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# Liability Insurance Premium Increases: Causes and Possible Government Responses

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# Liability Insurance Premium Increases: Causes and Possible Government Responses

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# Contents

# Introduction

The Information and Research Service of the Department of the Parliamentary Library has received many requests from Parliamentarians for information and advice on the causes of recent increases in liability insurance premiums and possible courses of action for Government. Many constituents have contacted Parliamentarians about premium increases for liability insurance, and have reported that many non-profit and community groups have been faced with (in some cases) massive premium increases. These groups and organisations can not afford to pay higher premiums and have been forced to curtail their activities or cease them all together. Anecdotal evidence suggests that the cancellation of community events and cultural activities has been quite common in regional areas.

This paper provides:

- An overview of the insurance industry
- The causes of liability insurance premium increases
- Commonwealth and State Government powers to regulate insurance, and
- Possible reform options (both State and Commonwealth).

This paper does not make any recommendations over the possible reform options, nor does it analyse the response to date of the Commonwealth or State Governments. On the contrary, the options are laid out in order that Parliamentarians from all sides of politics can decide for themselves which, if any, they prefer.

## Liability Insurance Explained

Liability insurance protects the insured against the consequences of being legally liable for injury or damage to third parties. Such policies usually provide that the insured must take 'all reasonable precautions' to prevent the liability arising.

There are a number of types of liability insurance, including personal liability, public liability, professional indemnity, and product liability.

One of the features of liability insurance is its 'long tail.' This means that there can be many years between an injury occurring and the time an insurer receives notice of a claim.

For example, in Queensland, common law injury claims can be brought to court up to three years following the incident. This is followed by a further year to serve the legal claim and statement of claim. Hence, it can be up to four years after the event that an insurer receives notice of a claim. For children, the three-year time limit does not begin until the child turns eighteen. Consequently, twenty-one years can elapse between an injury and an insurer receiving notice of a claim.[1]

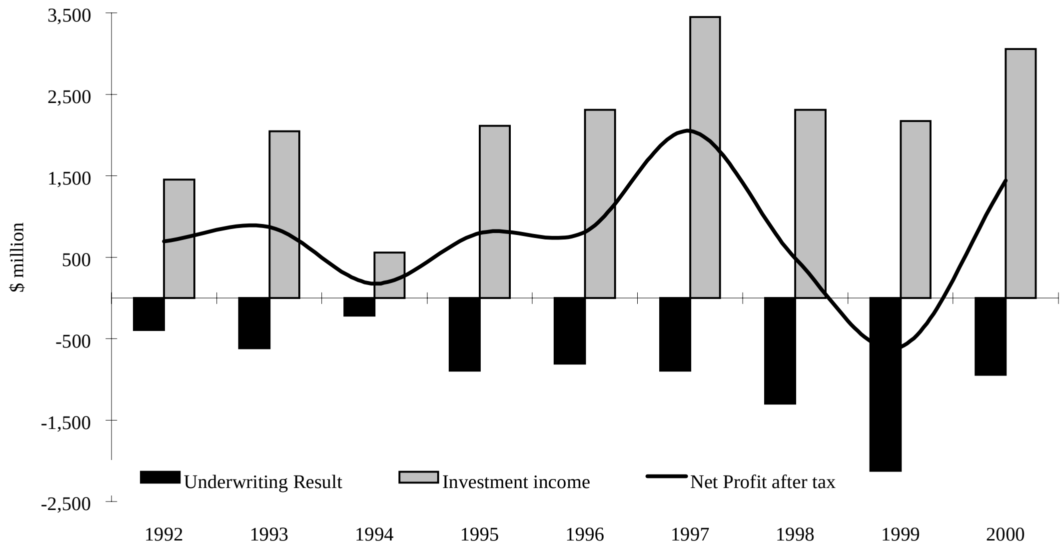
## Insurance Industry Overview

There is merit in examining how general (or non-life) insurance companies operate to give an insight into the forces that affect insurance premiums.

General insurance companies' activities can be divided into operating activities (that is, selling insurance) and investing activities. Revenues from operating activities include insurance premiums and reinsurance recoveries (that is, claims made by the insurance company on reinsurance contracts). Expenses from operating activities include claims, purchases of reinsurance, underwriting expenses and income tax. The revenues and expenses affect the company's operating performance, or underwriting result.

