

## Queensland Government

Mr H Plunkett  
Assistant Commissioner  
Workers' Compensation and OH&S Inquiry  
Productivity Commission  
PO Box 80  
BELCONNEN ACT 2616

Dear Mr Plunkett

I refer to your request for submissions with respect to the Productivity Commission Inquiry into National Worker' Compensation and Occupational Health and Safety Frameworks.

The Queensland Government is committed to a reduction in workplace injury and disease, where work-related injury occurs. It is essential that the workers' compensation scheme be fair, balancing the rights of injured workers against the need for competitive and affordable premiums for employers, while maintaining a secure and viable workers' compensation system.

Queensland does not support the adoption of a national workers' compensation scheme or national self-insurance. These would add significant complexity to the existing arrangements, in effect adding a new layer of regulation. A co-operative approach to achieve national consistency for workers' compensation remains the preferred approach.

Thank you for providing the opportunity to make a submission to the Inquiry.  
Yours sincerely

**GORDON NUTTALL MP**  
**Minister for Industrial Relations**  
**Member for Sandgate**

15 August 2003

**Queensland Government  
Submission to the  
Productivity Commission  
Inquiry into National  
Workers' Compensation and  
Occupational Health & Safety  
Frameworks**

**August 2003**

## SUMMARY

The Queensland Government is committed to prevention activities aimed at reducing the unacceptable level of workplace injury and disease. The *National Occupational Health and Safety Strategy 2002-2012* represents a landmark step towards greater co-ordination of effort and consistency across Australian States and Territories. Greater national consistency will result in:

- Less legislative burden and greater certainty for employers;
- Broader, more effective protection of workers; and
- Reduced duplication of work by States and Territories.

While first priority is a reduction workplace injury and disease, where work-related injury occurs it is essential that the Queensland workers' compensation scheme be fair, balancing the rights of injured workers against the need for competitive and affordable premiums for employers, while maintaining a secure and viable workers' compensation system. Since 1999, the Queensland Government has progressively introduced a number of improvements to the State workers' compensation scheme.

Queensland continues to lead Australia with the lowest average workers' compensation premiums in the nation. The average premium rate is to remain at 1.55 per cent – for the fourth consecutive year during 2003-04. It is testament to the strength of the fundamentals underpinning the fund that the scheme is fully funded and maintains full statutory solvency.

Queensland does not support the adoption of a national workers' compensation scheme or national self-insurance. These would add significant complexity to the existing arrangements, in effect adding a new layer of regulation where the Commonwealth would be required to impose and monitor a range of legislative requirements including workers' compensation benefit levels, solvency and coverage without the surety of any benefit to scheme members. In addition, the establishment of such schemes would:

- introduce significant volatility into the premium calculation for those businesses remaining in State and Territory schemes. In 2000-01 it was estimated that private sector non-agricultural small businesses (owner operator or employing less than 20 people) in Queensland represented 96.5% of all private sector businesses employing around 611,700 people or 50% of all private sector employment;
- impact on the ability to deliver the State's objectives of low cost service provision through economies of scope and ensure the provision of consistent, high quality and medical/para-medical services to injured workers. In 2001-02 there were 85,407 claims of which 31,333 or 36.69% were from regional Queensland.

A co-operative approach to achieve national consistency for workers' compensation, based on the model used for occupational health and safety through the National

Occupational Health and Safety Commission is the preferred model of the Queensland Government.

Strategies that focus on the prevention of workplace injury and disease are an essential ingredient of a successful workers' compensation scheme. The Queensland Government considers that States and Territories are best placed to administer workers' compensation schemes/workplace health and safety schemes and co-operatively implement consistent standards taking account of local needs and industry base.

While Queensland agrees that a consistent approach to workplace health and safety is required, Queensland does not support a national OHS system. The National OHS Strategy provides an appropriate framework for achieving greater coordination of efforts and consistency across all Australian States and Territories. As such, efforts should continue to be directed towards the implementation of the National OHS Strategy.

## INTRODUCTION

This submission outlines the operation of the Queensland Government's workplace health and safety, workers' compensation and rehabilitation/return to work arrangements. It also addresses a number of issues identified in the Issues Paper, in particular:

- a commitment to implementing nationally consistent occupational health and safety standards developed through the National Occupational Health and Safety Commission;
- support for a co-operative approach to achieve national consistency for workers' compensation, rather than the adoption of a national workers' compensation scheme. Queensland commitment is evidenced by the recent cross border agreement associated with workers working temporarily interstate;
- the need to ensure that those companies seeking self-insurance meet stringent safeguards. That is, they are large enough to have the capability of carrying the infrastructure and costs associated with maintaining a workers' compensation system. Any self-insurance scheme which did not have adequate prudential safeguards or was not adequately monitored may leave worker entitlements at risk;
- the need for any new arrangements for workers' compensation to take account of the needs of all businesses. The Issues Paper identifies the concerns of large multi national business but fails to identify issues relating to small and medium sized businesses. In Queensland, 96.5% of all private sector businesses are small business employing less than 20 employees.
- Support for the introduction of consistent definitions such as employer, worker and injury, ensuring that employers and workers will have knowledge and certainty as to who is covered and who is required to take out a policy of insurance.

## QUEENSLAND'S WORKERS' COMPENSATION SCHEME

The Queensland workers' compensation scheme is governed by the *Workers' Compensation and Rehabilitation Act 2003* (the Act). The Act, which commenced on 1 July 2003 implements a recommendation of a National Competition Policy (NCP) Review of the scheme. The Act maintains WorkCover's status as Queensland's primary workers' compensation provider and establishes Q-COMP as the State's statutory regulator ensuring transparency and objectivity in the regulation of Queensland's workers' compensation scheme.

The change in the title of the legislation from the *WorkCover Queensland Act 1996* better reflects the functions of the legislation, that is, to provide for a scheme of

arrangements for the regulation and delivery of workers' compensation and rehabilitation services to Queensland employers and workers.

The primary object of the Act is to establish a workers' compensation scheme that:

- provides benefits for workers who sustain injury in their employment, for dependants if a worker's injury results in the worker's death, for persons other than workers, and for other benefits; and
- encouraging improved health and safety performance by employers.

The objectives of the Act are met through a workers' compensation scheme, which consists of three parts: WorkCover the insurer; Q-COMP the regulator; and the Department of Industrial Relations – policy and legislative development. With the exception of 24 licensed self-insurers, WorkCover is the exclusive provider of workers' compensation insurance in Queensland. Employers that meet prudential requirements may apply for a licence to self-insure their workers' compensation risk for both statutory and common law claims. In 2001-02 WorkCover provided insurance coverage and services to some 132,000 employers and their injured workers.

The WorkCover Queensland Board (seven members) is accountable to the Minister for Industrial Relations for WorkCover's accident insurance business including claims management, premium setting and funds management.

For the year ended 30 June 2002, WorkCover continued to maintain solvency requirements. The operating result from ordinary activities after income tax equivalents recorded a deficit of \$73.4M. This result was due to negative investment returns. Total equity at 30 June 2002 remained strong at \$466.5M.

In 2001-02, there were 85,407 statutory claims lodged across the Queensland workers' compensation scheme. Of these 72,989 were managed by WorkCover and the remainder by self-insurers.

