Submission No 144

INQUIRY INTO NSW WORKERS COMPENSATION SCHEME

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WORKCOVER AUTHORITY SUBMISSION TO THE NSW PARLIAMENTARY INQUIRY INTO THE NSW WORKERS COMPENSATION SCHEME

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1 INTRODUCTION

The New South Wales Workers Compensation Scheme provides protection to workers and their employers in the event of a work-related injury or disease. The aim of the Scheme is to maintain a financially viable workers compensation system that is fair and affordable for employers and improves outcomes for injured workers. The Scheme is funded through premiums paid by employers and provides medical and financial support to injured workers under the provisions of the *Workplace Injury and Workers Compensation Act 1998*.

WorkCover has dual roles within the workers compensation system. WorkCover acts on behalf of the Nominal Insurer, which is the legal entity responsible for the performance of the WorkCover Scheme. The Nominal Insurer contracts Scheme agents to deliver case management and policy services within the WorkCover Scheme. WorkCover also regulates and manages the workers compensation system, including the licensing of self and specialised insurers and oversight of service providers.

Since the inception of the *Workers Compensation Act 1987,* there have been 2,622,516 workers compensation claims lodged with a total spend in December 2011 dollars of $46.1 billion and $14.9 billion on weekly benefit claims. The total number of open Scheme claims as at 31 December 2011 was 63,824. Around 40 per cent of these claims are over three years old.

PricewaterhouseCoopers indicated in its December 2011 valuation, that to return the Scheme to a sustainable position within five years, an increase in premiums in the order of 28 per cent would be required.

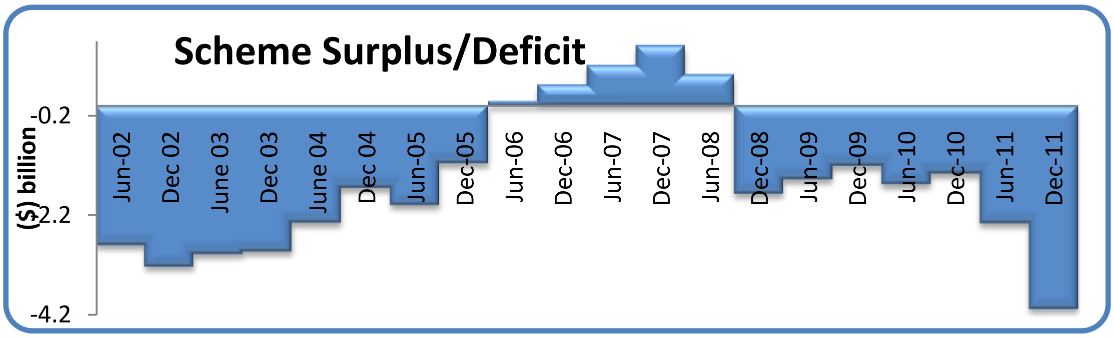
Workers compensation premiums under the Scheme are not priced favourably compared to other jurisdictions. Premium increases of 28 per cent could be expected to have a negative impact on the economy, businesses and jobs growth, potentially driving investment and employment interstate.

Workers compensation premiums paid by New South Wales employers are already 20 to 60 per cent higher than in Victoria and Queensland. The Victorian Government's recent cuts to workers compensation premiums that will reduce their target collection rate by 3 per cent to 1.298 per cent, will further extend this disparity.

2 SCHEME PERFORMANCE OVERVIEW

Recent analysis by several parties, including WorkCover, the independent Scheme Actuary, the NSW Auditor General and the Commission of Audit has concluded that the current Scheme is not financially sustainable, is not priced favourably compared to its main competitors and spends more on compensation services and benefits without achieving superior health or return to work outcomes.

The WorkCover Scheme has a long history of deficit, having spent only two and a half of the last 16 years in surplus.



As at 31 December 2011, the independent actuary, PricewaterhouseCoopers, calculated the Scheme's deficit at $4.08 billion. This is a deterioration of $1.72 billion in six months.

The Scheme's funding ratio is 78 per cent, a deterioration of seven per cent in six months. Its cost on a go forward basis in 2012/13 will be $2,601 million.

