



**CHAMBER OF COMMERCE AND INDUSTRY
QUEENSLAND SUBMISSION**

***Industrial Relations Legislative Reform Reference
Group***

Industrial Relations Act 1999 (Qld)

CHAMBER OF COMMERCE AND INDUSTRY QUEENSLAND

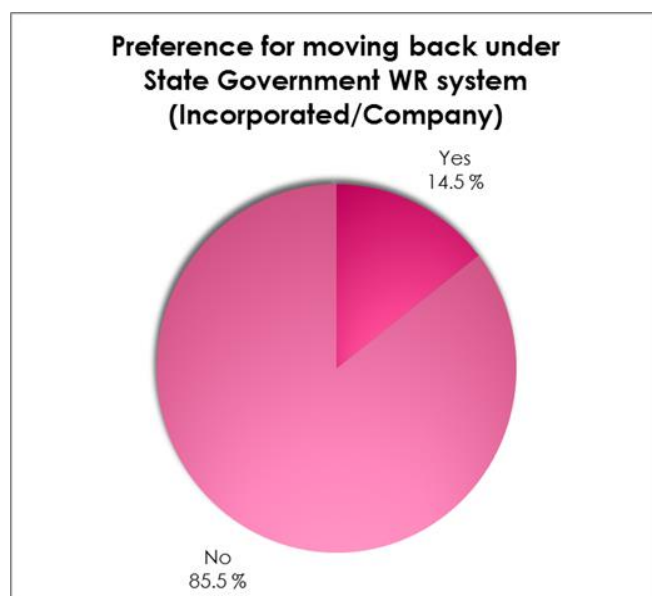
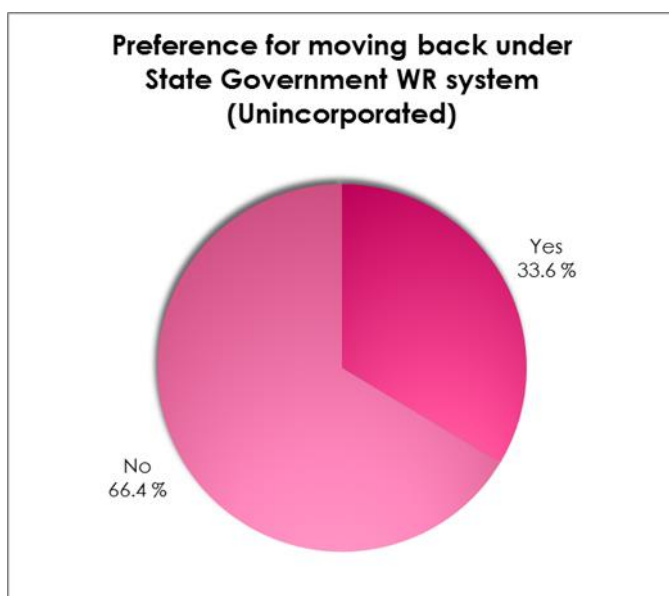
21 October 2015

