Senate Standing Committee on Education and Employment

Inquiry into the

SAFETY, REHABILITATION AND COMPENSATION LEGISLATION AMENDMENT BILL 2014

Queensland Government submission

June 2014

Summary

The *Safety, Rehabilitation and Compensation Legislation Amendment Bill 2014* (the Bill) was introduced into the Australian Parliament on 19 March 2014. The objective of the Bill is to "reduce the cost of the regulatory burden on the economy by implementing recommendations of the Review of the *Safety, Rehabilitation and Compensation Act 1988* (the Review) commissioned by the former Government in 2012".

The amendment Bill seeks to achieve this objective by:

- removing the requirement for a ministerial declaration for a corporation to be eligible to be granted a licence for self-insurance;
- enabling certain corporations to apply to join the Comcare scheme;
- allowing a former Commonwealth authority to apply to be a self-insurer in the Comcare scheme and be granted a group licence if it meets the national employer test;
- enabling group licences to be granted to related corporations;
- extending coverage to corporations that are licenced to self-insure;
- excluding access to workers' compensation when injuries occur during recess breaks away from an employer's premises or a person engages in serious and wilful misconduct; and
- *Work Health and Safety Act 2011* to make technical amendments.

A key proposal is to implement recommendations made by the Review relating to eligibility for national self-insurance. The current eligibility test enables current and former Commonwealth authorities, and private corporations which can demonstrate that they are in competition with a current or former Commonwealth authority, to seek a licence to self-insure for workers' compensation purposes. The Bill will replace this test with a 'national employer' test for determining whether a corporation can self-insure through Comcare. The 'national employer' test that will set out the eligibility criteria for participation as a national self-insurer is yet to be made publicly available and Queensland has not been consulted.

The Queensland Government is of the view that the failure to consult State and Territory Governments prior to the introduction of the amendment Bill, has resulted in a Bill that has the potential to lead to increased red tape, increased costs and reduced productivity resulting from duplication and overlap in the regulation of work health and safety arrangements.

In relation to workers' compensation insurance, depending on the scope of the 'national employer' test, state and territory workers' compensation scheme may become more volatile as their premium pool shrinks, if large businesses exit these schemes for national self –insurance. The Amendment Bill will have potential impacts on business well beyond companies eligible for national self-insurance. In Queensland there are an estimated 138,000 private sector non-agricultural small businesses (employing fewer than 20 workers), many of these small businesses may not be in a position to absorb premium fluctuations from a reduced premium pool.

The Queensland Government has worked hard to ensure that all businesses, irrespective of size, has access to an efficient and cost effective workers' compensation scheme. To this end, Queensland now has Australia's lowest average premium rate of $1.20 per $100 of wages paid with good benefits for injured workers.

Until the Commonwealth provides some detail on the scope of the proposed 'national employer' test for determining whether a business is eligible to self-insure through Comcare it is not possible to undertake any actuarial analysis of the impact on the premium pool. Further, greater clarity and agreement is required on the enforcement of work health and safety laws, particularly in high risk industries such as mining where Comcare has no history or expertise in regulating this sector.

For example, the Commonwealth's health and safety laws contain no specific provisions for the unique risks of the high hazard mining industry and has not traditionally regulated in this space. This creates a safety gap where Commonwealth laws are non-existent and where Comcare inspectors are not competent to assess safety risks relating to this high risk work.

Numerous inquiries into Australian mine disasters over several decades and the recent Royal Commission into the Pike River mining disaster in New Zealand have established the need for effective industry specific mining safety and health regulation. The major mining states of Queensland, New South Wales and Western Australia who collectively account for approximately 90 per cent of mining activity in Australia have in recent years participated in extensive consultation and regulatory impact processes to identify and propose further best practice reforms to further improve mining safety and health. As part of these processes, Queensland recently completed a Consultation regulatory impact statement process that attracted 246 submissions.

It is essential that the Commonwealth consult States and Territories and reach agreement on the substantive matters related to workers' compensation and work health and safety before the Amendment Bill is debated by the Federal Parliament.

Impact on the Queensland workers' compensation scheme

The *Workers' Compensation and Rehabilitation Act 2003* (the Act) and *Workers' Compensation and Rehabilitation Regulation 2003* (the Regulation) establishes Queensland's system of workers' compensation. Under the Act, an employer must insure or self-insure against work related injury sustained by a worker of the employer where work is a significant contributing factor to the injury.