There are currently 269,562 workers compensation policies held by New South Wales employers and three million workers are covered by the Scheme.

In real terms, the current deficit equates to an amount of $15,146 for every employer and $1,326 for every worker that is covered by the Scheme.

The growth in the Scheme deficit from June 2011 to December 2011 cost New South Wales more than $9 million per day.

Current compensation services and benefit design are the major impediment to optimal service and performance. In particular

- weekly payment arrangements do not sufficiently incentivise return to work;
- lump sum (particularly fault based) compensation is expensive, wasteful and results in inferior health and return to work outcomes for workers; and
- a significant amount is spent on services and benefits that do not contribute to improved health or return to work.

The February 2012 assessment of return to work performance, shows the average duration on weekly payments within 26 weeks of injury was over 37 days, almost three days higher than pre-September 2008 levels.

A one day improvement in the Scheme's average return to work performance is estimated to result in annual savings of up to $16.5 million, and a claims liability reduction of up to $56 million.

As a proportion of total liabilities, Work Injury Damages liability has more than doubled in less than three years (6.3 per cent in December 2008 to 13 per cent in December 2011), making it the fastest growing Scheme liability.

This has been driven by an increase in the proportion of claims which are electing to pursue a Work Injury Damages claim and enabled by the failure of legislated thresholds intended to limit access to Work Injury Damages.

Around 80 per cent of the Scheme's costs relate to the expected cost of claims and therefore the primary determinant of Scheme premium costs is compensation benefit design.

Variation in the premium price charged by Australian states can be related to differences in their benefits regimes, including liability restrictions, the duration of an injured workers entitlement benefits and the level of thresholds for access to lump sum payments.

It is likely that the performance of the Scheme will continue to deteriorate in the immediate future. The degree of deterioration will depend on the timing of any proposed reforms and the breadth of the application of any reform measures.

Recent cuts to interest rates set by the Reserve Bank will result in further deterioration of the yield curve and will negatively impact on Scheme performance.

Any public discussion around workers compensation reforms typically results in a spike in claim activity, which may also create an increase in claims or claim costs and impact on Scheme performance.

It is therefore vital that any reform of the Scheme focus on the entire system – regulatory and non regulatory, not just the deficit.

A best practice workers compensation system is one that supports the severely injured appropriately, encourages timely return to work for injured workers through financial incentives and disincentives and return to work support, and is fair, efficient and comparable to other states in terms of competitiveness.

3 COST DRIVERS

The Scheme is spending more on compensation services and benefits without achieving better health or return to work outcomes.

The three main cost drivers for the Scheme are weekly benefits, work injury damages claims and medical costs.

Over 42,000 claimants received weekly incapacity payments in the December 2011 quarter. This equates to around $800 million expended by the Scheme on weekly benefits in 2011[1]. Weekly benefits account for approximately 40 per cent of the Scheme's gross cost. Of the claims currently receiving weekly benefits, 40 per cent have been receiving them for three or more years.

This relatively high weekly benefit spend impacts the NSW Scheme's cost competitiveness significantly – because:

- expected claim costs account for around 80 per cent of total Scheme costs;
- weekly benefits are the primary driver of claim costs; and
- weekly benefits are strongly correlated with usage of other benefit types, particularly Work Injury Damages and medical.

[1] NSW Workers Compensation – Nominal Insurer Quarterly Monitoring Report, 31 December 2011, Pge 12

Work Injury Damages claims cost around one third more than statutory benefit claims of similar type and severity. The cumulative deterioration in Work Injury Damages liability in New South Wales over the last four years was more than $1 billion, making it the fastest growing Scheme liability.

As a proportion of total liabilities, Work Injury Damages liability has almost doubled in three years from 6.3 per cent in December 2008 to over 13 per cent in December 2011. This escalation has been driven by an increase in the proportion of claims electing to pursue Work Injury Damages and the failure of legislated thresholds intended to limit access to Work Injury Damages.