The Q-COMP Board (seven members) is also accountable to the Minister for Industrial Relations for the regulation of the current 24 self-insurers and WorkCover Queensland. Q-COMP also provides support for the Medical Assessment Tribunals, conducts independent reviews of decisions relating to workers' statutory claims and employer premiums, maintains the scheme wide data base and monitors compliance with the workplace rehabilitation legislative provisions.

The Workers' Compensation Policy Unit, located within the Division of Workplace Health and Safety in the Department of Industrial Relations, provides advice to the Minister and other stakeholders on workers' compensation matters and researches, analyses and develops workers' compensation policy and legislation. The Department works closely with WorkCover and Q-COMP, using claims data to target occupational health and safety accident prevention programs within Queensland industries. The Queensland workers' compensation scheme assists the Division's preventative focus by providing funding through Q-COMP which represents approximately one third of the annual expenditure on workplace health and safety

programs. In 2002-03 WorkCover provided funding of \$12,058,420 (GST inclusive) to the Department of Industrial Relations for the prevention of injury to workers.

Since 1999, the Queensland Government has progressively introduced a number of improvements to the State workers' compensation scheme, notably:

- a cross border agreement between New South Wales, Victoria and Queensland which eliminates the need for employers to obtain workers' compensation coverage in more than one jurisdiction when employees are located temporarily in another State
- broadening the definition of worker such that persons under a contract of service, including labour-only contractors, are included;
- broadening of the definition of injury so that workers are compensated where employment is a significant contributing factor to the injury;
- reducing employer's premiums;
- funding for the provision of advisory services for employers and employees;
- new occupational health and safety requirements for self-insurers; and
- introducing a responsible and integrated package to give seriously injured workers and their dependants greater compensation without increasing employer premiums while maintaining full common law access and increasing statutory benefits for workers.

Strategies that focus on the prevention of workplace injury and disease are an essential ingredient of a successful workers' compensation scheme. In relation to workplace health and safety, the Department of Industrial Relations administers the *Workplace Health and Safety Act 1995*. The objective of the Act is to prevent a person's death, injury or illness being caused by a workplace, workplace activities or by specified high risk plant.

Workplace Health and Safety Queensland in the Department of Industrial Relations develops and implements legislative, compliance and enforcement frameworks to improve workplace health and safety and electrical safety. Workplace Health and Safety Queensland and the Electrical Safety Office have 200 (full time equivalents) inspectors operating out of 20 offices across the State.

In 2002-03 Workplace Health and Safety Queensland proactively visited more than 6,600 workplaces and issued more than 8,200 notices requiring improvements in health and safety. To reduce the risk of work-related injury, the Department improved its ability to target high-risk hazards and workplaces through enhanced data analysis, industry research and evaluation techniques.

## **OCCUPATIONAL HEALTH & SAFETY**

Workplace Health and Safety Queensland and the Electrical Safety Office in the Department of Industrial Relations develop and implement legislative, compliance and enforcement frameworks for workplace health and safety and electrical safety in Queensland. Workplace Health and Safety Queensland and the Electrical Safety Office employ 200 (equivalent full time) inspectors who operate out of 20 offices

around the State. Workplace health and safety in the mining industry is administered by the Safety and Health Division in the Department of Natural Resources and Mines.

The draft Comparative Performance Monitoring Report for 2003, reports that in 2001-02, compensated fatalities numbered 297, with 198 compensated injury and poisoning fatalities and 99 compensated disease fatalities. This represents a 26% decline from 1997-98 for all claims and a 25% decrease for injury and poisoning fatalities for the same period. Queensland accounted for 29 compensated injury and poisoning fatalities and 17 compensated disease fatalities. Counting rules applied in this Report excludes self-employed workers, defence forces and journey claims.

National Occupational Health and Safety Commission analysis indicates that fatalities related to diseases are much higher at 1800 fatalities for Australia. However, the methodology used to determine the number of fatalities is currently being reviewed.

In this context, Workplace Health and Safety Queensland has set a clear focus for prevention activity:

- hazards with a high risk of fatality such as electricity, plant, falls from heights and confined spaces;
- high risk industries such as manufacturing and construction;
- poor performing businesses viz employers with very poor workers' compensation claims experience and/ or a history of serious incidents; and
- work-related fatalities.

A major focus of prevention activity must always remain on educating and informing employers and workers, achieved through the provision of information products, guidance material, advice, seminars, safety blitzes and proactive inspections. Workplace Health and Safety Queensland is committed to assist employers and others with legal obligations under the Act in meeting their legislative duty. However, in recent years there has been an increased focus on compliance with the regulatory framework through the use of enforcement tools such as Improvement and Prohibition Notices, on-the-spot fines and prosecutions.

Workplace Health and Safety Queensland has published an Enforcement Framework which outlines the enforcement options to be employed as well as the investigations and prosecutions policies. Key principles underpinning Queensland's workplace health and safety enforcement efforts are:

- **Targeting** – resources are focused on achieving the greatest impact. High-risk industries and situations will be targeted to ensure interventions have significant positive outcomes;
- **Consistency** - Workplace Health and Safety Queensland will endeavour to ensure that similar circumstances at workplaces lead to similar enforcement outcomes;
- **Transparency** - Workplace Health and Safety Queensland is committed to open and transparent dealing with obligation holders. By publishing our policies obligation holders have a better understanding of what is expected of them; and

- **Proportionality** – enforcement action will be proportionate to the risks at the workplace and the seriousness of an injury when it occurs. More serious risks will warrant more severe enforcement action.

In addition, the existence of the various state-based models and industry-based approaches within each State enables a range of regulatory responses to be introduced and evaluated to inform and continually improve health and safety outcomes across Australia. In effect, States “learn” from each other’s best practice models. For example, Queensland Government has recently modernised its workplace health and safety legislation in order to provide for an effective modern regulatory regime that meets the needs associated with the changing nature of the labour market and ensures appropriate health and safety outcomes are achieved for all stakeholders. The amendments achieve this by assigning legal responsibility to those that can best control the risk. This is especially important with new work arrangements being introduced on a regular basis. The changes place obligations on persons who conduct work undertakings, persons who design buildings and persons in control of buildings used as workplaces. A National OHS System may have the effect of stifling such innovations.

The Queensland Government is committed to nationally consistent occupational health and safety (OHS) standards through the National Occupational Health and Safety Commission, (NOHSC). Nationally uniform standards have been a goal of Australian governments since the creation of NOHSC. Significant outcomes of uniformity include:

- the minimisation of duplication by government agencies in the regulation development process, leading to the more efficient use of resources by government;
- reduce administrative and compliance costs for employers who work in more than one jurisdiction;
- the facilitation of consistent OHS regulations being adopted by jurisdictions which contribute to an equitable operating environment for industry; and
- a reduction of barriers to a free national market in goods and services and labour mobility.

The identified impediments to the nationally consistent adoption of standards have largely now been overcome and there is a greater co-operation among jurisdictions to work towards the implementation of uniform standards. This has been particularly evident since the inception of the Workplace Relations Ministers Council (WRMC) and its “in principle” agreement for jurisdictions to adopt revised versions of the national priority standards.

The Queensland Government has implemented all seven priority national standards. These are:

- Plant;
- Manual handling;
- Occupational noise;
- Workplace hazardous substances;
- Certification for users and operators of industrial equipment;

- Major hazard facilities; and
- Dangerous substances.

In 1997, the Federal government redirected the efforts of NOHSC away from the development of any new national standards, leaving it with, essentially, a co-ordinating role in relation to those matters action areas outlined in the National OHS Framework and the National OHS Strategy.