Insurance operations can be measured by the underwriting result, that is, premiums less reinsurance, claims and other underwriting expenses. The Australian general insurance industry made underwriting losses throughout the 1990s. For every dollar it received in claims, it paid out more than a dollar in claims and expenses. Australian general insurers, like the rest of the world insurance industry, offset underwriting losses with investment income. To look at things from a different perspective, general insurance is comprised of two businesses: selling insurance (and paying claims), and investing premiums. In the last decade, few insurers made profits on the selling of insurance (that is, they made an underwriting loss), hence industry profitability is driven by investment returns. During the 1990s, underwriting losses have been more than offset by investment income, enabling insurers to return overall profits while losing money on insurance business. Overall profits are sensitive to fluctuations in investment income such that industry has been generally dependent over the past 5 years on investment returns for profitability. This is demonstrated in Figure 1.

***Figure 1: General Insurance Industry Profitability 1992-2000***




Source: Australian Prudential Regulation Authority, *Selected Statistics on the General Insurance Industry*, various issues.

Reinsurance is the transfer of risk from an insurance company to a reinsurer. Insurance companies are exposed to large risks that cannot be supported by their capital. The impact of these risks is managed through reinsurance, in much the same way that a bookmaker lays off large bets to other bookmakers.

The *Insurance Act 1973* requires general insurance companies to have reinsurance. In many cases, this is purchased from offshore reinsurance companies. This business relationship integrates the Australian general insurance market with the international insurance market. This integration affects Australian insurers' revenues and expenses, and ultimately its underwriting result. For example, any increases in reinsurance costs that cannot be absorbed by insurance companies will ultimately be passed on to consumers in the form of higher premiums.

## Regulation of Insurance

State and Commonwealth Governments have the power to regulate different aspects of insurance. This division of responsibility causes some confusion. Each jurisdiction's responsibility is covered in Appendix 1.

## Causes of Premium Increases

Insurance premiums ordinarily increase in line with insurance claims. However, recent increases in insurance premiums for certain insurance policies can be attributed to the simultaneous interaction of a number of factors.

### The Upswing (or Hardening) in the Insurance Cycle

The insurance market has long been subject to pricing cycles. In this respect it is like the housing market in that it is subject to cyclical fluctuations caused by supply and demand. During the so-called 'soft market,' pricing may produce breakeven profitability or operating losses for some companies. This is then followed by a 'hard market' where insurance prices are relatively high. Then prices fall and a soft market slowly erodes profits continuing the cycle.[2]

Current market conditions—the market of rising premiums and falling capacity—was evident and worsening from the beginning of 2001.[3] On 11 September 2001, the *Financial Times* reported that the insurance cycle was hardening:

> Hard times are on the horizon. With underwriting losses mounting and investment income drying up, reinsurers are pressing for further price increases. Brokers have told insurers they should be prepared to pay more because the insurance cycle is approaching its peak.[4]

According to the *Financial Times*, the hardening of the insurance market has been caused by three factors:

- reduced supply (and stable demand) as a result of past losses,
- the growing requirement placed on reinsurers by their capital providers for a far more complex understanding of required return on capital in relation to risk, and
- increased technical understanding of pricing. Underpricing, that had been around for a considerable time, is being replaced by higher pricing.

### The Collapse of the HIH Insurance Group

The price of liability insurance has increased due to the collapse of the HIH Insurance Group. In March 2001, HIH Insurance Ltd and associated companies were placed into provisional liquidation. The HIH group comprised several authorised insurers that wrote many types of insurance including compulsory insurance. HIH was Australia's second largest insurance company with gross premium revenue of $2.8 billion.[5] HIH held a large share of the market for certain classes of liability insurance, particularly public liability. This market share was won through aggressively building market share through offering lower premiums. With this practice no longer operating in the market, premiums have increased.[6] The demise of HIH removed capital (and supply of insurance) from the industry. This contraction of supply combined with stable demand caused prices to rise. In addition, the few remaining companies that sell liability insurance in Australia have not adopted HIH's practice of selling at a discount, hence, policyholders that previously held policies with HIH will be faced with premium increases caused by more disciplined underwriting.

