

**Draft submission to the Productivity Commission Inquiry into Workers'
Compensation and OHS (National Workers' Compensation and Occupational
Health & Safety Frameworks) by Robert Taylor. Friday 5/12/03.**

I, Robert Richard TAYLOR of NSW state that:

- 1) I commenced employment as Co-ordinator of the Actuarial Unit, Premiums Actuarial & Statistics Group, Insurance & Fund Management Division' (the I&FM Division has been renamed the Insurance Division) of the WorkCover Authority of NSW (henceforth "WorkCover") on 22 April 1991. My previous 30 years of employment included the duties of assistant to the actuary, senior investment analyst with merchant bank, stockbroker and public sector superannuation scheme, lecturer in Department of Finance at the University of NSW, and manager of a specialist finance publisher and investment consultancy.
- 2) I was the only WorkCover employee holding formal actuarial qualifications. My qualifications include degrees of BSc (Syd.Uni) and MBA (Uni.NSW), and Associate of the Institute of Actuaries Australia (refer attachment B). I was the only WorkCover employee with formal qualifications and direct employment experience in the actuarial and financial management of insurance. I understand WorkCover employed only one other MBA over the period of my employment.
- 3) During my employment those WorkCover staff with prior insurance knowledge and experience appeared to have backgrounds limited to sales, claims, agency, administration, accounting etc. The WorkCover staff engaged in the management of the WorkCover Statutory Fund Scheme (henceforth WSFS) had no (or limited) prior expertise or specific technical knowledge in the financial and actuarial management of insurance schemes. Whatever 'skill and knowledge' of the financial and actuarial management of insurance schemes acquired by these individuals mainly accrued through their employment at WorkCover and its precursor entities (e.g. the State Compensation Board or SCB). From April 1991 to November 1998 I witnessed 'management failure' within WorkCover NSW. The senior management of the Insurance Division was particularly authoritarian and lacking in 'people management' skills (including the need to comply with the OHS laws and other NSW legislation). The lack of commercial expertise, sound judgement² and moral rectitude in many senior WorkCover managers were contributing factors to the large financial losses & insolvency of the WSFS and management problems of WorkCover as detailed in the various Council on the Cost of Government reports and other official inquiries and investigations.
- 4) This submission is based on my personal experiences from my employment at WorkCover NSW. My comments are thus centred on the operations and management of WorkCover and the WSFS, however I will raise some comparisons with the operation of workers' compensation schemes operating in other jurisdictions.
- 5) **Corporate Governance, Policies and Strategies of WorkCover NSW.**
 - a) The functions and governance of the WorkCover Authority of NSW is detailed in the WorkCover Administration Act 1989, No. 120 of 1989 (henceforth the WAAct) from 1989 until its repeal and replacement by the Workplace Injury Management and Workers Compensation Act 1998 No 86 (henceforth WIMWCAct) in July 1998.

In 1998 WorkCover reorganised its corporate structure from 5 Divisions into three Divisions. The original Insurance & Fund Management (I&FM) Division was reformed as the Insurance Division; the original Policy Legislation & Conciliation (PLC) and the Corporate Services Division were amalgamated into the new Corporate Governance Division; and the original Regional Operations Division (ROD) and the Risk Management Division were amalgamated into the new OHS Division. Throughout this document I have generally used the new structure to identify persons with their Divisional affiliation. The divisional affiliation is generally specified only for the initial reference to the person.

- b) Refer to Attachment 2 for a brief summary of the Corporate Governance, Policies and Strategies of WorkCover NSW under the WAACT and the WIMWCACT.
- 6) **The matter of Ministerial control and direction over decisions and recommendations of the General Manager and the Board of Directors of WorkCover NSW.** NSW legislation:
 - a) WAACT section 9 provides that the General Manager of the Authority and the Board of Directors are, in the exercise of their respective functions, subject to the control and direction of the Minister.
 - b) WIMWCACT section 18 provides that the General Manager of the Authority and the Board of Directors are, in the exercise of their respective functions, **subject to the control and direction of the Minister, except in relation to the contents of any advice, report or recommendation given to the Minister.**
- 7) **Apologies from Mr George Cooper. George was unable to attend the hearing and present material on behalf of Injuries Australia due to serious family illness. George will seek leave to augment his submission to the Commission by face to face or telephone at a suitable date in the short-term future.**
- 8) **I have not been fully briefed on the Injuries Australia submission however I would present my views on a small number of matters, namely:**
 - a) The schedule of fees to doctors involved in treating injured workers (e.g. a levy in addition to normal charges, WorkCover determined fees for medical reports from "panel doctors", and fees levies by emergency sections of private hospitals).
 - b) WorkCover provided and funded rehabilitation clinics to public hospitals to provide high standard rehabilitation services.
 - c) OHS plans - refer to documents:
 - i) Comparative Performance Monitoring. Comparison of Occupational Health and Safety Arrangements in Australia and New Zealand. August 2002 2nd Edition *Workplace Relations Ministers' Council*. © Commonwealth of Australia 2002. ISBN 0 642 32532 4.
 - ii) Annual reports and OHS plans of HAS Ireland. These documents represent an example of "good practice" high level planning and accountability of the Irish Occupational Health Authority. This seems to be far in advance of similar Australian programs. A particular feature is the OHS and injury management experience of the HSA's own staff - they set out to be an exemplar. The internal OHS experience and practices of WorkCover NSW are abysmal and appear to reflect the general level of administration of OHS in NSW.
 - d) Mandate that APRA's general insurance prudential standards apply to all workers' compensation and other insurance arrangements.
 - e) Grant Scheme reports - should all be placed on the public record in downloadable form for ease of incorporation into other documents. "OHS Bad performers list". >> WA V SA Qld & Tas f) ABS publications - key we and OHS performance criteria.

2 Including (i) the acknowledgement of the professional and technical skills of staff and consultants; (ii) the emphasis on cronyism over the tertiary qualifications and expertise; and (iii) the need to draw upon the specialist skills of staff.