Queensland's workers' compensation scheme (encompassing both premium-paying employers and 26 self-insurers) covers approximately 150,000 employers and an estimated 2.1 million workers.

Two agencies administer the workers' compensation scheme:

- the Department of Justice and Attorney-General – implements the government's policy, regulatory and legislative agenda and manages the wider nexus between workers' compensation and work health and safety; and
- WorkCover Queensland is the sole commercial provider of workers' compensation insurance and claims services in Queensland and is the insurer for 90 per cent of the claims. There are 26 self-insurers who administer the remaining 10 per cent of claims lodged.

The Queensland Government is committed to maintaining low premium rates that contribute to Queensland's low tax status for businesses and work to attract new businesses and investment to the State. Over the last 10 years WorkCover either has consistently delivered the lowest or second lowest average premium rate for businesses when compared with all other state schemes. The 2014-15 average premium rate of $1.20 is the lowest in comparison with other State schemes.

The Queensland Parliament completed an Inquiry into Queensland's' Workers' Compensation Scheme in 2013. The inquiry was undertaken over a period of 48 weeks by the Parliament's Finance and Administration Committee and was informed by 246 written submissions received from

employer associations, individual employers, insurers, lawyers, unions, professional bodies, interest groups and individuals.

Volatility of premiums from year to year was an issue raised during the inquiry by small to medium businesses who may face significant cash flow problems when faced with unexpected changes in business costs.

The Committee considered self-insurance arrangements in the Queensland scheme and concluded that:

> *The Committee was conscious that the stability of the scheme is reliant on the majority of employers being in the scheme administered by WorkCover. The Committee considers that existing self-insurance arrangements are working reasonably effectively and therefore the Committee considered that little could be gained from making major changes.*

The opening up of national self-insurance will reduce the residual premium pool as large businesses leave State and Territory schemes. A reducing premium pool will contribute to increased volatility in the average premium rate over time.

This volatility is magnified when a business moving to national self-insurance is the dominant employer within an industry sector. Every accident insurance policy is given a WorkCover Industry Code (WIC). Each WIC has an average industry premium rate that impacts on all employers allocated to that WIC.

The industry rate for a WIC pool dominated by a single large employer will be heavily influenced by that single employer. If the dominant employer has a low claims rate then this will draw down the industry rate, if their claims experience is poor this will drive up the industry rate. If a dominant employer with a good claims history leaves the WIC pool then it is likely to result in an increase to the industry rate for the remaining employers. Conversely, a dominant employer with a poor claims history leaving the WIC pool is likely to result in a reduction to the industry rate for the remaining employers.

Until the Commonwealth provides some detail on the scope of the proposed 'national employer' test for determining whether a business is eligible to self-insure through Comcare it is not possible to undertake any actuarial analysis of the impact on the premium pool. Based on the known criteria of operating in two or more jurisdictions to be eligible for national self-insurance, an analysis of policy holders indicates that a substantial number of businesses will be eligible to exit the Queensland scheme.

Considering large employers alone, WorkCover Queensland has some 8,000 non-government employers with annual wages in excess of $1.5 million. If one-third of these employers (consistent with ABS data) employ in more than two states then more than 2,500 employers would be eligible to move to the Comcare scheme.

Based on 2014-15 projected premium this would result in a reduction in premium income of over $250 million (18 per cent of $1.4 billion premium pool). This reduction would invariably result in greater premium rate volatility and a higher average premium rate.

It is essential that the Commonwealth consult States and Territories and reach agreement on the scope of the 'national employer' test for national self-insurance eligibility before the amendment Bill is passed by the Senate on the Australian Federal Parliament.

Transfer to Commonwealth WHS jurisdiction

Since the Commonwealth opened up national self-insurance through Comcare, a small number of national businesses from a broad range of industry sectors have been approved for self-insurance including telecommunications, banking, road and rail transport, security services and construction and come under the Commonwealth's jurisdiction for work health and safety. The inclusion of these businesses in the Comcare scheme has been problematic for Queensland's work health and safety regulator in ensuring compliance in workplaces where a national self-insurer and contractors are both working. The overlapping safety regimes have created complexity and duplication, which have resulted in increased cost for both governments and business.

The Regulatory Impact Statement (RIS) prepared for the Amendment Bill mainly draws from Productivity Commission Inquiry Report No 27, March 2004 - *National Workers' Compensation and Occupational Health and Safety Frameworks* and the 2012 review by Mr Peter Hanks QC and Dr Allan Hawke AC, the latter being only a review of compensation issues.