## Recent Terrorist Attacks in the United States

Insurance and reinsurance companies have pricing models that attempt to predict the probability of certain events occurring. Prior to 11 September 2001, many insurance companies provided cover for catastrophes, however, generally those contracts did not distinguish between natural catastrophes and man-made catastrophes, such as those caused by terrorism. In many cases, insurers and reinsurers have been providing insurance cover for man-made catastrophes but received no premium for doing so:

> Insurance industry leaders have described the events of Sept. 11 as inconceivable, unrealistic and beyond the limits of most people's thinking. If the industry learned one thing from Sept. 11, it was that it was not well prepared for the terrorist attacks on New York and Washington, D.C.[7]

And:

> All of a sudden, you had a risk emerge that never in the United States did we ever collect a dollar worth of premium to pay for or ever contemplated from an underwriting standpoint.[8]

The terrorist attacks in the United States forced the insurance industry to revise its underwriting in the following ways:

- Increase premiums to recover, over time, the estimated $US25 to $US30 billion (at least) in claims. These price increases are passed from reinsurers to Australian insurers to policyholders.[9]

- Underwriters are being forced to go back and review their policies to determine how best to predict or limit losses. There is a renewed focus on underwriting profitability through examining whether every contract generates an underwriting profit.[10]

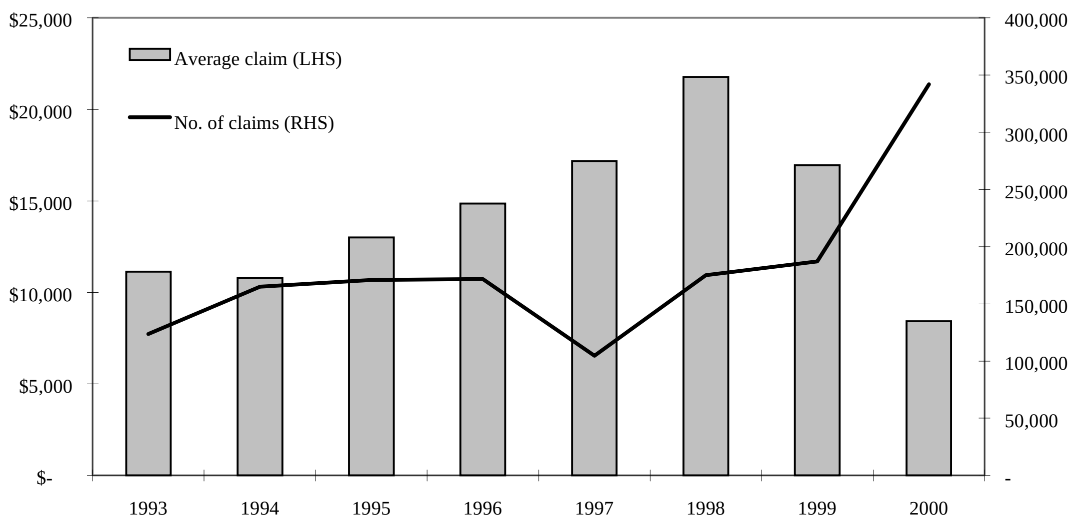
- Terrorism cover is no longer available.[11]

## Growth of Claims

Higher insurance premiums have, to a certain extent, been caused by the growth in claims.[12] As noted above, claims are one expense that affects insurance company profitability. It has been reported that the number of claims against public liability policies increased from 55 000 in 1998 to 88 000 in 2000, a 60 per cent increase, while the value of claims for the same period rose from $1.07 billion to $1.18 billion.[13] This figure does not reveal the full picture since liability insurance also includes product liability, employers' liability and professional indemnity insurance.

When considering all classes of liability insurance, the number of claims increased from 123 673 in 1993 to 342 000 in 2000. Over the same period, the value of claims made under liability policies also increased. The average claim under a liability policy was $11 138 in 1993, increasing to $21 773 in 1998. However, since 1998, the value of average claims has before fallen to $8429 in 2000, suggesting that in recent years, premium increases have been caused by factors other than increased claims. The claims history in liability insurance from 1993 to 2000 is illustrated in Figure 2.

***Chart 2: Liability Insurance Claims History 1993-2000***




Source: Australian Prudential Regulation Authority, *Selected Statistics on the General Insurance Industry*, various issues.

