

THALES

AUSTRALIA

Building 51
Garden Island, NSW 2011
Australia
Tel.: +61 (0)2 9562 3333
Fax: +61 (0)2 9562 2229
www.thalesgroup.com.au

18 January 2007

Mr John Carter
Secretary
Employment, Workplace Relations and Education - Standing Committee
Parliament House
CANBERRA ACT 2600

BY EMAIL: eet.sen@aph.gov.au

Dear Mr Carter

**RE: SAFETY REHABILITATION AND COMPENSATION AND OTHER LEGISLATION
AMENDMENT BILL 2006**

We are aware Minister for Employment and Workplace Relations, the Honourable Kevin Andrews tabled the *Safety, Rehabilitation and Compensation and Other Legislation Amendment Bill 2006* (**the Bill**) in Federal Parliament recently. We understand the Bill is now the subject of a Senate Committee Inquiry.

ADI Limited (trading as Thales Australia) is licenced by the Safety Rehabilitation and Compensation Commission as a self insurer and administrator for workers compensation claims. Workers compensation entitlements provided for Thales Australia employees are in accordance with the *Safety Rehabilitation and Compensation 1988* (**the Act**).

Thales Australia is in agreement with and commends Minister Andrews on the majority of proposed amendments. We do however wish to voice concern in respect of the proposed amendment to the definition of *disease* within the meaning of the Act.

The explanatory memorandum (**EM**) states the amendment Bill seeks to make changes to the Act in order to:

'maintain the financial viability of the scheme which has come under growing pressure from increasing numbers of accepted claims, longer average claim duration and higher claims cost partly as a result of court interpretations of the legislation'

According to the Bill the relevant test associated with the definition of 'disease' is to be amended from the current 'material' contribution test to a requirement that there be a 'significant' contribution from the employment. It is specifically provided in the proposed new definition that '*significant degree*' means a degree that is substantially more than material'. The reasoning provided in the EM at page (iv) for the proposed amendment is that judicial interpretation of the term *material degree* has significantly eroded:

'...the extent to which employment must have contributed to the contraction or aggravation of the disease for it to be compensable'

Thales Australia agrees with the stated objective of amending the definition of *disease* as per Option 3 of the EM to strengthen the connection between disease and employee's employment. Unfortunately we do not believe that the proposed amendment is likely to satisfy this objective for the reasons set out below. Specifically our unease relates to the definition of the term *significant degree* and its introduction into the definition of *disease*.

We submit the proposed definition of *significant degree* is not sufficiently clear or objective. The use of subjective terms such as *significant*, *substantially more than* and *material* to describe what amounts to a *significant* contribution is likely to create confusion amongst stakeholders and result in an increase of disputes, ultimately driving workers compensation claims cost higher. Accordingly, we suggest the amendment provide greater clarity or an objective test to determine liability; greater clarity ensuring workers are aware of their rights and entitlements and employers to more effectively manage their risk.

As a stakeholder operating within the scheme we foresee an inevitable situation of incurring legal costs in order to defend and/or clarify our interpretation of the proposed definition of '*significant*'.

Accordingly, we submit to the Senate Inquiry that the proposed definition of '*significant*' be revised with a view to amending this to ensure the definition is clear, concise and achieves the desired outcome/s as noted by Minister Andrews in the EM.

Should you wish to discuss this matter please contact Danielle Griffiths, Workers Compensation and Rehabilitation Manager on (02) 9562 2063 or alternatively 0418 490 693.

Yours sincerely



NORMAN GRAY
Managing Director