The RIS indicates that there will be one work health and safety regulator for national self-insurers. However, State and territory work health and safety regulation may still apply at workplaces and to some workers and there is likely to be overlap and ongoing regulatory confusion. For example, at page li, the RIS notes that State and Territory laws can and do operate concurrently and Comcare enters into agreements with State and Territory regulators. It has been Queensland's experience over recent years that the overlapping safety regime cannot adequately be managed through a Memorandum of Understanding.

If a national self-insurer engages a contractor, the national self-insurer will have duties under the Commonwealth's work health and safety laws regulated by the Comcare inspectorate, while the contractor will have duties under State/Territory work health and safety laws regulated by the state or territory regulator, where the safety issue involves both the workers of the national self-insurer and contractor such as 'moving plant' on a civil construction site, then both Comcare and state or territory inspectors have a role under their respective Act's in resolution of the issue. The problematic nature of this interface is demonstrated by the following examples:

Asbestos issues associated with National Broadband roll-out during 2013
In 2013, WHSQ Inspectors responded to numerous complaints that contractors (some stated based and others national), working for Telstra as a principal contractor, had unsafely removed and disturbed asbestos materials within telecommunication pits as part of the National Broadband Network (NBN) roll-out. As a result, the work being performed was often subject to investigation by both Comcare and WHSQ Inspectors investigating possible breaches of both Acts. Similar situations occurred within other Australian states and territories.

In response to the complaints Comcare issued Telstra with a national improvement notice requiring them to "supervise contractors". In contrast WHSQ issued various statutory notices to individual contractors for incorrect use of personal protective equipment, uncontained asbestos contaminated dust being left in a public space for approximately 5 days, inadequate training of workers, use of high pressure water on asbestos containing materials and inadequate use of warning signs at the removal area. The enforcement responses were different but all contractors were performing the same type of work for Telstra.

Investigations revealed both Telstra and the NBN Co could not provide copies of documented safe work procedures expected of contractors in relation to asbestos removal work. As Telstra and the NBN Co were regulated by Commonwealth, WHSQ had to rely on Comcare to issue a national statutory notice requiring the development of such procedures.

In the end to ensure a coordinated approach between Comcare and WHSQ (and all other state and territories), a national response was coordinated through the Heads of Workplace Safety Authorities which agreed to a common approach to inspections and compliance, supporting audit tools, and worker training.

Wiggins Island coal export terminal

The construction of the Wiggins Island coal export terminal is a three billion dollar construction project between John Holland and Wiggins Island Coal Export Terminal Pty Ltd in the Gladstone region. The scenario of a falls from height incident of a John Holland workers means the current Queensland WHS regulator has no jurisdiction to address the incident or take enforcement action. This leaves the Queensland regulator in a position limited to providing advice to John Holland and notifying Comcare of the event. The lack of consistent application and monitoring of compliance with WHS laws creates a significant 'safety gap' with different standards being applied to the same work conducted onsite. In practice, the compliance and enforcement of these construction projects results in significant overlap of resources where both regulators need to visit for proactive and reactive reasons, even if joint visits are conducted this still presents an overlap in resources.

Airport Link Project

Workplace Health and Safety Queensland (WHSQ) and Comcare jointly regulated the $4.0 billion construction project located in Brisbane (Bowen Hills to the Airport). The project was a joint venture between Theiss Pty Ltd and a national self-insurer, John Holland. As Theiss was appointed as the principal contractor for this project they had overarching control of the project and held obligations under Queensland's work health and safety laws. On this project there was considerable debate on how WHS was regulated onsite and made it difficult to allocate responsibility when both pieces of legislation applied in relation to a single incident. This resulted in confusion in communication between parties particularly when emotive incidents occurred on site such as a work-related fatality. Due to the complexity of the contractual arrangements and jurisdictional overlap, both regulators needed to attend the site to determine who had jurisdiction. As a result there was a doubling up of any investigations that occurred in the tunnel which meant most witnesses were interviewed twice.

Enoggera Army Barracks

This construction project involved a $700 million upgrade to different areas of the defence base. John Holland is principal contractor and all subcontractors are subject to the state work health and safety laws. This has resulted in a double up in workplace inspections, inspection reports are also having to be prepared by both parties. John Holland has overriding control as principal contractor but management and control of construction projects rests with the sub-contractors. The site currently has two different laws applying to right of entry and it takes some time to work out which inspectorate has jurisdiction when incidents occur.