Medical liabilities have increased from around $1.8 billion in June 2008 to over $3.3 billion in December 2011. Medical liabilities now represent 24 per cent of the Scheme’s liabilities, placing upward pressure on premium costs. This trend is likely to continue as medical treatments become more sophisticated and expensive.

The most recent national data available, the Comparative Performance Monitoring Report for the 2009/10 financial year, shows New South Wales has the highest expenditure on ‘services to workers’. Given current return to work results, this demonstrates a relatively poor return on investment in medical services, and poor outcomes for injured workers.

The impact of the increasing cost of weekly benefits, work injury damages and medical benefits on the New South Wales Scheme was identified by the Scheme actuary, PricewaterhouseCoopers, in 2007. These concerns were confirmed by the external Peer Review Actuary, Ernst and Young, who stated in response to both the June and December 2011 valuations that:

"All things being equal the Scheme's history in NSW suggests it is likely that adverse trends will continue in the claims experience and lead to further increases in Scheme liabilities unless there is a circuit breaker (i.e. legislative changes)".

And further that;

"the Scheme currently has a deterioration 'momentum' which may be difficult to arrest".

The Auditor General, Mr Peter Achterstraat, also commented in relation to the Scheme,

"There appears to be emerging changes in workers compensation claimant behaviour indicating attempts to maximise claims resulting in increased Scheme liabilities. I am concerned that lump sum claims are re-emerging, significantly increasing workers compensation costs. This requires proactive management".

4 PREMIUM INCREASES

PricewaterhouseCoopers indicated in its December 2011 valuation, that to return the Scheme to full funding in five years, a 28 per cent increase in premiums would be required.

Workers compensation premiums under the Scheme are not priced favourably compared to its main competitors.

Premium increases of 28 per cent could be expected to have a negative impact on the economy, businesses and jobs growth, potentially driving investment and employment interstate.

Workers compensation premiums paid by New South Wales employers are already 20 to 60 per cent higher than in Victoria and Queensland.

The Victorian Government's recent cuts to workers compensation premiums that will reduce their target collection rate by 3 per cent to 1.298 per cent, will further extend this disparity.

The table below compares jurisdictions and demonstrates the impact a 28 per cent increase would have on New South Wales businesses. As the New South Wales premium rate for 2012/13 has not yet been determined, the data below is based on 2011/12 rates.

Employer	Annual wages	NSW current premium	Vic comparison	QLD comparison	NSW if premiums increased by 28%
A wooden structural component manufacturing company	$1,000,000	$42,540 (4.25%)	$31,460 (3.15%)	$35,230 (3.52%)	$54,451 (5.45%)
A residential construction company	$250,000	$12,600 (5.04%)	$4,770 (1.91%)	$6,983 (2.79%)	$16,128 (6.45%)
A regional café with 11 staff	$326,126	$8,613 (2.64%)	$3,972 (1.22%)	$4,103 (1.26%)	$11,025 (3.38%)
A regional club employing 467 people	$19,096,377	$595,616 (3.12%)	$282,626 (1.48%)	$361,876 (1.89%)	$762,388 (3.99%)
A road freight transport company	$140,000	$9,138 (6.53%)	$6,521 (4.66%)	$6,927 (4.95%)	$11,696 (8.35%)
A small cleaning company	$151,589	$10,681 (7.05%)	$6,195 (4.09%)	$4,901 (3.23%)	$13,672 (9.02%)

NB - The percentages in brackets represent the approximate basic tariff for these industries.

WorkCover premium rates are gazetted annually in the Insurance Premiums Order prior to 4pm 30 June to be effective for the following 12 months.

WorkCover premium rates for 2012/13 will need to be published in the Insurance Premiums Order in time to be effective from 30 June 2012.

The last available date for the Executive Council to consider the Insurance Premiums Order and recommend its making to the Governor of New South Wales is Wednesday 27 June 2012.

If the status quo of the New South Wales workers compensation benefit system is maintained a 2012/13 rate increase of 28 per cent across all industry rates is likely to be realised.

In the event of continued Scheme deterioration, further increases to premium rates over forthcoming years would be required to ensure the WorkCover Scheme remains financially viable.