Overview

1. The Chamber of Commerce and Industry Queensland (CCIQ) welcomes the opportunity to provide a submission to the Industrial Relations Legislative Reform Reference Group as part of the wide-ranging review of the *Industrial Relations Act 1999 (Qld)* (IR Act), and provide comment on the principles behind, and operation of, Queensland's industrial relations laws and tribunals more broadly.
2. Specifically, CCIQ wishes to respond to the following issues pertaining to industrial relations in Queensland insofar as they impact on small businesses:
 - Consideration of the impacts of the referral of Queensland's Industrial Relations powers to the Commonwealth with respect to private sector employees;
 - Review of the functions, powers, and composition of the Queensland Industrial Relations Commission (QIRC), with particular respect to shop trading hours, considerations for QIRC when determining wage matters, and the responsibility to oversee worker's compensation appeals;
 - Examination of the number of public holidays in Queensland and relevant employee entitlements;
 - Proposals to create an additional jurisdiction in Queensland for employee recourse regarding workplace bullying; and
 - The most suitable model of regulating industrial organisations in Queensland.
3. CCIQ notes that the review currently being conducted by the Industrial Relations Legislative Reform Reference Group is the first comprehensive review of Queensland's industrial laws since 1998. Since that time, the industrial relations framework in Queensland has undergone significant transformation as a result of a national Fair Work system and the Queensland Government's referral of its private sector industrial relations powers to the Commonwealth.
4. CCIQ is committed to achieving best practice workplace relations arrangements in Queensland, particularly as workplace laws go to the heart of a business' capacity to structure and plan its operations in a viable, sustainable, and profitable manner.
5. The Chamber's vision is to see a balanced framework that better meets the needs of contemporary workplaces, fosters greater flexibility, and improves productivity and competitiveness.
6. To this end, this submission will articulate in detail CCIQ's recommendations for Queensland's industrial relations system moving forward, which is composed to reflect the views of the Queensland small business community with respect to such matters.

Referral of industrial powers to the Commonwealth

7. CCIQ is Queensland's peak employer body for small and medium enterprises and is therefore acutely aware of the importance of workplace relations arrangements to our members. CCIQ is particularly cognisant of the difficulty the majority of small business owners in Queensland experience under the current national Fair Work regime.
8. Despite the shortcomings of the Fair Work framework for Queensland small businesses, CCIQ strongly believes the State Government should to retain current arrangements whereby Queensland's industrial relation powers are referred to the Commonwealth with respect to private sector employees.
9. CCIQ believes that maintaining a genuinely national workplace relations system is in the interests of all Queensland businesses, as it is able to provide the certainty, clarity and consistency required when negotiating all aspects of the employment relationship.
10. Indeed, through the Westpac/CCIQ Pulse Survey of Business Conditions (the Pulse Survey)¹; there was strong indication from Queensland businesses that employers do not wish to return to a state-based system.
11. When businesses were asked whether they would have preferred to remain under the Queensland system prior to changes implemented 1 January 2010, a majority of Queensland businesses said 'no'.



*The majority of Queensland businesses fall into the category of incorporated/company.

Source: CCIQ Pulse Survey 2012 – December Quarter Hot Topic – State Government Workplace Relations System

¹ CCIQ Pulse Survey 2012 – December Quarter

12. When asked to comment on their response to this question, unincorporated respondents' answers included:

- They were tired of continued regulatory changes and had already expended significant time and money becoming compliant with the federal system – they considered that regulatory churn would be more likely to continue under a state system;
- They did not perceive that the Queensland system would advantage their business in any way; and
- The high likelihood of confusion and compliance difficulties with state industrial awards.

13. When incorporated respondents were asked whether, in the event that the Queensland Government was to terminate its referral, they would move to unincorporated arrangements so that they would fall back under Queensland system, 85 per cent of businesses indicated that they would not do so.

14. When asked to comment on their response to this question, respondents' answers included that:

- The cost of doing so would outweigh any relative benefits that the Queensland system may offer;
- They were tired of continued regulatory changes and had already expended significant time and money becoming compliant with the federal system - they considered that regulatory churn would be more likely to continue under a state system;
- They operated across multiple jurisdictions and federal laws brought consistency for their business, despite where it might be located;
- They did not perceive that the Queensland system would advantage their business in any way; and
- There would be negative tax implications associated with such a move, as well as implications for management structures and liability.

