

***National Workers'
Compensation and
Occupational Health &
Safety Frameworks***

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Submission

**Productivity Commission
P.O. Box 80
Belconnen ACT 2612**

**From
BDS Pty Ltd
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INTRODUCTION

**This submission is prepared by the Management of BDS Pty. Ltd. of
169 Magnesium Drive, Crestmead. QId 4132.**

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BDS Pty Ltd*

*Managing Director.
David R Kemp CEO*

**It is based on some of the experience of BDS when dealing with this
'Work Cover' part of employing people and conducting an enterprise
with 100 plus employees.**

***Additional facts, names or individuals and or caonrrerrial
entities are available should any^{verification} be warranted.***

**However some of the occurrences referred to in this submission are on
going and subject to further action. Therefore cannot be placed onto
a public forum.**

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Varying costs of work cover.

BDS conducts business in all States or Australia and finds the gap between the cost, State to State, unjustifiable. We have questioned the matter at various levels through employer groups such as Commerce Queensland etc., however the bottom line is, pay the premium. Being in a manufacturing environment which is under enormous pressures from imported 'cheaper' product flooding our markets, any hard earned benefits from 'working smarter', implementing 'best practice procedures' etc., are creamed by compliance costs, registration fees, license fees, work cover premiums and a plethora of other governmental instituted fees and charges. (Governmental refers to Federal, State and Local)

Examples of Work Cover related specific premiums

Our Managing Director - High risk, frequent traveler Australia wide, Highest salary level in the company structure (though not excessive) Annual premium \$1344-36

State Manager New South Wales - works from home office, frequent traveler, mid range salary.

Annual premium\$471.36

State Manager Victoria - works from home office, frequent traveler, mid range salary.

Annual premium\$911.76

State Manager South Australia - works from company office/warehouse, some travel, mid range salary. Annual premium \$915.00

Annual premium \$915.00

State manager West Australia - includes 1 employee in the

warehouse -- working from company office / warehouse, some travel by the State Manager, both are paid medium salary and slightly above award for the employee.

Annual premium\$3558.00

With the West Australia Work Cover Policy, we are not able to negotiate rates, have our own brokers arrange cover or

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any other than their nominated insurer issue the cover. It is 'PAY OUR PREMIUM OR DO NOT DO BUSINESS IN THE STATE'

There is no vast difference in the activities of any of our branch. operations or those personnel under the various covers, yet in the case of West Australia, the premium difference is huge.

A national policy with uniformity would surely eliminate this type of anomaly with a reasonable expectation that a leveling out of the premium costs would represent a considerable saving to business.

High cost of Compliance.

The introduction of statutory obligations for business and industry in the fields of workplace health and safety, occupational health and safety and re-habilitation programs placed a great burden in costs and man hours on industry. The reasons for this shift of responsibility for these functions is known and understood. However the economics of implementing the program effect smaller and medium size companies to a greater degree.

For example: A company with 32 employees has the same statutory obligations as a company with 3000. To train, accredit and administer these programs for the company with (as with ourselves) 100 employees, requires a senior person within the company to be the person responsible for these programs. Put simply, you cannot afford to train and accredit an employee that may move on to another employer, because such an occurrence would require a repeat of the training, accrediting, expenditure, etc. etc. Therefore the person selected has to be someone that is committed for the long term with the company, has the capacity to implement and administer the program within the company, whilst having the confidence of the person ultimately responsible at law. The CEO.

Keeping in mind that the size of company from which we draw our experience has to travel lean and mean to survive in a hard and

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competitive market. There is no capacity to hire or pay for a dedicated WHSO or Rehabilitation coordinator and those responsibilities must be taken on board in addition to the productive work load of the selected person. It is therefore the case with ourselves and many others that we know within this small to medium category, that a company executive from management is chosen to be trained, accredited and carry out the associated duties.

Briefly, training and accrediting of the person takes the person away from the operational side of the company for several days, then recertification is required every few years, another absence from the primary goal of producing wealth, without which the Company cannot survive.

Although the initial training courses may cost only several hundred dollars each, those costs are similar for re-certification, however the combined costs of accreditation and implementation represent several thousand dollars to a company.

We hear it argued that this is money well spent because it reduces liability, reduces work cover claims and reduces injury to workers. NOT SO.

More cooperation from medical profession.

Much of the occupational health and safety, work place health and safety and in particular, rehabilitation coordination programs rely on cooperation from medical practitioners. Explanations during courses highlight the difficulty that WHSO's and Rehab personnel may have with doctors and some sections of the medical profession. How correct this is.

It is our personal experience that there is a mind set within the medical fraternity that 'this is on work cover - hang the expense'.

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Example. Take a worker to a medical clinic or doctors surgery for treatment or examination for a work related injury, cut, sprain or bump, the invoice includes a "Facility fee\$73.20". plus the consultation fees and any additional treatment such as stitches etc. Enter the same surgery with the same injury as an individual stating that it occurred at your home.. ..There is no facility fee charged.

When challenged, the statement is that 'its covered by Work Cover, we are entitled to charge a fee for the provision of the facilities.' Now who pays for this blatant 'rip off'. Business and industry.

