

**Submission to the  
House of Representatives Standing  
Committee on Employment &  
Workplace Relations Inquiry into  
Aspects of Australian Workers'  
Compensation**

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NFF submission to the House of Representatives Standing Committee on  
Employment & Workplace Relations Inquiry into Aspects of Australian Workers'  
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# Executive Summary

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- The aim of workers compensation schemes should be to foster a safer working environment at a reasonable cost.
- The cost of workers compensation schemes is adversely affecting businesses throughout Australia, particularly farming businesses that pay substantially higher premiums than other industries. The costs being currently incurred by farmers for workers compensation insurance cannot be sustained particularly in the current climate.
- A review of workers compensation schemes and the ongoing increases in premium rates needs to be undertaken to determine whether there are any structural impediments to reducing workers compensation costs.
- There are specific agricultural industry factors that lead to the difference in safety records and claims profile against the all industry average.
- Workers compensation schemes need to recognise the work being undertaken on workplace safety and should provide incentives to encourage a broader uptake of those practices to reduce accidents at the workplace.
- The implementation of workplace safety best practice and a consequential reduction of injuries sustained on farms are not insurmountable but do require the assistance of government.
- NFF believes it is important to provide greater support for rehabilitation, return to work and alternative work options for the agricultural industry with the aim of reducing the costs associated with agricultural workers compensation claims.
- Government needs to play a role in facilitating workplace safety best practice. NFF believes that while it is important that industry maintains its proactive role, it is incumbent upon governments to ensure that legislative frameworks provide effective means to achieve the goal of minimising injury at the workplace. Further, governments should provide assistance and support to those who need special attention such as the agricultural industry.

# 1. Introduction

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The National Farmers' Federation (NFF) welcomes the opportunity to comment on the Inquiry into aspects of Australia's Workers Compensation.

NFF is the peak body representing Australian farmers at a national level. Farming is a very important part of the Australian economy, directly producing 21% of Australian's exports. NFF represents over 200,000 businesses that employ over 320,000 people. Approximately 98% of farming businesses are defined as small business.

A key NFF objective is to see farming workplaces maximise their productivity. Productivity improvements cannot be achieved unless there is investment in resources, including occupational health and safety. This is particularly important within the farming community as farms are recognised as high-risk workplaces.

NFF is committed to ongoing improvements with occupational health and safety on farms. We support all moves to enhance workplace safety. Workplace safety is an integral component of a productive enterprise.

The aim of workers compensation schemes should be to foster a safer working environment at a reasonable cost. Are there factors existing in the current workers compensation arrangements that lead to unreasonable costs for the farming sector? Do we need workers compensation structural change to assist farming businesses in achieving the aim of enhancing workplace safety on farms in Australia?

In considering these questions, NFF has determined to focus on one of the three issues contained within the terms of reference for this inquiry, that being:

*"To inquire and report on the matters that are relevant and incidental to Australian workers compensation schemes in respect of ... 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".*

An inquiry into these issues requires a review of workers compensation premium rates for the farming sector and resulting claims, the preventative measures being taken by the industry and the effectiveness or otherwise of rehabilitation programs.

Concentrating on this component of the House of Representatives Inquiry does not mean that NFF discounts the other issues raised within the scope of the inquiry. NFF is concerned about the incidence and costs of fraudulent claims. NFF is participating in a research project that will encompass these matters. The timeframe of this inquiry precluded the opportunity to include information on concerns regarding workers compensation fraud, however, the issue will be incorporated into a submission to the Productivity Commission Inquiry into Workers Compensation as recently announced by the Federal Government.

## 2. Workers Compensation Arrangements

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Workers compensation arrangements in Australia are complex and inconsistent. Although it is recognised that there have been some moves to remedy previously identified impediments and that State Governments understand the importance of achieving greater uniformity, there is still some way to go to achieve the required improvements. As a result, the cost of workers compensation is adversely affecting businesses throughout Australia, particularly farming businesses that pay substantially higher premiums than other industries.

The various legislative frameworks of workers compensation schemes impact on businesses differently between States and Territories. As a consequence the experiences of farmers in dealing with workers compensation varies making it difficult to make other than general comments on a national basis.

NFF has identified factors that exist within current systems that may lead to the differences in the safety records and claims profile of the farming sector in comparison to other Australian industries. Those factors are fund type, cross border protection, rehabilitation and premium rates.

### **Fund Structure**

Funds vary from central funds, approved insurers and a managed fund. Experience within jurisdictions varies as to what is the most appropriate style of fund. Negative and positive comments are made of all of the funds, however, the central theme is the importance of flexibility and the support mechanisms of the fund.

