



# ***FINANCE AND ADMINISTRATION COMMITTEE***

**Members present:**

Ms DE Farmer MP (Chair)  
Miss VM Barton MP  
Mr MJ Crandon MP  
Mr CD Crawford MP  
Mr DA Pegg MP  
Mr PT Weir MP

**Staff present:**

Ms D Jeffrey (Research Director)

## **PUBLIC DEPARTMENTAL BRIEFING—INQUIRY INTO THE WORKERS' COMPENSATION AND REHABILITATION AND OTHER LEGISLATION AMENDMENT BILL 2015**

### **TRANSCRIPT OF PROCEEDINGS**

**MONDAY, 24 AUGUST 2015**

**Brisbane**

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Committee met at 3.02 pm

**GOLDSBROUGH, Mr Paul, Executive Director, Workers Compensation and Policy Services, Office of Industrial Relations, Queensland Treasury**

**HAWKINS, Mr Tony, Chief Executive Officer, WorkCover Queensland**

**HILLHOUSE, Ms Janene, Director, Workers Compensation Policy and Tribunal Services, Office of Industrial Relations, Queensland Treasury**

**ROCHE, Mr Mark, Deputy Commissioner, Queensland Fire and Emergency Services**

**VARLEY, Mr Peter, Assistant Commissioner, Rural Fire Service Queensland, Queensland Fire and Emergency Services**

**CHAIR:** Good afternoon, ladies and gentlemen. I declare open this public departmental briefing of the Finance and Administration Committee's inquiry into the Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2015. I am Di Farmer, the chair of the committee and the member for Bulimba. The other members of the committee are: Mr Michael Crandon, our deputy chair and member for Coomera; Miss Verity Barton, the member for Broadwater; Mr Duncan Pegg, the member for Stretton; Mr Pat Weir, the member for Condamine; and Mr Craig Crawford, the member for Barron River. The purpose of this hearing is to receive further information from the department about the bill that was referred to the committee on 16 July 2015. This hearing is a formal proceeding of the parliament and is subject to the Legislative Assembly's standing rules and orders. The committee will not require evidence to be given under oath, but I remind you that intentionally misleading the committee is a serious offence.

Thank you for your attendance here today. The committee appreciates your assistance. You have been previously provided with a copy of the instructions for witnesses, so we will take those as read. Hansard will record the proceedings and you will be provided with the transcript. This hearing will also be broadcast. I remind witnesses to speak into the microphones. I remind all those in attendance at the hearing today that these proceedings are similar to parliament to the extent that the public cannot participate in the proceedings. In this regard, I remind members of the public that under the standing orders the public may be admitted to or excluded from the hearing at the discretion of the committee.

I remind committee members that officers are here to provide factual or technical information. They are not here to give opinions about the merits or otherwise of the policy behind the bill or alternative approaches. Any questions about the government or opposition policy that the bill seeks to implement should be directed to the responsible minister or shadow minister or left to debate on the floor of the House. I also request that mobile phones be switched off or switched to silent mode. I remind you that no calls are to be taken inside the hearing room.

I invite each of the department representatives to make an opening statement. Obviously we invited this at the last hearing but since then a substantial amount of evidence has been presented to the committee which you have seen. We thank you for the enormous amount of work that your respective departments have put into that. We really appreciate that effort and detail. You may or may not wish to make another opening statement, given all of the evidence we have seen since we saw you last.

**Mr Goldsbrough:** I do not propose to lead any evidence. I am happy to take questions.

**Deputy Commissioner Roche:** We are in the same situation, thank you.

**CHAIR:** Thank you very much. I would like to talk about the WorkCover premiums, with which you will be familiar. Tony, thank you for coming from WorkCover. I direct all of these questions to both Paul and you. Could you please explain how the proposed amendments can be achieved without increasing the average premium rate of \$1.20 per \$100 wage paid?

**Mr Hawkins:** Thank you for the opportunity, Chair. The WorkCover premium rate of \$1.20 is set on an annual basis, or the average premium rate is set on an annual basis, taking into account all of the costs associated with the scheme, which are the statutory claims, the common law claims and the underwriting costs, coupled with the investment return that we receive on our funds under management, which are managed by QIC. Taking all of those things into account at the time, we build and develop a premium rate—an average premium rate, I might add—that is set. From that average premium rate the respective industry rates are set for each of the particular industries for which we seek premium. In doing so, that rate is set for 12 months and is reviewed annually.

Depending on the amount of money that is surplus at the end of the year, or may be a deficit, that is then covered through the reserve that we hold. We have a reserve that is required, a mandatory reserve of 100 per cent as per the act. Treasury advises a further 20 per cent, and that is what called 120 per cent solvency. Anything that is in excess of that is in what is called the investment fluctuation reserve, primarily for things that are vagaries of the investment market. As you can appreciate, back in 2008 and 2009, with the global financial crisis, we had a substantial investment fluctuation and it was quite fortuitous that we had that reserve. The issue of how long that \$1.20 can be maintained depends on how much is basically absorbed from the reserves that are excess to requirements.

**CHAIR:** We have had some discussions through submitters to the inquiry about the level of solvency that is required. I hope other panel members do not mind my asking you this one question while we are on this topic. I note there have been some responses in your written responses to submitters' evidence. Can you please go over what our level of solvency here in Queensland is compared to the other states?

**Mr Goldsbrough:** I am happy to take that. By way of introduction, one of the things over many years of working with workers compensation is that employers will say that the thing they dislike most of all is premium volatility—that is, premiums going up and down year on year—because it is very hard to plan cash flows. They will not necessarily object to premium increases, and naturally not reductions, where it is smooth. The way we have done solvency in Queensland is to have the legislated 100 per cent plus a Treasury imposed buffer of 20 per cent that allows for some smoothing and then, as Tony said, anything over and above that is in the investment fluctuation reserve, which you would see has been quite healthy. In terms of other states and territories, how they set that solvency level differs. New South Wales does not have a publicly stated arrangement. Victoria has a range and, again, that is to allow for smoothing. Theirs is 90 to 110 per cent. South Australia is 90 to 110 per cent and Queensland is, of course, 120 per cent. The funding ratio of the other schemes as at 30 June 2014, because everybody is still finalising the accounts from this year, was that New South Wales was 102 per cent, Victoria was 116 per cent, South Australia was 100 per cent and Queensland at that time was 157 per cent. The solvency level is substantially above the others at that point in time.

**CHAIR:** Thank you. We may come back to that and some of the other members may wish to ask questions about that as well.

**Mr CRANDON:** In striking the rate at \$1.20 per \$100—and you are talking about quite a healthy reserve there—would some of that calculation be to do with the fact that we have had a very buoyant market since the global financial crisis? We have seen some significant upturn. If that is the case, what would you consider this recent volatility in the markets had to do with that reserve that you have been referring to? There is talk out there that this could be the next global financial crisis. What sort of impact do you think that will have? There are two parts to the question.

**Mr Hawkins:** We do not want to see another global financial crisis at all, but you are quite right that that is a possibility, regrettably. In broad terms—and I use broad terms—WorkCover has around \$4 billion funds under management. If you say that a one per cent return equates to approximately \$40 million, you could say that our five per cent projection each year is equivalent to about \$200 million. We base our \$1.20—or whatever the premium is—on that amount. The mathematics is fairly simple: if you have a zero per cent return, you would lose \$200 million out of your reserve. The amount of money that you lost out of your reserve would be dependent on the actual return that you achieved in any one particular year.

**Mr CRANDON:** If I may, Madam Chair, just coming back to my question about the effect on the \$1.20 from the buoyant market that we had, did it have an impact on bringing that down versus claims experience and other issues?

**Mr Hawkins:** It is a good question. As I said earlier, it is probably a combination of all of them. There is no one thing in particular that either brings down or increases the average premium rate. It is a culmination of all of those factors that I mentioned before: claims costs, the investment return—

all of those. If you have a great investment year, it probably just goes into the investment return. If it was a bad investment year, it comes out. Similarly, if you have a poor claims year—that is, more claims than you would have expected—that would also come out of that reserve.

**Mr CRANDON:** Are you suggesting that there are around \$1 billion of reserves in the \$4 billion—

**Mr Hawkins:** Yes, I think we stated about \$1.2 billion of reserves in the investment fluctuation.

**Mr CRANDON:** A 15 per cent loss. Rather than ask the question around that, what percentage of the total investment is in those growth markets?

**Mr Hawkins:** We have sort of hedged it to what we call a reasonably balanced fund.

**Mr CRANDON:** A balanced fund?

**Mr Hawkins:** Erring in most recent years on a side of conservatism with a lot more money in cash—probably close to 35 per cent in cash in recent years.

**Mr CRANDON:** So around 25 per cent or 30 per cent in equities?

**Mr Hawkins:** Pretty much in equities with a little bit in property, yes.

**Mr CRANDON:** So if we have 30 per cent of \$4 billion; is that what you mean?

**Mr Hawkins:** Correct.

**Mr CRANDON:** Thirty per cent of \$4 billion is \$1.2 billion, and a 15 per cent loss on \$1.2 billion? Is that the kind of thing where you see \$200 million jump out the back door?