Capacity for compliance and enforcement in high risk industries

In a report produced by the Department of Education, Employment and Workplace Relations in 2009, titled 'Report of the Review of Self-insurance arrangements under the Comcare Scheme', paragraph 2.34 states, '*The Department proposes that, in assessing an application for a declaration of eligibility, Comcare's OHS regulatory framework would be examined to ensure it has the capability to regulate that corporation. In the current environment, the Department envisages that the new guidelines could preclude the granting of eligible corporation status to an applicant engaged in certain high-risk activities such as mining*.'

Further the report notes, '*3.18 While Comcare maintains it has the capacity to, and does regulate high-risk industries such as defence and transport, it was the Department's view that in some areas such as mining, Comcare presently lacks expertise*.' and '*3.19 Taylor Fry recommended Comcare's inspectorate resources be reviewed before any expansion in Comcare scheme coverage is considered, to preclude the possibility of creating a regulatory vacuum*.'

Under the Amendment Bill it may be possible for some of the large construction, manufacturing or mining companies to self-insure with Comcare and be regulated by them for work health and safety. Comcare inspectors lack the technical expertise to effectively regulate high risk industries such as construction, manufacturing and mining. In the large mining states including Queensland, the mining, petroleum and gas and explosives industries have their own specialist regulator.

WHSQ has adopted the 'modern regulator' approach to its compliance and enforcement activities. This approach:

- targets regulatory effort to priority high risk industry sectors and employers;
- directs appropriate resources to specialist areas and compliance activities in high risk work;
- focuses intensive compliance auditing to poor performers and priority industry sectors;
- resources education and raising awareness of WHS issues within industry using on-line materials and up-to-date technology as communication devices;
- develops relationships with complementary government agencies such as WorkCover Queensland so that business is provided with integrated injury prevention and management services.

WHSQ manages demand through an evidence-based approach to compliance activity. The harm index and heat maps target industries for intervention as follows:

- Manufacturing; transport and warehousing; and construction account for 39% of all serious claims and have a higher harm index than the scheme-wide average.
- Within the manufacturing sector, food product manufacturing, metal manufacturing (both fabricated and primary) and machinery and equipment manufacturing have the high numbers in both the index and claims. These subsectors represent 64.1% of all serious claims in Manufacturing or 11.6% of all serious claims.
- In the construction sector, two thirds of serious claims are in construction services (66.3 per cent) or 8.6 per cent of all serious claims.
- The transport and warehousing sector has 58.0% of claims represented by the road transport sub-sector, which also represents 4.5% of all finalised serious claims.
- The targeting of the six industry sub-sectors (within the priority industries) would potentially impact 7,500 serious claims which is almost a quarter (24.8%) of all serious claims finalised in 2009-10.

Both the Commonwealth and Queensland have adopted the model WHS laws, however there are in effect two different standards due to resourcing of these services. For example, Comcare does not have strong regional presence on the ground in Queensland which impedes their ability to be responsive to workplace events. This in turn can impact on the level of safety standards in industry, particularly where a duty holder determines they are unlikely to be actively monitored and held accountable if they fail to comply with WHS laws.

Comcare employs 39 inspectors (Comparative Performance Monitoring Report 15th Edition). At State level, Workplace Health and Safety Queensland had 216 active field inspectors to provide advisory and compliance services, with these inspectors located in over 20 offices throughout Queensland ranging from Cairns to Toowoomba and Robina. This broad regional based presence allows Workplace Health and Safety Queensland to be responsive and ensure adequate resources are available for investigation of incidents and other serious cases. In addition to the 216 work health and safety inspectors, Queensland has a further 95 inspectors dedicated to mining safety and health, petroleum and gas and explosives.

Having 39 inspectors nationally limits Comcare's ability to attend and respond at short notice to incidents in regional areas. In most cases regional areas is where Queensland is experiencing significant growth for major industries and construction work such as coal seam gas and coal export rail corridors and terminals.

