

**Submission
No 35**

**INQUIRY INTO IMPACT OF TECHNOLOGICAL AND
OTHER CHANGE ON THE FUTURE OF WORK AND
WORKERS IN NEW SOUTH WALES**

Name: Mr Philip Sacks

Date Received: 9 November 2020

Submission to the Select Committee on the impact of technological and other change on the future of work and workers in New South Wales

09 November 2020

Individual Independent Contractors Wear Two Hats: WC Insurance

When I first launched my own business (as a lawyer) in the 1990s, I received some astoundingly good advice from the NSW Government's then business advisory service (the name of which I cannot now recall). That brilliant advice was that at all times I would be wearing two hats: one as a business owner and one as an employee. The roles and thinking of each were quite different and I had to focus on each. For example, when a potential client sought particular legal services, it was the owner in me who had to make an initial assessment as to whether that sort of work fitted my practice and its direction, or was something we did not do or should not do (as being outside my field of expertise, too risky, etc).

The same applies to individuals who engage in businesses for the "gig" economy as independent contractors. They are both owners of a small business, and workers. As owners, they should consider ways of looking after themselves as employees. One of the most basic ways of doing that, at a minimum, is to take out worker's compensation insurance. However, they are not eligible to take out such insurance (see **Appendix** below)

Indeed, if an informed person decided to incorporate and trade through a company which employed just him/her, that company would be legally obliged to take out worker's compensation insurance.

It is therefore my submission to the Select Committee **that the Parliament amend the *Workers Compensation Act 1987* (and specifically Part 7) so that each individual who has or ought to have an Australian Business Number (ABN) and earns a minimum of \$7,500 per annum (the current threshold), should not only be eligible, but should also be obliged, to take out worker's compensation insurance for themselves.**

This would not only assist in protecting the worker from the sort of incidents that are covered by that type of insurance, it also puts those workers and business owners on a level playing field with those individuals who have incorporated and trade through a company.

As regards enforcement, I recommend that **the Parliament oblige each principal who has an ABN and who engages an independent contractor in the course of the principal's business (which should exclude households), to ensure that that independent contractor has appropriate workers compensation insurance or is legitimately exempt.**

Philip Sacks

Appendix

iCare NSW's website summarises the law regarding the need to take out worker's compensation. See

<https://www.icare.nsw.gov.au/employers/who-needs-workers-insurance/who-needs-a-policy#gref>

In that web-site, the following are cited as examples:

Examples:

Barry the electrical contractor

Barry operates an electrical contracting business. Barry is a sole trader with no workers. Barry is not eligible to take out workers insurance.

Steve and Jason the tilers

Steve and Jason are tilers who conduct their business as a partnership and employ an apprentice. They are required to take out workers insurance to cover the apprentice. The workers insurance does not cover Steve and Jason.