### **Cross Border Protection**

NFF believes it is imperative that workers compensation jurisdictions resolve the impasse on cross border protection. That is, we need to ensure that schemes accommodate full workers compensation coverage for workers employed in one jurisdiction who work in another jurisdiction. This is of particular concern to farmers where property may cross between two jurisdictions or farming workers who travel across borders to work.

## **Rehabilitation**

Rehabilitation (including return to work (RTW) provisions) differs across the jurisdictions. Some jurisdictions place certain requirements on employees that include potential penalties for not complying with rehabilitation requirements. NFF submits that it is imperative that all jurisdictions ensure that employees are provided incentives to fulfil rehabilitation requirements and in addition introduce penalties if employees do not undertake such programs. There should also be incentives and assistance for employers in implementing best practice for rehabilitation and RTW plans. This is particularly important for farming businesses located in remote and regional locations where support is difficult to access.

## **Premium Rates**

Although there is a minimal degree of difference between the average all industry premium rates between jurisdictions, even half a percentage point difference is a significant amount of money for employers. The question of why there are variations of rates between jurisdictions should be examined, particularly when considering the variation in rates of certain industries. This may lead to a conclusion that some jurisdictions provide better workers compensation arrangements than others resulting in lower premium rates.

When considering agricultural rates there is a marked variance between schemes. In 1999/00 premium rates for the agricultural, forestry and fishing industry were the highest across all industry sectors averaging 5.7% of payroll. The lowest for the industry was Queensland (3%) while the highest (8.5%) was in NSW. This compares to the all-industry average of 2.42%.<sup>1</sup>

Agriculture has seen even higher rates since 1999/2000 with rates climbing to as high as 12% for some sectors of the industry in certain jurisdictions for the 2002/03 period.<sup>2</sup>

The costs being incurred by farmers for workers compensation insurance cannot be sustained, particularly in the current economic climate being experienced by the agricultural industry. NFF recognises that agricultural work will always be a higher risk than other industries but the increases being experienced over the past few years are not justified considering the substantial amount of work being undertaken in the occupational health and safety area.

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<sup>1</sup> Workplace Relations Ministers' Council, Comparative Performance Monitoring, Third Report, Australia & New Zealand Occupational Health and Safety and Workers' Compensation Schemes

<sup>2</sup> NSW Workcover Industry Classification System, Division A, Agriculture, Forestry & Fishing, 2002-2003. Eg, Combined Grain, Sheep & Beef – 12.10%, Dairy – 9.86%, Sheep – 12.10%.

A review of workers compensation schemes and the increase in premium rates incurred over the past few years needs to be undertaken to determine whether there are any impediments to reducing premium rates.

One impediment is the lack of support by workers compensation schemes for the implementation of prevention measures that would ultimately reduce premium rates. The Heads of Workers Compensation Authority has previously stated that there is

*“support for the pre-eminent place of prevention related activities in the workers compensation system and commitment to the promotion of best practice approaches and activities which effectively address the question of prevention in a cost efficient manner”<sup>3</sup>*

NFF submits that this goal has yet to be achieved. A majority of the workers compensation schemes in Australia have yet to provide incentives for the implementation of preventative measures. NFF is concerned that there are minimal incentives in place for employers to actively pursue occupational health and safety best practice at the workplace.

An example of potential reform is in the area of offering discount rates for those who are undertaking preventative measures. Discounts on premiums should be introduced in all jurisdictions to encourage businesses to be proactive.

An example is the 15% discount negotiated for farmers with approved insurers in Western Australia if the farmers undertake the Managing Farm Safety Course, implement the Managing Farm Safety Plan and do not have a claim for twelve months following the introduction of the plan<sup>4</sup>.

Another example is the NSW Workcover premium discount scheme that provides discounts on premium rates including a special small business strategy to help those businesses with less than 20 employees.

These incentives need to be benchmarked to ensure that they are effective measures and that the incentives are sufficient to encourage employers to implement preventative practices.

Premium rates must be decreased to reduce the cost burden on farmers. There are a number of factors that impact on premium rates including workplace safety and rehabilitation that will be considered further, however, additional measures need to be considered by authorities to assist businesses in reducing costs.

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<sup>3</sup> Heads of Workers Compensation Authorities, Promoting Excellence, National Consistency in Australian Workers Compensation, Final & Interim Reports to Labour Ministers' Co, May 1997. p21

<sup>4</sup> The Farm Management Safety Course and Plan is undertaken by State Farmsafe organisations that are established between industry, unions, researchers and government.



