



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

**HOUSE OF
REPRESENTATIVES**

STANDING COMMITTEE ON EMPLOYMENT AND
WORKPLACE RELATIONS

Reference: Aspects of workers' compensation

WEDNESDAY, 23 OCTOBER 2002

CANBERRA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

HOUSE OF REPRESENTATIVES
STANDING COMMITTEE ON EMPLOYMENT AND WORKPLACE RELATIONS
Wednesday, 23 October 2002

Members: Mrs De-Anne Kelly (*Chair*), Mr Bevis, Mr Dutton, Ms Hall, Mr Hartsuyker, Mr Lloyd, Ms Panopoulos, Mr Randall, Ms Vamvakinou and Mr Wilkie

Members in attendance: Mr Bevis, Mr Dutton, Ms Hall, Mr Hartsuyker, Mrs De-Anne Kelly, Ms Panopoulos, Ms Vamvakinou and Mr Wilkie

Terms of reference for the inquiry:

To inquire into and report on:

Matters that are relevant and incidental to Australian workers' compensation schemes in respect of:

- the incidence and costs of fraudulent claims and fraudulent conduct by employees and employers and any structural factors that may encourage such behaviour;
- the methods used and costs incurred by workers' compensation schemes to detect and eliminate:
 - a) fraudulent claims; and
 - b) the failure of employers to pay the required workers' compensation premiums or otherwise fail to comply with their obligations; and
- factors that lead to different safety records and claims profiles from industry to industry, and the adequacy, appropriateness and practicability of rehabilitation programs and their benefits.

WITNESSES

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Committee met at 10. 47 a.m.

FRASER, Mr Duncan, Chairman, Industrial Committee, National Farmers Federation

HARRIS, Miss Denita Anne, Policy Manager and Industrial Relations Advocate, National Farmers Federation

CHAIR—I declare opening the public hearing of the inquiry into aspects of workers' compensation. Today we would like to welcome Mr Duncan Fraser and Miss Denita Harris from the National Farmers Federation. Thank you for taking the time to join us today. The proceedings here today are formal proceedings of the parliament and therefore warrant the same respect as proceedings in the House. We prefer that those appearing before the committee give their evidence in public. However, if there are some matters that you would like to submit in a private setting, if you ask the committee, we will certainly consider that request. I invite you to make some opening remarks and then we will move to questions from the committee.

Mr Fraser—Thank you, Madam Chair, for the opportunity to appear before the committee today. The National Farmers Federation has concentrated its submission on a particular component of this inquiry—namely, the factors leading to different safety records and claims profiles and the adequacy, appropriateness and practicability of rehabilitation programs and their benefits. The cost of workers' compensation is a major concern to Australian farmers. Farmers are paying exceptionally high workers' compensation premiums. We do acknowledge that we are an industry that has a higher than average injury record. However, while the number of injuries declines, our workers' compensation premiums remain at a substantial rate.

In the recent Workplace Relations Ministers Council comparative performance monitoring fourth report, agricultural industries injuries per thousand employers had reduced by four per cent on the figures for 2000-01, one of the highest reductions across all sectors, yet our premiums rates remained the highest for all industry sectors and did not reduce. There has been a significant pursuit of improvement of the safety record of the agriculture sector by the industry. We contribute through levies to research and development corporations and occupational health and safety research and are also involved in organisations such as Farmsafe Australia and state organisations.

The National Farmers Federation recognises the role that the federal and state governments play in assisting with occupational health and safety. However, we believe there are actions that can be undertaken to not only reduce the incidence of injury but also ultimately reduce the cost of workers' compensation premiums. This can be undertaken through strategies developed for occupational health and safety and workers' compensation. The National Farmers Federation has identified measures such as a discount on premiums as a good example of where workers' compensation jurisdiction can assist in this regard.

The agricultural industry faces particular problems with rehabilitation, return to work and alternative work options due to the lack of access to services and the restrictive nature of employment opportunities in regional Australia. As a result, we experience the highest cost of claim per injured employee of any industry. We are seeking from all jurisdictions assistance to regional Australia in resolving this issue.