**Mr Hawkins:** Yes. For example, in the global financial crisis in one year we had what was called a minus nine per cent return, and that depleted the reserves by in excess of \$400 million.

**Mr CRANDON:** It did?

**Mr Hawkins:** Yes.

**Mr CRANDON:** Right.

**Mr Goldsbrough:** That is what provisioning the reserves are there for and the Treasury imposed buffer. There are other factors, as Tony mentioned. For example, the serious injury rate over the last five years, up to 30 June this year, has gone down by 17.1 per cent. That is those claims off work for greater than five days, so they are the ones that are likely to be the more expensive claims in the scheme. That is significant in itself as another counter in the whole thing. There is no one thing that drives the premium rate.

**Miss BARTON:** In terms of your saying that there are a number of factors that influence what the average premium is, it is almost tautological that if there is an increase in the numbers of claims you would at some point immediately following from that see an increase in the premium. I mean, you are effectively acting as an insurer for both the employee and the employer. It is tautological that an increase in one would see an increase in the other?

**Mr Hawkins:** If I could answer that, you are talking about an increase in the cost of claims—

**Miss BARTON:** Or the number of claims, particularly with the increase of claims in the under five per cent category.

**Mr Goldsbrough:** You might have a big increase in the smaller-end claims. They are not going to so much affect premium as the serious injury claims.

**Miss BARTON:** But it would affect someone's loading?

**Mr Hawkins:** As you mentioned correctly, if there was an increase in the number of claims, by inference you would think there would be an increase in the claims cost. That is correct. We are talking about the rate you were talking about increasing. But annually as the claims costs go up so, too, do normally the wages declared by the employer. So if wages are declared by an increased five per cent, for example, and you kept the rate at \$1.20, you could have your claims go up roughly by the same five per cent and there would be no need to increase that rate.

**Miss BARTON:** The problem we are having, though, is that a lot of the people who appeared at the public hearing we held the week before last have argued that it is not necessarily about the base rate but about the loading and the impact that has on their competitiveness when they are trying to compete across the country where there is an increase of claims in the under five per cent category.

My substantive question is about how you make the assumption about the \$1.20 being able to stay. The explanatory notes and the minister's introductory speech talk about the ability to maintain the average premium at a base of \$1.20. Does WorkCover or the department have any actuarial evidence or actuarial studies to support that contention that the committee might access, or is it an assumption made on your knowledge of how WorkCover works?

**Mr Goldsbrough:** WorkCover and PricewaterhouseCoopers, their actuary, did some modelling work that went to the stakeholder reference group that set all that out. We did provide that information in a table as part of the questions and answers to the committee.

**Mr PEGG:** What is WorkCover's break-even premium rate?

**Mr Hawkins:** The current break-even premium rate, based on all of the underlying assumptions, is around \$1.36.

**Mr PEGG:** What is the actual cost of removing the threshold from 31 January?

**Mr Hawkins:** In absolute dollars?

**Mr PEGG:** Yes.

**Mr Hawkins:** We have done a little bit of modelling on that and we think just for the removal of the threshold, back for that five months, is around \$90 million. But that is not on annualised basis; that is just for that period.

**Mr CRAWFORD:** My question is in relation to the period between 15 October 2013 and 31 January 2015. The explanatory notes talk about amendments that will establish the ability to provide additional compensation et cetera. How is that likely to work and how soon will we see something either coming from the department or introduced to parliament in that space?

**Mr Goldsbrough:** We are currently working on the regulations for that to be considered by government. The regulations will come into effect at the same time the amendments are proclaimed, if parliament agrees to them. In terms of what is the proposition, the qualifying condition will be whether, on the balance of probabilities, the worker's employer would be liable for damages but for the former threshold. Workers who have finalised claims by accepting or rejecting a lump sum compensation offer will be excluded, so it will be open only to those who have not gone through the process.

As soon as practicable after an eligible worker's degree of permanent impairment has been decided, the insurer must consider whether, on the balance of probabilities, the worker satisfies the qualifying conditions. A worker may request that the insurer assess their eligibility. Under the proposed decision-making model, if the insurer decides the worker is eligible, they pay the entitlement when the lump sum offer is accepted. If the insurer decides the worker may be eligible, they can request additional information from the worker to allow the insurer to decide. If, following requests for information, the insurer is not satisfied the worker is eligible, they can request a meeting with the worker to discuss eligibility and if, after the meeting, the insurer is not satisfied the worker is eligible, provide written reasons for decision. We have tried to build a process that is administratively simple and gets resolved at the earliest possible point. We are working closely with the insurers and WorkCover in the build of that.

**Mr CRAWFORD:** Will that come to us as a separate bill or is that something that will be intertwined with this?

**Mr Goldsbrough:** The bill provides for it in section 193A, and this is a regulation that will, once it has been considered by the government, come before the House and be tabled.

**CHAIR:** I think the regulation will come to us.

**Mr Goldsbrough:** That is correct.

**Mr WEIR:** What costings have been done in relation to if the 150 fires milestone is introduced, or if it is one? How much modelling has been done on that?

**Mr Goldsbrough:** We have done some modelling on that. From memory, it was \$14.8 million if the 150 exposure events were removed.

**Ms Hillhouse:** I think it was \$15.2 million.

**Mr Goldsbrough:** That is right. It was \$15.2 million per annum.

**Mr WEIR:** There seems to be a bit of ambiguity in the Tasmanian scheme as to what that 150 milestone represents. It could be one as well as 150. Has any modelling been done on if the rural firefighters were on the same level as the auxiliary firefighters and had to attend only one event?

**Mr Goldsbrough:** Again, I would like to clarify. It is not possible for anyone to be picked up under the deemed disease laws, as they are proposed, from attending only one exposure event. If you go to the schedule you will see that there are years of events. I think the minimum is five years for some cancers—I am sure the deputy commissioner can comment on this—and people have to undergo training. They will be fighting fires if they are an active QFES full-time or auxiliary firefighter. Over that five-year period, it would not be possible for them to have only one exposure event.

The \$15.2 million that Ms Hillhouse referred to relates to the additional cost of coverage that we would have where firefighters generally come in—volunteers. That is an estimate. As I said at the last hearing, we have to project these things conservatively. They use health demographic data and so on. We are not 100 per cent sure of that, and I think I said at the committee last time that you did not see the number of claims in South Australia or Tasmania as a result of their laws being put in place. It is very hard, but they are our estimates and that was done with WorkCover's actuary PricewaterhouseCoopers. I will hand over to Deputy Commissioner Roche.

**Deputy Commissioner Roche:** In terms of the response of our crews responding to operational incidents, when they are employed by Queensland Fire and Emergency Services and attend the academy for their training, their training alone is around 655 hours or 78 days. That incorporates classroom and theory but also significant exposure to live fire, compartment firefighter training, bushfire/grassfire training and hazardous material management. They also then progress through a series of assessments and also time served as operational firefighters through their career. They will then progress through, if they wish, to the higher ranks, the officer ranks, and at that stage it may be that they do day work or a non-operational role for a period, but even during that time they are still operational firefighters and will respond operationally. I do not have a figure of how many times a firefighter would respond through a career, but it is not possible that they attend only one incident or event.

**Mr WEIR:** I am curious about that \$15 million, because in amongst your notes here it says that one part of the study found no increased incidence of cancer amongst Australian volunteer firefighters compared to the general population, so where is that 15?

**Mr Goldsbrough:** Chair, I suggest that we come back in the next day or two with some information for the committee to consider. The actuaries use things like health demographic data, how many people get those cancers generally in the community and so on. They are factors in it as well, but we are more than happy to come back with some detailed information.

**CHAIR:** Member for Condamine, are there any other questions around that figure? I think we will have a number of questions about these issues this afternoon.

**Mr WEIR:** Until we actually know how that was arrived at, it is a bit hard.

**Mr Goldsbrough:** You want to know how it was built—the factors taken into account in the build and so on? I think we can provide that.

**CHAIR:** I am tossing up whether to go straight into the fireys questions but I think we are going to do that a fair bit today so I do want to keep asking about the Workers' Compensation and Rehabilitation Act. A number of the unions—Queensland Nurses' Union, Queensland Council of Unions and others—were concerned about disclosure, raised issues around sections 571B, 571C and 571D and suggested that they did not think the proposed amendments went far enough. Could you comment on that?

**Ms Hillhouse:** Section 571A to 571C were introduced in 2003, around the same period of time as the workers' claims histories were brought in. They were designed to ensure that workers are not being placed in jobs that actually increase the risk of harm to the worker or that reduce the potential of the worker aggravating existing injuries. They allow prospective employers to ask prospective workers to disclose any existing injuries or conditions that could reasonably be aggravated by performing the duties of their employment or their prospective employment.