5 COMPARISON WITH OTHER JURISDICTIONS

Variation in the premium price charged by Australian states can be related to differences in their benefits regimes, including liability restrictions, the duration of an injured workers entitlement benefits and the level of thresholds for access to lump sum payments.

The most recent national data available, the Comparative Performance Monitoring Report for the 2009/10 financial year, shows New South Wales has the highest expenditure on ‘services to workers’, yet this not translated to its return to work performance.

Other Australian states and territories have somewhat different benefits for injured workers.

There is no limit on the duration of weekly benefits in New South Wales (except the retiring age plus 12 months). In contrast, Victoria ceases payment of weekly benefits after 130 weeks unless an injured worker has achieved an actual return to work of more than 15 hours per week or is totally and permanently incapacitated. Queensland limits weekly benefits to five years or a cap of $200,000, whichever arrives first.

Western Australia has no cap on duration but does have a weekly benefit cap, which means entitlement to weekly benefits stop once the claimant reaches a total cumulative payment amount of $190,700. Tasmania has a staggered scheme for the duration of benefits, depending on the degree of whole person impairment of the worker.

In New South Wales, there is no cap on benefits for reasonable and necessary medical and related treatment. In contrast, the Victorian workers compensation scheme is liable for the costs of medical and related treatment provided while weekly benefits are paid and for one year after the cessation of weekly benefits.
In Queensland a cap of five years applies to the payment of weekly benefits and benefits for medical and related treatment. Tasmania also limits the amount of time medical services will be provided.

With regard to statutory lump sum payments, which were also identified by PricewaterhouseCoopers as a cost driver, New South Wales makes a statutory lump sum available for permanent impairments of one per cent or greater (higher for hearing loss and psychological injury). In South Australia and Tasmania the threshold is 5 per cent. While in Victoria and the Commonwealth ComCare scheme, the threshold is 10 per cent.

There are more than 4,000 journey claims a year in New South Wales, costing the Workers Compensation Scheme $197 million annually and increasing the cost of premiums for employers. In New South Wales, workers are covered for injuries that occur on their journey between home and work. Victoria, Western Australia, Tasmania and Comcare exclude journey claims. South Australia covers journey claims in much more limited circumstances than New South Wales. Queensland allows journey claims unless there is a substantial delay not connected to employment.

The coverage of journey claims under New South Wales workers compensation legislation also creates the potential of dual coverage with CTP insurance in the event a motor vehicle is involved.

6 CLARIFICATION OF IMPACT OF SCHEME AGENT REMUNERATION

The methods used to determine the level of remuneration for licensed workers compensation insurers and subsequently, Scheme agents, have changed several times since 2001.

Generally, the changes attached a greater amount of remuneration to performance based outcomes in order to provide insurers with more of an incentive to manage claims appropriately and focus on better injury management, earlier return to work and the delivery of Scheme outcomes.

Scheme agents replaced licensed insurers with effect from 2006, with significant changes to agent roles and remuneration.

Since 2006, agents have been paid remuneration from a combination of performance dependant and non-performance dependant Fee Pools.

The second agent contract under the 2010 deed, commenced from 1 January 2010. The 2010 deed continued the trend towards a greater emphasis on outcome based remuneration.

In the fourth quarter of 2011, WorkCover proposed (and has now implemented) a new tail measure to increase the incentive for Scheme agents to close tail claims (claims more than two years post injury) in receipt of weekly benefits.

The new measure pays a Scheme agent a bonus per identified claim, which prior to December 2012 stops receiving weekly benefits and remains off weekly benefits for at least 12 months.

Claims eligible for a bonus cannot have received a Work Injury Damages or Commutation settlement.

A significant majority of tail weekly claims will also be in receipt of ongoing medical benefits. So the success of the measure may also see a reduction of medical spending associated with tail claims.

With Scheme claims liabilities increasing over successive quarters, it was apparent existing remuneration arrangements were not facilitating the necessary investment required to address the liability increases and did not have enough focus on the specific areas of deterioration.