While now primarily focusing on a co-ordinating role, the NOHSC has taken a lead role in the adoption of new standards as the need has arisen. In 1992, the NOHSC commenced work on the prohibition for the importation and use of chrysotile asbestos, which all Ministers have agreed to implement uniformly by the end of 2003. Further, in 2003, the NOHSC re-activated earlier preliminary work on the development of a national standard for the building and construction industry as well as associated codes of practice for falls from height and demolition work in response to industry pressure to have a uniform system of regulation in the building and construction industry across Australia.

National consistency ensures a coordinated Australia-wide approach to reducing workplace injury and disease, and will result in:

- less legislative burden for employers;
- broader, more effective protection of workers; and
- reduced duplication of work.

The National Strategy provides a structured framework for the identification and development of national standards through NOHSC.

The issue of a national OHS system has been examined recently by both the Royal Commission into the Building and Construction Industry as well as by the House of Representatives Standing Committee on Employment and Workplace Relations.

The *Report of the Royal Commission into the Building and Construction Industry* (the “Cole Report”) acknowledges that the best outcome would be a single national scheme comprehensively regulating OHS throughout Australia. However, the report recognises that, for a number of significant reasons, there is no foreseeable prospect of a single national scheme. For example, the Department of Employment and Workplace Relations stated in its submission to the Royal Commission into the Building and Construction Industry that:

*The ability of the Commonwealth to achieve a nationally consistent occupational health and safety regulatory framework is constrained by the Constitution. Except for the Commonwealth’s own employees and seafarers, occupational health and safety legislation is a matter for the States and Territories.*

In addition, the Cole Report states:

*It would take what academic commentators have described as an ‘imaginative use of the trade and commerce, corporations, external affairs and incidental powers’ for the Commonwealth to be able to take occupational health and*

*safety out of the hands of the States and Territories so as to create a single national system, and even then I doubt whether it could cover every worker and business engaged in the building and construction industry.*

Accordingly, the Cole Report advocates the present and continued existence of separate State and Territory schemes and that the only practical way forward is to work within the context of those schemes.

This framework acknowledges the role of, and the work done by, the NOHSC. The Cole Report endorses the *National Occupational Health and Safety Strategy 2002-2012* (the “National Strategy”) and the Comparative Performance Monitoring (CPM) Project, which it suggests should continue and be developed to measure, understand and improve the National Strategy.

Similarly, the House of Representatives Standing Committee on Employment and Workplace Relations commended the Workplace Relations Ministers’ Council on its commitment to the National Occupational Health and Safety Strategy for 2002-2012.

While Queensland agrees that a consistent approach to workplace health and safety is required, Queensland does not support a national OHS system. Efforts should continue to be directed towards implementing the National Strategy, which represents a landmark step towards greater coordination of efforts and consistency across all Australian States and Territories.

## **ROLE OF INSURERS IN THE QUEENSLAND SCHEME**

The Queensland workers’ compensation scheme consists of WorkCover Queensland, the statutory insurer and the 24 self-insurers licensed under the Act. It excludes all Queensland based workers who are subject to workers’ compensation arrangements administered by Comcare and the Seacare Authority.

The National Competition Policy (NCP) review of the *WorkCover Queensland Act 1996*, recommended that the public monopoly for the Queensland workers’ compensation system be retained. It also recommended retention of public underwriting in Queensland, on the grounds of:

- strong financial performance
- return to full solvency
- evidence that administrative arrangements are more important than underwriting
- potential premium volatility and scheme instability in competitively underwritten schemes
- relatively high levels of customer satisfaction with current arrangements
- lack of evidence to support increased efficiency with the introduction of competitive underwriting

Except for the private insurance industry and some employer groups, all stakeholders supported the retention of public underwriting, emphasising the good performance of the current scheme and the importance of scheme stability for all stakeholders.

WorkCover Queensland engages an independent contractor to undertake customer satisfaction research. WorkCover's customer satisfaction index rated employer satisfaction with the scheme at 73.5% and injured worker satisfaction at 71.8%, for 2002.

Despite a general preference for more private sector involvement in workers' compensation insurance, the Insurance Council of Australia (ICA) welcomed the findings of the review. The ICA commented that the structure of the Queensland scheme, under which the regulatory and insurance arms are kept separate, was one reason why it was the only government run workers' compensation scheme in Australia which was in the black rather than losing significant amounts of money and commented that other State schemes would do well to adopt the Queensland model.<sup>1</sup>

Queensland has a high concentration of its workforce based in regional and remote areas and stretching along 2,000 kms of coast line. The percentage of the labour force residing in capital cities at April 2003 was:

<b>Percentage of labour force residing in Capital City, April 2003</b>	
State	Percentage
Queensland	47.2
New South Wales	66.4
Victoria	74.4
South Australia	74.4
Western Australia	73.4
Tasmania	41.7
<b>Average across States</b>	<b>65.5</b>

Source: ABS Labour Force Survey, 12-month moving averages

In 2000-01 a total of 85,340 workers' compensation claims were received, of these 29,745 or 34.85% in regional areas outside South East Queensland. In 2001-02 there were 85,407 claims of which 31,333 or 36.69% in regional areas outside South East Queensland.

In this context, WorkCover Queensland is able to deliver the State's objectives of low cost service provision through economies of scope and ensure the provision of consistent, high quality and medical/para-medical services to injured workers. WorkCover's market structure allows it to focus on the development of workers' compensation services as the sole purchaser of services from a number of sellers such as the Host Employment Program, without distractions such as market share issues, shareholder distributions and brokerage issues. Services such as injury management have been, and are continuing to be refined and developed to meet the particular needs of employers and workers in metropolitan and regional areas.

In addition, WorkCover Queensland has a strong regional network of 24 offices which benefits both workers and employers by providing accessible service and information, as well as providing local employment.

<sup>1</sup> Insurance Council of Australia. *QLD workers comp provides opportunity for insurers* (media release). 27 July 2001

## NATIONAL FRAMEWORKS

There are significant Constitutional issues and the need for the referral of State powers in relation to conferring powers for workers' compensation regulation exclusively upon the Commonwealth under the *Insurance Act*. Under section 51(xiv) of the *Constitution*, the Commonwealth has power to legislate in the area of insurance, other than State insurance and for State insurance extending beyond the State concerned. The majority of WorkCover Queensland's insurance business does not extend beyond Queensland. This position was noted in the HIH Commission Final report, where it states "...the Commonwealth does not have legislative power with respect to 'State Insurance' that does not extend beyond the limits of the state concerned".

Any Federal legislative provisions attempting to cover a predominantly State based scheme of insurance would infringe the Constitutional limitations of the insurance power.

A further complexity in dealing with state based workers' compensation schemes relates to the interaction with the motor accident insurance schemes. In some State and Territories workers' compensation schemes journey claims are covered, while in others they are not.

Queensland does not support the adoption of a national workers' compensation scheme. It would add significant complexity to the existing arrangements, in effect adding a new layer of regulation where the Commonwealth would be required to impose and monitor a range of legislative requirements including workers' compensation benefit levels, solvency and coverage without the surety of any benefit to scheme members. Of particular concern to the Queensland Government under any such national model, is who would be the nominal defendant. WorkCover Queensland acts as nominal defendant for workers' compensation where WorkCover meets the liability when the defendant is not insured or becomes insolvent.