When those provisions were introduced we looked at a number of other jurisdictions, in particular the Victorian provisions, because they contained a number of in-built protections for workers. So those in-built protections are that the employers are required to provide in writing full details of the duties that the workers are going to be asked to be perform, as well as the implications of providing the request, as well as the nature of the job. If the information is not sufficiently provided by the employer then the worker would not reasonably be able to form a reasonable belief as to what risks were associated with that job.

The workers are also not expected to make a medical determination when considering their obligation to disclose. They are only required to disclose injuries or conditions that are actually existing during the recruitment process, that they themselves reasonably believe may be aggravated by the duties prescribed by the prospective employer. In this regard, a high evidentiary burden is placed on the insurer. So the insurer must be satisfied that the employer has provided sufficient details to the worker and, based on that information, that the worker has knowingly provided false or misleading disclosure.

Employers I think are also currently able to request that workers undergo pre-employment medical assessments to determine their suitability for the role. We also understand that the uptake within the industry of using these provisions is actually not that high. There have not been a large number—

**CHAIR:** When you say 'not that high', what does that mean?

**Ms Hillhouse:** From the advice that we have been given, at most only five claims would have come through to WorkCover.

**CHAIR:** Out of how many?

**Mr Goldsbrough:** We average about 90,000 claims a year at the moment.

**Ms Hillhouse:** Of those five, as far as we are aware, three workers' claims were rejected. Two of those claims were from the same employer, so it was from the one organisation. One of them has been forwarded through to the regulator for review and that was upheld by the regulator on review. So from our perspective they are not provisions that are widely being used. We have not, from our perspective, had complaints raised with us in terms of their use.

**Mr CRANDON:** I just want to come back to the \$15.2 million figure, if I may, for a minute. If I remember correctly from an involvement that I had in a mesothelioma case some time ago, there was a flat rate paid—I think the figure was \$400,000—once the source of the illness was established. With regard to the firesys, is there a flat rate? Is it a figure of \$400,000?

**Mr Goldsbrough:** The statutory maximum lump sum is \$359,000.

**Ms Hillhouse:** It would depend on the nature of the worker's injury. The normal statutory entitlements would apply. If the worker had a terminal late onset condition—that would be of the nature that you were referring to—then they would receive the maximum lump sum compensation.

**Mr CRANDON:** Which is?

**Mr Goldsbrough:** It is around \$359,000. The way that works with asbestos is that naturally people under the Queensland scheme—and that will apply to firefighters—can apply at any point. I think, from memory, there was one case where we had a mesothelioma claim with WorkCover where the individual was over 90. What happens is that that statutory maximum lump sum tapers off in the legislation because of the removal of future economic loss.

**Mr CRANDON:** Based on their age.

**Mr Goldsbrough:** That is right.

**Mr CRANDON:** When does it start to taper?

**Mr Hawkins:** From 70 to 80.

**Mr CRANDON:** From 70 through to 80. Just on that number, the \$15.2 million is per annum?

**Mr Goldsbrough:** That is correct.

**Mr CRANDON:** You have established that it is per annum. If we assume that they were all paid \$359,000—that is the figure that you were talking about, Paul—then that is 42 claims a year. Going from 150 exposures down to one exposure—is that what you are saying?

**Mr Goldsbrough:** No. You would be going down to the years of service in the schedule. So you will have some cancers five years, for others 10 and for others 15.

**Mr CRANDON:** Based on that, we are talking about at least 42 claims a year that we are trying to get out of. Is that the idea?

**Mr Goldsbrough:** Yes. That is why I am saying I will come back with the numbers as well as how many are projected.

**Mr CRANDON:** The point I am trying to make is: if we have \$15.2 million—projected by PricewaterhouseCoopers did you say?

**Mr Goldsbrough:** That is correct.

**Mr CRANDON:** If we have \$15.2 million and the maximum statutory claim is \$359,000—

**Mr Goldsbrough:** Sorry, if you have, for example, a younger firefighter in their 40s with six kids, they are not going to take the statutory maximum; they are going to take common law. If they are in their 40s with six dependent children, the common law claim would potentially be over \$1 million. So the arithmetic is not that simple.

**Mr CRANDON:** It is not that simple. That is fair enough. You are going to give us the modelling. Are you going to give us all of the modelling and not just—

**Mr Goldsbrough:** We will break it down, yes.

**Mr CRANDON:** It concerns me that, based on that \$15.2 million, we are talking about trying to get out of paying 42 claims a year. We are trying to turn our back on 42 claims a year just based on that simplistic stuff. That is lot of people we are wanting to turn our back on.

**Mr Goldsbrough:** I am not sure it is a matter of turning our back on them. If you come back to the Monash study, the Monash study found that in the volunteer cohort the incidence of cancer was not above that of the general population, whereas for full-time and part-time firefighters it was 11 and eight per cent respectively. Unfortunately these cancers are prevalent in our society. What I can also provide with that modelling data is the incidence of these cancers per 1,000 or 100,000 people in the general community.

**Mr CRANDON:** I look forward to getting that information. But it really does concern me that we are talking about a cohort in our community that are offering their volunteer hours, their time, and we are saying that they are not as worthy of consideration as full-time fireys and auxiliary fireys. I will be interested to see how many we are looking to turn our back on in the future.

**CHAIR:** We have some evidence that is being presented to the committee, and I think using the phrase 'turning our back' might be straying into the area of inference. We are looking for factual evidence here at the moment.

**Mr Goldsbrough:** I do have those figures in front of me. I will give you a couple of examples. For brain cancer, the incidence per 100,000 in the population was 7.3; for bladder cancer, the incidence per 100,000 in the population was 9.6. I can provide this. These cancers are prevalent in the community generally, too.

**Miss BARTON:** Just going back to you, Tony, with regard to the premiums that people pay, how does WorkCover work out what the loading is for each of the different industries? I am not sure whether or not you have had a chance to look at the transcript of the hearing we held on 13 August, but consistently a lot of people said that, whilst there might be a commitment to maintain the \$1.20, that is all a moot point if the ability to make claims under five per cent pushes people's premiums up in the sense that they have loading on them. It is something that has been raised not only by a number of industry groups that appeared before us but also by the CCIQ on their behalf. I am curious to understand how the loading works, particularly once we then take into account that there will be no doubt, by virtue of the fact that there are more claims able to be made, there will be an increase in claims under the five per cent. In a world where we are trying to be very competitive, I just want to know what impact that will have on business and the different industries in terms of their loading.

**Mr Hawkins:** When you use the word 'loading', I assume you mean the different rates in each of the industries?

**Miss BARTON:** Perhaps 'loading' is the wrong term to use and I am sorry if I am not using the right term. Say, for example, ABC have a lot of claims under the five per cent. What impact does that have on their loading as a result of the increased number of claims? Again, it goes back to my tautological statement.

**Mr Hawkins:** The issue of the individual rate is determined by effectively the claims experienced within that industry. There is an element that cuts across the whole scheme—for example, claims associated with journey claims and, as the member talked about, mesothelioma, because those employers are probably no longer in existence and it was many, many years ago. A lot of the costs of the scheme are borne across the scheme. They are borne by everybody. However, primarily when the actuarial people assess the individual rate, they take into account the claims experience of that industry for the industry rate. Then, in terms of the premium applicable to an individual, it is not only based on that industry rate but their own experience as well.

**Mr PEGG:** It would seem to me as though one of the ways of preventing that loading, as the member referred to, would be to have a safer workplace and therefore reduce your claims.

**Mr Goldsbrough:** Absolutely.

**Mr Hawkins:** Without being too flippant, to do me out of job is what we are all about, really—to not have any claims whatsoever. Clearly—and Paul mentioned this before—the incidence of serious injuries has reduced in the last few years. When Paul talked about 90,000 claims, that is scheme wide. WorkCover currently is around 80,000 claims. Three or four years ago they were in excess of 90,000. The fact that there are 10,000 fewer claims is great because that means fewer people are injured and, importantly, there are fewer costs associated with the scheme as a consequence of that.



**Mr Goldsbrough:** And fewer claims going to common law.

**Mr CRANDON:** When you say 10,000 fewer people injured, isn't that 10,000—

**Mr Hawkins:** It is 10,000 fewer claims.

**Mr CRANDON:** But you said that means 10,000 fewer people injured. There are really 10,000 fewer people able to make a claim.

**Mr Hawkins:** These are genuine claims. People who have not been injured have not made a claim.

**Mr CRANDON:** That 10,000 does not include the ones that got cut out of the—

**Mr Hawkins:** These are the statutory claims.

**Mr Goldsbrough:** Could I just add to that that those claims include the ones where people do not go off work. They get injured and they might be taken to a doctor and put on alternative duties for a few days or whatever. So it is not automatically that they go off work.

**Mr PEGG:** Following on from the issue that the member the Coomera raised, what does WorkCover offer in terms of working with employers to reduce claims in terms of safer workplaces?

**Mr Hawkins:** I think there are two aspects and maybe I might ask Paul to talk first about the IPaM scheme, which you may be aware of. After Paul has talked about that, I will talk about what WorkCover does.