There have been suggestions that the legal advisers who offer to take cases on the basis of 'no win, no fee' lead to a more litigious community. This suggestion, when coupled with escalating damages awarded by the courts, causes a blow out in insurer's costs and forces premiums to rise.[14]

### Inadequate Risk Management[15]

Risk management aims at, among other things, lowering the incidence of personal injury and can ultimately reduce the incidence of claims. According to the Queensland Liability Insurance Taskforce, risk management is critical in any broader strategy to address escalating insurance premiums. According to the Queensland Liability Insurance Taskforce, many organisations do not adequately assess potential risk or seek to mitigate their risks, and such organisations will find it hard to obtain insurance either at affordable prices or even at all unless they demonstrate adequate risk management. There have been contrary suggestions that insurance companies charge premiums that do not take into account an organisation's risk management practices and claims history.

## Possible Commonwealth Government Actions

The Commonwealth could take a number of actions to reduce liability insurance premiums. The possible options are outlined in this section.

### Market (or 'Do Nothing') Response

The market response is to continue to let the insurance cycle run its course. According to this view, the industry is cyclical. High premiums will attract new entrants into the market, and the inevitable competition that will emerge will ultimately stabilise and ultimately reduce premiums. The attraction of this approach is that by the time that any measures are implemented to affect supply and demand (discussed below), the insurance cycle may have turned, producing a "softer" market, or lower premiums.

### Measures to Increase Supply

A number of measures can be taken to increase the supply of insurance. These are summarised below.

#### Government Underwriting: Uniform National Scheme

The Government could establish a scheme in which it underwrites liability insurance risks. Such a scheme would transfer liability from individuals to the Government balance sheet. The New Zealand accident compensation scheme is a uniform national scheme for liability insurance. Details of this accident compensation scheme are at Appendix 2.

The Whitlam Government attempted to establish a National Compensation Scheme modelled on the New Zealand accident compensation scheme. The proposed National Compensation Scheme was the ultimate recommendation of a Parliamentary Committee established to examine implementing such a scheme in Australia[16] modelled on the New Zealand scheme. The proposed scheme was to be funded by a fuel tax (offset by the abolition of compulsory third party motor vehicle insurance premiums) and a payroll tax (offset by abolition of compulsory workers' compensation premiums). Bills were introduced to establish the scheme but were defeated in the Senate in 1974.

### Government Owned Insurance Companies

Governments could boost the supply of insurance by adding to the capital in the insurance market by establishing government owned and operated insurance companies. This approach would be contrary to the trends of the last decade where successive State and Commonwealth[17] Governments have largely privatised government owned insurance companies.

### Underwriting Pools for Certain Policyholders

Governments could establish underwriting pools for particular types of insurance for particular policyholders. A number of models could be adopted, which are discussed below:

- *Comcover* is a Commonwealth underwriting pool operated by the Department of Finance.[18] Comcover provides more than 180 agencies within the Commonwealth general government sector with broad cover for all classes of general insurance normally available in the commercial insurance market.

- *The Joint Coal Board* is an organisation established by the Commonwealth and New South Wales Governments to provide workers compensation for the New South Wales coal miners. From 1 January 2002 the Joint Coal Board and the Mines Rescue Board were merged into a new private company called Coal Services Pty Limited.[19]

- *Pooling with Self Insurance*. Organisations would group together to form a mutual organisation and pool their funds to meet the cost of claims brought against member organisations. Examples of self-insurance arrangements include seven self-insurance pools operating among New South Wales councils, and the Queensland Local Government Association Mutual.

### Underwriting Pool for Particular Risks

The Governments could establish an underwriting pool to cover future loses caused by terrorism. In many instances, cover is no longer available for losses caused by terrorism. A model for this could be Poll Reinsurance Co. Ltd of the UK, a terrorism reinsurance pool established in the United Kingdom in 1993 following losses from bombing in London by the Irish Republican Army.[20]

## Measures to Reduce Demand

A number of measures could be taken by the Commonwealth to reduce the demand for insurance. These are considered below.