The differing workers' compensation arrangements applying across the Australian jurisdictions provide the opportunity for innovation and best practice. However, in this context, the Queensland Government supports the need for greater consistency in the operation of State and Territory workers' compensation schemes. Queensland's position is reflected in the concluding remarks of the House of Representatives Standing Committee, when they stated:

"8.97 ..... the Committee believes that it may be timely for the States, Territories and the Commonwealth to jointly consider the feasibility, benefits and disadvantages of greater national consistency in workers' compensation arrangements.

8.98 While the Committee believes that primary responsibility for workers' compensation and occupational health and safety should stay within the respective Commonwealth, State and Territory jurisdictions, there is significant capacity for increased national consistency and cooperation.

A co-operative approach to achieve national consistency for workers' compensation, based on the model used for occupational health and safety through the National

Occupational Health and Safety Commission is the preferred model of the Queensland Government. Such an approach recognises that States and Territories are best placed to administer workers' compensation schemes and implement consistent standards taking account of local needs and industry base.

While there is a ministerial council dealing with occupational health and safety matters, no such council exists for insurance matters. Under this model the national body established to achieve consistency in the area of workers' compensation, would report to a ministerial council. This approach is consistent with recommendation 51 of the HIH Final Report, which states "*I recommend that the states and territories implement a process designed to reduce inconsistencies in their statutory schemes. This task that would be appropriately overseen by the proposed ministerial council.*"

Such a national body would be the appropriate forum to consider recommendations of the *Report into aspects of Australian workers' compensation schemes*. In addition, this national body would also be an appropriate forum to consider recommendations 132, 133, 134, 150, 151, 152 and 153 of the *Royal Commission into the Building and Construction Industry*.

The move to a co-operative approach to addressing issues associated with multiple workers' compensation schemes has already been initiated by State Governments. Queensland along with New South Wales and Victoria have reached agreement to address cross border issues associated with workers working temporarily interstate. The agreement which has been given legislative effect in Queensland commenced on 1 July 2003. The agreement seeks to:

- eliminate the need for employers to obtain workers' compensation coverage for a worker or deemed worker in more than one jurisdiction and enable employers to readily determine the state in which to obtain that insurance;
- ensure that workers and deemed workers temporarily working in another jurisdiction only have access to workers' compensation entitlements available in their "home" jurisdiction;
- provide certainty for workers about their workers' compensation entitlements;
- eliminate forum shopping; and
- ensure that each worker is connected to one jurisdiction or another.

The cross border agreement is presently being considered by other States and Territories for implementation through the Heads of Workers' Compensation Authorities (HWCA). HWCA members at the 29 July 2003 meeting agreed to progress implementation of the cross border agreement throughout Australia.

This agreement demonstrates the Queensland Government's commitment to resolution of workers' compensation issues through a co-operative approach to achieve national consistency.

## **SELF-INSURANCE**

Like a national workers' compensation scheme, a national self-insurance scheme will add significant complexity to the existing arrangements, in effect adding a new layer of regulation where the Commonwealth would be required to impose and monitor a range of legislative requirements including workers' compensation benefit levels, solvency and coverage.

The option for employers in Queensland to become self-insured became available as of 1 July 1997, with the introduction of the *WorkCover Queensland Act 1996*. The *Report of the Commission of Inquiry into Workers' Compensation and Related Matters in Queensland* suggested that self-insurance would provide a strong financial incentive to ensure safer workplaces as claims and management costs are borne by the self-insurer directly. The Report went on to state:

“When self-insurance is introduced there may be a need for the WorkCover Queensland to establish a secondary Fund with levies to cover claims liabilities of self insured firms in the event that they become insolvent and are unable to meet their outstanding claims liabilities because of inadequate bank guarantees. Despite the apparent size and robustness of some companies proposing self insurance, the rights of employees must be absolutely guaranteed. WorkCover Queensland should not be left with the bill for employers who can not meet their liabilities.”

In recognition of the need to protect employee entitlements, in March 1999 the Queensland Government moved to strengthen the existing criteria for self-insurance. It was concerned that there were insufficient safeguards to ensure workers and employers operating within the existing self-insurance arrangements were securely protected. Applicants for self-insurance were required to have 2000 workers (previously 500) to qualify for self-insurance. This change was introduced as it was considered that only large companies, which have a greater capacity to carry the infrastructure and costs associated with maintaining a workers' compensation system should be eligible for a self-insurance licence.

In addition, new criteria to monitor self-insurers' occupational health and safety performance was introduced and self-insurers were required to assume liability for all pre-existing claims as well as those incurred during the period of the self-insurance licence.

The first Self-Insurers in Queensland were granted licences from 1 June 1998. There are now 24 Self-Insurers in Queensland. Of those, 12 would be considered primarily Queensland based as opposed to national employers.

### **Queensland Arrangements**

In Queensland an employer may be licensed to become a self-insurer if they meet the prescribed regulatory requirements administered by Q-COMP, which include managing and funding their own workers' compensation claims. The following criteria apply to employers seeking a self-insurance licence:

- at least 2000 full-time workers in Queensland. In addition, all workers employed in Queensland by the employer are to be covered by the self-insurance licence;
- net tangible assets of at least \$100M and long-term financial viability;

- an unconditional bank guarantee or cash deposit of 150% of estimated claims liability, or \$5M (whichever is the greater);
- must assume liability for their tail of their claims;
- satisfactory occupational health and safety performance;
- adequate resources to administering claims and managing rehabilitation of workers;
- fit and proper to be a self-insurer;
- workplace rehabilitation policies and procedures and resources;
- reinsurance cover; and
- the ability to provide workers' compensation data, in the specified format.

### **Risk to the Scheme**

State worker entitlements are ultimately guaranteed by the Queensland Government, which in practice would be the WorkCover fund. As a result, where an employer is unable to meet its obligations under the Queensland legislation, WorkCover Queensland, as the nominal insurer pays their worker's compensation and damages entitlements in full.

To protect the WorkCover fund from corporate failure by a self-insurer, Queensland has in place stringent prudential safeguards, as outlined above. The bank guarantee or cash deposit lodged with Q-COMP is actuarially adjusted on an annual basis and is assignable to WorkCover. The bank guarantee or cash deposit would fully cover a failed self-insurer's outstanding liability.

The Queensland Government is concerned that a national self-insurance scheme which did not have adequate prudential safeguards or was not adequately monitored may leave either worker's entitlements at risk or in the case of Queensland, leave the WorkCover fund exposed to the outstanding workers' compensation liabilities of an insolvent self-insurer. In the case of a large insolvent self-insurer, outstanding liabilities have the potential to threaten the viability of state schemes or result in an increase average premium rates. This would have an adverse effect on employers, particularly those in small and medium businesses.

Long-term liabilities in other jurisdictions or liabilities existing prior to the granting of a self-insurance licence have the potential to increase exposure. The *Workers' Compensation and Rehabilitation Act 2003* addresses this potential exposure by ensuring that licensed self-insurers must take responsibility for their total claims liability as an employer. Any national self-insurance scheme would need to address this issue as it would be inequitable for a national self-insurer who becomes insolvent to walk away from their liabilities, imposing an additional burden on other employers remaining in State and Territory schemes.