**Mr Goldsbrough:** We have a range of initiatives to improve health and safety. We are very proud of the fact that we have worked with employers and workers to have the serious injury rate drop by 17.1 per cent over the last five years. That is, I believe, an impressive feat by the employers and workers involved.

We have the priority industry sectors of manufacturing, construction, transport and agriculture, and we have specialist teams that will work with them. We have developed strategies with industry to tackle the injuries which are the most frequent. For example, musculoskeletal injuries in construction, falls and being hit by moving objects are the key aspects of the work in those areas.

Generally with employers in non-priority areas we have a small business program with advisors who engage with people to work with them. A critical aspect from our perspective is that, generally if a small business gets one or two big claims, it will go out of business. That is the reality. We are trying to work collaboratively with them to identify the nature and types of occupations and injuries that occur in their different sectors. We have extensive data to support that.

The other area where we operate jointly with WorkCover is that, out of the 2010 amendments to the legislation, there was considerable debate about employees being capped at twice the industry rate. You could have some employers that, had that cut not been there, would be at eight times the industry rate. So the Injury Performance and Management Program was introduced, and we work with capped employers to target those aspects of their business to get injury rates down. By and large that has been very successful.

**Mr Hawkins:** In terms of WorkCover, we have approximately 150,000 employers in Queensland, 142,000 of whom have wages of less than \$1.5 million. They form a fairly small pool of claims, but for the other 8,000 with wages greater than \$1.5 million—which are by and large the larger employers in Queensland—every one of those 8,000 is relationship managed by a person in WorkCover who will make contact with that person in the event of a claim and show them how they can assist to reduce incidents of injury. I think that was the question you were asking.

**Mr PEGG:** There are opportunities for employers to engage with WorkCover.

**Mr Hawkins:** Correct, particularly those large ones. Clearly, when a small one does have a claim which is irregular or possibly their first one ever they are not left on their own. Someone will talk to them.

**Mr Goldsbrough:** We do have extensive information on all industry sectors on the joint Workplace Health and Safety, electrical safety and WorkCover website, so employers can access information on their premiums as well as all the health and safety information at the same time.

**Mr PEGG:** I have a substantive question which was a bit different to this issue. I wanted to talk about the people who were caught between 15 October 2013 and 31 January. I just wanted to ask about the proposed time frame for consultation with the stakeholder reference group and also when you expect the regulation to be finalised and introduced to parliament?

**Mr Goldsbrough:** The completion of the regulation, I suppose, is when the government is satisfied that it meets all the tests. The Treasurer has committed to consulting with the stakeholder reference group, and hopefully we will be going back to them shortly with some material to review in relation to that. We have already presented papers to them in terms of how this might operate, and I mentioned some of that in an answer to a question before. Yes, I will certainly be consulted again in relation to the look and feel of it and that it is true to what we had discussed and the majority had agreed through the stakeholder reference group.

**Mr CRAWFORD:** My question is in relation to the firefighter part of the bill. What I am interested in particularly are the rebuttable comments. Paul, you can probably answer this question the best. Can you just walk us through this? There is a belief out there that if we reduce the 150 down to a lower figure of one or whatever, a person who meets the time criteria and goes to that one fire is automatically covered if they get cancer. But in reading the Senate document when it went through and where this all began, there are a number of conversations in there where they talk about how it is just a shifting of the presumption and the rebuttal. Can you walk me through the rebuttal and what that would be like for a volunteer in that situation?

**Mr Goldsbrough:** One of the things that I think we mentioned at the last meeting was that workers compensation legislation is beneficial, and we need to ensure that everyone sees that people are being treated fairly. One of the things that we propose to do is to establish a committee which will have some stakeholder representation. QEFS, WorkCover and the Queensland Treasury will review some of these where there is any doubt—for example, if a claim comes in that group would then look at whether the person has been involved in exposure events and so on, and a decision would then be made on whether to seek to rebut it. Janene, do you want to go through the actual process of rebuttal?

**Ms Hillhouse:** The rebuttal process will be applied by the insurer, and that will usually be done based upon evidence provided to the insurer by the employer. As part of the claims management process the insurer will ask the employer to provide any information relevant to the claim. It will be for the employer to provide information if they were looking at a rebuttal. If they had concerns in relation to the number of exposure events or whether the period that the firefighter had provided where potentially the firefighter was not involved in active service that would be the time that the employer would do that. With the additional process of the consultative group that will look at it, I think the insurer will make a determination based upon the additional evidence provided by the employer as well as the advice provided by that group as to what may be reasonable in that circumstance.

**Mr CRAWFORD:** Can we just explore that group? Because that has not come up in any of our documentation or discussions or anything like that.

**Mr Goldsbrough:** I thought I did raise it at the last hearing. What we were looking at was that it would be chaired by the QEFS. It would have representation from WorkCover. There would be a couple of stakeholder representatives. That could be unions or whoever. That is a decision for government. They would look at things like talking to the relevant station people about the types of exposure events because the records are not great in this area. That was one of the considerations as to why to go down this track. I think I said before the last committee that you do not want to bring legislation in like this and then just make it unobtainable for people. It has to be fair and it has to be reasonable. What that group would do is consider any available information. They might interview volunteers at the local station and so on to build a picture of exposure events and the types of work they were involved with. Then they would make a recommendation to the insurer, WorkCover, and it would go from there.

**Mr CRAWFORD:** Would that be an option for someone who did not have 150 exposures; is that what you are saying?

**Mr Goldsbrough:** You could use that either way irrespective of whether the 150 exposure events were there. I am happy for the QEFS to comment on this, but because the record keeping is not there necessarily it would be useful to have that process.

**Deputy Commissioner Roche:** I think that is true. I will have the Acting Assistant Commissioner for Rural Operations outline that.

**Assistant Commissioner Varley:** As far as record keeping for personal attendance by volunteer firefighters is concerned, that is not something that we have done in the past. It has been changed recently. What happens is that rural fire brigades will report on incidents they attend, but they do not report the individuals who actually went there. They have the ability to do that through our processes, but it has not been mandatory. The reason that has been in place is because volunteers themselves do not like too much paperwork. It is not something that we can keep up.

There are a number of rural fire stations throughout the state that maintain their own records but, going back to what Paul said, if we wanted to investigate that we could have a look at the particular brigade the firefighter belongs to and see how many attendances they have had overall. We would then interview the officers of that brigade and the area staff who support that brigade to identify whether that firefighter is likely to have gone to a majority of those calls or has never attended them at all. We could make a reasonable assumption based on that of the amount of exposure that person has had.

**Mr CRAWFORD:** When I was reading the Monash study there was a notation that QEFS incident data was only complete from 2011 onwards. It did not actually say whether there was no data preceding 2011 or whether that was just what QEFS handed over. Do we have data on our volunteers pre-2011?

**Assistant Commissioner Varley:** Yes. Incident reporting since 2011 has increased by introducing better facilities for them to report. There is data previous to that, but it would not be as detailed as it is after that event.

**Mr WEIR:** Just to be clear, if you have a rural firefighter and a volunteer, who is the employer that you are talking about?

**Ms Hillhouse:** The employer will be the rural fire brigade. In terms of how it has been established legislatively, the organisation that the person has been engaged by to perform the volunteer activity is their employer.

**Mr Goldsbrough:** The policy of insurance with WorkCover is held by the QEFS.

**Mr WEIR:** It is not a question on that, because you were talking about reviewing that. Is that just for rural firefighters, or is that for surf lifesavers and SES volunteers, or are you talking just on—

**Mr Goldsbrough:** Just on firefighters; the policy is for the QEFS. There are a number of volunteers who have a special policy of insurance with WorkCover at the moment. That is legislated because successive governments have recognised the importance of these volunteers to our community. However, those policies of insurance do not cover them for common law action. It is purely statutory claims for injuries that occur in the course of that volunteering.

**Mr WEIR:** What about for legal action that might be brought? In amongst this we have heard of the differences in safety equipment between auxiliary and rural brigades. Have we ever had anybody bring legal action because of negligence perhaps with regard to safety equipment or—

**Deputy Commissioner Roche:** Not that I am aware of, but I can follow that up. I am not aware of any specific cases. But with 36,000 volunteers, 2,200 permanent and 2,000 auxiliaries, over the years there may be cases that I am not aware of.

**CHAIR:** If you could provide that on notice, that would be very helpful. I just want to clarify what you were saying before, Paul. What we are talking about is presumptive legislation. It is access to a system that no firefighter currently has access to in Queensland, whether they are a volunteer, auxiliary or a paid firefighter. That is excellent in itself. Are you saying that when it comes to the consideration of claims from volunteer firefighters because of issues around the 150 exposures—whether it be about record keeping or the range of issues that have been raised as concerns with this committee—if the 150 exposures are not able to be determined, then this committee, by putting together a portfolio of evidence which they consider to be acceptable, is an alternative to that 150? Can I be very clear: is that what you are saying?

