowered but not required to consider a request for a declaration of eligibility to be granted a licence for self-insurance under the Comcare scheme.

This amendment would continue the aforementioned moratorium announced in December 2007 until 2011, by which time it is expected that the new uniform occupational health and safety laws will be implemented in all states and territories.

The Senate Scrutiny of Bills Committee made the following comments about **item 2**:⁸

The Committee considers that the Minister's absolute discretion in these circumstances may be an inappropriate delegation of legislative power. However, since the bill appears to be seeking to formalise in legislation what is a clear policy decision, the Committee **leaves to the Senate as a whole** any further consideration of this issue.

8. Senate Standing Committee for the Scrutiny of Bills, *Alert Digest*, No. 13 of 2009, 28 October 2009, p. 57, viewed 2 November 2009, <http://www.aph.gov.au/senate/committee/scrutiny/alerts/2009/d13.pdf>

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