The National Farmers Federation commends the action of the Minister for Employment and Workplace Relations in announcing an inquiry into workers' compensation by the Productivity Commission. We believe this opportunity will enable us to consider in detail the impact of workers' compensation on farming businesses and recommend how problems may be overcome. We look forward to the commencement of the inquiry and to receiving the full terms of reference. The National Farmers Federation welcomes any questions from the committee.

CHAIR—Thank you, Mr Fraser. Miss Harris, would you like to make a statement to the committee?

Miss Harris—No thank you, Madam Chair.

CHAIR—We will proceed to questions. I will start on my right with Mr Wilkie.

Mr WILKIE—I see that the submission specifically talks about a certain aspect of the inquiry. I am curious, as I used to have a farm myself. Out there in rural areas, often because you are in tight-knit communities, I imagine it would be pretty hard for an employee to actually get away with being fraudulent because they are under such scrutiny. Has it been the experience of your members that fraud is not a huge issue for workers on farms?

Miss Harris—Certainly, when we raised the issue of fraud, it was not a major issue with our member organisations in comparison to the rehabilitation and premium costs. Therefore we thought that, because there was not evidence coming through from our members on the fraud issue, we would concentrate on the area that we have concentrated on in our submission. However, there have been a number of comments since then that fraud may be occurring, but we need evidence to substantiate any claims. So we have considered looking at the fraud issue if that comes up within the terms of reference of the Productivity Commission. That may then provide us with more time and opportunity to look at the particular fraud issue. But certainly fraud has not been the priority in terms of the issues raised amongst our membership.

Mr WILKIE—I see there that sometimes employers are having trouble getting employees to comply with rehabilitation regimes or requirements. What are the sorts of barriers to getting them to comply? What are the problems?

Miss Harris—There is a broad range of problems. Obviously part of it is exacerbated by a lack of access to rehabilitation providers. In many respects, it is a long way to drive to get rehabilitation to access those services. Therefore, that is a barrier to ensuring that rehabilitation takes place on an ongoing basis. I guess the other problem is that for the most part farming businesses are small businesses. Therefore, it is very hard for the farmer to spend quite a considerable amount of time with any injured worker to ensure that they are complying with the rehabilitation. Obviously in many respects they may be covering for that injured worker themselves. Therefore, their workload is very hard. So it is a combination of a number of factors. Certainly, access to readily available rehabilitation services is the ongoing complaint of our membership.

Mr WILKIE—I take it from what you are saying, and from what I have understood from being able to witness people out in the remote communities, that often it is not that they do not want to comply with rehabilitation; they just find it difficult because they have to travel and there are other barriers.

Mr Fraser—That is right. I am a farmer from south-western New South Wales. From personal experience with my shearers, I had an example where a shearer had a cyst on his spinal cord. He was operated on. He was offered return to work rehabilitation strategies which were totally impractical and involved him travelling long distances. What was offered was not suitable for his occupation as a shearer, so he declined to take them and basically sat it out until he was well enough to go back to light duties within the shearing shed. That is the issue; with a lot of rural employment categories there are no suitable light duty options available. They really just have to sit it out.

Mr WILKIE—I suppose the farmers themselves would have to take out their own policies for injuries on an individual basis, as opposed to workers comp, wouldn't they, or do you have a scheme as part of the federation?

Miss Harris—No, we do not. They have to take out their own sickness/injuries. In some respects, the statistics that come through farm injuries for workers' compensation do not cover the employers or the family of the family-run businesses.

Mr WILKIE—That would be very difficult.

Mr BEVIS—On page 12 of your submission you refer to a significant drop in injuries between 1995-96 and 1999-2000. There has been a 20 per cent reduction. Is that a reduction in the number of claims filed or is that a reduction in the dollar value of the compensation paid?

Miss Harris—My understanding is that it is a reduction in the number of claims.