**Mr Goldsbrough:** What we were proposing was irrespective of whether there is a requirement for 150 exposure events—because as Peter was saying, there are station records but not individual records—for the legislation to work properly and beneficially you would need some group to build an evidence base on which to make a judgement about whether in fact a person has been exposed or not anyway. The member for Barron River mentioned the rebuttal earlier, because you could have a situation where you have a firefighter who actually has not undergone training—a volunteer—and has not been involved in fighting fires that gets one of these cancers. That is the time you may look to use the rebuttal process in the legislation. What I am trying to say is that that group would look at all firefighters in terms of exposure and offer some advice where necessary.

**CHAIR:** I just want to be really clear on the status of that, because one of the issues that has been raised by the UFUA is that if, for instance, we were not worrying about the 150 and we were saying that all firefighters should have the same access to this presumptive legislation that actually poses huge problems for the system itself because it weakens the legislation. Because there is no evidence base—that in fact the system is linked intrinsically to having an evidence base and that is why it can be presumptive—and because there does not appear to be this evidence for volunteers, it is easily challenged.

**Mr Goldsbrough:** That is correct.

**CHAIR:** In fact, an individual may go down the path of thinking that they are going to be covered and then they find that they are not because it is so easily challenged. I guess this is what I am asking you then: in the absence of something like a figure of 150—and I have some questions about that—or a thing which actually can be used for presumptive legislation, do you consider that a panel or a committee like the one you are talking about can provide sufficient profile and sufficient evidence to be used in that context? Is that something that could be easily challenged in a legal system and in fact pose the same sorts of problems that have already been suggested?

**Mr Goldsbrough:** My answer would be is that I believe that it is an appropriate way to look at this issue. It is very hard for an insurer to turn around where someone presents with a particular cancer and then necessarily know about if they have had the years of service to meet that cancer and whether they meet the 150 exposure events as well. I think in fairness to the insurer, if you have an informed panel that goes and looks at the station records and talks to people at the station, they can make a recommendation to the insurer in terms of their decision making which will give them some comfort in making a decision in the absence of any records. So I think, yes—

**CHAIR:** We have to link that to presumptive legislation though. That is the thing.

**Mr Goldsbrough:** Yes. The presumptive legislation reverses the onus of proof. That is really what it does. So what it says is that rather than a worker having to prove their injuries under the act under section 32 it is up to the employer and WorkCover to then disprove it. That is why when we met with QFES we believed that this was probably an appropriate way to deal with these sorts of claims where you could build up through an iterative process information to assist the insurer in making a decision. So it would be a recommendation. The final decision is always one with the insurer.

**CHAIR:** Okay, so on to my actual question, and I hope I have the tolerance of the committee with this but it is sort of related anyway. We have had raised with us the South Australian situation where there is no requirement on volunteers that is any different to the paid firefighters. What is the difference—and you note this in some of your comments to the committee's questions in some of the evidence—or are there any differences that we would be aware of in South Australia and have there been any cases presented by volunteer firefighters in South Australia? I ask anyone who is the most appropriate person or persons to answer that.

**Mr Goldsbrough:** I suppose just by way of leading off, the big difference between this bill and the South Australian requirements is that there is a 10-year cut-off in South Australia after resignation. The government deliberately did not put that in the bill because there was recognition that these cancers are latent diseases and can occur over a long period of time in that you would be quite unfair in doing it that way. Janene, do you want to comment?

**Ms Hillhouse:** In addition in terms of volunteers, South Australia does still require that they are able to show active firefighting service. So while they do not have to show 150 exposure events, they still have to show that they were actively involved in firefighting for those periods.

**CHAIR:** There is a certain percentage or something I recall seeing in one of your set of comments.

**Mr Goldsbrough:** That is correct.

**CHAIR:** So is it a significant burden for them to show that?

**Ms Hillhouse:** I am not sure from their perspective. I do not think that we have current data in terms of who because I believe their legislative change was only relatively recent, so we are not sure how many volunteers have come under that.

**CHAIR:** Yes, of course.

**Mr CRANDON:** I suppose as a bit of a continuation on that, it is the rebuttal process that you have discussed and the fact that they might have this 10-year horizon whereas you do not have the 10-year horizon. But in the rebuttal process, to be fair to the person potentially making a claim, how would your committee establish that 15 years down the road? They have retired, everyone else has retired and they have their cancer that they are trying to make the claim on. You indicated that, regardless of whether they had less than 150 exposures or more than 150 exposures, it would still be potentially the same rebuttal. How would your committee gather its evidence so far down the road using someone's memory from 15 years ago?

**Mr Hawkins:** If I could answer that. Earlier you mentioned—and I come back to it—mesothelioma. The legislation was changed probably seven or eight years ago to encompass what was, as Paul said, some of the onerous requirements of the common law system, so it was basically put through in a statutory claim system. Regrettably with mesothelioma, there is not normally by the

time of diagnosis a great deal of time unfortunately for the person to live, so a lot of things were being held up in the legal process. The good point of that legislation was that it sped the process up. Essentially in terms of determining whether that person would obtain a mesothelioma claim, there are two things really in terms of what it boils down to: were they a worker by the definition of a worker—and that goes back any particular time—and were they exposed at some point in time in their working life to asbestos? It was as long as they could demonstrate that. I stand corrected, but I am pretty sure of this within WorkCover that in that ensuing period we have very rarely rejected a claim provided the person can demonstrate both of those requirements.

This is new to me because we have never done this, but when we talk about this presumptive legislation a firefighter, be they either a volunteer or someone in full-time service, can still apply for compensation now provided that at this point in time they show the causation was from work. What we are saying is with the records that would be available—and, generally, people have a pretty good idea that they would have done some form of firefighting back even 10 or 15 years ago; forget the 150—I think it would be fairly easy I think to be able to get enough records, albeit people have retired and moved on, to say, 'Yes, this person was a volunteer firefighter and, yes, they attended some fires.'

**Mr CRANDON:** But forget the 150 is what you just said?

**CHAIR:** If you were forgetting the 150.

**Mr Goldsbrough:** Irrespective of the 150 in or out, in 15 years time I am confident that we will have a record-keeping system that will demonstrate which individuals have been involved in exposure events. It is really for the next few years because the individual records are not there that we will need this group to operate. What will happen is that they will look at the station records, they will talk with firefighters at those stations and all that will be used to build up the picture. As Tony says, it will be looked at beneficially where they can demonstrate, yes, they have been involved in exposure events. The legislation proposes 150 exposure events for volunteers, so that would be a consideration. That sort of group, if it was looking at that issue, would not necessarily have to document every individual one. It may say, 'On the balance of probabilities we recommend to WorkCover that there is sufficient information there on which to support the claim being accepted.'

**Mr CRANDON:** That was a supplementary question following on from the chair. That brings me to my substantive question, and that is there is some argy-bargy from the sounds of things over this event. One of the examples that was given to us was someone who spent 22 hours attending one fire. I am hoping that they were not expected to be standing in the fire line for 22 hours. I am hoping they had some respite and the fire line moves on. I am assuming fires do not just stay in one place; they tend to move on. Based on the responses that you gave us, why is it that each one of those exposures is not counted as a separate event? In other words, if we have one firefighter who comes in and spends an hour or two on the fireside and leaves and another guy comes in, goes out, comes in, goes out, comes in and goes out, he has had more exposures and more exposure over the extended period of time that they are there than the other fellow but it is counted as one exposure for each of them. Have I misunderstood this?

**Ms Hillhouse:** Your understanding is correct in a sense that you have got—

**Mr CRANDON:** Where is that fair? That is my question.

**Ms Hillhouse:** If you have the one ignition event, then it is considered the one exposure event. It was developed on a number of bases. One was actually the record-keeping requirements of QFER so that they supported each other in terms of how an incident may actually be recorded and in terms of being able to provide an accurate way of determining how many exposures a person may or may not have had.

**Mr Goldsbrough:** So the reality is if you are fighting a major bushfire you will go in and you will do your shift and you will come out and go back in after your appropriate breaks and that will be your second exposure event where they come back, say, the next day.

**Mr CRANDON:** No.

**CHAIR:** No.

**Ms Hillhouse:** No.

**Mr Goldsbrough:** My apologies.

**Mr CRAWFORD:** That is our problem.

**Mr CRANDON:** Paul, you are with us, are you not? You think that should be more than one event?

**CHAIR:** Now, now. We are not putting words into the mouths of public servants.

**Mr CRANDON:** That was the understanding that Paul had.

**Miss BARTON:** But I think it demonstrates where the confusion lies and why people are struggling to understand the need to differentiate. This was something that was raised at the public hearing that we had last week with some of the rural volunteers and we had the example of someone who is—and this is not my substantive question—in an iZone crew and she had spent 24 hours at a fire and she had gone to five different fronts. To my mind five different fronts should be five different events because you have moved and you have gone to fight a different fire. Even though it is one big fire, you have gone and fought something different or you take a break to go and change or to go to feed your kids or something like that and you come back. She was saying that that is effectively the one incident and that is why people I think are really struggling to understand the reasoning behind the 150, because it seems like it is an arbitrary number plucked out. I do not expect you as public servants to respond to that because I do not want to put you in an awkward position, but there are people who are really struggling to understand why an arbitrary number has just been pulled out when so many people have very different definitions of what an incident or what an exposure might be. That is why there is so much, I guess, consternation within the community as to what is happening.