### Enact an Insurance Claims Act

Legislation could be introduced to set minimum standards for insurance claims. Such an Act could require that claims made by certain policyholders against insurance companies should be based on certain principles. The principles could be as follows:

- claims be made on the basis of 'utmost good faith'
- vexatious and frivolous claims would be prohibited, and
- penalties could be levied against lawyers and advisers who encourage making or pursuing claims where there is no reasonable prospect of success, or who encourage defence of claims where there is no reasonable prospect of a successful defence.[21]

Such legislation could preserve existing common law rights of litigants, and only require that those common law rights be pursued in an appropriate manner. In order that all of the details of such a legislative scheme are fully thought through, there may be merit in inquiring into the feasibility of such a scheme. The Australian Law Reform Commission may be a suitable organisation for conducting such a review.[22]

### Risk Management

The Commonwealth could amend the *Insurance Contracts Act 1984* to require insurance companies to charge premiums that both take into account an organisation's risk management practices and claims history. This could be done by clarifying the duty of utmost good faith (which covers all parties to insurance contracts and all aspects of insurance). This could remove doubt as to companies' obligations and force them to take greater care when pricing risks. An alternative approach could be to insert a specific duty into the Act to require insurance companies to take into account an organisation's risk management practices and claims history when pricing risks. This specific duty could be in addition to the more general duty of utmost good faith.

### Representative Action Against Insurance Companies

The Government could have used a provision in the *Insurance Contracts Act 1984* to take legal action against insurance companies that ignored risk assessment strategies and claims histories on the grounds that they breached the duty of utmost good faith. (The duty applies to all matters relating to contracts of insurance, including pre-contractual negotiations.) The *Insurance Contracts Act 1984* once enabled representative action to be taken where it is in the public interest and the insured has agreed.[23] The power to take representative actions on behalf of members of the public was repealed by the *Financial Sector Reform (Amendments and Transitional Provisions) Act 1998*. If the power was restored, the Commonwealth could take representative actions to test the application of the duty of utmost faith to insurance companies' pricing policies in relation to risk management and claims histories.

### Commonwealth Encourages State Tort Reform

Tort reform is an issue for State Governments. To limit insurance claims, State Governments could place legislative limits on damages claims. Unilateral action by different States could result in different limits applying in different jurisdictions. An alternative to unilateral State action could be for the Commonwealth to work with the States with a view to having unified claims laws and damages awards. This could be a matter for consideration at a meeting of the Council of Australian Governments. This approach has been endorsed by at least one State Government.[24]

## State Government Reform Actions to Date

The New South Wales and Queensland Governments established committees to examine options for reducing liability insurance premiums. The recommendations of the New South Wales report is at Appendix 3, and the Queensland report at Appendix 4. Other States are examining the issue, but have yet to publish any details.

## Conclusion

Liability insurance premiums have been rising since early 2001 in line with the movement in the insurance cycle. Poor risk management practices and rising claims have also contributed to premium increases, as well as two unprecedented events, recent terrorist attacks in the United States and the collapse of HIH insurance. The Commonwealth and State Governments have different legislative and legal responsibilities with insurance. These responsibilities lie in different areas making it possible for both levels of Government to respond in some way to insurance premium rises, should they see merit in doing so. Only time will reveal if a response is warranted.

## Appendix 1: Powers to Regulate Insurance

### Commonwealth

The Commonwealth's power with respect to insurance is set out in section 51 of the *Constitution*. It provides:

> that the Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to …
>
> (xiv) Insurance, other than State insurance; also State insurance extending beyond the limits of the State concerned:

Section 51(xiv) empowers the Commonwealth to prescribe conditions upon which any person may carry out insurance business of any kind and establish any mechanisms for the supervision of such persons and corporations and to regulate their affairs.

The Commonwealth uses this power to regulate insurance under the following legislation.

- *Insurance Act 1973*. This Act authorises companies to conduct general insurance business, and, in general requires insurance companies to meet minimum capital requirements and have sufficient resources to play claims (that is, be solvent).
- *Life Insurance Act 1995*. This Act provides for the regulation of life insurance companies.
- *Insurance Contracts Act 1984* regulates the relationship between the insurer and the insured.
- *Corporations Act 2001.* Following passage of the *Financial Services Reform Act 2001*, this Act provides for the consumer protection aspects of the marketing of insurance.

The legislation passed by the Commonwealth in respect of insurance does not set or limit insurance premiums (except for health insurance, which is regulated under a different set of laws). Consequently, insurance companies have no legislative limits on their premiums.

### States

State Governments have the power to regulate all that is not covered by the Commonwealth's insurance power. State Governments can:

- own and operate State insurance companies (however, generally, these have been privatised)
- regulate insurance under State statutes, for example, set maximum amounts on claims, establish procedures for the handling of claims, and establish price controls on premiums where the insurance is State insurance.

