

NEWS ALERT

Issue: 2/13

Subject:

Definition of “Worker” by WorkCover Qld.

Date: 18/05/13

QUEENSLAND GOVERNMENT AMENDMENT BILL 2013

Industrial Relations (Transparency and Accountability of Industrial Organisations) and Other Acts Amendment Bill 2013

A Bill currently before the Queensland Parliament would, if passed, affect the method by which workers are defined for Workers’ Compensation purposes. At present there is often confusion as to what tests are applied to determine this question as those used by the various governing bodies for Industrial Relations, Taxation and Workers’ Compensation, are not exactly the same.

The proposed legislation would remove the basis for definition presently used by WorkCover and replace it with the same tests as utilised by the Australian Taxation Office.

The pertinent proposed amendments would result in the following provisions being inserted in the *Workers’ Compensation and Rehabilitation Act 2003*:-

“11(1) A **worker** is a person who—

- (a) works under a contract; and
- (b) in relation to the work, is an employee for the purpose of assessment for PAYG withholding under the *Taxation Administration Act 1953* (Cwlth), schedule 1, part 2-5.

Sch 2 6 A person is not a worker if—

- (a) the person works for another person under a contract; and
- (b) a personal services business determination is in effect for the person performing the work under the *Income Tax Assessment Act 1997* (Cwlth) section 87-60.”