**CHAIR:** There seem to be a series of questions here, so I will just go to Duncan. I do not even know if you asked your substantive question, Michael, but we will go to Duncan while we are talking about this.

**Mr CRANDON:** No, that is fine. I am happy to pass it on.

**CHAIR:** Okay. Duncan, did you want to add to that?

**Mr PEGG:** I was going to make a point of order, but it seems as though we have moved on. We talked about reaching the 150 from an evidentiary perspective in terms of—

**Mr Goldsbrough:** Sorry, but can I just clarify. I am sticking to the position I took before: if a person goes back the next day, then it is a separate event.

**Ms Hillhouse:** It has to be the next day.

**Mr Goldsbrough:** Yes.

**CHAIR:** It is not after the next break?

**Ms Hillhouse:** It is not after the next break.

**Mr Goldsbrough:** So if you go to 36F(2) you will see very clearly there one exposure event incident on a single day. So if you are fighting a fire over a few days, as you tend to do in the bush, they will be separate exposure events.

**Miss BARTON:** So if someone goes at nine o'clock in the morning and then they take a break at lunchtime and come back at one o'clock—

**Mr Goldsbrough:** It is still one event.

**Miss BARTON:** But if someone of the same crew goes at 10 o'clock that night and goes away at five to midnight and comes back 20 minutes later, that is two?

**Mr Goldsbrough:** That is correct.

**Miss BARTON:** Even though they have done the exact same thing at the exact same fire. Just by virtue of one going later at night and taking a break over midnight, it is considered two separate ones.

**Mr Goldsbrough:** The legislation is based on a single day.

**Mr PEGG:** There has been a lot of focus on reaching the 150, the evidentiary burden and issues with records and the like. We heard how the process has been used for those people who have unfortunately been exposed to asbestos. I am just wondering what kind of medical evidence would be required in a case where, for instance, a volunteer firefighter was seeking to prove that an exposure incident caused those kinds of cancers. What kind of medical reports and evidence would generally be required for that?

**Mr Goldsbrough:** Under presumptive legislation, because the onus is then on the employer insurer, all they would have to prove is that they have one of the specified cancers in the schedule and they have the years of exposure, or years of experience, related to that cancer and that is it. So they would walk in with a certificate that says they have brain cancer or whatever and that would be an accepted part of the process. The issue would be determining the exposure events and whether the rebuttal should kick in. That is where we are looking at the group to advise WorkCover, the insurer, in that.

**Mr PEGG:** Generally, you get medical evidence?

**Mr Goldsbrough:** Yes.

**Mr PEGG:** It is based on medical evidence?

**Mr Goldsbrough:** That is right. Usually, with these sorts of things there is not any dispute; you either have it or you have not. It is not in degrees like a back injury, for example.

**Miss BARTON:** With regard to WorkCover, I want to go back to the projected funding ratio. I found the table, thank you very much. I should preface my question by saying that my understanding is that WorkCover is an insurer that is wholly owned by the government; is that correct?

**Mr Hawkins:** That is correct.

**Miss BARTON:** I am a bit curious to understand, then, why your projected ratios are commercial-in-confidence, because the document that I have in front of me, which was provided by you, says that the projected funding ratios, which is the table that you referred me to, shows the next six years showing the solvency decrease and the premium remaining at \$1.20 and the investment return remaining at five per cent. I am curious to know why, in a world where we are all open and accountable, the government's projected funding ratio is commercial-in-confidence.

**Mr Hawkins:** I guess the answer fairly simply on that is that these rates, which are shown here, are shown based on the best estimates and guess at this point in time going forward. We have never really, in WorkCover's case, ever projected our premium rate out further than the single year that it goes up to for consideration. I guess, probably if anything, we do not want something going out that is saying, 'This is something' and it is locked in.

**Miss BARTON:** So if you do not—

**Mr Hawkins:** To the outside parties, I am talking about.

**Miss BARTON:** Yes, but if you do not normally project this far—and I accept that, but I am curious—in advance, why have you to 2019-20? The follow-up to that is: what then happens in 2020 or 2021? You have acknowledged that the notional break-even point is \$1.36. So if we hit a solvency of 126 per cent in 2020 or 2021, at some point then there is going to have to be a significant hike presumably to maintain your break-even point, maintain your five per cent investment return and maintain solvency. I am curious to understand what then happens. Do you then jump to the \$1.36 in theory? How does that align to what Paul said earlier about not wanting to have volatility for employers? My understanding is that every one cent that is increased in the premium equates to about a \$10 million cost to business in Queensland. That 16 cent increase is quite significant as opposed to perhaps a sliding increase over the forward term. It is a very long question, sorry.

**Mr Goldsbrough:** Can I answer the first part and then I will hand over to Tony. How that table came about—and why Tony is so nervous about it—

**Miss BARTON:** I promise not to repeat it outside this room, although this is actually being broadcast. It is probably a bit late, sorry.

**Mr Goldsbrough:** The stakeholder reference group wanted to understand what the implications were of maintaining the average premium rate at \$1.20 and then what the buffer on solvency was over time. So the decision was made, yes, that information would be brought forward. To do that at this point in time, the investment return rate of five per cent was identified based on available information at the moment. So the request came from the employers, unions and the lawyers on the stakeholder reference group who wanted to understand what would happen to WorkCover's substantial reserves in that situation.

**Mr Hawkins:** And without trying to be evasive in terms of the figure, as I go back, as the member for Coomera said, we could have a poor year this year—hopefully not in our investment return—but if next year or the year after we picked up, as you have seen historically, a couple of 12 per cent or 13 per cent returns, that could have an impact on the longevity of smoothing the balance of that premium out, because it would increase the reserves.

**CHAIR:** Just referring to that break-even point of a \$1.36, that is a point-in-time figure, is it not?

**Mr Hawkins:** It would be the figure required if all things were at break-even now. In other words, if you determined that you had a solvency—call it 120 per cent—and that you needed to maintain that going forward, with the assumption of five per cent investment return that would be the premium rate that would be required.

**CHAIR:** So there are a number of factors, obviously, which would influence that?

**Mr Hawkins:** Correct.

**Mr Goldsbrough:** Injury rates, medical expenses—all of those sorts of thing.

**Mr CRANDON:** Just so that we can be clear, we talk about if you had a couple of 12 or 13 per centers. You have not just plucked five per cent out of the air?

**Mr Hawkins:** No.

**Mr CRANDON:** That figure is based on advice, which would be based on what a balanced fund is expected to return over the long term.

**Mr Hawkins:** Our historical return over the last 15 years has been in excess of seven per cent—around 7.2 per cent. Of course, they were in the days when cash rates were in excess of five per cent. If we are now talking about the cash rate being about 2.5 per cent, we have discounted it by about the same.

**Mr CRANDON:** And I think if you go to the marketplace, their projections—if we went to the QSuper fund as an example—

**Mr Hawkins:** Yes.

**Mr CRANDON:** The QSuper fund would probably be talking about a five per cent projected average return for a balanced fund, which means that you are in for a few hard years ahead of you, because you have had some big years since the global financial crisis—11.8 per cent, 12.8 per cent and so forth.

**Mr Hawkins:** Yes.

**Mr CRANDON:** So you are in for a few hard years potentially that could fall below the five. Have you done any sensitivity analysis with regard to this if it, in fact, did end the next two years being negative and so forth?

**Mr Hawkins:** Yes, we have done that and, surprisingly, even to us, the impact is probably not as great over a longer period, because you are absorbing that reduction in the investment return over a longer period, but it does clearly have an impact. As I said, when we had the global financial crisis, where we had two negative years in WorkCover, the only reason we were able to sustain that without increasing the premium at the time was the excess investment fluctuation reserve.

**CHAIR:** And that is why you have a buffer.

**Mr Hawkins:** That is correct.

**CHAIR:** And that is why our buffer is—

**Mr Goldsbrough:** Twenty per cent.

**CHAIR:** That is the highest in Australia? The largest buffer?

**Mr Goldsbrough:** Yes. Treasury has said that solvency is 100 per cent plus 20 per cent. So WorkCover tactically has to be above the 120 per cent, and that is the highest of any scheme in Australia.

**Mr PEGG:** I had a question about the effect of the repeal of section 571D. I note your response to question on notice 27, where it says that the provision confirms that the regulator may decide the application notwithstanding the repeal of 571D and that, however, the regulator may decide to refuse the application. Obviously, I am talking about circumstances where an application has been made and then section 571D has been repealed. Is it likely that the regulator will refuse applications for prospective workers' claims history summaries for those employees who have already lodged requests?

