

**SENATE EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION
LEGISLATION COMMITTEE**

**2006-2007 ADDITIONAL SENATE ESTIMATES HEARING
15 FEBRUARY 2007
EMPLOYMENT AND WORKPLACE RELATIONS PORTFOLIO**

QUESTIONS ON NOTICE

Outcome 2: Higher productivity, higher pay workplace

Output Group 2.2: Workplace relations implementation

Output 2.2.6: Office of the Australian Safety and Compensation Council

Question Number: W1244 - 07

Question:

Senator Wong asked in writing:

Self Insurance On what basis were the following employers declared eligible to be granted self insurance licences under the Safety, Rehabilitation and Compensation Act 1988 (on 18 January 2007) a) Chubb Security Personnel Pty Ltd (ABN 29 100 573 966) and b) Chubb Security Services Ltd (ABN 81 004 247 358)?

What activities are these organisations currently or previously in competition with Commonwealth owned businesses? If not, on what basis are they then admitted to the Commonwealth scheme?

Answer:

Applications by Chubb Security Personnel Pty Ltd and Chubb Security Services Ltd for declarations of eligibility to enable them to apply for self insurance licences were assessed against the relevant provisions of the *Safety, Rehabilitation and Compensation Act 1988* Act (section 100, SRC Act) and the Minister's guidelines which were developed to assist him in considering applications. A copy of the Guidelines, entitled 'Australian Government 's Workers' Compensation Scheme: Eligibility for Coverage for Non-Commonwealth Corporations' is at Attachment A.

For the purposes of the SRC Act, Chubb Security Personnel Pty Ltd and Chubb Security Services Ltd are in competition with relevant Commonwealth authorities or former Commonwealth authorities in relation to the provision of cash management and cash logistics services and/or provision of security personnel services, including competition with in-house service providers.

Australian Government's Workers' Compensation Scheme

Eligibility for Coverage for Non-Commonwealth Corporations

Background

1 Section 100 of the *Safety, Compensation and Rehabilitation Act 1988* ('the SRC Act') gives the Minister for Employment and Workplace Relations power to declare certain corporations as 'eligible' to apply for a workers' compensation self-insurance licence under the SRC Act.

2. Section 100 states that if the Minister is satisfied that it would be desirable for this Act to apply to employees of a corporation that:

- (a) is, but is about to cease to be, a Commonwealth authority; or
- (b) was previously a Commonwealth authority; or
- (c) is carrying on business in competition with a Commonwealth authority or with another corporation that was previously a Commonwealth authority; (hereafter Commonwealth authority)

the Minister may, by notice in writing, declare the corporation to be eligible to be granted a licence under this Part.

3. If the Minister declares a corporation eligible, the granting of a licence is subject to approval by the Safety, Rehabilitation and Compensation Commission (SRCC). The SRCC has established criteria for granting of a licence which includes financial and other requirements.

Section 100(c) Applications

4. In the event the Minister receives applications from non-Commonwealth corporations seeking a section 100(c) declaration he has an obligation to consider whether or not the corporation should be declared eligible to apply to the SRCC for the granting of a self-insurance licence under the Commonwealth's workers' compensation scheme.

5. To assist in consistent decision making under the provision, and to provide guidance to applicants and potential applicants under section 100(c) the Minister may give consideration to the following areas of competition and public policy principles in deciding whether it is desirable for particular employees to be covered by the SRC Act.

Factors for Consideration

6. The threshold test for a non-Commonwealth corporation to be declared eligible is to satisfy the Minister that they are 'in competition' with a Commonwealth authority. This is prescribed by section 100(c) of the SRC Act.

7. In making this judgement on competition, the Minister may have regard to evidence provided by the applicant, or available in the public arena, in the following areas:

- the market in which the applicant and the Commonwealth authority operate, including the composition of the market and/or the market share of the applicant and the Commonwealth authority;
- the substitutability between the goods, services and other provided/produced by the applicant and those of the Commonwealth authority.

8. It is at the discretion of the Minister to make a judgement on the above areas or on any other factors the Minister considers relevant in the making of his decision.

9. In addition to assessing threshold competition issues, the Minister will evaluate broad public policy considerations when deciding whether to declare corporations eligible under section 100 of the SRC Act. This discretionary power allows the Minister to make a declaration if the Minister is satisfied that it would be 'desirable for this Act to apply to employees of a corporation'.

10. The Minister may consider the following public policy principles:

- the likely impact on employees of the corporation to the grant of a licence;
- the likely impact on the corporation to the grant of a licence;
- the likely impact on the integrity of the Commonwealth scheme of workers' compensation under the SRC Act;
- the likely impact on the operations of the State and Territory Government workers' compensation schemes.

11. In considering these principles the Minister may also take into account:

- the size of the corporation (based on a minimum threshold of 500 employees); and
- the scope of the corporation's operation across jurisdictions (based on a minimum threshold of two jurisdictions); and
- where competition exists, whether this is a substantial part of the applicant's business.

12. The principles and threshold competition issues above are not intended to be exhaustive. Corporations, and other interested parties, are free to bring to the attention of the Minister any issues that bear on whether coverage under the SRC Act is desirable.

Review mechanism

13. A declaration under section 100 is a precondition to granting an eligible corporation a licence under Part VIII of the SRC Act. Corporations applying for a declaration under section 100 would be expected to apply for a licence within a reasonable period of time after being declared eligible to be granted a licence. In the

event that a corporation does not proceed with an application to the SRCC for a licence to self insure within twelve months of the date that a declaration has been granted, the Minister may review the need for the declaration and decide whether it should continue in force.

Estimated cost: Based on the FOI calculator it has taken approximately 4 hours at an estimated cost of \$74 to prepare this answer.