

**Submission Re: Workers' Compensation and Rehabilitation and
Other Legislation Amendment Bill 2019**

IEUA-QNT welcomes the opportunity to provide feedback regarding the Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2019.

IEUA-QNT represents ~17,000 teachers, support staff and ancillary staff in non-government education institutions in Queensland and the Northern Territory and consistently engages in industrial and education debate at both state and national levels through its Education and Industrial Committees and through its national counterpart, the Independent Education Union of Australia, which receives input from teachers in all States and Territories.

In a general sense, we believe that the majority of proposed changes will be fairer for injured workers and are therefore broadly supportive of the Bill. We would, however, like to register our concern in relation to provisions relating to psychological and/or psychiatric injuries.

Our union regularly fields enquiries from members who have sustained work-related psychological injuries. A significant element of our work is, therefore, to support these individuals in their return to work and, where applicable, in their pursuit of workers' compensation.

In that context, we note that the proposed amendment does not alter the status of psychological/psychiatric injuries that have resulted from reasonable management action. Physical injuries also occur as a result of reasonable management action. For example, muscular-skeletal injuries readily occur in the course of carrying out reasonable and lawful directions, or where appropriate and adequate risk assessments have been undertaken, both factors which would be deemed reasonable management action. We have long-held concerns about this legislative disparity, and feel that this Bill fails to take the opportunity to remove an unnecessary distinction between physical and psychological/psychiatric injury which entrenches the stigma associated with mental ill health.

Provisions that sought to specifically exclude psychological/psychiatric injuries resulting from reasonable management action were introduced in the 1990s, and we would suggest that Government should now take the opportunity to contemporise the Queensland legislation. In doing so, Government would set a benchmark for recognition that psychological/psychiatric injuries are no less debilitating than physical injuries, and should be treated in a similar fashion, by removing the section of the Act requiring psychological/psychiatric injuries to be unrelated to actions of management deemed to be reasonable.

In the alternate, consideration could be given to reversing the onus of proof on claims for psychological and/or psychiatric injuries. It is difficult for injured workers to discharge the burden of proof because, on most occasions, the employer holds the evidence in respect of whether or not their actions were reasonable. Therefore, where an employer seeks to

defend a claim on the basis that its actions were reasonable, the legislation should require the employer to discharge this burden.

We thank the Education, Employment and Small Business Committee for the invitation to engage in consultation through this submission and would welcome the opportunity to engage in further discussion.

A handwritten signature in black ink, appearing to read 'T. Burke', written in a cursive style.

Terry Burke
Branch Secretary
Independent Education Union of Australia
Queensland and Northern Territory Branch
9th September 2019