



**SUBMISSION TO THE PRODUCTIVITY COMMISSION REGARDING THE  
INTERIM REPORT ON NATIONAL WORKERS' COMPENSATION AND  
OCCUPATIONAL HEALTH AND SAFETY FRAMEWORKS BY THE  
ASSOCIATION FOR PAYROLL SPECIALISTS (TAPS)**

Dear Sir,

The Association for Payroll Specialists welcomes the opportunity to provide this submission to the Productivity Commission regarding their Interim Report of the National Workers' Compensation and Occupational Health & Safety Frameworks

The Association for Payroll Specialists, established in 1990, is Australia's only association representing the payroll industry. As the voice of the payroll community we represent 6500 payroll professionals and businesses including every sector of the economy, from small and medium sized enterprises to major corporations and government departments.

The Association believes that for Payroll Professionals, the best outcome of the review process would be a single national Workers' Compensation scheme in place for all employers. However, we acknowledge that this is an unlikely outcome and so make the recommendation that all Workers' Compensation schemes have the same definitions for wages, employer, employee, injury, illness and similar benefit structures.

In most organisations it is the Payroll Professional who prepares all wage declarations required by the various Workers' Compensation bodies or insurers. To be able to accurately make these declarations, they must be able to identify what the definition of wages is in the particular jurisdiction they are making the report for. As we will show further in this submission, even where the company only operates in one jurisdiction, it has often been difficult for the Payroll Professional to establish the correct definition of wages.

Also in most companies it is the Payroll Professional who manages the benefit payments to employees with accepted Workers' Compensation claims. For those with employees in more than one jurisdiction, the differences in what should be paid to the employee at the various stages of their incapacity are a major cause of confusion. We will develop this thought further into our submission.

Page 103 of the Interim Report says *"Initially, the national body for workers' compensation could focus on developing standards over which there is common agreement or where agreement is likely (for example, definitions of employee, employer and wages), rather than on intractable matters (for example, private underwriting)."*

The Association agrees that the focus of a national body for Workers' Compensation should be to develop such standards. We believe that agreement could be reached in a relatively short period of time. We do not, however, have an opinion on either how that national body should be made up or whether it should be a different body from the Heads of Workers' Compensation Authorities.

As an example of the various States and Federal bodies being able to reach agreement, we use the guidelines recently released by the Workplace Relations Ministers to enable employers who have workers in more than jurisdiction meet their obligations in relation to keeping time and wage records and issuing payslips.

The Ministers (and their representatives) started working on the guidelines around about August 2002, and they were released in October 2003:

*To help employers ensure they are complying with their time and wages records and pay slip requirements, regardless of whether they are in the Federal or a State jurisdiction, Federal and State Workplace Relations Ministers have agreed that guidelines should be jointly developed and made available to all employers on strictly a voluntary basis. They can be accessed by clicking on the links at the bottom of this page. As requirements can change from time to time, the guidelines will be periodically updated.*

*An employer who chooses to use the templates, and fills them in correctly, can be assured that he or she is complying with both Federal and State regulatory requirements in their State or Territory. However, as some awards or industries have additional requirements, it is recommended that employers considering using the guidelines also check their award and/or contact WageLine to confirm whether there are any additional requirements.*

TAPS believes that agreement could be reached on the definition of wages for premium calculations by the end of the 2004/2005 Financial Year.

Prior to the development of a national body to determine those definitions, TAPS would like to recommend that the various State and Federal Workers' Compensation bodies publish comprehensive guides to what constitutes "wages" in their jurisdiction.

As mentioned in our previous submission the differences in definitions leads to the likelihood of payments and calculations being incorrect. We believe part of the complexity could be alleviated if the definition of wages was more transparent.

Some states have quite detailed documents available. E.g. NSW has a 48 page "Wages Definition Manual" and VIC has a 28 page document called "Your WorkCover Insurance Premium 2003/2004". Both these documents are extremely useful to Payroll Professionals with employees in those jurisdictions.