The criteria Queensland has imposed relating to size of the employer, such as total net tangible assets and long-term financial viability, also assist in alleviating prudential risk; lessening these for an employer in a state could increase the risk to the fund. Likewise the WorkCover fund becomes more volatile and more vulnerable as it diminishes in size. Large national employers leaving a State workers' compensation scheme will directly contribute to increased risk and volatility in that scheme, increasing the burden for the other employers remaining in the scheme. It is not

possible at this time to estimate the level of volatility, given the access points for any national scheme has not been determined.

In considering the volatility that could be introduced into State and Territory scheme as a result of national self-insurance, it was estimated that there were 216,800 private sector non-agricultural small businesses (owner operator or employing less than 20 people) in Queensland during 2000-01. These businesses represented 96.5% of all private sector businesses employing around 611,700 people or 50% of all private sector employment (ABS 1321.0 –2001, pg 11). Note: the variation between the number of small businesses and the number of businesses with a policy of insurance through WorkCover exists because many of these businesses do not employ staff and are not required to have workers' compensation insurance.

Between 1983-84 and 2000-01 (ABS 1321.0 –2001, pp 47-52 and pg 13):

- the number of small businesses in Queensland grew by 110%, which represented an average annual increase of 6.5% (the number of Australian small businesses grew by an annual average of 3.5% over the same period); and
- employment by small businesses in Queensland increased by over 86%, which is equivalent to an average annual increase of 5.1% Australia's small business employment grew by an annual average of 3% in the same period.

Discrepancies in eligibility criteria between national self-insurance and state based self-insurance have the potential to lead to inequities in the market. For example, a Queensland business without interstate operations may not qualify for national self-insurance. This business may compete in the market with a business of equal size that operates nationally and qualifies for self-insurance status under a national model. A skewed competitive advantage may result if the workers' compensation arrangements applying to one business were more favourable, removes the level playing field, especially for small to medium businesses.

### **Protection of Worker Entitlements**

Worker entitlements for Queensland employees, following a corporate collapse, would ultimately be paid. However, a national scheme that insured workers in addition to State and Territory schemes may result in confusion, loss of entitlements for workers and possibly lengthy legal disputes to clarify payment of entitlements. There would also be problems associated with State and Territory schemes meeting entitlements under another Act.

It is inevitable that self-insurers operating under a national scheme would lobby for a national set of standards with respect to entitlements and benefits. This situation would raise the inequitable prospect that some Queensland workers would receive different entitlements from other Queensland workers, a prospect that is not acceptable.

## **SCHEME-WIDE DATA REPORTING**

Queensland workers' compensation scheme has a comprehensive data record of all claims made under its workers compensation legislation. Consistent data is collated by self-insurers and WorkCover and provided to Q-COMP. This is an invaluable resource in identifying emerging issues, monitoring developments in the workers compensation scheme and workplace injuries and their costs. In addition, this data is used by Workplace Health and Safety Queensland to target prevention and audit activity by inspectors.

The National OHS Strategy 2002-2012, has as one of its priorities to reduce high incidence/severity risks, specifically to reduce work related injury and deaths caused by high risk factors and in high risk industries. Workplace Health and Safety Queensland is placing increasing reliance on workers' compensation data as part of a broader data set to give effect to the National Strategy and achieve continued improvement in workplace health and safety prevention outcomes.

Queensland would be very concerned that a national scheme may undermine this comprehensive and consistent data record with various inclusions or exclusions of this States' workers.

## **PREMIUM SETTING**

WorkCover as the insurer, sets workers' compensation premiums in Queensland to reflect the individual performance of employers with respect to their occupational health and safety performance and workers' compensation cost control measures, such as early intervention and return to work strategies. The Queensland Government is of the view that any workers' compensation scheme must provide incentives for good occupational health and safety performance, which in turn will reward employers with effective management practices through lower premiums. Any workers' compensation system must also have sufficient flexibility in its premium setting mechanism to account for the differing needs of small and large business.

States and Territories being "at the coal face" and responsible for administering occupational health and safety legislation are best placed to determine the most appropriate premium setting model for the jurisdiction. This ensures that the specific industry mix and industry views can be considered. The various premium setting arrangements that apply across the Australian jurisdictions provide the opportunity for innovation, as States and Territories seek new ways to provide incentives for good performing employers through reduced workers' compensation premiums.

WorkCover Queensland calculates an employer's workers' compensation premium through the Experience Based Rating (EBR) system. EBR was first introduced in 1997 and since then the average premium rate has decreased from 2.15% to 1.55% and has been maintained at this rate for four consecutive years, providing certainty for employers. EBR uses a combination of an employer's own claims experience and the Industry's experience. The larger the employer, the more impact their own claims experience will have on their premium rate. Conversely, the smaller the employer the less individual claims experience will impact. This ensures that volatility in premium setting for small business is smoothed from year to year. As previously stated, Queensland currently has 96.5% of its businesses employing less than 20 employees.

Without such an approach to premium setting, a small business with a number of claims from one incident may experience premium increases that impose a significant financial burden.

Each year, the WorkCover Queensland Board sets the average premium rate a year in advance. This rate represents the percentage of scheme wages needed to fund the scheme, while maintaining solvency ratios and is based on the costs of workers' compensation claims that are estimated to be incurred in that year. Using this as a base, WorkCover Queensland sets industry rates for each industry classification and following this, the premium rate for individual employers.

As a part of setting the average premium rate each year, the whole EBR system is reviewed in consultation with business, and where necessary, changes are made. This ensures the EBR system, as well as ensuring any inequities within the system are identified and where appropriate addressed.

EBR system is successful because it clearly reflects current risk exposures and establishes for employers the link between claims history and their premium rate. This provides a powerful incentive for employers to reduce:

- workplace incidents through improved workplace health and safety preventative strategies. Minimising the number of work related injuries is the primary element in controlling costs; and
- the costs of claims through effective claims management and early rehabilitation for the injured worker.

It is worth noting that since the introduction of EBR, workers' compensation claim rates have decreased over the period 1997-98 to 2001-02. A comparison of the number of claims relative to the number of people employed in Queensland has identified the following change to the claims rate 1997-98: 3.3%, 1998-99: -10.9%, 1999-2000: -5.9%, 2000-01: -7.9%, 2001-02: -4.3%. This is at the same time as the definition of injury has been amended to require employment to be "the major contributing factor" and definition of worker has been broadened, potentially exposing the Queensland workers' compensation scheme to more claims.

The premium setting arrangements that apply in Queensland ensure that employers who focus on a reduction workplace incidents and claims costs will achieve savings in their workers' compensation premium.

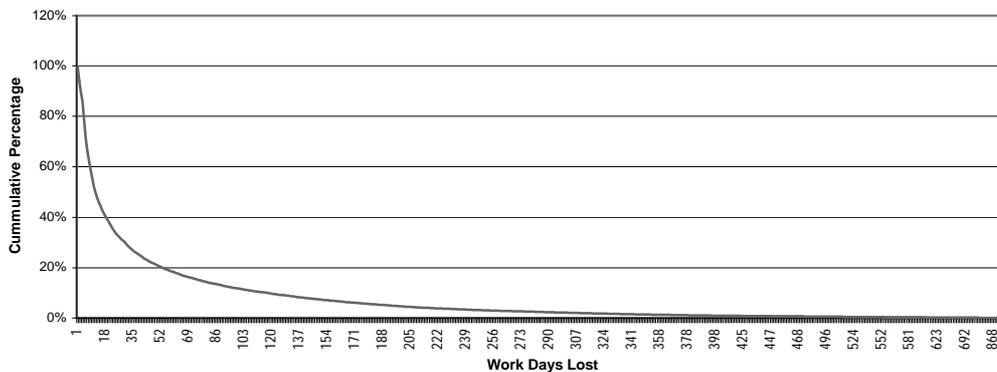
## **COST SHIFTING**

Legislative arrangements relating to access and coverage by workers' compensation schemes has the potential to determine who meets the cost of workplace injury and disease. For example, the decision of the Queensland Government to broaden the definition of worker to include persons working under a contract of service such as labour-only workers means that more injured workers are covered by the Queensland workers' compensation scheme. If the definition had not been broadened many of these workers may have sought assistance from the Federal Government, where they did not have privately underwritten sickness and accident insurance.

