

22 January 2007

Committee Secretary
 Senate Employment Workplace Relations & Education Committee
 Department of the Senate
 P O Box 6100
 Parliament House
 Canberra ACT 2600



CONSTRUCTION

FORESTRY

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By Fax 6277 5706

**Re: Safety, Rehabilitation, and Compensation and Other Legislation
 Amendment Bill 2006
 Submission by the CFMEU (Construction & General Division)**

The CFMEU has considered the above Bill and its Explanatory Memorandum and opposes it save for the amendment that increases funeral expenses payable to families for work related deaths. The CFMEU submits that overall the intention of the Bill is simply to restrict or abolish the rights of workers to recover compensation for genuine work injuries. By way of example we refer to the following two amendments:

1. Item 11 – ‘The New section 5B - Definition of disease’
 Question: What does a worker have to do in order to show work “contributed to an aggravation of a disease” before being allowed to claim compensation for a disease related injury?

Answer: Say a manual labourer with coronary disease has a heart attack on the job whilst doing hard manual work and is left dead or seriously disabled. Ask most medical experts under the present Act if “work contributed to the heart attack in a material degree” and they would probably agree albeit without any scientific precision that work was a contributing factor hence under law the labourer’s family receives much needed compensation.

Under the Bill the worker’s family will now have to show the contribution by work to the injury was not only a material factor but was of “significant degree” further defined by the Bill as meaning “substantially more than material”. Hence under amendment proposed by the Bill when you give medical experts the above same set of tragic circumstances but now ask them was the contribution of the work to the



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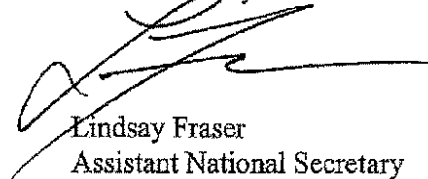
injury "substantially more than material" they will provide a wide variety of answers from "yes" to "no". In terms of legal rights this heavily tips the balance in favour of employers and insurers in the litigation that will follow. Most disease related injuries aggravated by work will raise complex medical questions on cause and effect but under the new legal "test" put up by the Bill it will be practically much more difficult to find any medical consensus. The end result will be many workers will unfairly miss out on compensation because of an artificial definition that is incapable of any medical meaning or consensus.

2. Item 12 & 13 - "Journey Claims" - Abolition of Journey Claims

The amendments abolish compensation for work related journeys including travelling from home to work. The CFMEU has seen many examples where its members have been seriously hurt, maimed and even killed going to work or coming home from work when fatigued from long hours of overtime or after arduous work or as a result being required to travel outside "normal" work hours. In these situations the worker and their family often have no rights to under other compensation schemes, such as motor accidents schemes. For example there is no one "at fault" if you fall asleep at the wheel through tiredness. To say employers and their insurers should not pay for these claims because they are "beyond their control" is a sham. There are already sufficient checks and guards in the present legislation and law to prevent claims by employees "on a frolic of their own".

The CFMEU urges the senate to reject the amendments which have the effect of abolishing or restricting rights of injured workers. It is the legitimate expectation of the CFMEU members (and we believe the Australian community) that workers compensation legislation should remain a simple no fault scheme that covers workers hurt or killed in the course of their daily work as originally intended.

Yours sincerely



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