## 3. Workplace Safety

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### General

The Industry Commission Inquiry into Workers Compensation in Australia (1994) concluded that

*“Existing workers compensation arrangements do not encourage desirable behaviour and their inconsistencies add to the problem.”<sup>5</sup>*

NFF submits that since the Industry Commission Report, there has been minimal movement by workers compensation schemes in the direction of resolving the concerns expressed by the Industry Commission.

Leadership is required of governments to cement the nexus between occupational health and safety and workers compensation. Government and industry have been working hard in recent years to implement performance driven OH&S practices at the workplace.

Workers compensation schemes need to recognise the work being undertaken on workplace safety and provide incentives to encourage a broader uptake of those practices to reduce accidents at the workplace and consequently reduce the number of claims.

### Agricultural Workplace Safety

Workplace safety is a major issue within the farming community. An inherent feature of agricultural production is the significant risk to the safety of the employer and employees. The farming industry is focused on the ongoing task of improving workplace safety.

There are various bodies established with the task of assisting the agricultural industry with occupational health and safety matters including Farmsafe Australia and the Farm Safety Research and Development Joint Venture. There are also significant research facilities concentrating on farm safety.

One of the difficulties with implementing workplace safety mechanisms on farms is that there are a wide variety of hazards, which impede easy adoption of occupational health and safety principles and practices.<sup>6</sup>

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<sup>5</sup> Industry Commission, Workers Compensation in Australia, Report No 36, 4 February 1994, p xxxi

<sup>6</sup> Fragar & Franklin, The Health & Safety of Australia's Farming Community, A report of the National Farm Injury Data Centre for the Farm Safety Joint Research Venture, p 11

Further, farms are one of the most difficult workplaces to reach by those who wish to provide support, including government bodies. It is recognised that there is an ongoing need for research into alternative ways of promoting occupational health and safety among farmers.<sup>7</sup>

The agricultural sector is being very proactive in research and implementing strategies to reduce the incidence of workplace injury on farms. One such example is the Managing Farm Safety Program (implemented in a number of jurisdictions) that is a 2-day training program that is consistent with contemporary risk management principles. Following the completion of the course, farmers are then recommended to implement the managing farm safety action plan.

The implementation of workplace safety best practice and a consequential result in a reduction of injuries sustained on farms is not insurmountable but does require the assistance of government. The agricultural industry does have a high risk to injury and does experience greater numbers of workers compensation claims than the all industry average. NFF believes that it is imperative that government provides assistance through various mechanisms including workers compensation arrangements to ensure that preventative action is taken to improve workplace safety.

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<sup>7</sup> Sandell & Reeve, *New Ways of Promoting Farm Health & Safety: Through analysing farmers' perceptions of risk*, Rural Industries Research and Development Corp, 2000, p viii

## 4. Rehabilitation

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The issues of rehabilitation and the importance of incentives were considered by the Industry Commission Inquiry into Workers Compensation in Australia in 1994. The Commission noted that

*“premium setting should be regulated by the workers compensation authority and encourage premium based incentives to improve preventive and rehabilitation strategies and innovation in premium settings.”<sup>8</sup>*

The issue to be determined is whether amendments to workers compensation schemes have been undertaken in working towards the above goal in respect to rehabilitation and what are the specific issues affecting agricultural businesses.

### General

Most jurisdictions have introduced incentives for employees to undertake rehabilitation and RTW programs, that is the suspension or withdrawal of payments. Requirements for employers in respect to RTW, on the other hand, are prescriptive and do not include incentives to implement appropriate RTW programs. A requirement to implement RTW programs in some jurisdictions applies to large businesses, however, there does not seem to be any jurisdiction providing incentives, particularly monetary incentives, for small business to implement rehabilitation best practice.

NFF is concerned that there is insufficient information for employers to ensure that they are aware and understand their responsibilities regarding RTW procedures. In Victoria, for example, this problem has been identified and new guidelines and a CD-Rom have been developed by Victorian Workcover to inform employers.

The Industry Commission noted that rehabilitation is most successful when employers and employees agree on a return to work program and treatments. They also noted that workplace rehabilitation is cost effective but you need to ensure availability of quality support services.<sup>9</sup> The provision of adequate support services for workplace-based RTW programs is questionable for farming businesses.

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<sup>8</sup> Industry Commission, op.cit., p XLII

<sup>9</sup> ibid, p XLV

The Heads of Workers Compensation Authority has recognised the important role of the regulator in assisting with RTW.

*"The Regulator should be responsible for the development and fostering of a culture which strongly supports and reinforces the expectation of return to work as a normal outcome."<sup>10</sup>*

NFF supports this principle and believes that more work should be undertaken to encourage employers and employees to implement RTW best practice. Further, specific consideration should be taken into account for increasing the access of support mechanisms for rural and regional areas where there is a high risk of workplace injury.