There is little evidence to suggest that the Queensland workers' compensation benefits structure produces excessive cost shifting to the Federal Government. In fact, the available data indicates very few injured workers actually reach the maximum benefits available. If there were an impediment to the claims management process, it would be expected that more workers would be seen reaching the maximum time and benefits available. It is apparent that the incentive provided by the current workers' compensation benefits structure is working.

Current scheme wide statistics (WorkCover and self-insurers) indicate that the majority of claims are finalised within the first 26 weeks, see section entitled Benefit Structures. Only 3% of claims have more than a year off work and very few claims (58 claims in 2000-2001 and 120 claims in 2001-2002) exceed 2 years' duration (see below), and trend analysis indicates that 3% to 4% of WorkCover Queensland claims progress to common law.

**Claims Finalised in 2001-2002 by Duration**



In 2001-2002, the Queensland return to work rate of 82% was comparable to the Australian return to work rate of 83%, similarly durable return to work rate for both Queensland and Australia was 73%.

Like the arrangements in most Australian workers' compensation schemes, the *Workers' Compensation and Rehabilitation Act 2003* includes the ability to injured workers' to redeem benefits. Redemptions are only available to injured workers where they receive weekly payments for at least two years, as well as moving interstate or overseas.

The *Workers' Compensation and Rehabilitation Act 2003* also includes the ability to pay compensation for personal injury where all or part of the compensation is paid in the form of periodic payments which are funded by the purchase of annuity (structured settlement). They are a form of settlement agreement that is structured so that the periodic payments match as closely as possible the financial needs of the injured person as they are expected to change over their lifetime. Structured settlements minimise the need for persons injured at work to seek income support from government agencies.

While there is strong stakeholder support in Queensland for “structured settlements” for common law, it is unlikely these will be taken up. The Commonwealth Government’s amendments to the Taxation legislation to encourage the use of structured settlements excluded workers’ compensation. As a result, workers’ compensation structured settlements are not Tax exempt and there is no incentive for an injured worker to agree too periodic payment of compensation. In relation to this issue, the *Report into aspects of Australian workers’ compensation schemes* recommended:

Recommendation 7

The Committee recommends that the Commonwealth Government urgently investigate the extent to which current taxation legislation is inhibiting initiatives of workers’ compensation schemes which may benefit the injured workers, such as structured settlements.

The Queensland Government supports this recommendation and would encourage the Commission to consider the impact Commonwealth Taxation legislation on State and Territory workers’ compensation schemes.

## **BENEFIT STRUCTURES**

The *Workers’ Compensation and Rehabilitation Act 2003* has two different structures to decide the level of weekly compensation:

1. If the worker is totally incapacitated and the work is governed by an industrial instrument, the worker will receive for the first 26 weeks of incapacity, the greater of 85% of normal weekly earnings or the amount payable under the industrial instrument. After this 26 week period and for up to two years, the worker will be paid the greater of 65% of normal weekly earnings or 60% of Queensland full-time adult ordinary time earnings (QOTE);
2. If the worker is totally incapacitated and the work is not governed by an industrial instrument, the worker will receive for the first 26 weeks of incapacity, the greater of 85% of normal weekly earnings or 70% of QOTE. After this 26 week period and for up to two years, the worker will be paid the greater of 65% of normal weekly earnings or 60% of QOTE.

As previously stated, current scheme wide statistics indicate that the majority of claims are finalised within the first 26 weeks. Only 3% of claims have more than a year off work This 26 week step down in benefits:

- caters for the healing and resolution of the majority of traumatic injuries and return to work of most workers;
- continues to provide an incentive to undertake rehabilitation and return to work programs;
- provides more seriously injured workers with an opportunity to reorganise financial commitments by this time; and
- discourages the development of a welfare type dependency.

The *Workers' Compensation and Rehabilitation Act 2003*, also has a two-tier payments schedule at 2 years. After two years, it is reasonably expected that less seriously injured workers at or below 15% work related impairment should be able to return to work. The explanatory notes to the former *WorkCover Queensland Act 1996* which introduced this provision, explain that '*this step down is introduced to give an added incentive for these workers to return to work*'. In addition, '*those workers who are more seriously injured are able to be maintained on weekly payments up to five years. This will ensure that appropriate rehabilitation is provided*'.

To demonstrate how WorkCover Queensland manages claims from seriously injured workers, three examples are attached to this submission. The examples illustrate the holistic approach undertaken by WorkCover Queensland to the management of long term claims.

The provisions contained in the Act also ensure that adequate controls are in place to ensure that no person earned more on workers' compensation than they would have had they not been off work. This was particularly an issue for seasonal workers who claimed compensation at the end of a season. As a means of determining weekly benefits, Average Weekly Earnings failed to exclude abnormal or some excessive over award payments or seasonal variations in some areas of employment.

It is also noted that in the Industry Commission report, *Workers' Compensation in Australia 1994*, it was recommended that compensation paid to injured or ill workers should start at near pre-injury levels and include step down provisions. It was suggested that otherwise, benefit increases could result in a greater incidence and duration of claims.

### **Statutory Lump Sum Compensation**

All injured workers can apply for statutory lump sum compensation if their work-related injury results in permanent impairment. Before an insurer, that is, WorkCover Queensland or a self-insurer (the insurer) can offer a lump sum payment to an injured worker, a doctor must assess the level of impairment which is expressed as a percentage of maximum statutory compensation. This level of impairment which is expressed as a percentage is then used by the insurer to decide:

- whether the worker has a choice between a statutory lump sum compensation or claiming for common law damages;
- the level of weekly compensation payments available after 2 years of compensation;
- the worker's entitlement to additional lump sum compensation if the worker is seriously injured. That is, a level of impairment 50% or more; and
- the amount of lump sum compensation payable to the worker.

### **Common Law**

A worker can make a common law claim after an insurer has assessed the worker's level of impairment. Once the assessment has been completed, the insurer sends the worker a Notice of Assessment stating the level of impairment and a monetary offer of lump sum compensation. The worker then has 28 days to decide to accept, reject or

defer the offer. Statutory compensation ends when the worker responds to the offer or 28 days after the offer is made and they have not responded.

### **Statutory Lump Sum or Common law**

After the worker has received the Notice of Assessment, if the assessment identified them as having a level of impairment is 20% or less, they have 28 days in which to make an 'irrevocable election' between accepting the statutory lump sum compensation offered by an insurer or making a common law claim against the employer.

If the worker's level of impairment was 20% or more, they can accept the statutory lump sum compensation and make a common law claim against the employer.