15. The Pulse Survey asked businesses to comment on what they considered to be the benefits of a national system. Some of the benefits identified by respondents (that is, both incorporated and unincorporated businesses) included:

- Consistency and less confusion, particularly where businesses employ workers in more than one jurisdiction;
- More simplified awards;

- All businesses within a given industry operate under the same laws, ensuring consistency of expectations among employees and enabling employers to compete on a level playing field;
 - Efficiency and less red tape, allowing businesses to streamline their internal policies and processes; and
 - Less bureaucracy at a state level.
16. CCIQ considers that the main benefits of a national system are the consistency, clarity and efficiency that it brings when compared with state workplace relations systems. This is not necessarily a reflection on or a criticism of the Queensland system, but relates to the inherent problems of state-based workplace relations laws in a federation such as Australia.
 17. The national system has operated to create uniform employment conditions for all workplaces: this means that businesses operating across state borders do not need to be familiar with multiple different systems, whilst all businesses no longer have to determine whether they fall under the state or federal system with regard to a particular issue. In this regard, state systems are duplicative, operating to confuse employers about the legal source of their obligations towards their employees.
 18. This is particularly the case with respect to wages and awards: the award modernisation process undertaken by the Australian Industrial Relations Commission and then Fair Work Australia (now the Fair Work Commission) reduced a complex, overlapping system comprised of hundreds of state and federal awards into 122 modern awards. While CCIQ considers that further simplification of federal modern awards needs to occur, it would be a retrograde step to re-introduce state-based awards into the workplace relations environment in Queensland.
 19. By supporting a national system, CCIQ in no way seeks to diminish the problems that Queensland businesses have experienced with the Fair Work regime in terms of penalty rates, unfair dismissal process, and flexible working arrangements.
 20. Notwithstanding those considerable challenges, CCIQ would not support any moves by the Queensland Government to withdraw the referral of its workplace relations powers to the Commonwealth regarding private sector employees.

Functions and powers of the Queensland Industrial Relations Commission

21. CCIQ notes the terms of reference for the current review into Queensland's industrial relations laws includes an examination of the appropriateness of the functions and powers of the Queensland Industrial Relations Commission (QIRC).
22. CCIQ commends in general the best practice governance approach from the Commission in performing its quasi-judicial functions.
23. To the extent that QIRC functions and powers impact on small businesses in Queensland, employers are principally exposed to QIRC decision-making in the areas of shop trading hours, the determination of wage negotiations in the public service and the impact it has on the State Budget and in turn business taxation, and the process and outcome of workers' compensation matters as a core function of the QIRC.
24. Therefore, CCIQ will comment specifically on proposals to review QIRC jurisdiction relating to shop trading hours, argue for the retention of the requirement that the QIRC have regard to Queensland state finances when making deliberations on wage matters, as well as remark on the effectiveness of workers compensation hearings and their impact on business operations more broadly.

Shop Trading Hours

25. Queensland has one of the most complex retail shop trading hours in the country. There are a multitude of geographical trading zones, each with different allowable trading hours and separate arrangements for trade on Sundays and public holidays. The system is difficult to navigate and creates confusion amongst business owners and the community as to whether or not a particular store is allowed to open.
26. The highly prescriptive and inconsistent nature of the current framework unfairly disadvantages those small businesses that the regulation seeks to protect. It is adding to the compliance and operational costs of small retail businesses at a time when competitive pressures are more acute.
27. CCIQ has previously recommended a number of changes to the legislation governing shop trading hours in Queensland to ensure the competitiveness of Queensland small businesses in a 21st century economy.² Specifically, CCIQ has recommended that the Queensland Government conduct a limited review of the *Trading (Allowable Hours) Act 1990* and the *Trading (Allowable Hours) Regulations 2004* to achieve incremental reforms that will deliver

² CCIQ Queensland Shop Trading Hours Report – September 2014

benefits by simplifying the administrative burden for government and reducing compliance costs for the business community.

