

Introduction

The Finance Sector Union of Australia (FSU) welcomes the opportunity to contribute to the Inquiry into the Safety, Rehabilitation and Compensation and Other Legislation Amendment Bill 2006.

The FSU represents 60,000 members employed in the finance sector across Australia and exists for the purposes of providing a collective forum for them in pursuing fairness in their employment and improvements to their working conditions. Clearly, to achieve these ends, the FSU has a real interest in the proposed amendments.

The FSU opposes the SRC and Other Legislation Amendment Bill 2006 and urges the Senate to reject the Bill in its current form.

Our submission will primarily address the following measures in the Bill:

1. the removal of claims for non work-related journeys and recess breaks where the employer has no control over the activities of the employee;
2. amendment of the definition of 'disease' to strengthen the connection between the disease and the employee's employment;
3. amendment of the definition of 'injury' to exclude injuries arising from reasonable administrative action taken in a reasonable manner;

The FSU also supports the submissions of the ACTU to this Inquiry.

1 - Removal of claims for non work-related journeys

The removal of claims related to travel between the employee's home and the employee's workplace from workers' compensation is short-sighted as it will only further shift the cost from the employer to society.

Commuting to work is an essential element of the employment arrangement and employers' responsibilities in this regard should not be diluted. The hypothesis that all workers can be covered by other forms of insurance is dubious, especially for pedestrians and cyclists who have few options in this regard. Given that these two forms of commuting contribute to healthier workers and less greenhouse emissions it would seem extraordinary to make these travel options more risky because these journeys would no longer be covered by workers compensation.

The removal of existing protections would only increase the burden on finance workers. Working arrangements for finance sector workers already include a wide spread of ordinary hours requiring staff to finish work later at night and shift work. Finance sector employers are also increasingly moving away from their previous commitment to provide safe transport home to employees who finish work later at night, by removing the provision of taxis.

The proliferation of further Australian Workplace Agreements (AWA's) being offered by the Commonwealth Bank of Australia (CBA) not only identifies that the employee will be advised of the hours of work required, but also specifically excludes numerous award protections which include the provision of taxis home where the employee's finishing time is after 7.30pm.

2 - Amendment of the definition of 'disease' & 'injury'

The proposed changes to the meaning of "injury", from one where work has a material contribution to a significant contribution, will further shift the cost from the employer to society and decrease employers' obligation to minimise safety risks and provide rehabilitation. No good reason exists to make such a modification.

In addition there does not appear to be any evidence that demonstrates that the existing framework used by Comcare is overly complex or unfavourably impacting upon the economic viability of the scheme.

We believe that such legislative provisions are mainly proposed to deny a number of workers compensation entitlements.

Given the health and safety hazards that exist in the finance sector the combined effect these legislative changes would bring cannot be justified.

Finance sector workers across the industry are already facing the health and safety hazards such as increasing violence and bullying, escalating workloads and targets, acoustic shock in call centres, asbestos findings and removal processes in workplaces.

Finance sector workers who work in retail branches are also exposed to the extreme safety risks of armed hold-ups and other robbery events.

Long hours of work, understaffing and increasing unfair and unreasonable sales targets are also features of the modern finance sector workplace that increase the health risks for employees and make balancing work and family life increasingly difficult.

At an industry level there are ever increasing pressures in the finance sector that are likely to contribute to employees being at risk of injury or disease. FSU analysis of ABS data identified that in 2003, there were approximately 1,171,000 hours of overtime worked per week in our industry. This represents a 19% increase from 2000 when there were approximately 985,000 hours of overtime worked per week.¹

In 2003, 42%² of workers were not paid for their overtime – this means that approximately 490,000 hours of overtime were unpaid. Multiplying this figure with the average hourly rate in the finance sector³ would equate to \$13.5 million per week and \$700 million per year in unpaid overtime. The finance sector industry is already immensely profitable due to the efforts of its employees – these major corporations should not be allowed to cut costs at the expense of their employee's health and safety.

Finance sector workers also consistently report being unable to achieve their targets during ordinary working hours. A 2005 survey of FSU members found that 33% of respondents did not believe they could meet their targets or objectives during

¹ Finance Sector Union (FSU) 2005, *Workforce Report*, FSU. Melbourne.

² Percentages based on those 132,200 workers who usually did overtime in 2003.

³ Calculate to be \$27.32 per hour using a 38 hour week and the average weekly wage of \$1,038 (*Average weekly earnings*, May 2004, ABS).

ordinary working hours.⁴ The FSU believes this type of culture has contributed to the ever increasing amount of stress and overtime witnessed in our industry.

