



Advancing Rural Queensland



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Inquiry into the operation of Queensland's workers' compensation scheme

*Finance and Administration Committee
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AgForce Queensland Submission

August 2012



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Introduction

On behalf of our members, AgForce Queensland welcomes the opportunity to provide input to the Finance and Administration Committee's Inquiry into the operation of Queensland's workers compensation scheme.

AgForce Queensland is the state's peak lobbying organisation dynamically representing over 6,000 of Queensland's rural producers. AgForce actively assists and represents broad acre producers in the beef, sheep and grain sectors at a local, state and national level and strives to ensure the long term growth, viability, competitiveness and profitability of the broad acre industries.

AgForce believes that the current Scheme needs to be improved to ensure:

- the financial stability of agricultural business' without impinging on employment growth or competitiveness
- provision of greater resources for landholders in the areas of training, education, management and documentation required for i) provision of a safe workplace ii) during claims procedure and iii) ongoing case management procedure
- commercial competitiveness is not affected, particularly in agriculture, as many producers have no way of passing on any premium increases due to the lack of control they have over the commodity prices
- provision of effective assistance to agricultural employers (many of whom are small or medium in nature and limited in resources) to manage and continually monitor return to work of employees
- provision of effective injury management and rehabilitation assistance to employees in the agricultural industries, many of whom are isolated by distance
- re-definition of 'worker' and 'contractor' definitions currently in the Act – as they pertain to the agricultural sector.

Issues specific to the agricultural industry

Within the terms of reference of the inquiry a number of concerns can be highlighted that cause varying degrees of difficulty and challenges within the agricultural sector.

The performance of the scheme in meeting its objectives under section 5 of the Workers Compensation and Rehabilitation Act 2003

According to the Act the scheme should aim to ensure a reasonable cost level for employers whilst providing fair and appropriate benefits for injured workers. The Act also acknowledges that it is in the State's interests that industry remains competitive locally, nationally and internationally and that the compulsory insurance should not impose too heavy a burden on employers or the community.

Premiums paid by the sheep, beef and grain farming industries are significantly higher than the average premium costs borne by other sectors. The average premium across sectors for the 2011-12 year was \$1.42 per \$100 wages¹ (excluding GST and stamp duty). In comparison, beef and beef/sheep farmers are faced with a premium of \$5.692 and sheep farmers along with combination beef/grain or

¹ Queensland Government Gazette No. 22, Schedule 1 – WorkCover Industry Premium rates from 1 July 2012

sheep/grain pay a rate of \$4.430. Given that farmers are now faced with added costs related to the carbon tax, increased wages and the impending superannuation guarantee contribution increase, any rise in premiums would be concerning and contravene the Act's intentions around reasonable costs.

Employers involved in Queensland's grain and beef farming are already paying almost double the workers compensation insurance compared to farmers in Victoria. It must be understood that primary producers have very little control of the price of their commodity and are also in competition with other states and countries for the sale of their produce. Profitability for producers is heavily impacted and their ability to expand their businesses is therefore hindered. Consequently this constricts the producer's ability to employ new workers or retain current employees, causing a flow on effect in the wider community.

AgForce recommends that a strategy between WorkCover, Workplace Health and Safety Queensland and the agricultural industry needs to be developed to address what are very industry specific issues concerning injury prevention and management of return to work programs. It is the intention of the Workers Compensation scheme that it provides for both employers and injured workers effective return to work programs. There is great concern from agricultural enterprises that employees returning to work after accidents and injuries are deemed to be fit to return to work on 'light duties'. There are two issues to highlight that are particularly relevant to the agricultural sector.

1. The first issue for the vast majority of livestock and farming enterprises is that light duties are not a significant part of day to day operations. Under s228 of the Act agricultural industry employers are well aware that they have a responsibility to provide suitable duties—to take all reasonable steps to help with, or provide, rehabilitation to a worker suffering a work-related injury, while they are receiving compensation. Implementing a suitable duties plan or graduated work program within agricultural enterprises is challenging and financially detrimental to most producers. One concern with a working property is that many of the duties are of a physical nature, and it is therefore difficult to provide appropriate levels of light duties in line with employment expectations. The second area of concern is the requirement to establish a week by week suitable duties program. This type of plan is difficult to adhere to in an agricultural context, given the changing day to day operations on a working property. Work schedules are often affected by factors such as the weather outside of an employers' control. A more flexible outline of duties, rather than the detailed and comprehensive day to day, week by week schedule, would be welcomed by agricultural employers as providing needed flexibility.

It is widely documented that returning to the workplace as soon as practicable is the best outcome for an injured worker as it is better for a worker's own health and morale, their work mates, their family and employer, however;

- i. Whilst the best outcome is desired, this outcome should not always be based on a return to agricultural employment. For example a casual worker employed as a station hand solely for a two to three week peak farming period who has no intention of pursuing agriculture as a career should not be returned to work in the industry. The work aspirations of the employee should be considered.

