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## **Ai Group statement to Inquiry into the Workplace Injury Rehabilitation and Compensation Amendment (WorkCover Scheme Modernisation) Bill 2023**

### **Opening Statement by the Victorian head of the national employer association Ai Group, Tim Piper**

Thank you for the opportunity to speak today and offer the views of the Australian Industry Group in Victoria.

Ai Group represents thousands of businesses around the state. That especially includes many manufacturers, both from the very largest to many small family businesses.

As a national organisation we provide businesses around the country, with advice on industrial relations, workers, compensation, occupational health and safety support and customised advice, as well as information on a range of other matters such as training, trade, environmental issues. We have an apprenticeship group training organisation where we employ around 500 apprentices who are in turn deployed into many businesses around Australia.

The Bill that we are discussing today is one that has created much discussion within our organisation. We were pleased to be involved with discussions earlier this year involving the State Government and other representative groups. However, it was far from being a review. We were met with a fait accompli. We were told that the system was bust. Premiums had to increase and changes had to be made.

You will hear over the next few days views regarding potential changes to the definition of a mental injury, provisions, and circumstances in which benefits are paid for those injuries and changes to the impairment threshold for mental injuries. Ai Group is generally supportive of those changes as it is vital that reductions are made to the costs for employers and that the WorkSafe scheme is not overlaid with costs.

Victorian businesses are currently dealing with significant extra business costs. But the one that seems to be most prominent for virtually all is the cost of WorkSafe and the premium increase they are all forced to pay. The significant increase applied this year of an average 42%, caused huge consternation at all levels and consequently, businesses

will be looking to the Government, and to this review to ensure that premiums are kept to a minimum.

I have for more than 20 years been a part of two ministerial advisory committees, OHSAC and WAC. I have never seen such a high level of concern with the scheme, nor have I ever previously been concerned that the cost of the scheme is simply getting out of hand.

The Victorian scheme has generally been well administered and costs for Victorian businesses kept to a reasonable level. At an average of 1.27% of payroll, for more than a decade, it was at an acceptable level. But now we find ourselves having to pay considerably more.

The additional costs are because the system is being asked to deal with issues which were never intended to be a part of the scheme. Physical injuries are obvious – even though there are often recidivists and fraudsters at the edges – but there is little obvious with mental injuries. Now and additionally, the scheme has been required to deal with new types of claims being made against it, which have caused additional costs.

There is one Amendment that we would like to see to this Bill, coupled with a number of agreements that the government should make, and be held to in order to maintain and secure the scheme.

As part of this Bill, there needs to be a new return to work system developed. That system must engage both employers and employees and give representatives of both the opportunity to encourage return to work. This is particularly so in the mental health area. While we know that surveys suggest employers feel they are able to deal with mental health injuries at work, anecdotal evidence suggests that once a health injury occurs most have little understanding as to what they should do for workers and how they can support them.

A return to work system, which enabled employers to speak to trusted and confidential advice lines would be an important addition to helping get employees returning to work.

We know that employers are more likely to trust an employer organisation than they do a regulator, and we believe that a return to work service, undertaken in conjunction with WorkSafe and an employer organisation, would be an important development in improving our return to work outcomes. At Ai Group we have the capability to support WorkSafe and employers, which in turn assists employees through our existing help line. During Covid for example, the number of calls to our help line increased dramatically. We would ramp up to a similar level to support return to work initiatives.

As you would be aware, 6 out of 10 workers who reach 104 weeks being not at work, who have a mental health injury, never return to work. We have to help employers and employees not to get to that stage because being at work is the best form of help for improving mental health in general.

In addition to the return to work being included in the legislation, we would like to see the following:

**1)** We believe the Government should commit to an independent review of WorkSafe, particularly with an aim to reduce its cost to employers and to improve its efficiencies. Employers know they need a WorkSafe system. It's important as a safeguard to employees and it is a regulation which employers need. But it can always be improved and we need to be considering how that can be achieved.

However, I must also add that we would be very much against a split of WorkSafe between workers compensation and occupational health and safety. Having the two dealt with by the same body is an imperative, and something that I know overseas organisations are very jealous of. We should not remove that great advantage we have.

I was fortunate to be a part of the Maxwell Review conducted by eminent Supreme Court Judge Chris Maxwell on the OHS system in Victoria in the early 2000s. We were not entirely happy with the review, but that is OK. What we got from Maxwell was a review which recommended changes that both sides of the table could live with and that were suggested by a very creative mind. He took the time to understand the system and recognised the need to be impartial. Our workers compensation system requires an equally inquiring, agile and very importantly independent mind – which the Bracks Government often found helpful – to provide recommendations to Government for changes to be made.

**2)** We further propose that the Government should commit to a cap on WorkSafe premiums for an extended period of three years. Employers need confidence that the system is going to be administered properly and efficiently. WorkSafe needs to be left with no doubt that they need to work within their current constraints. Government also needs to know that they cannot impose more requirements on WorkSafe than are currently required.

Having a cap on premiums would be a strong discipline that would need to be taken on by WorkSafe in its administrative activities.

**3)** WorkSafe figures that I have seen show that around 18% of all claims on WorkSafe are mental health claims, which costs almost 50% of all claims made on the scheme. This cannot be allowed to continue. As, we know, at the moment it is becoming increasingly costly.

We also know that the mental health injuries are not usually caused at work. More often than not, these mental health concerns emanate from home or in the persons private life and may become more obvious in the workplace. Our no-fault system, that was originally designed to deal with physical injuries, enables workers to claim that mental health injuries were caused at work, and for the claims to be accepted. Many employers believe this is inequitable and an unfair transfer of State responsibilities to employers.

There needs to be much more consideration given as to how these injuries occur.

Employers cannot continue to foot the bill for what, essentially, are community-based injuries. While these injuries may need to be funded by the state, it is unreasonable for them to be expected to be funded by employers who may have little, or no impact on the injury itself, but are dealing with the total consequences once people arrive at work and make a claim. A no fault system might not be unreasonable for physical injuries where you can more easily determine whether the injury was caused at work or not. That is simply not possible with mental health injuries. Employers should not be bearing the cost of what are essentially injuries unrelated to the workplace.

Thank you for this opportunity to speak with you today. This should be only the beginning of the discussions about WorkSafe, workers compensation and OHS matters. And Ai Group is determined to be at the forefront of changes and supporting Victorian workplaces for the benefit of employees, employers and the community.

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