28. Nevertheless, to the extent that the current review of Queensland's IR Act seeks to alter existing QIRC functions with respect to hearing and determining applications to vary and/or extend trading hours, CCIQ believes considerations of this kind should be part of a separate process of consultation and review entirely.
29. As the operating shop trading hours' legislation in Queensland does not adequately meet the needs of the small businesses it seeks to protect, nor does it properly reflect the competitive pressures for the retail sector in the Queensland and national economy's more broadly, CCIQ believes individual attention must be paid to the current challenges for small businesses posed by the existing framework.
30. To this end, the Chamber is of the view that the legislative framework governing shop trading hours in Queensland requires major policy overhaul to ensure the objectives of the legislation reflects the need to support small business competitiveness. CCIQ express preference to see this kind of policy re-think take place as part of a separate review process to accommodate for the complexity of the issues involved, and to adequately conduct broad consultation with stakeholders impacted by such arrangements.
31. Therefore, CCIQ recommends that the State Government conduct a separate review of shop trading hours in Queensland as distinct from the current review into Queensland's industrial relations framework, of which CCIQ would welcome the opportunity to participate.

Regard for State's financial position when determining wages

32. The Queensland small business community contributes at least \$8.1 billion to the State Government through payroll tax, land tax, business stamp duties and motor vehicle registration or 65% of total taxation revenue. Approximately 44% of the State's operating expenses in 2014-15 are apportioned as employee or superannuation expenses. Accordingly the nexus between business taxes and the State budget's employee expenditure is strong. Business wishes to see its taxes used appropriately and anything short of optimum efficiency infers that business is paying higher taxes than necessary.
33. It is for these reasons that CCIQ believes the QIRC ought to continue to give consideration to the State's financial position and fiscal strategy, including the financial position of the relevant public sector entity, when determining wage negotiations, as per the measures introduced under the *Industrial Relations (Fair Work Act Harmonisation) and Other Legislation Amendment Bill 2013*.

34. One of the key outcomes sought by Queensland businesses from this State Government is better economic and fiscal management. This is required to bring the State Budget closer to a more sustainable position and restore the state's vitally needed AAA credit rating. Failure to keep a reign on spending growth weakens the sustainability of our public finances over the medium term and damages the economy's competitiveness through dependence on high business taxes and charges.
35. At present, Queensland's finances are in a challenging position. We have a significant level of debt, a loss of AAA credit rating, and a budget in deficit. CCIQ's Pre-State Election Survey³ highlighted a significant proportion of Queensland businesses expressed major or critical concern with the current budget deficit (40 per cent) and the efficiency of State Government service delivery (48 per cent). These findings reinforce the need for ongoing savings measures to correct the structural deficit in the State budget. In addition to restoring a fiscal surplus, the State Government must explore all options to pay down the State's \$80 billion accumulated debt, which is of major to critical concern to 47 per cent of Queensland businesses.
36. CCIQ notes the fiscal restraint that has clearly been evident in the State's finances since 2012-13. This is illustrated in the significant reduction in expenditure growth that has unquestionably brought the budget closer to being in fiscal surplus forecast to occur in 2015-16.
37. The reduction in headcount and introduction of contestability were only two of the measures utilised to achieve this outcome. The State has managed to reign in Government employee expenses in the past two years, contributing to an overall decline in average general Government expense growth in 2013-14. There was a fall in actual employee expenses in 2013-14 of 1.7% (or \$313 million), following a decline of 0.7% in 2012-13. For the four years 2014-15 to 2017-18, employee expenses are expected to grow by 3.8% per annum on average, in contrast to an average growth of 8.6% per annum over the decade to 2011-12.
38. CCIQ believes it is in the best interests of the community at large that control of employee expenditure continues under the wage determination process of the QIRC. To this end, CCIQ advises the Industrial Relations Reference Group to make recommendations for the re-introduction of Section 140D(5), as repealed in the *Industrial Relations (Restoring Fairness) and Other Legislation Amendment Bill 2015* passed by the Queensland Parliament in June 2015.

³ See further CCIQ Super 7: 2015 State Election – Priorities for Queensland Businesses.