The changes made re-assigned the remuneration available under the existing contract and were designed to provide acceptable Cost/Benefit to the Scheme, while providing incentive for agents to invest in achieving Scheme outcomes. Improvements were targeted at the key areas of Scheme deterioration (Work Injury Damages, Return to Work and Tail Claim Finalisation).

There have been some recent comments in the public domain suggesting that the amount of remuneration paid to licensed insurers and Scheme agents has increased out of proportion to Scheme activity.

The perceptions surrounding increased agent remuneration appear to derive from a misinterpretation of cash flow statements in WorkCover Annual Reports.

Cash flow statements describe the amount expended in the financial year. They do not describe what Scheme agents earned for services in that year. In other words, the amount recorded against a single year reflects payment for services delivered in multiple years.

For example, some of the payments in 2005/06 and 2006/07 related to services by licensed insurers in the period between 2001 and 2005. This situation arises because a significant amount of Agent remuneration is performance-based and must be calculated and paid in arrears.

The average total remuneration paid to agents since January 2006 has been approximately $366 million per year. However, this varies quite considerably from year to year based on individual agent and Scheme performance over time, and the remuneration arrangements in place.

A higher proportion of incentive fees were paid during the period 2006 to 2008, as the Scheme performance was regarded as generally positive during that period. A portion of the total remuneration paid in this period relates to incentive based fees payable out of Scheme savings delivered.

Using inflation as a measure to assess whether agent remuneration increases are appropriate is misleading, because other factors have a stronger impact on agent costs. For example, growth in the economy increases the number of employers that agents are required to service.

It has also been claimed that a fall in the number of serious injuries corresponds with an increase in agent remuneration, implying this is indicative of reduced efficiency. This is also incorrect as, for the purpose of the Scheme valuation, the seriousness of an injury is based on the length of time an injured worker is absent from duty. Between 2002 and 2012, the proportion of agent remuneration linked to achieving better performance in areas such as return to work has increased.

Some commentators have suggested that New South Wales agent remuneration costs are unreasonably high. Scheme insurance costs in New South Wales are not high by Australian standards.

The SafeWork Australia Comparative Performance Monitoring Report 13th edition shows that New South Wales insurance operation costs, as a proportion of total Scheme expenditure, are less than in Victoria, Western Australia and Tasmania.

It is not accurate to suggest that the cost of managing the Scheme has increased over the years and that is the cause of the deficit. The deterioration in the Scheme's underwriting position has been driven by two things:

- increases in the cost of claims, particularly an increase in the number of workers expected to stay off work for longer periods of time and also receive higher lump sum benefits; and
- a 33 per cent reduction in the average premium rate between 2005 and 2010, which decreased Scheme revenue by around $1 billion per year.

7 THE IMPORTANCE OF RECOVERY AND EARLY RETURN TO WORK

As identified earlier one of the principal causes of the Scheme deficit is an increase in the number of workers expected to stay off work for longer periods of time.

This trend is of concern in its own right as there is a strong body of evidence that prolonged absence from work adversely affects the injured worker.

Australian and international research has consistently found a correlation between early return to work and improved health outcomes.

In March 2011, the Australasian Faculty of Occupational and Environmental Medicine of the Royal Australian College of Physicians, released a Consensus Statement on the health benefits of work.[2]

[2] Link to the *Statement on the Health Benefits of Work* http://www.racp.edu.au/index.cfm?objectid=57063EA7-0A13-1AB6-E0CA75D0CB353BA8

The Consensus recognises a recommendation from the Faculty's Position Statement, *Realising the health benefits of work*, that work is generally good for health and wellbeing and that long-term work absence, work disability and unemployment generally have a negative impact on health and wellbeing.

The Position Statement states "Work absence tends to perpetuate itself: that is, the longer someone is off work, the less likely they become ever to return". [3]

Anyone who has known an injured worker knows that long-term absence from work is harmful to physical and mental health and wellbeing.

The chance of a person ever returning to work after a workplace injury is[4]:

- 70 per cent if off for 20 days;
- 50 per cent if off for 45 days; and
- 35 per cent if off for 70 days.

There is a large body of research that has identified long-term 'worklessness' as one of the greatest risks to public health.[5] The risk of suicide, liver cirrhosis from drinking alcoholic beverages, and other stress-related diseases is enhanced while not working.