While the Comcare scheme has a ratio of inspectors to employees comparable[1] to the other state and territory schemes, a small inspectorate nationally means it is not possible to provide meaningful inspection, advisory and enforcement services or compliance audits aimed at preventing workplace injury and disease. In addition there are significant differences in the level of work health and safety compliance and enforcement activities undertaken by the two inspectorates:

Compliance and enforcement activities 2011-12	Number of workplace visits: reactive	Number of workplace visits: proactive	Number of improvement and prohibition notices issued (combined)	Legal proceedings resulting in a conviction, order or agreement
Comcare	2143	557	417	5
Queensland general work health and safety inspectorate	2455	26091	8787	78
Queensland Mining/Petroleum and Gas/ Explosives Inspectorate[2]	365 (investigations)	5690 (audits and inspections)	1202 (statutory directions)	362 (prosecutions initiated only)

(Source: Safe Work Australia - Comparative Performance Monitoring Report 15th Edition)

The submission from the Department of Employment to the Senate Committee Inquiry notes at paragraph 36 that '*As new licensees join the scheme, Comcare will adjust and increase the regulatory workforce accordingly. The cost is funded by the licensees under its user pays model'*. The impact of additional inspector resources is not reflected in the current level of work health and safety compliance and enforcement activities.

[1] Safe Work Australia - Comparative Performance Monitoring Report 15th Edition, Indicator 13, page 18

[2] Queensland Mines and Quarries – Safety Performance and Health Report 2011-12 and additional information provided by the Queensland Department of Natural Resources and Mines

Specific issues related to the high risk mining sector

Mining, gas, petroleum and explosives businesses may be among those eligible to apply for national self-insurance. However, the practical impacts of implementation of the regulation of safety are not addressed in depth in the Commonwealth's RIS and mine safety is not addressed at all.

Queensland has four specialist safety Acts for the mining sector that deal with the unique risks associated with this high hazard industry. The four Acts cover safety in coal mining, metalliferous mining, petroleum and gas, and explosives. Numerous inquiries into Australian mine disasters over several decades have established the need for industry specific mining safety and health regulation.

More recently, a Royal Commission was established to enquire into the cause of an underground gas explosion at the Pike River Coal Mine in 2010 in New Zealand which cost 29 miners their lives. The Royal Commission found a key underlying contributor to the disaster was the application of general work health and safety laws which did not address high risk activities such as mining. Legislative reform processes in New Zealand had discarded the special rules and safeguards applicable to mining based on many years of hard-won experience from past tragedies. New Zealand is now implementing mining specific laws and strengthening the mining expertise of its inspectorate. The New Zealand Government has spent more than $20 million on its response to the mining disaster and costs of $80 million have been quoted to recover the bodies of the 29 miners who lost their lives.

The Commonwealth's health and safety laws do not contain provisions for the specific and unique risks of this high hazard mining industry. Over the last five years Queensland has participated in extensive consultation with industry and the other states through the National Mine Safety Framework to achieve consistency in mine safety regulation in Australia while recognising the unique requirements for effective regulation of that industry. The case for specific legislation and inspectorial expertise to address the unique requirements of mining was heavily debated. Most, if not all, major mining countries in the world have dedicated mine safety legislation and inspectorates.

In Queensland, resource sector work health and safety is regulated by the Department of Natural Resources and Mines, similar to arrangements in the other major Australian mining states of New South Wales and Western Australia. Queensland, New South Wales and Western Australia account for about 90 per cent of the mining activity in Australia.

There is the potential to create a safety gap where Commonwealth laws are non-existent or where Comcare inspectors are not competent to assess safety risks relating to this high risk work. For example, where a national self-insurer has contracts at a mine site, both State mining inspectors and Comcare inspectors will both have coverage of some aspects of the work, yet the Comcare inspector would currently lack the technical expertise and the legislative support to regulate mining safety issues.

Numerous other possible scenarios can also be provided to show potential gaps and overlaps which could compromise safety and health compliance and enforcement. For example, a scenario may even arise where the corporation is regulated by Comcare but key senior managers including the site senior executive at a mine site are regulated by the State because they are employed as independent contractors under a corporate structure rather than as direct employees.

Specialist expertise is required for technically complex operations like mining and each of these states have specialist resource sector inspectorates. The Pike River Royal Commission found that another underlying cause of the Pike River disaster was an inadequately resourced and skilled inspectorate. Major reforms of the Queensland mines inspectorate following the Moura No. 2 coal mine disaster in 1994, particularly around appropriate technical skills and resourcing, has led to significant improvements in safety in the Queensland resources sector.