Mr BEVIS—I imagine the premium costs which are linked in the same sentence to that would be linked not to the number of claims but to the dollar value of the compensation.

Miss Harris—That is correct. The cost of injury has remained relatively stable even though the cost of injury has reduced, and that is part of our problem and concern with the rehabilitation issues. Because we are finding it very difficult on rehabilitation and return to work, the cost of the workers comp claim per se is very high for our industry. That is therefore affecting the premiums.

Mr BEVIS—Would you have data on the same period of time and what the actual total value of the compensation is?

Miss Harris—Certainly the information has been provided by the Workplace Relations Ministers Council report. I would have to double check. In some years, they gave more information than others. I will certainly take that on notice.

Mr BEVIS—I am interested in your comment about the cross-border protection issue. Could you expand on that.

Miss Harris—Certainly. It is our understanding that in some jurisdictions, but not all of them, where a team of workers may be working in one state and they are covered in one state, if they go across to another state, they will not be covered. My understanding is that across Victoria and New South Wales there is coverage but that across South Australia and Victoria there is not, for example. That is particularly prevalent in moving teams of shearers from one

state to another. I understand that it is the case in fisheries as well with people going into various areas. Certainly there is an ad hoc development of recognising workers' compensation coverage from one state to another and moving teams of employees. That is of particular concern, obviously, in properties where they overlap state jurisdictions and where there are teams of workers on contract work.

Mr BEVIS—If you have got properties that straddle state borders and you have people working on that property employed—the property is, say, on the Queensland and New South Wales border—in Queensland because that is where the homestead is but they are working on what amounts to the same property, they could fall into that same trap?

Miss Harris—Yes.

Mr Fraser—It would be very tempting to shift it to Queensland because their workers comp premiums in agriculture are one-third of those in New South Wales.

Mr BEVIS—A lot of good things come from Queensland!

CHAIR—I can't argue with that!

Mr BEVIS—The chair and I are of the same mind when it comes to Queensland. I was pleased to see the focus on good work practices—occupational health and safety practices preventative strategies—and the question of rehab, which I think are very important parts of this. Another question I have follows from Mr Wilkie's comments. A lot of your members will be in provincial or rural areas where facilities for rehabilitation are not that plentiful. Have you looked at other delivery methods or do you have ideas on how people in rural, regional and less remote parts of the country might get advice or assistance even if they cannot get literally hands-on application?

Miss Harris—There are obviously a number of ways in which that can be undertaken. One is preventing in the first place and being far more focused on occupational health and safety.

Mr BEVIS—That has got to be the smartest way of doing business.

Miss Harris—That is obviously a far more cost-effective way of doing it. Obviously, there still will be injuries that occur. We certainly are looking at various different online information processes. There are a number of studies that are looking at assistance in that regard. The current regional business development analysis undertaken by the Department of Transport and Regional Services is looking at innovative ways in which regional businesses, particularly farming businesses, can access services, including these types of rehabilitation services, where they might be at least coming into town once every two months rather than not at all. So we can at least get some specialists into an area at certain times of the year, which would therefore minimise some of the costs.

Mr BEVIS—I have a very scant knowledge of remote medical facilities provided by doctors and institutions in capital cities for medical practitioners in the bush. My scant knowledge is no more than having seen the Brisbane end of it when there was a launch of it being done. They have doctors, as it were, online with other doctors in remote areas. Is that a useful model—I know it is not as good as having a doctor with the specialist skills in your location—that has

provided improvements in the delivery of general medical services? Could it be used to give us some pointers on how specialist rehabilitation services might also be delivered?

Mr Fraser—It probably could be expanded to that as communications hopefully improve and as the quality and consistency in rural areas improve. At the moment, it seems to be focused more on specialist medical advice going out there. The general rehabilitation needs to be more on the ground out there. It is the old problem of attracting suitably qualified people to those areas.