Unfortunately some states have very little information available – as an example I quote from the WA WorkCover website:

***What wages do you declare?***

*The definition of wages as agreed to by the Workers' Compensation and Rehabilitation Commission is:  
The word "wages" means all gross wages, salaries, remuneration, commissions, bonuses, overtime, allowances and the like, directors fees and all other benefits paid (whether at piece work rates or otherwise, and whether paid in cash or in kind) to in relation to a worker before the deduction of income tax.  
You do not have to declare termination payments, retirement pay, retrenchment pay in lieu of notice, superannuation payment(s), pensions, "golden handshakes" or weekly payments of compensation.*

In June 2003, one of the TAPS' staff members rang WA WorkCover to seek clarification on how Fringe Benefits should be valued on the wages declaration form – the taxable value or the grossed-up taxable value and further if the grossed-up taxable value, which gross-up method was to be used.

The WorkCover officer was unable to tell our staff member what value to include – in fact they were told to ask the Australian Taxation Office (ATO). Now while the ATO can give guidance on how to value Fringe Benefits, they are not able to tell us what value to include to help us meet our obligation to declare wages for Workers' Compensation.

With regard to the ACT, their wages definition has been “in the process of approval” since 1 July 2002 but there is currently no indication of the date of approval. This of course makes it impossible for employers to know if they are correctly declaring wages – and as a wages report must be given to the insurer every six months, the employer needs to rely on the advice of the insurer. This is an entirely unsatisfactory position.

In a letter from ACT WorkCover Senior Inspector Teresa Cremer dated 19 January 2004, we were advised that many of the ACT insurers use the NSW Wages Definition Manual for their premium calculations and that the ACT Workers’ Compensation Advisory Committee were aiming to have the Minister to approve it for use in the ACT. However, she did not specify whether the definition manual being use was the one in use prior to the NSW changes in July 2003 or the current manual.

All these reasons lead us to believe that having a comprehensive publication available would be extremely beneficial in helping to avoid incorrect wages declarations.

In relation to actually making benefit payments to injured employees, the Payroll Professional with employees in more than one jurisdiction faces much confusion – the benefit structures are so different it could be quite easy to incorrectly calculate the benefit and make the payment.

I have created a small table comparing the payments to be made to totally incapacitated employees in NSW, ACT and VIC to highlight the differences. The complexities are even greater if the employee has some capacity to work.

	NSW	ACT	VIC
Initial Period for Benefit	26 weeks	26 weeks	13 weeks
Amount to be paid	Award rate – not including overtime, shift work or penalty rates If not covered by an award, 80% of worker’s average weekly earnings to a maximum of \$1348.60 (indexed)	An amount equal to the worker’s average pre-incapacity earnings. This may include overtime if worked according to a regular and established pattern	95% of pre-injury average weekly base pay* up to a maximum of \$1050 (indexed). For injury or illness after 1 September 2000, regular overtime and shift allowances may be included in the pre-injury average weekly earnings* calculation for the 1 <sup>st</sup> 26 weeks
Amount to be paid after initial benefit period expires	Statutory rate – the base amount is \$317.20 (indexed). Additional amounts are added to this for each dependant. However the statutory rate cannot exceed the Award rate	Calculation based on Statutory Floor of \$448.40 (indexed). If 100% of pre-injury weekly earnings is less than the floor, pay the pre-injury weekly earnings If 100% of the pre-injury earnings is more than the floor, but 65% is less than the floor, pay the floor If 65% if the pre-injury earnings is more than the statutory floor, pay whatever is more (at the time of payment) of either the floor or 65% of the worker’s pre-injury earnings	13 – 104 weeks: 75% of pre-injury base pay* to a maximum of \$1050 (indexed). After 104 weeks: 75% of pre-injury base pay* until the employee can work or until they reach “retirement”.

\*Victoria – here is where more confusion may happen.

In the document on the VIC WorkCover website (as at 07/01/2004), “What benefits does WorkCover pay?”, the amount payable is always called “pre-injury average weekly BASE PAY”. However in the FAQ section under “coverage and benefits” it refers to “pre-injury average weekly EARNINGS” and then talks about regular overtime and shift allowances being included for the 1<sup>st</sup> 26 weeks.

If the Payroll Professional used only the “What benefits does WorkCover pay?” document to do their payment calculation, they may significantly under-pay the benefits of their injured employee. This is because base pay is traditionally thought only to be “normal weekly hours” multiplied by the standard hourly rate of the employee.