## **WORKERS' COMPENSATION - ACCESS AND COVERAGE**

The 1998 *Review of Queensland Industrial Relations Legislation* found that Queensland has a lower proportion of its total workforce classified as employees and a higher proportion as self-employed that is, contractors, than for Australia as a whole. This is in addition to:

- a decline in standard-time employment, that is, less employees working a five day, 35 to 40 hour week in standard daylight hours over a normal working year;
- an increase in non-standard or atypical employment, including contractors, the self-employed, part-time, and casual employment; and
- an increase in insecurity or precariousness of employment, that is, irregular employment contracts, changing work, shifting jobs and redundancies.

It is evident among the self-employed generally that there is an increase in the number of 'dependent' contractors, i.e. self-employed workers who have a small number of clients, compared to independent contractors. This suggests that among the self-employed, there are increasing numbers who work in arrangements that more closely resemble those of employees rather than independent contractors.

As an example, in the Queensland building and construction industry the relationship between those providing their labour and entities engaging labour is characterised by a variety of contractual relationships which reflect the different way that work is done or organised. In particular:

- work is increasingly project based and highly specialised, and persons engaged regularly move between projects and engaging entities;
- persons regularly change status between employee and contractor; and
- there is a there is a long-term trend to self-employment through contracting, with increasing numbers of the labour force working as contractors.

The Queensland Government supports the introduction of consistent definitions in Federal, State and Territory workers' compensation legislation as they will ensure consistent access and coverage for all Australian workers. Consistent definitions such as employer, worker and injury, ensure that employers and workers will have knowledge or certainty of who is, and who is not a worker, for workers' compensation purposes.

The Queensland Government has taken a lead in providing certainty for employers and workers in two respects:

1. in conjunction with New South Wales and Victoria, reached agreement on cross border arrangements, which will:
  - eliminate the need for employers to obtain workers' compensation coverage for a worker or deemed worker in more than one jurisdiction and enable employers to readily determine the state in which to obtain that insurance;
  - ensure that workers and deemed workers working temporarily in another jurisdiction only have access to the workers' compensation entitlements available in their "home" jurisdiction (including whatever arrangements apply in relation to common law);
  - provide certainty for workers about their workers' compensation entitlements;
  - eliminate forum shopping;
2. introduced a "results test" to provide certainty of coverage and premium payment obligations across all industries, and in particular the building and construction industry.

Under the results test, a person will be considered to be a "worker" unless it can be satisfied that the person meets all elements of the results test. The elements of the test are:

1. the person is paid to achieve a specified result or outcome.
2. the person has to supply the plant and equipment or tools of trade needed to perform the work.
3. the person is, or would be, liable for the cost of rectifying any defect in the work performed.

The results test closely aligns with a similar test in the *Income Tax Assessment Act 1997* (Cwlth) for the purposes of determining a personal services business under the Alienation of Personal Services Income measures introduced in 2000. If a person has a personal services determination, they are not considered to be a worker.

Consistent definitions should be a first order priority for the body, if established, to achieve national consistency for workers' compensation, based on the model used for occupational health and safety through the National Occupational Health and Safety Commission. However, Queensland supports the decision of the Heads of Workers' Compensation Authorities at their 29 July 2003 meeting, to establish a working group to consider consistent definitions of worker and employer.

## REHABILITATION & RETURN TO WORK

The general benefits of rehabilitation have become widely acknowledged and endorsed by western industrialised workers' compensation systems. However, while analyses of claims data assist in determining the impact of rehabilitation e.g. reductions in durations and costs of time lost claims, they do not provide an indication of the return to work outcome after the closure of the claim. Once liability ceases there is no onus on an insurer to maintain contact with a claimant and therefore no data to determine the durability of return to work. Hence, developing an accurate tool to objectively measure the outcome of rehabilitation has proven to be a complex task.

For some workers with serious injuries independent functioning may be the goal of rehabilitation, not return to work. For those workers where return to work is the objective, the benchmarking project for Comparative Performance Monitoring purposes utilises return to work and the durability of that return to work as indicators<sup>2</sup>. In 2000-2001 Queensland's durable return to work outcomes were on par with the national average.

The Queensland Government is committed to improve the current level of participation in and awareness of effective rehabilitation and return to work strategies. This will be achieved through three primary outcomes:

- development of effective industry based rehabilitation models;
- improving return to work outcomes; and
- improving the mental and physical well being of workers through the promotion of prevention and early intervention in injury management.

A major review of the Queensland rehabilitation framework and compliance conducted in 2000-2001 has resulted in the implementation of some new strategies:

### **Industry based rehabilitation**

Industry based rehabilitation can be shaped to address the unique needs of specific sectors. For example, the building and construction industry has specific rehabilitation needs caused by the transient nature of many of its employers and workers. It provides for a network of associated employers and industries that may be drawn on to provide return to work options for injured workers with an industry specific skill set.

A generic industry based rehabilitation model has been developed and customised for use in a number of industry sectors designed to complement robust rehabilitation arrangements and focus on the management of situations where injured workers are unable to return to work in their previous role (either on a long term temporary basis or permanently), or employers are unable to accommodate the worker in terms of providing a more suitable job with appropriate duties.

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<sup>2</sup> Heads of Workers' Compensation Authorities. *Return to Work Monitor 2001/02 Report for Australia and New Zealand*. Campbells Research and Consulting. June 2002. (Unpublished report.)

The basic concepts of industry based rehabilitation are that:

- job in jeopardy situations are identified as early as possible in the claims process.
- specialist programs are delivered with a rehabilitation, retraining and/or employability focus.
- co-operative partnerships within and across industry sectors are utilised to get injured workers back into the workforce (eg host employer networks etc).

### **Medical Education**

Q-COMP has developed in consultation with the Australian Medical Association Queensland Branch and other key stakeholders, a General Practitioner (GP) education program to increase GPs' level of knowledge and understanding of the workers' compensation process. The GP education program is being conducted throughout Queensland. The program informs GPs of Queensland's workers' compensation system, rehabilitation services, the effective use of medical certificates and mechanisms to reduce delays in the return to work process.

It is noteworthy that the GP education program has the support of the House of Representatives Standing Committee on Employment and Workplace Relations. In their report entitled *Report on the inquiry into aspects of Australian workers' compensation schemes*, they recommended:

#### **Recommendation 8**

*The Committee recommends that the Minister for Employment and Workplace Relations work with the Workplace Relations Ministers' Council to develop a process for identification and national implementation of best practice to consider initiatives such as the Queensland Government's approach of educating and maintaining a close relationship with doctors and requiring them to fill out a form declaring that the injury is work related.*

### **Expanded Host Employment**

WorkCover Queensland's Host Employer Program commenced operation in June 2002. A 'host employer' is an employer who agrees to host an injured worker at their workplace when the worker is unable to participate in workplace rehabilitation activities with their original employer.

The program enables employers to provide opportunities for injured workers from other employers, to access temporary or permanent work with themselves as a host employer. The program also assists employers to offer rehabilitation or outplacement to workers who are unable to return to any form of work within the business where they are employed.

The following evaluation data was collected on the Host Employer Program at the end of March 2003 for the period beginning June 2002:

- WorkCover Queensland Case Managers identified 690 injured workers as requiring host employment placements. Of these 547 of the 690 were specifically to find new jobs for workers facing job loss. The remainder were for temporary suitable duties programs where the original employer could not provide appropriate suitable duties.