### **Rehabilitation in Agriculture**

Since the mid 1990s, Australia has experienced an improvement in the prevention of workplace injuries. Injuries in 1999/2000 in comparison to 1995/1996 were reduced by 20%; however, the cost of workers compensation average premium has increased by over 6% for the same time period.<sup>11</sup> It has been questioned whether workers compensation schemes and employers are utilising effective RTW/rehabilitation policies and practices?<sup>12</sup>

Injuries in Agriculture, Forestry and Fishing were the highest of all industries with 27.5 injuries to every 1000 employees in 1999/2000. This compares to the all industry average of 16 per 1000 employees.<sup>13</sup>

In 1995 workers compensation claims including rehabilitation costs in the agricultural industry were \$6920 per claim, which was 23% higher than the all industries average cost per claim. Agriculture experienced on average 51.8 days of lost work for each workers compensation claim.<sup>14</sup> The loss of productivity as a result of a high experience of workplace injury to the agricultural industry must be minimised and we require the assistance of government to achieve this aim including changes to workers compensation arrangements.

NFF supports the introduction of greater incentives for workplace rehabilitation practices, however, for that to be effectively implemented in farming businesses there needs to be special consideration to those who currently face difficulties in accessing the required support services.

The high cost of claims in the agricultural industry can be partially attributed to the lack of accessible support services including medical specialists, government authorities and claims officers.

<sup>10</sup> Heads of Workers Compensation Authority, op.cit., p 22

<sup>11</sup> Workplace Relations Ministers' Council, op.cit., p 1

<sup>12</sup> loc.cit.

<sup>13</sup> ibid, p 10

<sup>14</sup> Farm Health & Safety Research and Development Strategic Plan, April 2002, p 14

Concerns have been expressed about delays being experienced in dealing with workers compensation matters and lack of consultation that consequently increase the cost of the claim. A process to assist in the resolution of these problems could include the implementation of performance criteria and audit of agents. NFF further submits that there should be full accountability placed on costs of a claim and more aggressive risk management approaches being applied by insurers.

Injured workers in rural areas also face the problem of no or minimal alternative employment options if they cannot return to their old job. This is due to the high level of manual labour required in the agricultural industry limiting the alternative work options at the workplace or other businesses in surrounding areas. Problems of this nature also arise with injured seasonal casual workers, with work no longer being available to injured employees once they are able to return to work. NFF believes there are unrealistic expectations on employers to provide RTW options for casual employees who have been injured. Alternative RTW avenues need to be considered and addressed by claims agents to minimise the cost of the claim.

The difficulties associated with alternative employment are not a major issue being faced in metropolitan areas where access to retraining and alternative jobs is far more accessible. The lack of alternative work options for agricultural employees unable to return to their job contributes to the high cost of claims being faced by the agricultural industry.

NFF believes it is important that there is greater support in respect to rehabilitation; return to work and alternative work options for the agricultural industry with the aim of reducing the costs associated with agricultural workers compensation claims. NFF contends that the current system is inadequate and inappropriate for the farming community.

## 5. Conclusion

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Workplace safety is a fundamental objective for business. Government needs to play a role in facilitating workplace safety best practice. NFF believes that while it is important that industry maintains its proactive role, it is incumbent upon governments to ensure that legislative frameworks provide effective means to achieve the goal of minimising injury at the workplace. Further, governments should provide assistance and support to those who need special attention such as the agricultural industry.

There are specific agricultural industry factors that lead to the difference in safety records and claims profile against the all industry average. However, NFF believes that there are also external forces particularly workers compensation arrangements that contribute to that difference or do not assist in reducing the incidence and costs associated with workplace injury in the agricultural industry.

NFF believes there needs to be particular focus on incentives for preventative measures being introduced at the workplace including premium rate discounts and assistance for small businesses in implementing such measures. Assistance is of particular importance to the agricultural industry where access to support services is restrictive.

The introduction of certain rehabilitation requirements in most jurisdictions is to be commended. However, there needs to be a greater focus on assistance that could be provided to agricultural businesses where the current system is neither appropriate or adequate to produce effective outcomes.

NFF believes that the terms of reference for this inquiry covers only a small component of the concerns in respect to workers compensation in Australia. Farming businesses are being hit with substantial increases in premiums while trying to reduce the incidence of injury at the workplace with minimal government assistance that substantially varies between jurisdictions. NFF supports the recent announcement of the Federal Government to establish a Productivity Commission Inquiry into workers compensation in Australia.