Returning to your question on rehabilitation and return to work, in New South Wales the farmers have worked closely with the state government. They ran a couple of pilot schemes to promote return to work rehabilitation projects. They ran one in Sydney and one in a rural area as a pilot. We were actively involved in it and encouraged it as part of the state government's push to reform the workers' compensation scheme in New South Wales. So there is work being done there at the moment, but there is a lot more that can be done.

Mr HARTSUYKER—I have a question on the injury graph. What are the typical or most common farming injuries that occur?

Miss Harris—It is a broad range. A lot of them are repetitive strain injuries. There are obviously also accidents utilising mechanical equipment. For example, at one stage there was a very high injury rate resulting from tractor rollovers. We now have the rollover protection system in place, where it is a requirement for all tractors to have special cages; you may have seen them. As a result of that, the injuries have reduced substantially.

Mr Fraser—And fatalities.

Miss Harris—And fatalities have reduced substantially. So it is varied. There are also issues regarding things like falls from high levels, such as silos and so forth, and windmills. There is a broad range of injuries simply because of the broad nature of activities undertaken on farms. Another issue concerns the age of people being injured. It also has an impact somewhat because the age of farmers and the age of some of the staff working for them is much higher. Therefore, the labour intensive nature of the work, coupled with age, seems to also be a factor in facilitating a higher injury level.

Mr Fraser—That is an important factor, especially with tractor accidents, which are probably the major cause of farm fatalities. They are the result of tractors rolling over or rolling forward and crushing the operator. Statistics certainly from Victoria and New South Wales show that the majority of those fatalities relate to people over the age of 60. Obviously reaction times slow down a bit. You have also grown up in times when there has been less emphasis on safety practices on the farm. They probably get to the stage where they do not believe they need to be that concerned. It is a big factor; it is a problem. They have had to keep running the farm as the operator because they have no-one to come in behind them. They cannot afford labour. It is a very prevalent statistic that is of concern.

Miss Harris—One big area of concern at the moment that is resulting in high injury levels is the four-wheelers. There is currently work being undertaken with the manufacturers. Honda have recently put out a special guide on how four-wheelers should be driven because of the high number of injuries that we are currently seeing.

Ms PANOPOULOS—Under heading 3, workplace safety, in your submission you say it is obviously difficult to reach farm workplaces to give them information and there needs to be ongoing research into alternative ways to promote occupational health and safety. Do you have any ideas in relation to this? I can understand the difficulty, having a rural electorate. Has anyone come up with anything innovative? Do you have any recommendations?

Miss Harris—There is a huge amount of work currently being undertaken. I have a pile of books here that talk about how we access the rural community and give them more education. As we talked about earlier, there were issues of online access to training. That obviously is expanding but again is reliant on communications improvements in regional areas. We are also trying to get additional funding to ensure that accessible farm safety management courses are being undertaken in rural and regional areas. That is undertaken by Farmsafe Australia. So we need to ensure that there is ongoing access to that training. That seems to be the best way of trying to utilise risk management in giving ongoing access to training and upgrading of training.

More importantly, it is also about having officers on the ground in a mentor role to ensure that, if they go to the training, it is actually being implemented. We find that sometimes the training they are given involves them being given a whole stack of checklists. If you are given a checklist and you go into an old shed that probably has not had anything tidied up for over 100 years, you say, ‘Where do I start?’ Sometimes we need to throw out the checklists and actually get down to basics. The issue is access to training but, more importantly, incentives to actually implement that training at the workplace.

Ms PANOPOULOS—Have you found a difference in the receptiveness of farm managers who have been doing it for 50 years and perhaps the next generation?

Miss Harris—The next generation is far easier to train. That is why a lot of the focus, particularly in rural schools, is a focus on occupational health and safety issues as they are going through primary school and high school and obviously through the rural agricultural colleges. It is harder to educate the older ones who have not come through that learning on an ongoing basis. However, we are certainly finding that it is easier to get the older generation to implement risk management structures if there is some monetary incentive. I refer, for example, to the Western Australian situation, in which you get a 15 per cent discount on your workers’ compensation premium if you attend a farm safety management course, you implement it, there is evidence you have implemented it and you have a safe record for 12 months. Once that has occurred, you then get a 15 per cent discount. That is a very good way of giving someone an incentive to undertake occupational health and safety risk management of their property. It has worked very well.