In the absence of any Commonwealth work health and safety standards or skilled inspectors, the Queensland Government considers the risks to the mining industry should responsibility for work health and safety regulation move from the state jurisdiction to Comcare is unacceptable and will result in a substantial diminution of safety standards. The introduction of the Amendment Bill has ignored the initiatives of recent years by mining regulators and stakeholders in the major mining states of Queensland, New South Wales and Western Australia to further improve the mining regulatory frameworks for relatively complex, high hazard and large scale mining operations including in remote areas and increase consistency of regulation in key technical areas.

A recent Productivity Commission[3] report suggested that the main productivity gains occur through industry specific technical and regulatory consistency. For those mining businesses who become national self-insurers, there will be no arrangements for mines rescue for the coal industry, occupational licences for mining, specific regulations and standards to address hazards unique to mining and expertise of inspectors. Again, apart from the negative implications for mine safety, this will introduce a significant level of complexity in regulatory arrangements. Most of the productivity gains expected from greater consistency of safety and health laws across general workplaces across Australia have already been achieved.

Education and Awareness Initiatives

A key part of improving health and safety within industry is through the use of education and awareness initiatives to create a safety culture. The states and territories have been working more effectively and using an increasing reliance on education and awareness raising within industry of work health and safety risks through the internet, targeted communication campaigns and online materials. For example most jurisdictions used the highly successful Victorian 'work safe home safe' television advertising campaign. While jurisdictions shares these resources, Comcare has not been active in the education and awareness space and continues to rely on the states and territories for these materials. This is evident from the Comcare submission to the Senate Committee where education and awareness does not get a mention in their three programs of work.

More recently Queensland launched its electrical safety in ceiling spaces campaign - 'Stay safer up there, switch off down here'. The mass media campaign is aimed at homeowners and tradespeople who are urged to turn off all the main power switches at the switchboard before heading up into the ceiling space (http://www.justice.qld.gov.au/fair-and-safe-work/electrical-safety/staysaferswitchoff). This campaign cost over $1 million to produce and run for period of six weeks. In addition Queensland is currently finalising its second phase of the Homecomings campaign.

[3] Productivity Commission 2009, Chemicals and Plastics Regulation: Lessons for National Approaches to Regulation, Supplement to Research Report, Melbourne

Other innovative approaches are being undertaken by jurisdictions in an effort to achieve better safety outcomes and ensure compliance where required. For example, WHSQ has established transport safety networks in nine locations across the state. Over 250 members, primarily from the road freight transport industry, have attended to date to discuss issues such falls from trucks; loading, unloading and securing loads; hazardous manual tasks; and interactions between forklifts, other mobile plant and pedestrians. The networks facilitate cross-industry and government cooperation and create a positive forum to:

- identify barriers to safety
- share ideas and information
- collaboratively develop and test solutions tailored to the needs of the industry
- learn from one another.

The transport safety networks create an opportunity and environment for transport operators to work together to identify practical, low cost/high impact solutions to the common issues they all face. The networks also provide the opportunity for Workplace Health and Safety Queensland to provide guidance, assistance and targeted information to a priority industry sector in an efficient and direct way.

It is expected that Comcare's WHS coverage will expand with the entry of new national companies if the Amendment Bill is passed, however it is not clear if and how Comcare will manage to develop a modern regulator approach to their growing industry coverage.

Conclusion

The Queensland Government has worked hard to ensure that all businesses, irrespective of size, have access to an efficient and cost effective workers' compensation scheme. To this end, Queensland now has Australia's lowest average premium rate with good benefits for injured workers.

The Queensland Government is of the view that the failure to consult State and Territory Governments prior to the introduction of the amendment Bill, has resulted in a Bill that has the potential to lead to:

- increased costs and reduced productivity resulting from duplication and overlap in the regulation of work health and safety arrangements;
- a potential a safety gap where Commonwealth laws are non-existent and where Comcare inspectors are not competent to assess safety risks relating to high risk work such as construction, manufacturing and mining; and
- a reduction in the premium pool as large businesses leave State and Territory schemes which has the potential to contribute to increased volatility in the average premium rates over time.

Until the Commonwealth provides some detail on the scope of the proposed 'national employer' test for determining whether a business is eligible to self-insure through Comcare it is not possible to undertake any actuarial analysis of the impact on the premium pool.

It is essential that the Commonwealth consult States and Territories and reach agreement on these substantive matters before the Amendment Bill is debated by the Senate of the Australian Federal Parliament.