

FACT SHEET

Workers Rehabilitation and Compensation Amendment Bill 2012

The *Workers Rehabilitation and Compensation (Amendment) Bill 2012* (the Bill) proposes amendments to the *Workers Rehabilitation and Compensation Act 1988* (the Act).

The amendments are aimed at clarifying who is a worker for the purposes of the Act. The definition and scope of 'worker' is a crucial aspect of the Act as only workers, as defined by the Act, are entitled to workers compensation upon suffering a workplace injury or disease.

Specifically, the amendments clarify the employment status of contractors who are in employment like relationships and contractors under labour hire arrangements. The amendments relating to labour hire arrangements have come about as a result of concern about a recent case where a contractor was severely injured while working at a host employer. The contractor had been engaged via a contract entered into with a labour hire company which indicated that the contractor was an independent contractor and not an employee of either the labour hire company or the host employer.

Despite the contractual arrangements, the contractor lodged a workers compensation claim in respect of his injuries. The matter ultimately ended up in the Full Court of the Supreme Court where the Court found that the contractor was not a worker for the purposes of the Act. The court made this decision despite the fact that the contractor had been working at the host employer for two years, had little autonomy and was required to work in accordance with instructions given by the host employer's staff supervisors.

In response to concerns about this case, the WorkCover Tasmania Board (the Board) examined the issue and concluded that there should be greater certainty about who is covered by workers compensation and that, on its own, the traditional common law test

of employment no longer provided that certainty. The amendments relating to employment like relationships and labour hire arrangements will give effect to recommendations made by the Board.

The amendments also clarify the employment status of persons who provide services of a private or domestic nature. These amendments have been included to address concerns that the proposed amendments may have the unintended consequence of extending coverage to a wider range of domestic work than under the current legislation. It is also considered that the existing provision relating to domestic servants at section 4(1)(c) is outdated and does not suit the diverse range of domestic arrangements that exist in contemporary society.