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National Productivity Commission
National Workers Compensation & OH&S Frameworks Enquiry

Submission

Cross Border legislation has been changed in Queensland and will shortly change in NSW, both states have similar tests however the wording is different and the interpretation could leave an employer operating in two states open to claims from both jurisdictions.

Under the new legislation a workers state of connection is not the state in which he lives but the state that he is based in for his employment. In the case of an interstate truck driver who operates between Sydney and Brisbane there are a number of grey areas.

The company he drives for may be registered and based in Brisbane although the longest part of the journey and the larger part of his hours will be spent in NSW. Complying with driver Fatigue Management requirements may mean he will be removed at a halfway point to take a six, hour break. He may then take orders from that NSW based depot to go to Sydney or return to Brisbane, the fact that he has received his instructions from NSW could give the interpretation that he is in fact NSW based.

The new Queensland legislation may mean that an employee still has a right to lodge a claim in the state they are injured. This means that an employer will still require policies in both states. The problem is how do you estimate wages in other states to cover employers and employees for this type of claim and what happens when one of the states does an audit and decides they don't agree. Employers require clear lines on these matters. Time wasted dealing with these issues is unproductive and costly.

As a carrier based in NSW we are faced with the decision of relocating our business to Queensland to remain competitive. The current rate for a truck driver in NSW is 8.91% compared to 3.586% in QLD. In QLD the maximum increase would mean the policy would double to 7.172% but on the other hand NSW has the "2T Rule" that limits your policy to double while ever your premium is less than \$112,000, this means that if your policy is around \$100,000 and you have an employee lodge a back claim, Workcover will almost immediately rate that policy at the maximum of \$150,000, this one claim will now cost your company an extra \$100,000 for two years till the injury drops off your claims history. Should the worker recover and return to work at very low cost within the first year the company may have it's rate returned to normal for the second year, however it is unlikely you will receive a refund on the extra premium paid in the first year. Under a QLD policy, for the same injury, the company would have only been

charged the actual cost incurred by the claim for that year.

Currently in NSW we are in the Premium Discount Scheme this is helpful but a pittance in relation to the difference in costs between the states. Our company's "Truck Safe Accreditation" number is 00015 we were one of the first companies to gain accreditation. We have a long history of being at the forefront of change and innovation especially in the area of OH&S. In the Port Macquarie region we employ 130 full time staff. We have a fleet consisting of 60, interstate articulated combinations and in most cases these vehicles have two drivers sharing day on day off. These safety initiatives come at a cost, one we are certainly not rewarded for under the current NSW Work Cover system.

The NSW Government has a large debt in the area of workers compensation, last year they reduced it by around \$500 million, I am told this still leaves a shortfall of around \$2,500 million that they intend to burden us with. I do not believe we should be the bearers of their mismanagement.

We urgently require a system that will cover staff in all states and reward a company for meeting OH&S requirements. This would encourage business to go the extra mile and in the end, we will find the work place, become a safer place.

The stage is now set, NSW will introduce company grouping 1 July 2004, for businesses of our size this will mean get out of NSW or face the consequences. Under the grouping provisions our premium will rise from approximately \$450,000 to \$912,000. Unfortunately we are not big enough to self insure in NSW or Queensland and in NSW the grouping legislation will take us well over the \$112,000, 2T limit leaving us virtually no control over our costs.

In these times that require maximum efficiency and competition we cannot afford cost inconsistencies between state departments of any size, let alone one of this magnitude. We would have to think that companies of our size are not wanted. We are certainly not on a level playing field.

Yours Sincerely

J.G. Pearson
Managing Director