- Of the 690 injured workers requiring Host Employment placements, 545 had been found. Of the 372 completed placements, 135 (36.3 per cent) returned to paid employment immediately following the host placement; 68 of these were employed by the Host Employer, 38 returned to the original employer. 29 found other employment during Host Placement. 149 (40.1 per cent claims were finalised (PI per cent), ceased, suspended or denied. 40 (11 per cent) completed placement but did not obtain paid employment. 39 (10 per cent) did not complete placement due to their injury.

**Statutory Claim Summary**  
**Claim – Complex Injury**

<b>DOB</b>	10 July 1960
<b>Occupation</b>	Meat worker
<b>Date of accident</b>	2 January 1997
<b>Injury Details</b>	1. Ventilator dependent quadriplegia.
<b>Case management</b>	<ul style="list-style-type: none"> <li>• Worker was a single 37 year old meat worker from Bowen who sustained a fracture to C2/3 on 2/1/97 which resulted in complete quadriplegia. Due to the level of his fracture he is ventilator dependent and requires constant care and monitoring.</li> <li>• He was treated at the Spinal Injuries Unit and was discharged initially to the Bowen Hospital where the training of carers was undertaken. Once training was completed (November 1997) he was discharged to his own home where he is continuing to reside with carers being provided by the Blue Nursing Service in Bowen.</li> <li>• Worker has been provided with all the equipment required to enable him to be cared for at home and with a computer to enable him to communicate with family members and friends who do not reside in the Bowen area and for him to manage his own affairs. Voice recognition software has also been provided.</li> <li>• His level of dependency requires that he be provided with care 4 hours per day (at times such as morning routine (chest physio and arising from bed), returning to bed and bathing, 2 carers are required).</li> <li>• WorkCover provided a cash payment to his family of \$50 000 which they used to modify his home with provision of ramps, additional room, bathroom modifications and concreting of footpaths. The residence was also air-conditioned.</li> <li>• WorkCover advanced the sum of \$25 000 to enable Worker to purchase a van which was then modified by WorkCover, to allow wheelchair access, allowing him to visit family and friends in the company of his carer.</li> <li>• As Worker lives in an area prone to cyclones, a generator was provided to ensure an uninterrupted power supply.</li> <li>• Total cost of claim was \$1 590 821.41 including Rehabilitation costs of \$1 352 419.14, Wages of \$129 834.23, Medical costs of \$58 756.76 and Hospitalisation costs of \$19 657.80</li> </ul>
<b>Outcome</b>	<ul style="list-style-type: none"> <li>• A settlement agreement was reached for \$4,496,303.00 clear of the refund.</li> </ul>
<b>Comments (if necessary)</b>	<ul style="list-style-type: none"> <li>• This claim had significant issues to overcome due to the isolation of the Worker's community and limited local facilities. His care is to be commended given he has remained healthy with no admissions to hospital for infections or complications due to his injury. To date, the Worker has survived at home for approximately 5 years.</li> </ul>

**Statutory Claim Example**  
**Claim – Complex Injury**

<b>DOB</b>	25 July 1975
<b>Occupation</b>	Station Manager – Property near Clermont
<b>Date of accident</b>	09 August 2002
<b>Injury Details</b>	<ol style="list-style-type: none"> <li>2. Right forequarter amputation and paralysed left arm, fractures to left arm and leg.</li> <li>3. The injury occurred while the worker was using a post hole digger attached to a tractor. Both arms were caught in the digger, causing the amputation to the right limb and paralysis of the left limb.</li> </ol>
<b>Case management</b>	<ul style="list-style-type: none"> <li>• Medical treatment was initially provided at Townsville General Hospital, and then at the Royal North Shore Hospital in Sydney. Her upper limb treatment and prosthetic management was initially provided at Prince Henry Hospital in Sydney. Hospital costs incurred to date are \$48,764.13 and medical costs incurred to date are \$90,145.00.</li> <li>• The worker returned to her home on the 21<sup>st</sup> of October. There were 2 further visits to Sydney for intensive rehabilitation.</li> <li>• From July 2003, the provision of rehabilitation has been arranged in Queensland (Amputee Clinic at Royal Brisbane Hospital), with only neurosurgical review being provided from Sydney.</li> <li>• The worker was visited at her home by WorkCover representatives from the Clinical Services Unit in March 2003 to determine specific home modifications that will be required due to the unique type of injury that the worker has. It is estimated that the costs of the home modifications will exceed \$50,000.00.</li> <li>• WorkCover is assisting the worker to resume office based duties on the property. The worker has been provided with an enlarged keyboard and a trackball for use with her foot on her home computer. She has also been provided with voice recognition software.</li> <li>• The worker has been assessed for additional office equipment (eg. height adjustable desk, ergonomic chair, software options to maximise computer usage) that will allow her to input data into spreadsheets, manage correspondence, print cheques, send and sort mail and faxes.</li> <li>• The worker has decided not to pursue prosthetic upper limb options at this stage.</li> </ul>
<b>Status</b>	<ul style="list-style-type: none"> <li>• Ongoing case management will be aimed to further maximise the worker's independent functioning by the provision of home modifications. Ongoing assistance and support is being provided to set up a specific workstation at home to enable her to maximise her office based work capacity.</li> </ul>
<b>Comments (if necessary)</b>	<ul style="list-style-type: none"> <li>• This claim has had significant local and state media coverage and to date, feedback from the worker and family has indicated satisfaction with the claim management to date.</li> </ul>

## Claim Summary

### Claim – Complex Injury

<b>DOB</b>	05 November 1976
<b>Occupation</b>	Trainee Miner
<b>Date of accident</b>	20 January 1999
<b>Injury Details</b>	4. Bilateral lower-limb amputee (above-knee).
<b>Case management</b>	<ul style="list-style-type: none"> <li>• Worker was a 22 year old trainee miner from Tieri who was involved in an incident on 20/01/99 when his legs were caught in machinery in an underground pit. This resulted in both legs requiring high level surgical amputation on-site at the mine.</li> <li>• He was treated at the Princess Alexandra Hospital and discharged to the care of his partner and young son in a rental property in Brisbane. The Worker required ongoing access to intensive therapy 2-3 times per week as an outpatient.</li> <li>• Worker has been provided with all the equipment required to maximise his independence. This included prostheses, mobility aids, and vehicle modifications.</li> <li>• WorkCover advanced the sum of \$60 000 to enable Worker to purchase a home in Brisbane as his permanent residence, for him and his family (another child was born after his injury).</li> <li>• WorkCover provided home modifications to new home with the provision of ramps and modifications to bathroom.</li> <li>• WorkCover assisted the worker to commence a Tafe Recreation Management Course to assist with his return to work. He did not complete this course in part due to his training for the Para Olympics Volley Ball Team. WorkCover provided vocational assessments to ascertain work and career options.</li> <li>• Total cost of claim was \$338,379.96 including Rehabilitation costs of \$15,368.94, Wages of \$121,005.00, Medical costs of \$13,661.02 and Travel of \$7,340.00.</li> </ul>
<b>Outcome</b>	<ul style="list-style-type: none"> <li>• WorkCover settled for an amount at common law (clear of the refund)</li> </ul>
<b>Comments (if necessary)</b>	<ul style="list-style-type: none"> <li>• This claim had some local and national media coverage particularly through his participation in the Sydney Para Olympics.</li> </ul>