**Ms Hillhouse:** In terms of what the regulator is likely to do?

**Mr Goldsbrough:** Yes. My view would be that the government has flagged its policy. Its policy is very clear—that those documents are seen as discriminatory. Our view would be that we discontinue processing any of those requests if the legislation is passed by the House.

**Mr PEGG:** Okay. If someone starts lodging those requests prior to the legislation being presented and subsequently passed, it is more likely than not that those requests would be refused by the regulator?

**Mr Goldsbrough:** That is right. We would not proceed with processing those requests.

**Mr CRAWFORD:** This is probably to Peter or Mark. We have heard the argument throughout the hearings that a firefighter is a firefighter is a firefighter and plenty of talk certainly between career firefighters, auxiliary firefighters and volunteer firefighters. We have also heard reference to South



Australia, Tasmania and other states. As a former volunteer from the CFA—and I know the answer to the question but I just want to have it on record—can you outline the difference between a volunteer firefighter in Queensland and the types of work that they do and a volunteer firefighter from South Australia, Tasmania, Victoria and some of those southern states with respect to the types of incidents they go to? The second part of the question is to WorkCover. How are we going to deal with firefighters, either volunteer or career, who have done part of their time interstate before they have come to Queensland?

**Deputy Commissioner Roche:** I still start with the first part of your question and ask Peter to provide some more detail. In relation to specifics on other fire services around Australia, they are very different. The CFA in Victoria provides a firefighter response as a first response to quite a significant number of incidents, very much like the full-time urban firefighters. They will be first response to structural fires, to motor vehicle accidents, to chemical incidents, hazardous material as well as grassfires, bushfires and supporting with other events such as storm and cyclone. Within Queensland, it is a bit different inasmuch as, from a volunteer perspective—and I will ask Peter to give more clarification—their focus is more on the bushfire fighting, even though they do respond to other incidents. But I will look at it from an urban perspective. That is from both the permanent full-time and also the auxiliary firefighters. They will respond within their area of coverage: first response to structural fires in Queensland, motor vehicle accidents, chemical incidents, hazardous material and bushfires as well. So they will cover the gamut as a first response and also support rural firefighters and other agencies at other incidents. I believe that some of the other volunteer firefighters around Australia, that is, Victoria and South Australia, would have very similar response profiles that they will respond to from an urban and auxiliary perspective in Queensland. Rural will be a little different.

**Assistant Commissioner Varley:** That is correct. The primary response for volunteer firefighters in Queensland is to vegetation-type fires, but they do respond to other incidents in support of fire and rescue or urban firefighters or auxiliary firefighters; that is true. The difference in the model is that, as Mark has pointed out, in other states outside of the area that provides a permanent or auxiliary response—and CFA is a good example; CFA provides a primary response to a whole range of incidents above vegetation fires and that does not happen in Queensland. That is their primary response. There are very few brigades that are the primary response to road accident and rescue. There would be approximately five in the whole state that do that out of the 1,438, I think, rural fire brigades. That is the general case. They are not equipped or trained to carry out firefighting internally in a structure. They do have training where appropriate to carry out firefighting on a structure but from an external position.

**Mr Hawkins:** If I could answer your question regarding someone having been interstate, I am assuming that you mean that they have been an interstate firefighter and come to Queensland and also been a firefighter?

**Mr CRAWFORD:** Correct.

**Mr Hawkins:** In that event—and I am sorry to hark back to the mesothelioma type of thing—you could be a person who has worked in New South Wales and Queensland, for example. Really the medical evidence is not detailed enough to determine which incident caused that particular injury. I would say, wearing a WorkCover hat now, that we would err on the side of saying that that could have been an injury that occurred in Queensland.

**Mr Goldsbrough:** I can refer the member for Barron River to section 36E, which says that it can be more than one period of employment and so on. In order for the 10 or 15 years under the schedule, service in another jurisdiction would be acceptable within the way that the legislation is drafted.

**Mr CRAWFORD:** If someone did, say, 10 years service in South Australia and then 10 years service in Queensland as a career firefighter, to make it simple, and then they got cancer, which state is likely to wear the burden of that?

**Mr Goldsbrough:** That would be a judgement for WorkCover in terms of whether it would seek recoveries from South Australia in that scenario. I do not know if you want to comment on that, Tony?

**Mr Hawkins:** Again, I think the individual could lodge in either place because the legislation is the same in both places. I think it would probably be where they lodge it from. I suspect they would lodge it in Queensland if they were and had most recently been a Queensland firefighter.

**Mr CRAWFORD:** Thank you.

**CHAIR:** That would cover the 150—

**Mr Goldsbrough:** Yes.

**Mr WEIR:** My question is about the five per cent and the common law, and probably it is to Tony. I noticed in the law submission that the department replied to that they suggested it should be increased to allow workers who have accepted a lump sum payment for injury since January to access common law. That is not going to be the case. It raises the question: with that five per cent or up to five per cent, how many of those are settled by a lump payment and how many are settled with the aid of lawyers and the common law?

**Mr Goldsbrough:** We have the numbers there. I think we have provided them in terms of the number of claims that there have been under the greater than five per cent threshold. I think it was 2,000-and-something claims over that period that we estimated, where potentially they could have gone to common law. Those claims would potentially be entitled to the statutory lump sum, which is 10 per cent of the maximum lump sum—up to that.

**Mr WEIR:** I was really meaning previous to the changes. How many of that five per cent would have found themselves subject to legal action at common law?

**Mr Goldsbrough:** We did provide it. I think it was just over 2,000 claims over the period.

**Mr Hawkins:** That would have lodged a common law claim otherwise.

**Mr Goldsbrough:** We will confirm that back to the committee, the actual numbers.

**CHAIR:** Thank you. That would be great. I want to go back to the firefighters and ask about record keeping. Obviously, that has been raised quite consistently in the evidence. I know from some of what you have said today that there seems to be an underlying assumption that record keeping is going to improve. Could you talk to us about how that improvement will occur, given the nature of volunteers? I mean no disrespect to volunteers at all when I say that, but we have all worked with volunteers and we have heard evidence from volunteers about why it is sometimes pretty hard to get people to write things down. It is almost the polar opposite of what they feel they are there to do. Can you explain to us how record keeping will improve, given the nature of volunteers and the situation in which people in rural fire brigades find themselves?

**Mr Goldsbrough:** The government has tasked Queensland Treasury and Queensland Fire and Emergency Services to come up with a record-keeping system. We have to go back to government with a new system. We are in the process of commencing that now. Naturally, the legislation has been a priority for us at the moment in answering the committee's questions.

**CHAIR:** Thank you. We can see how much time you have taken, thank you.

**Mr Goldsbrough:** That will start shortly.

**Deputy Commissioner Roche:** In the history of urban firefighters and auxiliary firefighters and their record keeping, there have been significant input and changes to that over the years. If we were to turn the clock back 20 years, we would have a very similar issue in relation to the record keeping. It was more paper based at that stage. At this stage we have it electronically, whether that is inputted at the point or whether it is inputted in another location electronically. I know from an urban perspective, we are working very closely to ensure we have better record keeping so in the future we will have all of that information to hand. We have that at the moment, but 20 years ago we could not say that. From the rural perspective, it is slightly different as well.

**Assistant Commissioner Varley:** Rural fire brigades used to report only on a paper based system whereby if they went to an incident they would fill in a form that was quite detailed and they would send that form into their area office and it would be logged on to the system that that brigade had attended an incident. We made improvements to that in the past two years. Now, there are two ways of doing it. The paper based system has been very much refined to make it one page with much less information required. We have also introduced a system where the brigade can actually record their attendance through their fire communications centre as well, when they call in.

**CHAIR:** Are you saying they can do that verbally?

**Assistant Commissioner Varley:** Yes.

**CHAIR:** They can ring up after the fire and say, 'I have just done this,' or, 'The brigade has just done this'?

**Assistant Commissioner Varley:** That is right. They can even do that on their radio return message to the station. They can record certain information that will register that particular call into the system, so they do not have to do anything else.

With regard to the presumptive legislation proposal, we have changed the business rule on reporting to say that now you must report who goes to that incident so that we do have the incident recorded against an individual who attends. The way that happens is, in the paper based reporting

that I alluded to, there is an extra section to that where names of the attendees could have been recorded but it was not mandatory. We have made that section of it mandatory now and we are also working with the fire communications centres so that the recording of the individual names can also be done either via the radio or via telephone, as you just said.

**CHAIR:** For instance, if a brigade person—forgive me if I am a bit clumsy in the way I describe it—phones in or calls in on the radio and the centre may say, 'Can you give me the names of the people who are involved?', they may actually interrogate that information rather than waiting for it to happen? It is much more proactive. Is that one of the things you are talking about?

**Assistant Commissioner Varley:** Yes, it is. The paper based system is the one that we have changed at the minute, but we are in consultation with the fire communications centres to see what is the best way of doing that. You can understand if there were 20 people who attended that fire, it is probably not viable to have those 20 names broadcast via the radio back to that communications centre. It is a time delay.