In fact, the health risks of being unemployed has been likened to the equivalent of smoking ten packets of cigarettes a day. For this reason, experts have identified unemployment as among the most risky occupations.[6]

Psychiatrists have also established that lack of work is bad for mental health, with suicide rates 35 times higher in the long-term unemployed than in the employed.[7]

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[3] *Position Statement: Realising the health benefits of work* p.12

[4] Johnson D, Fry T. *Factors Affecting Return to Work after Injury: A study for the Victorian WorkCover Authority*. Melbourne. Melbourne Institute of Applied Economic and Social Research; 2002

[5] Waddell, G, Burton A *Is Work good for your health and well being?* London, UK: The Stationary Office; 2006 is an extensive and independent review of the scientific evidence regarding work, health and wellbeing.

[6] Ross J. *Where do real dangers lie?* Smithsonian 1995; 26(8):42-53.

[7] Wessely S. Mental health issues in Holland-Elliot K, ed. *What about the workers?* Proceedings of an RSM Symposium. London: Royal Society of Medicine Press; 2004:41-6.

In this respect, it is obvious that getting back to work quickly is the best outcome for an injured worker. It is better for a worker’s own health and wellbeing, their workmates, their family and their employer.

Improving return to work outcomes is important for the community and the economy. That is why recovery and return to work should be key priorities of any workers compensation system.

It is important that the Committee be aware that the evidence of the health benefits of return to work has been mounting since the last reforms to the Scheme. This means the expectations of decades ago that a worker would not return to work until they are fully fit must be challenged in compensation scheme design. The evidence would now suggest that a worker will not make a good recovery unless they return to work as soon as possible.

In fact, long-term work absence, work disability and unemployment are one of the most significant negative factors impacting on the health and wellbeing of individuals, families, the economy and society.

The cost of the Scheme has been increasing in New South Wales despite the number of workers compensation claims dropping, because injured workers are remaining on workers compensation benefits for longer.

The average amount of time that a worker remains unfit for duty in the first six months from injury has increased by 2.7 days since December 2006. This represents an 8 per cent increase over five years. Because of the large number of people who receive weekly benefits and the size of the associated liability, relatively small increases in the average duration result in large cost increases.

The current Inquiry presents an opportunity for identification of improvements to the Scheme that reflect contemporary evidence on the importance of early return to work.

8 IMPACT OF WORKERS COMPENSATION SCHEME ON NSW ECONOMY

(Please note - Section 8 is sourced from NSW Treasury)

Workplace related incidents impose significant costs on workers, business, and the economy. Appropriate workers compensation arrangements and work health and safety arrangements assist workers by getting them back to work more quickly, and benefit the community through contributing to jobs growth and economic growth.

The cost impacts of the current Scheme on business are borne as premiums and claims related costs, including the costs faced by businesses when workers are absent and entitled to workers compensation. The other main impact on the economy relates to the possible loss of output from workers receiving weekly benefits. There will also be economic impacts through the New South Wales Budget, because the costs of the Treasury Managed Fund (TMF) Scheme that covers the public sector workforce are ultimately borne by the Budget.

This section of the submission highlights the economic impacts of those costs and provides estimates for some cost components.

The costs of a workers compensation scheme will determine the premiums employers must pay for the workers they hire. Transitional assistance, which targets returning injured workers to employment, will increase their productive contribution to the economy and lower employer costs associated with injured workers.

A cost effective scheme will contribute to job growth, economic growth and the competitiveness of New South Wales businesses relative to businesses both domestically and internationally. Containing the costs of the scheme that are borne by business is a positive signal that will help support business confidence in New South Wales.

Victoria announced in its 2012/13 Budget that it would reduce its WorkCover premiums by 3 per cent on average to “strengthen Victoria’s competitiveness to attract business investment, reduce costs for business and support economic growth”. Nearly 60 per cent of businesses will pay lower premiums and almost 59,000 businesses will have their premiums reduced by over 10 per cent. Victoria stated that “reducing the number of injuries each year and encouraging employers and injured workers to look at opportunities to return to work are central to bringing down the cost of running the scheme”.