- regulate and set premiums for certain types of compulsory insurance, primarily workers compensation insurance and third party motor vehicle insurance.

State Governments also have a direct interest in rising insurance premiums. State governments administer State laws, some of which prescribe that certain professions and organisations obtain certain types of liability insurance, and in some cases limit the magnitude of insurance claims. State Governments are also responsible for State courts, which have powers to make laws and adjudicate cases, including insurance cases involving the tort of negligence. Tort reform is the responsibility of State Governments.

## Appendix 2: New Zealand Accident Compensation Scheme[25]

The accident compensation scheme provides accident insurance for all New Zealand citizens, residents and temporary visitors to New Zealand. In return people do not have the right to sue for personal injury, other than for exemplary damages. The scheme:

- provides cover for injuries, no matter who is at fault
- eliminates using the courts for each injury
- reduces personal, physical and emotional suffering by providing timely care and rehabilitation that gets people back to work or independence as soon as possible
- minimises personal financial loss by paying weekly earnings compensation to injured people who are off work
- focuses on reducing the causes of these problems – the circumstances that lead to accidents at work, at home, on the road and elsewhere.

The scheme is administered by the Accident Compensation Commission (ACC) which spends about $NZ1.4 billion each year on rehabilitation, treatment and weekly compensation. To fund these services, the ACC collect premiums. The ACC also earn income from investing premiums.

All New Zealanders pay premiums for ACC cover. Premiums are set to pay for the current and future costs of all claims made in that year.

The government funds the costs of injuries to people whom are not in the paid workforce. The government funds this on a 'pay-as-you-go' basis, meaning that ACC collects enough today to pay for all costs today. The government sets premiums. They result from recommendations from ACC's Board of Directors following a formal public consultation process. As a result of improved scheme performance, premiums have begun to fall and over the past two years have reduced by nearly $NZ500 million, a 25 per cent drop.

The premiums paid to ACC are assigned to one of seven accounts. When there is an ACC claim for this type of injury, the compensation is funded from this account.

## Appendix 3: New South Wales Inquiry's Recommendations[26]

- That the *Local Government Act 1993* (NSW) is amended to provide exemption from public liability for damage, loss or injury sustained by pedestrians tripping or falling on property under the control of councils provided that the council has acted in good faith.

- That the test of good faith for immunity from liability for trips and falls in pedestrian access areas on property under the control of councils in NSW is that action in relation to pedestrian access areas was taken, or was omitted to be taken, in relation to a recognised standard.

- That a standard be devised on which councils can rely as a defence to tort claims for trips and falls in pedestrian access areas by relevant stakeholders including the Department of Local Government and the Local Government and Shires Association.

- That the operation of good faith immunity from liability for damage, loss or injury to pedestrians on pedestrian access areas on property under the control of local councils in NSW is reviewed after five years by the Attorney-General's Department and Department of Local Government to establish whether the legislation has been successful in reducing the costs of public liability insurance for councils and reducing the number and level of injuries on pedestrian access areas. That if the legislation is found to be successful consideration is given to the expansion of the model into other areas of non-profit making council activity.

- That council insurance pools providing public liability insurance to councils in NSW structure their formula for contributions by member councils to offer a significant financial incentive to councils who implement high quality risk management programs.

- That the central claim register currently being operated by the insurance pools report information on trends in claims to local councils on a regular basis for risk management purposes.

- That the central claims register continue to monitor trends in claims, compensation settlements and court decisions in relation to injuries sustained on council land through the pursuit of hazardous recreational activities with a view to deciding whether a further good faith immunity needs to be recommended for councils in relation to these activities in the future.

- That there be a legislative requirement that people who have fallen and injured themselves on council pedestrian access areas notify the council within three months of the date of the accident if there is any question that they may intend to subsequently make a claim.

- That the principle of non feasance for the repair of roads remain in place or that statutory immunity from liability for the repair of roads should be provided subject to councils meeting a reasonable standard of maintenance agreed by an external authority.