- ii. The limitations encountered by injured workers in accessing rehabilitation and other key services simply due to the remoteness of many properties needs to be better addressed to provide positive impacts on the current return to work time frames, thereby decreasing rehabilitation costs and in turn premiums.
 - iii. The intention stated in section 5 of the Act that the scheme should provide flexible insurance arrangements suited to the particular needs of an industry is an important consideration. To this end customer service managers within Work Cover should have an understanding of the day to day operations of rural businesses to plan the best outcomes for the workers and employees in this industry.
2. The second issue is ensuring employees returned to work on light duties do not undertake tasks they are not fully fit to complete. By completing inappropriate duties the employee is at risk of further injury and the employer may also be deemed to be at fault under the Act. A smooth transition into the workplace achieved as early as possible after a worker's injury or accident is the goal. However, this goal must work in partnership with achieving a sustainable return to work outcome. The nature of many duties in the agricultural environment is that the employees self manage their work and complete many tasks unsupervised. The requirement whilst working under a suitable duties program to monitor the workers progress back at work and make sure they are supported by co-workers and supervisors is not practicable. The employer is again faced with encumbrance financially as most small enterprises lack the human or financial resources to commit to continuous monitoring of employees.

The underlying goal of the scheme is to encourage employers to minimise injuries and promote stay at work or return to work programs. This goal will only be attained with industry specific education, information, training and management across all stakeholders. It is important that requirements are practical to facilitate maximum compliance.

How the Queensland workers compensation scheme compares to the scheme arrangements in other jurisdictions

Without detailing all scopes of difference in schemes between jurisdictions there is one area that is of particular concern to the agricultural industry. The definition of a 'worker' and 'contractor' within the rural sector needs to be addressed to negate the unfair burden on producers when certain contractors are deemed employees for workers compensation purposes.

It is common place for farmers to engage contractors to complete various jobs on their farms. Under the current definitions within the Act many contractors are being deemed employees. It is often misleading and inappropriate for rural contractors to be covered as part of the Scheme. When the price of work is negotiated between the farmer and contractor a value for insurances such as income protection insurance is included.

For example it is unfair for a fencing contractor to be deemed an employee due to the farmer having the posts available for the job, even if the contractor has provided

all other materials. This arrangement is commonplace and is a preference for landholders given their remoteness – it does not imply any of the additional privileges that would ordinarily come with being an ‘employee’. Given the remoteness of many landholders it is unfair, more costly and non-productive to expect the contractor to supply posts and materials onto the site if the landholder can arrange to have them all available at the same time for the contractor to utilise.

Flexibility is the key in making sensible and workable decisions within the framework of definitions under the Act. The definition of a ‘worker’ in the rural sector is a major issue for rural employers.

Consultation between Work Cover, agricultural organisations and directly with producers would be welcomed to better define worker/contractor engagement for the rural sector. AgForce Queensland is aware that the same worker/contractor definition issue exists in other jurisdictions and as such national harmonisation for new guidelines in this area would be welcomed.

WorkCover’s current and future financial position and its impact on the Queensland economy, the State’s competitiveness and employment growth.

A broad perspective of WorkCover since 2008 has seen premiums increasing by an average of 23% between 2008 and 2012 and the net asset position markedly decreasing from \$1.22 billion to \$402 million. Part of this decrease can be attributed to the Global Financial Crisis, however with increasing premiums and decreasing net assets the scheme should be carefully managed.

Without reform to halt the downward trend, the cost to maintain the scheme will end up as a devastating increase in insurance premium costs to business. Again it must be stated that the farm industries will not be able to bear the strain of this impost and the wider community will suffer as a result.

A long term plan for the sustainability of the scheme would be welcomed as employment growth in the State and the agricultural sector would undoubtedly suffer if premiums spiral to keep the funding ratio at or over 100%.

Implementation of the recommendations of the ‘Structural Review of Institutional and Working Arrangements in Queensland’s Workers’ Compensation Scheme’

It is disappointing to note that such a significant and highly consultative review did not include consultation with any groups representing the rural or agricultural sectors. Aside from this, the review is focussed and sufficiently detailed to provide a solid base for this current inquiry to utilise in a positive manner.

In relation to Term of Reference 3, Regional issues, no. 116 AgForce strongly believes that the establishment of regional facilitators is paramount to improving the operation of the scheme in the rural sector. These regional facilitators would a) ideally be available to train rural employers and advise on best practice for injury prevention and b) be able for rural claim management armed with a full knowledge and understanding of regional circumstances from access to initial claim notification

information all the way through to providing strategies for injury management whilst taking into account remoteness and limited access to service providers.

The desired outcome of reducing claims and costs, particularly within the rural sector, will only be forthcoming with proper consultation, facilitation and information dissemination through all stakeholders. Our producers are keen to reduce their costs in premiums and would appreciate an increased level of regional assistance to achieve this reduction.

In summary AgForce Queensland recommends the following actions to achieve a more effective Scheme:

- Redefinition of 'worker' and 'contractor' allowing flexibility for more effective management of industry specific issues;
- Increased education and resources for landholders to assist in them developing a clear understanding of who is an employee and their obligations in the Scheme;
- Greater provision and early recognition for injured workers for whom agriculture is not their normal field of work to be rehabilitated and returned to work in a different industry as appropriate;
- Provision of effective industry-specific assistance, education and training for small and medium enterprises to:
 - manage their obligations with regard to continual monitoring of employees returned to work;
 - ensure provision of a safe workplace;
 - guide employers through an ongoing case management procedure, especially understanding the rights of both the employer and employee.
- Ensure that the commercial competitiveness of agricultural producers is not affected by rising premiums as producers have no way of passing on these rising costs due to the lack of control over commodity prices.