39. Specifically, CCIQ urges the Reference Group to consider the merits of the QIRC giving consideration to the State's financial position when determining wage negotiations, and to recommend the removed subsection 140D(2)(h), which required the Commission to consider the State's financial position, be re-instated as part of its review into industrial relations in Queensland.
40. On the question of the QIRC's independence, CCIQ rejects suggestions that the former Government curtailed the independence of the Commission by mandating the state's finances be considered when determining wages and employment conditions.
41. CCIQ disagrees with the premise that providing a guiding principal of fiscal sensibility curtails the independence of the Commission. The requirement that the Commission have regard to the State's financial position and fiscal strategy, and the financial position of the relevant public sector entity, or the financial position of the employer (where not a public sector entity) when exercising its chapter 5A powers with respect to modern awards is both reasonable and necessary.
42. CCIQ considers that the State's financial position and fiscal strategy is a relevant and essential consideration when determining the relevance and fairness of employment conditions for the Public Service, particularly with respect to wage outcomes for Queensland's public service.
43. CCIQ does not believe that requiring the QIRC have regard for the state's finances are no more onerous than other considerations included in the current legislation, which require the Commission to consider the impact of decisions on business productivity, employment costs and regulatory burden to business, likely impacts on employment growth and inflation, and likely impacts on the sustainability, performance and competitiveness of the Queensland economy.
44. Further, the fiscal management of Queensland's economy is of significant interest of Queensland's business community, and is certainly as important as the other public interest considerations listed in the IR Act.
45. In conclusion, CCIQ is strongly supportive of ensuring that the state's fiscal and economic conditions are taken into consideration when determining wages and other conditions of employment and urges the Reference Group to make recommendations to this effect.

Worker's Compensation

46. With respect to the responsibilities of the QIRC to oversee worker's compensation appeals processes, CCIQ is satisfied with the process as it currently operates, and subsequently expresses a preference to see the system largely retained in its current form.
47. Nevertheless, CCIQ has identified some existing weaknesses in the framework that are capable of improvement to ensure appeals processes occur in a more timely fashion.
48. CCIQ are not calling for any substantive change to current arrangements, but urges the Reference Group to consider a tightening of procedural functions to encourage greater efficiencies throughout the process of hearing and resolving appeals.
49. To this end, CCIQ recommends this wide-ranging review into industrial relations in Queensland to examine the timeframes of appeals regarding worker's compensation matters through the QIRC.
50. At present, the feedback CCIQ has received relates to existing issues regarding timeframes in the appeals process i.e. the duration to hearing date from commencement of appeal and also the duration for which a judgement is handed down.
51. As the Reference Group would no doubt be aware, 'justice delayed is justice denied' and there is significant desirability for all parties subject to a decision of the Commission to avoid delay in the process.
52. The flow-on effects for the delay of outcomes is one of prolonging the workers' compensation claim which lessens any chance of positive outcome (if accepted) or can prolong the decision for the claimant (if rejected).
53. In the event of acceptance of a claim through the appeals process, the lack of timeliness results in WorkCover having to backdate entitlements (such as wages, medical, and treatment) for large periods.
54. Additionally, the process of an appeal is highly adversarial and legally involved, which undermines the lay-person accessibility of a forum such as the QIRC, thereby increasing costs on all parties.
55. CCIQ believes delays would be reduced by the use of more effective technologies, effecting cultural change that imposes obligations on the Commission, litigants, and others to support timelier finalization of disputes, and better management of cases and disputes.
56. Alternatively, the Reference Group may wish to consider moving the appeals process to the Queensland Civil and Administrative Tribunal (QCAT) as QCAT currently enjoys a reputation for managing appeals in more expedient timeframes in a less adversarial manner.

57. Overall, CCIQ urges the Reference Group to consider how timeliness can be improved as part of the appeals process for workers' compensation claims, but recommends no substantive change to the current broader responsibilities of the QIRC.

