

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates

2014 - 2015

Department/Agency: Treasury

Question: SBT 69-70

Topic: Asbestos Injuries Compensation Fund

Reference: written - 31 October 2014

Senator: Xenophon, Nick

Question:

69. The Asbestos Injuries Compensation Fund (AICF) was established in 2006 to administer the agreement between the New South Wales government, James Hardie and other liable companies in relation to payouts for victims of asbestos-related diseases. As part of its structure, the AICF has access to a loan facility to cover payments to victims in the event of a shortfall.
- a. Is it correct that, under the agreement, there is a requirement for the Commonwealth to provide half of the loan amount requested by the AICF?
 - b. When the AICF has previously drawn down on the loan, has the Commonwealth met this commitment?
2. The AICF has raised serious concerns that it will have to establish an approved payment scheme from 1 July 2015 because of a shortfall caused by a higher than expected level of claims. This will mean claimants will no longer receive lump sum payments but instead will be paid in instalments. The AICF has stated that this could be avoided if they could access the full loan amount of \$320 million.
- a. Has the Commonwealth had any discussions with the AICF or the NSW Government as to its obligations in this situation?
 - b. Is there any capacity for the Commonwealth to provide more than the 50 per cent commitment to ensure that the AICF can access the funds it needs to pay claimants in lump sums?
 - c. Given that the peak number of compensation claims could still rise beyond the estimates, as they have so far, does the government have a policy position on whether it is preferable to have payments made in lump sums or instalments?
 - i. Further, does the Government have a strategy to deal with a sharp increase in cases, where the AICF may simply not be able to meet its obligations?

Answer:

69.1.a. On 9 December 2010, the New South Wales Government entered into an agreement with the Asbestos Injuries Compensation Fund (AICF) to make available a loan facility to address potential funding shortfalls (the AICF loan facility). The Commonwealth has a

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separate loan facility with the New South Wales Government whereby the Commonwealth has committed to providing NSW with 50 percent of the funds that NSW is required to provide to the AICF under the AICF loan facility (also signed on 9 December 2010).

69.1.b. The AICF has drawn down on its loan with the New South Wales Government on a number of occasions. On those occasions, the Commonwealth has fulfilled its commitments under its loan agreement with the NSW Government.

69.2.a. The Commonwealth has had conversations with NSW and the AICF about the circumstances of the AICF and has had periodic conversations with NSW about the administration of the loan agreement between itself and NSW. The Commonwealth has no direct links to the fund. The obligations of the Commonwealth to NSW are as set out in the loan agreement between the Commonwealth and NSW.

69.2.b. The Commonwealth does not have any legal arrangement with the AICF.

69.2.c. The Government understands that asbestos claimants would prefer to receive lump sum payments from the AICF. The arrangements between NSW and the AICF were based on that being the preference. The Government does not have a policy position on whether it is preferable to have payments made in lump sums or instalments.

69.2.c.i. James Hardie remains responsible for the funding of the AICF.