If the Payroll Professional correctly used the information in the FAQ area, then they actually have to do 3 calculations to pay the benefits of a long term injured employee:

- Weeks 1 – 13            95% of pre injury earnings including any amount for regular overtime or shift allowances
- Weeks 14 – 26        75% of pre injury earnings including any amount for regular overtime or shift allowances
- Weeks 27 onwards    75% of pre injury base earnings (i.e. not including any amount for regular overtime or shift allowances.)

Another area that causes difficulty for the Payroll Professional is who is liable to make payments to the injured employee should their position become redundant and so have their employment terminated.

In some states, such as NSW, the insurer will take over the benefit payments while in other states, such as VIC and TAS, the liability to make benefit payments remains with the employer. This causes difficulty for the Payroll Professional, as they have to maintain a “dummy payroll” and continue to issue ATO Payment Summaries for people who are no longer employees of the company. In those states, the insuring body will only take over payment of benefits should the employer stop trading.

Again, in relation to benefits, Payroll Professionals face some difficulty in knowing what payment will be made for claims due to the differences in excess amounts and the ability of employers in some states to buy out that excess.

In your table on page 231 of the Interim Report you list the current rates of excess for each jurisdiction. I provide the following example to highlight the difficulties experienced – again using NSW, VIC and ACT and remembering that in many organisations, the Payroll Professional is responsible for submitting medical certificates and receipts and in providing the time lost details to the insurer and processing payments through the payroll system

Time lost – 2 weeks (at \$1000 per week)  
Medical Expenses - \$500

NSW	Will receive \$1500 from the insurer for time lost. The insurer will pay all medical expenses
ACT	Will receive \$2000 from the insurer for time lost. The insurer will pay all medical expenses
VIC	Will receive NIL from the insurer for time lost. The insurer will pay \$5 towards medical expenses, the Payroll Professional must arrange a cheque for the \$495 difference with Accounts Payable
*VIC - buyout	Will receive \$2000 from the insurer for time lost. The insurer will pay all medical expenses

\* I know of a situation where the Payroll Professional was not advised by their employer that the buyout option had been taken, so the cheque that had been received for time lost was returned to the insurer as they thought they had received the payment in error.

In an article entitled “Australia’s most loathed tax - are you paying more than you bargain for?” Debra Eckersley, PricewaterhouseCoopers’ Employment Issues Consulting partner, is quoted as stating that more than 90% of businesses get their Payroll Tax wrong each year.

“The increasing divergence in Payroll Tax legislation for each of Australia's eight jurisdictions is creating an extremely complex tax that is also very costly to comply with.”

She lists the Top 5 reasons why companies are paying incorrect Payroll Tax as:

1. The complexity of managing each State's individual laws on Payroll Tax.
2. Companies rely on an internal system to pay the correct payroll tax, but don't ensure their systems can manage the different rules and requirements for each State.
3. Complications to the payroll system, such as contractors and termination payments are not monitored.
4. Companies do not audit their payroll systems when carrying out other internal audits.
5. The responsibility of payroll management often falls to a junior staff member or administrator who may lack the level of accounting skills and experience needed to be aware of discrepancies.

“Most businesses rely on their general accounting systems to calculate Payroll Tax. However, most systems are limited in their ability to incorporate the variations in Payroll for each State. Unless someone is actively managing payroll tax or compensating for the limitations in these systems, businesses will not accurately pay their payroll tax.

“Despite these complexities, most businesses place the role of 'payroll tax guru' with the latest or most junior accounts employee, who is unlikely to have the knowledge and experience to manage the complexities of interstate payroll tax” said Ms Eckersley.

TAPS would suggest that a similar percentage of Wage Declarations for Workers’ Compensation are also incorrect. We are sure that neither the Payroll Professional nor the Workers’ Compensation authorities are happy with this situation. Reducing the complexity of the wages calculation for the declarations by making the definition the same in all jurisdictions would help ensure the accuracy of the information being provided.

The introduction of a National Workers’ Compensation scheme or the use of the same definitions in all jurisdictions would eliminate unnecessary administration and compliance costs and enable Payroll Professionals to effectively manage their employers’ Workers’ Compensation obligations.

Yours Sincerely

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