Public holidays in Queensland

58. At the outset, CCIQ supports national consistency in regards to public holidays in order to ensure minimal disruption to Queensland businesses, particularly for those who operate across state and territory borders. Overall, CCIQ is not supportive of introducing measures that result in additional public holidays in Queensland; as such measures increase business costs leading to negative impacts on businesses, employees, and local communities.
59. CCIQ notes that national consistency and an even spread of holidays across the year are the two outcomes that best grow the economy and create jobs. Despite this however, what is most important to Queensland businesses is the core 11 public holidays and no more.
60. CCIQ argues for a greater streamlining of employer obligations on declared public holidays in Queensland to reduce unnecessary exposure to penalty rates. To achieve this outcome, CCIQ believes the Government ought to make a number of amendments to the *Holidays Act 1983* and the *Trading (Allowable Hours) Act 1990* that govern business trading hours on public holidays in Queensland. At present, there is an unnecessarily complicated interplay between state legislation and national employment standards that impose additional cost and administrative burdens on Queensland business.
61. To illustrate, the *Holidays Act 1983* outlines the days of the calendar year whereby a public holiday must be observed, and the *Trading (Allowable Hours) Act 1990* places specific restrictions on certain businesses operating, particularly on the declared public holiday of Anzac Day. With respect to the employment relationship, federal industrial awards make specific provision for employers regarding hours worked and rates of pay, in addition to National Employment Standards that set minimum employee entitlements on a public holiday.
62. The problems with multiple instruments governing public holiday arrangements in Queensland are two-fold. Firstly, the laws are duplicative, inconsistent, and thus transfer an unnecessary burden on business. Secondly, the consequences of duplicative legislation in this instance results in small businesses having to pay penalty rates more often than they would otherwise be required if the legislation were streamlined.

Proposed amendments to reduce red tape and streamline employer obligations

63. In order to reduce red tape, streamline employer obligations, and decrease unnecessary labour costs for businesses on declared public holidays, CCIQ urges the Industrial Relations Reference Group to recommend to government the following amendments to the relevant legislation.

- Reinstating the *Holidays Act 1983* as the only legally binding instrument that contains directives for employers on public holidays in Queensland. In other words, all other state instruments should specifically refer employers to the *Holidays Act 1983* as the chief instrument governing public holiday entitlements in Queensland.
- The *Trading (Allowable Hours) Act 1990* should be amended to remove any references to public holidays. CCIQ is of the strong view that the *Trading (Allowable Hours) Act 1990* should deal solely with hours of trade, not employee entitlements on public holidays. To this end, it is reiterated that the *Holidays Act 1983* be the principal Act of referral with respect to employee entitlements on a public holiday in Queensland. This will have the intended effect of streamlining wage compliance, and provide certainty and clarity for employees.

Public holidays that fall on a weekend

64. Lastly, CCIQ is strongly opposed to declaring a public holiday for both the actual date as well as an additional public holiday when Australia Day, Christmas Day, Boxing Day, or New Year's Day fall on a weekend. This creates significant added liability for employers, effectively creating an additional public holiday for businesses that operate seven days a week and/or over the weekends.

65. In 2015, Boxing Day falls on Saturday 26 December, with an additional public holiday declared for Monday 28 December. CCIQ takes the reasonable view that public holidays should occur on the day the event occurs, that which being Boxing Day as the day following Christmas Day.

66. In the event a substitute public holiday occurs for Boxing Day in 2015, small businesses will incur wage and labour on-costs beyond their capacity to pay. This is particularly damaging for business owners operating in tourism or hospitality industries, who are already challenged by excessively high penalty rates.

67. To be clear, CCIQ believes employees who work on Australia Day, Christmas Day, Boxing Day, or New Year's Day should be entitled to penalty rates if that day falls on a weekend. However, Queensland businesses that are open during this period are not supportive of

being required to pay penalty rates for their employees for both the actual and substitute public holiday.