We have frequently contacted doctors after they have issued certificates for workers showing them as unfit for duty, when We have over the years developed working relationships with the medical clinics in our area and all are aware of, and have approved under their OH&S expertise, suitable duties for alternate work for persons with relatively minor injuries. Our own common sense and experience allows you to access the capacity of a worker to carry on 'light' or suitable duties, however the treating doctors have challenged our right to question their liberal use of time off on work cover.

Additionally, even with signed authorities from workers for their treating doctor to discuss rehabilitation with us as the employers, we have never had even a reasonable response from the medical practitioners. Some brush off our inquiry as if to suggest we have no right to interfere with their patient, they will clear them for work when they see fit.

One specific instance recently involved a worker that fell asleep at the machine he was working. When questioned he suggested that he had a sleeping disorder and could not help falling asleep. We insisted that he get medical advice to us from his treating doctor. He signed an authority for us to discuss the matter with his treating doctor and we forwarded with him a request for the doctor to indicate to us what was the workers condition and what recommendations would the doctor make for us to do an adequate assessment of the work that would minimise the risk of the worker

placing himself at risk in our workplace because of the alleged sleeping disorder..

It took several weeks of asking and demanding a response before the worker returned with a letter from this medical practitioner, which merely stated 'I have examined this patient and he is suffering from sleep apnia. I have prescribed some tablets, which may assist his condition.'

It is our experience that this is typical of medical practitioners level of assistance to employers. I have yet to see a medical certificate issued in the last few years for workers taking sick leave, that does not merely state the patient is suffering from a 'medical condition'.

Considering all the liability placed on the employer for *duty of care*, and all the other buzz words used to describe what employers must do to protect their workers, there is a pitiful small amount of assistance forthcoming from the medical profession to assist in the management of a workforce.

The practical reality off occupation health and safety, workplace health and safety coupled with rehab programs is that there has to be more acceptance from the medical sector. Instead of placing the emphasis on having business and industry wear the brunt of compliance costs, more effort needs to be directed at doctors to embrace the program.

At the risk of being cynical, it is taking away a 'cash cow' from their profession, therefore their resistance to any changes to their sacred territory is understandable.

False claims and practices.

One of the major detriments to industry however is the run away exploitation of the system by some of the legal profession. It has become untenable to employ permanent workers because of the ever present threat of legal action.

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Little wonder that the labour hire and workforce supply industry has proliferated

All responsible employers have no problem addressing and facing costs associated with legitimate injury incurred accidentally in their work place. Regrettably this does happen and all reasonable care is taken to eliminate the risk of injury to workers.

However false claims & fraud are the constant nightmare of business and industry. The time taken to negate allegations and counter fraudulent claims is horrendous. The cost to industry staggering and regrettably the amount of payouts to bogus claimants disgusting.

Although we are unable at this time to place it on the public forum, we have first hand experience of a common law claim wherein we were cautioned by one of our workers that another worker was going to stage a fall in our workplace. We have on record a number of notes leading up to the actual staged incident. The worker subsequently made claim through a law firm for a large sum for an injured back sustained in a fall in our workplace. Subsequent medical examination by work cover appointed medical practitioners differed to that of his own treating doctor. The worker failed to keep an appointment with a specialist arranged and agreed to, (at no cost to the worker) Work cover closed his case as not accepted and the common law suit was filed.

There are statements taken by qualified investigators of this fellows boast of taking a fall and getting a big payout. Statements of him telling mates of how, when and where he would take the fall and still more of his behavior and unrestricted movements after the staged incident.

We are aware that he went before a medical tribunal and they found no injury or impairment related to this alleged fall. Yet the legal profession are still driving this action.

On a similar note concerning the legal profession, we were served with a notice of an application for an extension of time sort by a legal

firm in a work cover related matter and in it was a sworn affidavit by principal of the law firm.

This sworn affidavit contained false information, misleading sequence of events and was in fact completely inaccurate in its content. We challenged the validity of the document through our work cover appointed law firm, and were advised to *let it go, do not antagonize the court*

What practices are being perpetrated on business and industry by the legal profession? One would reasonably expect that a sworn affidavit should be truthful and accurate. However this entire 'common law action' mentality is out of control and crippling business and industry.

Summation.

The commission is urged to examine the reasons behind the cost of work cover and why employers are reducing their full time work force and using the labour hire companies for workers.

It is our experience that, false claims, fraudulent law suits and doctors that want to avoid making a tough decision for fear of being sued are prime causes.

We have had workers involved in car crashes on the weekend, come into the work place on Monday morning and fifteen minutes after commencement of work, falsely report that they have tripped and fallen in our workplace, receive medical attention for knee, ankle and neck pain, then proceed to want to lodge a claim through work cover.

We have also found that sporting injuries incurred playing social matches on the week end are also the causes of several false claims of injury alleged to have been sustained in our workplace.

There is a mentality amongst many within the workforce that 'work cover is fair game and an easy way to 'get a buck'. There needs to be more false pretence charges laid against these liars. Currently

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there is no stigma or ill feeling among workers if someone tries to rip of the employer or work cover.

Until this is also addressed the lies and deceit will continue and regrettably the legal profession grow strong on common law actions based on the premise that:

Their client was a worker

An incident occurred in the workplace

Their client received medical examination.

Establish those three points and you win a pay out.

We could cite many specific cases to support our submission and enlarge on the theme of what we believe the problems to be. However time limitations dictate that we forward our document to you so that we can register our concerns and raise the points that we have.

We thank you for the forum in which to put our belief before the Commission.