Evidence from the United States shows that longer working hours increases the risk of injury or illness regardless of what type of work is being performed. Employees working overtime were 61 percent more likely to suffer a work related injury or illness than those not working overtime.⁵ These findings are particularly disturbing given the high incidence of overtime in the finance sector. (See **Attachment 1** for a synopsis of the US findings).

The effect on workers of these combined stressors, including but are not limited to fatigue, disease and psychological injury, must not be underrated when reviewing protections including journeys to and from work, recess breaks and employment contributors to disease and psychological injuries.

Employers have argued for consistent, national outcomes for OHS and Workers compensation entitlements. Uniformity should not mean a national standard of OHS and workers compensation using the lowest possible common denominator approach.

Harmonisation discussions are on foot and involve the participation of Federal, State and Territory Governments. The majority view is that OHS protections should not be undermined.

The Federal Government's increasing moves to erode workers OHS and workers compensation entitlements through the approach of piece-meal legislation is counter productive to the outcomes sought and should cease.

Moves by Finance Sector employers to access the Comcare scheme

The Federal Government is encouraging multi-state employers to exit the state and territory OHS and Workers Compensation systems and enter the rapidly expanding Comcare system by introducing a stream of amending legislation aimed at reducing OHS and workers compensation entitlements for employees covered by the Comcare system.

The Finance Sector Union of Australia (FSU) notes that the National Australia Bank (Nab) was granted a licence to operate in the Comcare system on December 14 last year. The Nab employ over 23,000 employees.

It is expected that other major financial employers will seek to follow Nab's direction in seeking to enter the Comcare system.

The Federal Government is also assisting the passage of these employers to Comcare through private proceedings of the Safety Rehabilitation and Compensation (SRC) Commission. This process does not allow the affected employees and their representatives the proper opportunity to be heard and have their concerns assessed and addressed.

⁴ See <http://www.fsunion.org.au/surveys/>

⁵ A Dembe and others. *The impact of overtime and long work hours on occupational injuries and illnesses: new evidence from the United States*, Journal of Occupational and Environmental Medicine, volume 62, pages 588-97, 2005.

There is a requirement that employers demonstrate to the SRC Commission that their employees interests will not be adversely affected, however there is no proper mechanism in place to effectively assess this. Consequently, the opportunity for employees to be properly consulted about the changes they face is significantly diminished.

The ACTU wrote to Comcare last year seeking that in all future SRC meetings a public hearing occur regarding that part of an application that deals with the consideration of employee interests, where the relevant union seeks to be heard. The FSU strongly endorses this view.

Conclusion

The FSU opposes the Bill. These amendments threaten the integrity of the no-fault workers' compensation system currently in place. Workers should not be placed in an increased position of vulnerability by being forced into adversarial systems (such as the motor vehicle accident and health systems) because key protections are removed or criteria excessively tightened.

The Explanatory Memorandum highlights the cost savings to the scheme and to other licensees. These cost savings appear to be proposed in the absence of any major finance employer submitting that the changes identified in the Bill are sought.

The proposed SRC Bill should be rejected and a more systemic and fair approach adopted concerning the future content of Commonwealth OHS and Workers Compensation legislation.

Finally, any subsequent proceedings concerning applications by large employers to access the Comcare system ought to be public to enable employees and their representatives a proper opportunity to be heard.

Attachment 1

Research published in the Journal of Occupational and Environmental Medicine has found that long working hours increase the risk of injury and illness regardless of the job you do; the greatly increased risk has nothing to do with how hazardous the job is. US researchers analysed the responses of almost 11,000 Americans to the annual National Longitudinal Survey of Youth. After adjusting for age, gender, type of industry and job, employees working overtime were 61 per cent more likely to sustain a work related injury or illness than employees who did not work overtime. Working at least 12 hours a day was associated with a 37 per cent increased risk of injury or illness, while working at least 60 hours a week was associated with a 23 per cent increased risk. Report co-author Allard Dembe commented: 'The results ...suggest that jobs with long working hours are not more risky merely because they are concentrated in inherently hazardous industries or occupations. Our findings are consistent with the hypothesis that long working hours indirectly precipitate workplace accidents through a causal process, for instance, by inducing fatigue or stress in affected workers.' The more hours worked, the greater was the risk. The authors say their findings support government initiatives, such as those proposed by the European Union, to cut working hours.

Source: A Dembe and others. *The impact of overtime and long work hours on occupational injuries and illnesses: new evidence from the United States*, Journal of Occupational and Environmental Medicine, volume 62, pages 588-97, 2005.