68. This will impact on the competitiveness of these businesses compared to those that are only required to pay staff for one public holiday. Every business and employee in Queensland should be entitled to the same number of public holiday entitlements to ensure a consistent approach across the state and an even playing field for all businesses.
69. In sum, CCIQ urges the Reference Group to consider amending the *Holidays Act 1983* to remove any substitution holidays in circumstances where the actual day falls on either a Saturday or a Sunday.

Regulation of industrial organisations

70. As the State's peak business organisation, CCIQ is committed to the best practice representation of the Queensland small business community and wishes to specifically provide commentary in relation to Issues Paper 6, which opens for discussion the most suitable model for the regulation of industrial organisations in the State industrial relations system.
71. Overall, CCIQ believes the current framework for industry associations is well-functioning, and recommends there be no change to existing arrangements for industry association's in Queensland.

Commitment to Transparency and Accountability

72. CCIQ unreservedly supports accountability and transparency of industry associations and unions. These should be at the heart of any employer and employee organisation's operations.
73. Indeed CCIQ believes that industry associations and unions are in a unique and privileged position in the system of government. The officials of these organisations are elected by members of the organisation who deserve to have confidence in the stewardship and financial management of their organisation and its leadership.
74. As indicated CCIQ and other unions are defined as 'industrial organisations' under the Queensland IR Act. Chapter 12 of the IR Act deals with 'Industrial Organisations and Associated Entities'. Chapter 12 covers the registration of industrial organisations, rules of industrial organisations (including required and restricted content, election rules, validity and compliance with rules, amendment of rules by QIRC or Registrar, and by organisation), conduct of elections, election inquiries, officers (including disqualifications, officers' duties subsection 526-530), register of material personal interest disclosures (section 530A),

statement of interests of officers holding management offices (subsection 530B-530G) and membership and registers. Chapter 12 also provides for a miscellaneous provision that includes requirements for publishing particular documents (section 655A), falsely obtaining organisation's property (section 656) and wrongfully applying for organisation's property (section 657).

75. The *Industrial Relations (Transparency and Accountability of Industrial Organisations) and Other Acts Amendment Act 2013* sought to strengthen the transparency and accountability of the way industrial organisations operated in Queensland by implementing:

- Register of the remuneration of the organisation's highly paid officers;
- Register of material personal interests declarations of elected officers and their relatives;
- Register of gifts and benefits (received and given by officers and employees);
- Amending the existing annual reporting and filing obligations of industrial organisations to include financial disclosure statements;
- Requiring that all information provided in an organisation's annual financial disclosure statement and maintained in the registers be subject to scrutiny by a registered company auditor and be made publicly available on the organisation's website. Material personal interest declarations by relatives of elected officers will be maintained and filed with the QIRC but not published. The register of officer's remuneration will be required to be updated twice yearly;
- Requiring that all industrial organisations have financial management policies (including in relation to credit card issuance and use, contracting activities and gifts and donations) and that officers of industrial organisations undertake governance and financial accountability training;
- Introducing new and increased penalties.

76. In light of the above CCIQ believes our organisation is already appropriately regulated with transparency and accountability at the heart of our operations, and any changes to policy in this space in the absence of sufficient evidence of improvement of the system, CCIQ recommends that there be no change to existing arrangements for industrial organisations operating in Queensland, with the exception of aligning provisions to be consistent for both industrial organisations of employees and employers.