## Appendix 4: Queensland Inquiry's Recommendations[27]

- That Government note that arrangements to extend the government insurance fund to cover State School Parents and Citizens Associations have now been fully implemented and all 1300 Associations will be covered from March 2002.
- That further investigation of the feasibility of introducing a group purchasing arrangement for the not-for-profit community sector be undertaken.
- That Government immediately approve the calling for Expressions of Interest from community organisations to seek their interest in participating in new group insurance arrangements.
- That the option of developing a self insurance arrangement also continue to be investigated as a fall back option.
- That feedback be sought from the community on whether any new group purchasing arrangements for the not-for-profit sector should be made compulsory or not.
- That further market testing be undertaken to determine the availability of a panel of insurance providers to provide coverage for the community group arrangement.
- That subject to testing the viability of group purchasing for the community not-for-profit sector, the Government consider the potential for extending these arrangements to small business.
- That further analysis of premium prices and other indicators be undertaken when the most recent data reflecting the collapse of HIH and other world events becomes available.
- That the Government approve the development of risk management education and training packages for the community and small business sector and where appropriate, coordinated with local government.
- That the Government provide assistance to community groups and small business in gathering information on claims data.
- That the Government establish mechanisms to include incentives for better risk management in funding agreements with community providers.
- That the Government liaise with local government and other jurisdictions to share information on risk management materials.
- That Government work with industry and community groups to ensure they hold appropriate cover and are not "over" or "under" insured.

- That the issue of law reform be referred to the Council of Australian Governments (COAG) to explore the development of a national approach to reviewing common law damages for personal injury.
- That current legal requirements regarding the need for not-for-profit organisations to hold specific types and levels of public liability insurance be reviewed.
- That the Government examine a range of improvements to the current judicial system in order to reduce overall insurance costs covering aspects such as pre-litigation rules and processes, review of solicitor's costs and the benefits of structured settlements.
- That lawyer advertising in particular "no win, no fee" advertising be examined in the context of the National Competition Policy review of the legal profession currently under way in Queensland.
- That further research be undertaken into determining whether capping damages claims and/or abolishing common law rights can result in lower premium costs.
- That the Government examines ways that accurate and reliable information on litigation rates can be obtained.

## Endnotes

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15. This section is based on the findings of the Queensland Government's *Report of the Liability Insurance Taskforce*, February 2002, p. vi-vii.

16 *Report of the National Committee of Inquiry on Compensation and Rehabilitation in Australia*, *Volumes 1-3* (the Woodhouse Inquiry), The Parliament of the Commonwealth of Australia 1974, Parliamentary Papers No. 100, 135, 192.

17. The Commonwealth Government sold Commonwealth Connect (now Commonwealth Insurance) as part of the privatisation of the Commonwealth Bank of Australia.

18. See http://www.dofa.gov.au/comcover/q%5Fand%5Fa.html#GeneralQuestions .

19. See www.jcb.org.au .

20. Norma Cohen, 'Terrorist scare US insurers,' *Financial Times*, 1 March 2002.

21. Similar principles in respect of unfair dismissal claims were placed into the workplace relations Act by the *Workplace Relations Amendment (Termination of Employment) Bill 2000*. For an explanation of these principles see *Bills Digest No. 60 2001-02*, Workplace Relations and Other Legislation Amendment (Small Business and Other Measures) Bill 2001, Department of the Parliamentary Library, 2001 (http://www.aph.gov.au/library/pubs/bd/2001-02/02bd060.pdf ).

22. The Australian Law Reform Commission (ALRC) has conducted reviews and produced reports on similar topics. See Report No. 65, *Collective Investments: Other People's Money*, 1993 (http://www.austlii.edu.au/au/other/alrc/publications/reports/65/); Report No. 59, *Collective Investments: Superannuation*, 1992 (http://www.austlii.edu.au/au/other/alrc/publications/reports/59/); Report No. 20 Insurance Contracts (http://www.austlii.edu.au/au/other/alrc/publications/reports/20), Report No. 16 *Insurance Agents and Brokers* 1980 (http://www.austlii.edu.au/au/other/alrc/publications/reports/16/)

23. See Insurance and Superannuation Commission, *Guide to the Insurance Contracts Act 1984*, AGPS, 1996, p. 2. The representative action could be commenced by the then regulator, the Insurance and Superannuation Commissioner.

24. See Queensland Government, *Report of the Liability Insurance Taskforce*, February 2002, p. 39.

25. Source: New Zealand Accident Compensation Scheme. More information can be obtained from http://www.acc.co.nz.
26. Recommendations of the NSW Report of the Public Bodies Review Committee, Public Liability Issues Facing Local Councils, Parliament of new South Wales, November 2000.
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