This highlights the importance for New South Wales to reduce its workers compensation premiums through reforms which focus on rehabilitation and return to work. Unnecessary costs push up premiums and make New South Wales industry less competitive relative to industry in lower cost jurisdictions.

Relative Price and Labour Demand Impacts

The demand for labour and the ability of New South Wales businesses to compete will be influenced by many factors including labour costs and the availability of labour with the right skills and experience. Workers compensation is a labour cost.

Most businesses are required to pay regulated workers compensation premiums. A high-cost scheme will raise average premiums, increasing the cost of labour economy wide, and reducing aggregate demand for labour.

As premiums vary by industry, the impact of premiums on the price of labour will vary by industry, being higher for industries with more risky workplaces.

A business with employees temporarily unavailable for work, entitled to workers compensation income replacement and medical benefits, will incur two types of additional cost - the cost of covering for absent workers and any rehabilitation costs that are not reimbursed.

These costs will be offset by the reduction in wage costs for the absent workers. The costs of covering absences could include additional overtime, the hiring of temporary replacements, and/or foregone output and associated foregone revenue. The impact will be negative in the short term (i.e. higher net costs and lower profit) and cost impacts on a business will increase to some extent while an absence continues, ceasing if an injured worker is retired and permanently replaced.

These claims-related costs imply that because New South Wales workers compensation arrangements are not as effective as some other states in limiting claims and associated absences, and not as effective in facilitating return to work, the associated costs erode the competitiveness of New South Wales businesses. This has a negative impact on the demand for labour, leading to lower employment than otherwise.

This claims and compliance impact is additional to the negative impact of higher average premiums and higher premiums for a high-claim business.

In summary, the two types of costs workers compensation arrangements impose on businesses have several adverse impacts:

- high premiums;
- lower aggregate demand for labour in New South Wales;
- relatively larger negative cost impacts for more risky businesses;
- create dead weight losses lowering overall welfare; and
- distort cost structures reducing productivity.

High claims-related costs add to the negative impacts on New South Wales business competitiveness.

State Budget Impacts

The costs of the New South Wales TMF Public Sector Scheme can have consequences for the amount of tax revenue required or spending on Government services.

As noted, taxes have the potential to distort prices with adverse impacts on economic efficiency. The State has limited tax options, most of which have high efficiency costs.

Workers Compensation Costs – Interstate Comparisons

The following table is drawn from ABS data ranks employers' workers compensation costs, including premium costs, for states on both a cost per employee basis and a per capita basis for 2010-11. New South Wales has the second highest costs on both bases. The size of the difference in costs is noteworthy, with the high-cost states, including New South Wales, having costs per employee over 50 per cent higher than the lowest costs.

Annual workers compensation – Costs by State 2010-11

	$ Per Employee		$ Per Capita
SA	1,081	ACT	676
NSW	1,052	NSW	537
ACT	1,010	NT	507
NT	955	SA	504
VIC	804	WA	462
WA	750	VIC	404
QLD	703	QLD	368
TAS	673	TAS	297

Source: ABS Cat. No. 6348.0, Labour Costs, Australia, 2010-11.
2010-11 population data from the Commonwealth Government's 2011-12 Mid-Year Economic and Fiscal Outlook.
Note: Workers compensation costs comprise, in general, the costs of insurance premiums paid plus any other costs not reimbursed by insurers, which can include wages and salaries, medical and legal costs, and lump sum settlement payments. The direct costs of self-insurance for employers that self-insure are included.

As noted above, Victoria's 2012/13 Budget announced that from 1 July 2012, Victoria's WorkCover premiums will be cut by 3 per cent on average.

Compliance and Claims Costs for Business

There is little available evidence on workers compensation compliance and claims-related costs borne by businesses in New South Wales compared with other states.

There were a little over 40,000 weekly workers compensation claimants on average throughout 2011, which is more than one in every hundred workers. Every $100 saving in claims and compliance costs for each of those workers would translate to a total saving of $4 million.