**CHAIR:** When you say that you have started instituting these better procedures over the past two years, what improvements have you noticed? I appreciate that this may be anecdotal, but if you have actually documented those the committee would be grateful to see them.

**Assistant Commissioner Varley:** We monitor the fire reports or incident reports that come in. The incident reporting rate has gone from approximately 45 per cent up to about 98 per cent. It would show that just those changes have increased the reporting by fire brigades of incidents in particular quite substantially, as you can see.

**Mr CRANDON:** In relation to that, on training night is it the same thing, that you get that information through to—who did you say it was?

**Assistant Commissioner Varley:** The fire communications centre or the area office.

**Mr CRANDON:** After training night, something would go through to them to say, 'Jim, Fred and Freda were at training night'? Is that the idea? Is that the plan or is that happening now? What is happening in relation to training? As I understand it, at the last hearing Paul or Mark—someone, anyway—confirmed that training—

**Mr Goldsbrough:** Training is part of the deal.

**Mr CRANDON:** Training is part of the deal. What happens with regard to training, Peter?

**Assistant Commissioner Varley:** To clarify, training that involves a live fire becomes an incident. There is a lot of training that takes place that does not involve live fires, obviously. Anything that takes place in training, such as a hazard reduction burn, which is what they link that training to, is also recorded separately to an incident. It is recorded as a hazard reduction burn.

**Mr CRANDON:** Even a fire in a 44-gallon drum or whatever at the depot?

**Assistant Commissioner Varley:** That is still an incident, yes.

**Mr CRANDON:** I do not know whether any of you listened to all of the proceedings, but a number of people talked about—and in fact we received a couple of examples—breathing apparatus, if I can call it that, that the volunteers receive and use. One very descriptive example was given. I think it was the lady with the 22 hours worth of time. She talked about still having the smell, still feeling the effects—the rawness in the throat, the dryness, the mucous et cetera. There are two parts to the question. First, have you given any consideration to improvements in the breathing apparatus available to rural firefighters? Secondly, have you factored anything into your calculations in relation to the lack of breathing apparatus along the same lines as is available to your full-time fireys and auxiliaries? Have you factored anything in when you are doing calculations around the cost?

**Assistant Commissioner Varley:** I will answer the first part of the question about the different types of respiratory protection. There are two types of respiratory protection going away from what we call the breathing apparatus itself which is a self-contained breathing apparatus mainly used for internal firefighting et cetera. Presently volunteer firefighters are issued with what we call a P2 smoke mask, which is suitable for vegetation type fires. That P2 mask meets an Australian-New Zealand standard which blocks particles that are generated either mechanically or thermally. It blocks particles from burning vegetation. It blocks particles from welding fumes or grinding or anything like that. The P2 mask is a carbon filter type mask which fits around the face and is held on by straps. The P3 mask is a different type of mask altogether.

The next level of respiratory protection is the P3 mask. It is a rubberised full face mask which covers the entire face and it has canister filters fitted to it that they breathe through. It is another step up from the P2 because it stops smaller particles and, using the right type of filter, it will also stop

some sorts of fumes. That is issued to the permanent and auxiliary staff because of the types of incidents that they attend. To give you an example: firefighters would use a breathing apparatus to extinguish internally a structure fire, say a house fire. Once that is done and it has been put out, the firefighters may then don the P3 style mask to do damping down, because there are still certain fumes and particles that come off that burnt material.

In regard to vegetation type fires, which are the majority of fires that volunteers go to, there has to be a trade-off between what is respiratory protection and what is high level respiratory protection which then brings in other issues, and one of those is heat stress. If you can imagine being at a fire for 12 hours at least where you have a paper style carbon mask, which is quite easy to wear and does meet an Australian standard for bushfire smoke, as opposed to having to wear a full face mask for that amount of time in high heat, it is quite a stressful situation. The other issue we have with that is that, because the P3 style mask has to fit to your face, that means that the wearer cannot have any facial hair of any description and must be clean shaven at all times. This is certainly not an aspect of the respiratory protection but it is a trade-off for our volunteers—and there are quite a number of them who like to wear beards or partial beards or moustaches et cetera. If we were to go down that P3 line, they would have to eliminate all of that which would be quite difficult.

The maintenance of those P3 style masks is quite arduous. They have to have a facial fit completed twice a year in case the face changes. They have to have the right facilities to wash those masks and sterilise them and then dry them in a certain way as well. That is quite easily done at the permanent and auxiliary stations because they have that set up. There are quite a number of rural fire brigades that do not even have a fire station. Of the just over 1,400 brigades, there would be approximately 420 who actually have a fire station to do that in. So there are a lot of other questions that it poses as well. Going back to the P2 style mask, as I said, it does meet the Australian-New Zealand standard for the type of work that we expect the volunteers to undertake.

**CHAIR:** I am very conscious of the time, so I want to make sure that we are bringing the questions back to the issue at hand. Do you want to join the dots, Michael, or was there something else you wanted to ask?

**Mr CRANDON:** One of the other issues that we noted here was: has the department considered whether the impact of the type of equipment provided will increase their liability to volunteer firefighters? That is the second part of the question that we had in our documentation.

**Deputy Commissioner Roche:** I might get Peter to provide some more clarification on the last issue. The P3 masks are what we call a negative pressure mask as opposed to our self-contained breathing apparatus which is a positive pressure mask. Positive pressure blows out whereas with negative pressure it can get in from the outside. That is why you need the face fit. The other part that I will ask Peter to provide an explanation on is what we are doing in relation to our volunteers' access to high protection—that is, from a P2 to P3. We are going through a process. The P3 mask is something that has been introduced to urban fire and rescue only in the last few years. I am not sure specifically, but over the last three to four years there has been a greater use of them. But we are implementing and doing trials of P3 around the state. Peter might have more details about where that is occurring.

**Assistant Commissioner Varley:** There are approximately 24 rural fire brigades across the state who are going to undertake a trial of the P3 style canister masks. It is right across the state. We are waiting on the completion of a training program to suit volunteers for that trial. It will begin firstly in the far northern region and move down through the state.

**Mr CRANDON:** The last part of my question is: have you given any consideration to what the impact would be on the type of equipment provided?

**Mr Goldsbrough:** In terms of work health and safety, no. That is a specific issue for Queensland Fire and Emergency Services. But I think the issue that Peter raised is a valid one in terms of dealing with the volunteers. If P3 masks are used, they are going to have to mitigate the risk of facial hair. They are going to have to make sure there is ongoing training, that the masks are fitted twice a year and so on. They would be their duties under the Work Health and Safety Act in relation to those volunteers.

**Miss BARTON:** I had a quick question about the P2 masks. They are designed to meet a minimum Australian and New Zealand standard in terms of what you expect volunteers to do—so that is grassfires, for example. What about, for example, a volunteer firefighter in an iZone? We heard from someone on the Gold Coast who was called out because someone thought there was a grassfire in the cane fields. They got there to find that someone had lit a car. It is not necessarily something

that is in their remit, but they have been sent out there because there is an expectation that it is a grassfire and the protective equipment they have been given is for a grassfire. Does the P2 mask then meet the standards that you would expect if someone were fighting a car fire, for example?

**Deputy Commissioner Roche:** We would expect that they would take whatever actions were necessary to keep them safe—that is, evaluate the situation and keep up wind. They would probably fight the car fire very differently. Situations like that do occur around the state. The normal response to a car fire is not normally a volunteer brigade. It does occur. But it is more about the protection of them. Even with the P2 mask and the P3 mask, they only provide so much protection. In that case if our firefighters were going very close and even internal to the vehicle or were right at the window, they would generally have a self-contained breathing apparatus, and there are so many other safety aspects that they would need to take into account as well.

**Mr PEGG:** I just wanted to ask what plans, if any, you had about future research into the medium and long-term medical effects of fires on firefighters. Does the department presently have any plans?

**Deputy Commissioner Roche:** Queensland Fire and Emergency Services currently have a scientific research section. There are some very high-quality and very experienced scientists involved in that. They are also very much about not only the planning but the operational side of things. They continually do research about exposure of all firefighting particulates not only within Queensland but also very well-known nationally and internationally. So we constantly have a vast range of programs in place to identify not only the research but also the outcomes, better practice and better equipment as a result of that research.

**CHAIR:** Craig, did you have a question?

**Mr CRAWFORD:** No, I am good thanks, Chair.

**CHAIR:** Pat?

**Mr WEIR:** I think we have just about exhausted it.

**CHAIR:** I think we possibly have you will be relieved to know. The time allocated for this public departmental briefing has expired. If we require any further information, we will contact you. For those questions on notice that we have raised today, could we please have those back by Wednesday, 26 August? Thank you very much for your attendance today. We really appreciate your assistance. I just reiterate that we are very conscious of the enormous amount of work that you have put into providing responses to us and it is greatly appreciated. I declare this briefing closed.

**Committee adjourned at 4.54 pm**