Workplace bullying

77. This section will comment on workplace bullying as a ‘contemporary and emerging issue’ in Queensland workplaces. As the Reference Group notes in its corresponding Issues Paper, the problem of overlapping jurisdictions and forum shopping by complainants, in addition to the confusing and complex arrangements around anti-bullying laws have been raised by stakeholders in the Productivity Commission’s Issue Paper released in January 2015.
78. CCIQ urges the Industrial Relations Reference Group to first and foremost await the outcome of the Productivity Commission’s findings as part of its review into workplace relations reform with respect to workplace bullying matters, and to use such recommendations as a guide to formulating Queensland’s policy framework in this space.
79. With respect to the matters raised in the Reference Group’s Issues Paper on workplace bullying, CCIQ is strongly opposed to any suggestion that non-incorporated private sector employees be given access to an additional anti-bullying jurisdiction through the QIRC. CCIQ would support however the inclusion of those employees for bullying purposes in the notional Fair Work framework.
80. CCIQ considers that there is a sufficient regulatory framework in place to prevent workplace bullying, and effectively address it where it does occur. Legislating further would simply add an additional layer of regulation in the workplace that would be duplicative and confusing for both employers and employees.
81. CCIQ also notes that bullying involves a range of behaviours and actions that are fostered outside of the workplace, and are not necessarily appropriately regulated by legislation. CCIQ advises the preferable approach of the business community regarding workplace bullying policy is to focus on developing awareness and prevention strategies such as:
- Coordinated education campaigns and public information sessions
 - Gathering more extensive and better quality data from Australian workplaces on the prevalence of workplace bullying;
 - Review of existing workplace policies on bullying;
 - Improved issue resolution processes; and
 - The provision of training on appropriate managerial responses to bullying.
82. CCIQ’s recommendations focus on more effectively utilising the current tools that are available to address workplace bullying at the state and federal level, with a particular focus on preventative, non-legislative measures.

83. Given the broad range of legislative measures available with respect to workplace bullying, CCIQ considers that any additional measures would need to be supported by substantial evidence-based research on the nature and prevalence of bullying in Australian workplaces.
84. Non-legislative initiatives, such as guidelines and codes of conduct, should be used in the first instance to address workplace bullying, with recourse available to existing legislative measures where necessary.
85. The government should develop an education campaign and provide training and information sessions to stakeholder groups on the non-legislative and legislative framework on workplace bullying with a strong focus on preventative strategies.
86. CCIQ submits that the perception that additional regulation is necessary to address workplace bullying is predicated on the fact that it is potentially dealt with under a number of separate pieces of legislation.
87. This could be remedied by improving coordination between the agencies and departments that administer that legislation, and key stakeholders affected by it, to streamline the referral process and promote the centralised collection of data on workplace bullying.
88. Overall, CCIQ supports a preventative approach to workplace bullying that is centred in the workplace health and safety context, and strongly opposes the establishment of any new jurisdictions for lodging a workplace bullying claim for non-incorporated private sector employees. CCIQ believes that rather than having two sets of competing arrangements, means should be found within the current system to deal effectively with matters as they arise that may include the Fair Work system.

RECOMMENDATIONS

Referral of industrial powers to the Commonwealth: CCIQ recommends that the Queensland Government continue to refer its industrial relations powers to the Commonwealth with respect to private sector employees.

Functions and powers of the Queensland Industrial Relations Commission:

a) Shop Trading Hours – CCIQ recommends that the State Government conduct a separate review of shop trading hours in Queensland as distinct from the current review into Queensland’s industrial relations framework.

b) Regard for State’s financial position – CCIQ strongly recommends the re-introduction of provisions that mandate for the QIRC to have regard for the state’s fiscal and economic conditions when determining wages and other conditions of employment for public sector employees.

c) Worker’s Compensation – CCIQ does not recommend any substantive change to QIRC worker’s compensation appeals processes however calls on the Reference Group to consider how the timeliness of appeals can be improved.

Public holidays in Queensland: CCIQ strongly supports 11 core public holidays in Queensland and no more.

Regulation of industrial organizations: CCIQ believes the current system is well-functioning and recommends there be no change to the regulation of industrial organisations in Queensland, other than consistency of arrangements for both unions and industry associations.

Workplace bullying: CCIQ is strongly opposed to additional anti-bullying jurisdiction through the QIRC, and urges the Reference Group to focus on non-legislative initiatives to address bullying in the first instance. CCIQ recommends that rather than having two sets of competing arrangements, means should be found within the current system to deal effectively with matters as they arise, that may include the Fair Work system.