Submission
No 85

INQUIRY INTO NSW WORKERS COMPENSATION SCHEME

Name: Name suppressed

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Partially Confidential

15 May 2012

NSW Government
Attn: Parliamentary Committee

Dear Committee Members

Submission to Parliament – NSW Workers Compensation Scheme

Pty Ltd is opposed to the proposed 28% increase in worker's compensation premiums. We are a small company (approx. 16 employees) with very little or no worker's compensation claims every year. It is grossly unfair, particularly in the current economic times, where small business are already "doing it tough", to make us pay for claims brought about by workers of other (often larger) businesses and to make us repay a deficit which has been created by the scheme itself.

I am also personally opposed to the proposed increase in worker's compensation premiums for employers. Having previously worked as a lawyer in the Insurance Litigation team of a large Sydney law firm I am fully aware of the substantial costs involved in arguing workers compensation claims. These substantial costs are unnecessary given the fact that the system is a "no fault" system. Effort must be placed in improving the system to reduce these substantial costs. The answer is not to make employers, particularly small businesses, foot the bill.

My recommendations are as follows:

1. Exclude from the NSW Workers Compensation Scheme claims that are excluded in other Australian jurisdictions. For example, exclude journey claims that are excluded in Victoria, Queensland, Western Australia and Tasmania and are covered by the Compulsory Third Party Motor Vehicle Insurance Scheme in any event.

2. Eliminate the factors in the scheme which are currently costing the scheme the most money and which are making the scheme still adversarial in nature despite the fact that it is a "no fault" system. This means eliminating or minimising the involvement of competing lawyers, claims officers and competing specialist medical practitioners, as follows:

3. Establish government approved unbiased panels of medical practitioners, specialists and experts (of various fields as required) to assess injured workers. There should be strict compliance with a defined set of criteria for an expert to be approved to be on the panel.

4. A team of 3 or more persons (depending upon the nature of the injury) is randomly selected (perhaps via computer random selection from a certain region) from the approved panel to assess the injured worker. That team (which may comprise medical experts, lawyers, rehabilitation experts, etc) should be required to meet to assess the worker and make a determination as to whether or not work was a substantial contributing factor to the injury; determine the level of impairment where applicable;

ascertain the treatment and rehabilitation required, where applicable, with the goal of returning the injured worker to suitable duties as soon as possible.

5. Should the injured worker be dissatisfied with the decisions of the team of experts (per 4 above) then the injured worker can pay for a further assessment by a new randomly selected team of experts from the panel (which must exclude those involved in the previous assessment). This new panel must make a fresh assessment and have no knowledge of the previous assessment. The worker will then be bound by the most generous assessment out of the two or can chose which determination s/he will accept.

6. Compensation, treatment and rehabilitation then proceeds per the expert panel assessment with reviews and re-assessments in the future as recommended by the determination.

7. The right to pursue common law damages against employers should be removed altogether. This conflicts with the intention of the scheme as a "no-fault" scheme and only increases costs through lengthy unnecessary litigation. WorkCover retains the right to punish employers by way of fines and penalties which goes back into the scheme in any event.

Yours faithfully,