Rehabilitation Costs

Rehabilitation costs in New South Wales are high relative to other states. A national survey[8] shows that average rehabilitation costs during 2010/11 in New South Wales were $2,503, which is 40 per cent higher than the national average ($1,788), and compares with Queensland's ($1,129) and Victoria's ($1,796). Although New South Wales rehabilitation costs are relatively high, the rehabilitation participation rate for injured workers in New South Wales is only 31 per cent, compared with the national average of 43 per cent.

Estimates of Impacts

Quantification is provided below of the potential impact from any reforms that successfully reduce premiums and improve rehabilitation processes.

Lower Premiums

The Issues Paper reports that premiums in Victoria and Queensland are typically between 20 and 60 per cent less than New South Wales, but does not report the average difference.

[8] Heads of Workers' Compensation Authorities, *Australia & New Zealand Return to Work Monitor 2010/11,* June 2011.

The impact on employment of lower premiums depends on how New South Wales labour demand and supply respond to changes in employment costs and wages. The available evidence suggests that each 1 per cent fall in labour costs may, in assisting the competitiveness of New South Wales businesses, lead to a 0.8 per cent increase in labour demand in the long run[9] (i.e. the long run price elasticity of labour demand is 0.8), and each 1 per cent increase in wages may ultimately lead to a 0.3 per cent increase in labour supply[10] across New South Wales.

A 20 per cent reduction in premiums, which is conservative given the above interstate differences, equates to around 0.3 per cent of average wages. This reduction would lower labour costs and/or provide for an increase in wages. Given the above elasticities, the consequential increase in New South Wales employment could be up to 2,600. This could lead to an associated increase in New South Wales Gross State Product (GSP) of around $300 million annually (NSW annual GSP is around $440b).

In a situation of high unemployment, which implies surplus labour, a 20 per cent fall in premiums could have a larger impact, increasing employment by up to 10,000.

Labour Force Participation

The reforms proposed in the Issues Paper include measures intended to assist and incentivise claimants to speed up rehabilitation and their return to work. This includes the introduction of “work capacity tests”, reductions in some income support payments, and better regulation of health providers.

These measures will help increase labour force participation in New South Wales, but it is difficult to estimate the size of this impact. Some claimants may return to their former positions, but presumably this is less likely the longer claimants have been out of the work force.

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[9] See P Lewis, *Minimum Wages and Employment*, report commissioned by The Australian Fair Pay Commission, 2006.

[10] See M P Keane, *Labour Supply and Taxes: A Survey,* Journal of Economic Literature, December 2011.

As already noted, there were a little over 40,000 weekly claimants on average throughout 2011. Under the status quo, this cohort of claimants will reduce over time. These reductions will be offset by new weekly claimants.

Some of the reforms proposed in the Issues Paper will reduce the numbers of both existing and new claimants. This reduction includes many claimants returning to work earlier than they would have without the reforms. If 60 per cent[11] of these former claimants undertake additional productive work, or equivalently work for an additional three days per week), they could contribute $2.7 billion to New South Wales GSP over the five-year period following the reforms. This increase in GSP from higher workforce participation would be in addition to the estimated impact of lower premiums.

Treasury Managed Fund – NSW Budget Costs

The TMF workers compensation premium for the 2012/13 financial year is $669 million (before GST). If measures were introduced that resulted in a 20 per cent fall in TMF premiums (noting that reforms may have a different impact on the TMF than the WorkCover nominal insurer scheme), this could provide for an annual budget saving of $130 million, or a corresponding reduction in State taxes. The resulting benefits for the economy have not been estimated as they would depend on which services are enhanced, and/or which taxes are reduced.

9 CONCLUSION

WorkCover would be pleased to assist the Parliamentary Committee inquiring into the New South Wales Workers Compensation Scheme with any further information it may require to assist it report within the Inquiry's Terms of Reference.

[11] This is a conservative estimate as around 80 per cent of NSW current weekly claimants eventually return to work, with around 50 per cent returning to their pre-injury work hours: Heads of Workers' Compensation Authorities, *Australia & New Zealand Return to Work Monitor 2010-11,* June 2011.