



RIS Ref: OIR1087-0519

File Ref: DOC19/1053

21 May 2019

Ben Christiansen
A/Director Workers' Compensation Policy
Office of Industrial Relations
1 William Street
BRISBANE QLD 4000

Dear Mr Christiansen

Consultation Regulatory Impact Statement—Amendments to the *Workers' Compensation and Rehabilitation Act 2003*

Thank you for your enquiry of 2 May 2019 and further information provided on 10, 17 and 20 May 2019, seeking advice on the adequacy of the Consultation Regulatory Impact Statement 'Workers' compensation entitlements for workers in the gig economy and taxi and limousine industry in Queensland' (Consultation RIS).

Background

The Office of Industrial Relations (the office) advises that the *Workers' Compensation and Rehabilitation Act 2003* (the Act) requires employers who engage workers to have a workers' compensation insurance policy with WorkCover Queensland.

A statutory 5 yearly review of the operation of the Act (the statutory review) was completed in June 2018 and recommended (among other things) extending workers' compensation coverage to participants in the 'gig economy'. The statutory review identified that gig economy participants do not fit within the workers' compensation definition of 'employer' and 'worker' and therefore are excluded from the compulsory workers' compensation scheme under the Act.

Proposal

The office has developed a consultation RIS to consider coverage of the Queensland workers' compensation scheme to include gig economy participants (businesses and contractors) and the taxi and limousine industry. The consultation RIS presents the following options:

Gig economy participants

Option 1: base case—maintain the status quo

- participants rely on voluntary private personal accident insurance

Option 2: amend the Act to extend workers compensation coverage to gig workers (preferred option)

- introduce a definition of 'intermediary' to capture businesses that introduce parties and either have control or influence over the transaction or charge a rate between the 'gig worker' and end user
- introduce a definition of a 'gig worker'
- require the payment of a workers' compensation premium.



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Taxi and limousine industry

Option 1: base case—maintain the status quo

- drivers rely on voluntary private personal accident insurance

Option 2: require mandatory insurance within taxi and limousine industry

- make it a condition of a taxi and limousine licence, issued through the Department of Transport and Main Roads, for mandatory accident insurance
- require the insurance to be at a comparable or similar level to the Queensland workers' compensation policy (excluding coverage for medical expenses from Medicare under Commonwealth legislation)

Option 3: amend the Act to extend workers compensation coverage to taxi and limousine drivers

- that a person who drives a taxi or limousine, who is a bailee, is a 'worker' under the Act
- that a person responsible for the operation of the taxi or limousine licence (the taxi operator) has the same obligations and responsibilities as an employer
- require the payment of a workers' compensation premium.

Assessment

In assessing whether a consultation RIS is adequate for the purposes of public consultation, the Queensland Productivity Commission (the Commission) has regard to the 'adequacy criteria' in the Queensland Government Guide to Better Regulation (the guidelines).

Based on these criteria, the consultation RIS presents the office's objectives to ensure adequate workers' compensation coverage is available to workers in 'non-traditional' workplace arrangements and the taxi and limousine industry. The consultation RIS also provides an assessment of the issues and analysis of the estimated impacts of the options on affected stakeholders. Given these points, the Commission considers the consultation RIS is adequate for the purposes of public consultation.

Release of a consultation RIS would allow the office to demonstrate to stakeholders that the proposed amendments sufficiently address the policy issue and allow stakeholders to provide feedback on the office's assessment of the estimated impacts. Such consultation will also likely assist the office to further develop the policy, including:

- further evidence of the policy problem and why additional government intervention may be required
- evidence, where regulation is not in place in other jurisdictions, why Queensland circumstances require a regulatory approach
- whether any alternative options which achieve the policy objective should be considered
- verify the analysis undertaken and whether the proposal will have any unforeseen adverse impacts or consequences on how gig economy and taxi and limousine businesses operate
- whether the proposal is likely to provide a net benefit to the community.

Consistent with the guidelines, once a consultation RIS has been approved for release it is published on the Commission's website along with this letter. After consultation has concluded, a decision RIS incorporating consideration of public comments should be provided to the Commission for assessment of adequacy before the matter is finally referred to Cabinet for decision.

Please contact Amanda Rohan, Senior Analyst on (07) 3015 5123 if you require any additional information or guidance in relation to the above comments or the guidelines in general.

Yours sincerely



Christine Tozer
Team Leader