Ms PANOPOULOS—You also make significant mention of the problems in accessing support services once an injury has occurred. Can you please expand on that.

Miss Harris—A lot of that is not so much access to a doctor; it is more access to physiotherapists and access to people who can train them to undertake alternative work. That usually is ongoing. You need to see a doctor perhaps once a fortnight or a surgeon once every six months, but with a physiotherapist in some of these injury cases you see them three or four times a week at the height of a particularly bad injury. If you are having to travel 200 or 300 kilometres or having the cost burden of staying in a city while you have that treatment, it is very hard to stay motivated. It obviously then has a huge impact on the cost and may well drag out

the rehabilitation of that particular worker. So while general medical services are important, what is more important is that day-to-day access to things such as physiotherapy and people who can provide alternative training for new work if you cannot return to your job.

Ms PANOPOULOS—We know how to deal with the situation where a farmer is close to a regional centre or town. But in the situation where a farm may be 400 kilometres away, what are your suggestions for dealing with some of these on-the-ground problems?

Miss Harris—Obviously we need to ensure that there is a recognition within, I guess, the premium levels that we will always have a problem with accessing services. As a result, the cost of the claim is going to be substantially higher. But the cost burden should not necessarily be on the employer to pay for that because we do not have access to those services and those services are dwindling. So there may well need to be consideration on the workers' compensation cover to consider how we can cover the problems associated with access and so that those costs are not necessarily totally a burden on the farmers.

Ms PANOPOULOS—Mention is also made in the written submission of very proactive research in implementing strategies to reduce injuries on farm workplaces. Obviously there have been publications prior to this committee inquiry. Is there any research that is current which the committee could have access to?

Miss Harris—There is a plethora of work. Farmsafe Australia, for example, is a tripartite organisation. It currently has 15 programs on anything from noise injury in terms of farmers right through to motorbike accidents and horse riding accidents. There is also a national farm injury data centre. That is an ongoing funded program to collect injury data so that we can focus on where gaps need to be filled. The other big area is the Rural Industries Research and Development Corporation. They spend approximately half a million dollars a year just on occupational health and safety programs. There is a board meeting next week to approve about six or seven new programs. They range from incentives to get farmers to undertake risk management, online technology, education, child injuries on farms and the utilisation of chemicals on farms. So there is a wealth of studies ongoing, and these are usually funded by industry and/or government through the research and development corporation. There is also additional occupational health and safety research undertaken by various research entities and universities. Certainly there are a number of studies I can refer to and send on to the committee that are indicative of the work that is being undertaken.

Mr Fraser—It is important to stress that a lot of these are put together by working groups consisting of participants from all sectors, including the farmers, WorkCover and AWU as the relevant union body. They seek to educate farmers about their responsibilities as an employer to employees and anyone who comes onto their workplace, the farm. It is about what their responsibilities are. It does not just finish with paid employees. It is very important to get through. As the employment rate tends to fluctuate up and down given the economic conditions, you might be reliant on family help or friends and things like that. There are still responsibilities there. We continue to stress that, too.

Mr DUTTON—I have a quick question in relation to the statistics available. On the fatalities and injuries that occur in a farm workplace, do you have a breakdown of the people injured who are, say, the owner of the property or the manager so that it is the employer as opposed to the employee, and by injury category?

Miss Harris—It is not quite as detailed as that. However, there have been studies to look at the number of injuries that occur on farming properties in total and what percentage of that is actually workers compensatable—that is, it is an employee as opposed to anyone else on the property. Those statistics show that about 20 to 30 per cent of injuries that occur on the farm are actually workers compensatable. The remainder are not.

Mr DUTTON—They would either be covered by private insurance or not at all?

Miss Harris—Private insurance or not at all. That is right. We have to realise that 98 per cent of farms are small businesses. In many respects, they will not have any employees at all. It would be fully family run. Because of the way in which farms are usually structured as family partnerships or trusts, family members are not deemed to be employees for workers' compensation. But obviously they may well have their own private insurance. So the workers comp figures provided will not necessarily reflect the total injuries, including fatalities, that occur on properties.

Mr BEVIS—On that same point, would that roughly 80 per cent of injuries which are not compensatable be because, as well as people being members of the family, people are engaged as contractors rather than employees?

Miss Harris—It would be. It also includes things such as people coming onto a property and injuring themselves on a property—for example, where there is an easement or something like that. The stats are very difficult to determine. For example, if someone has a hobby farm and they have an injury on their small tractor, that would be deemed to be a farm injury even though it is not a farm business-related injury. That is why the national farm injury data centre is trying to get a far better and more consistent way of analysing the statistics so that we can look at farm businesses per se rather than farms or regional areas in general. Those stats at the moment may well include injuries that occur on the roads within regional and rural areas. So that 80 per cent figure is not necessarily farm business related. It is hard to get those detailed statistics.

Mr BEVIS—Is contracting people more common or a growing way of conducting affairs rather than employing people?

Miss Harris—Yes, particularly with the growth of the horticultural industry.

Mr BEVIS—So that would account for some of that, then. As contractors, they would not be employees and therefore not covered by the workers' compensation system.

Miss Harris—The contractors are large contractors. For example, a shearing contractor may have up to 30 employees working for them. They are usually contractors in terms of teams. So the contractor themselves would have quite a substantial number of employees.

Mr DUTTON—It has probably always been a contract industry to a certain extent, hasn't it, because it is so seasonal and cyclical that the traditional employer-employee relationship, I would assume, has not always existed.

Mr BEVIS—If you go to the fruit picking areas around Queensland they are employees.

Miss Harris—It varies. In horticulture, for example, it varies in different states. In Victoria we are finding a big growth in the number of contractors for horticulture. But New South Wales, South Australia and Queensland still seem to prefer to employ their own people, mainly because of quality control.

Mr Fraser—There is a problem with the lack of detail in the statistics collected certainly by the insurance companies. We need to get a better idea about the break-up of injuries and what categories they apply to in getting information from the insurers. Certainly in New South Wales they cannot really provide them because they are not obliged to collect them. That creates a problem because you have injuries that can go across different sections within a category. It has partly been overcome with the introduction of classifications. Instead of just having one classification for farming and grazing, as existed in New South Wales until a couple of years ago, now there are about 15 or 20 categories. Hopefully, it will be easier to identify. But it has been a big problem until now. When you have had a particular injury, say in shearing, we have not always been able to say whether it was due to shearing on the board or the person was doing something elsewhere.

Ms HALL—The issue that really interests me about your industry is the occupational health and safety issues that surround it. I know you are in the industry with the second highest injury rate. I am wondering about the strategies that you believe need to be put in place to actually overcome a number of the problems. Given what you have just said about how the injuries and accidents on properties do not even come across in the workers' compensation figures and a lot of people would slip through the cracks, as an industry, what initiatives are you putting in place to combat this?

Miss Harris—There has been a broad range of initiatives over a number of years, but it really has been taken up with gusto in the last five years. There is an organisation called Farmsafe Australia that the farming organisations are heavily involved in. It was established by industry in conjunction with the union and the state government WorkCover authorities. As I was saying earlier, it has 15 programs currently in place. Many of them are occupational health and safety related in terms of the uptake of risk management. So there certainly is a wealth of information. I undertook earlier to provide a list of the types of strategies and research currently being undertaken in occupational health and safety.

Ms HALL—And initiatives in place to actually obtain a commitment from members of your organisation. Part of it is putting together those strategies. The other part is getting people to commit to it.

Miss Harris—That is right.

CHAIR—A division has been called in the House so we will have to adjourn the hearing.

Committee adjourned at 11.25 a.m.