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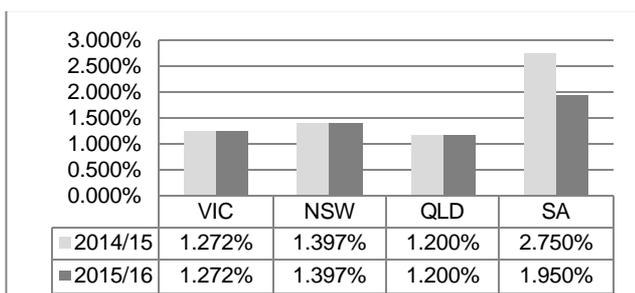
SUMMARY

This Member Advice provides important information about:

- Workers' compensation changes in New South Wales, South Australia, Queensland and the Northern Territory, with a particular focus on premium changes.
- Proposed changes to Work Health and Safety (WHS) laws in Queensland and South Australia; and a new structure for the WHS regulator in South Australia.
- Asbestos issues: National Strategic Plan; Inadvertent importation of asbestos, in spite of Australia's ban; and the International Conference on Asbestos Awareness and Management to be held in Brisbane in November 2015.
- Funding opportunities in Queensland for employers with wages greater than \$1.5m.

Workers' Compensation Average Premium Rates

Government underwritten workers' compensation schemes (VIC, NSW, QLD and SA) set an average workers' compensation premium each year. This is determined by identifying how much money is needed to fund the liabilities of the scheme. Individual employers then pay a premium based on their industry rate and their own claims experience. Each scheme attempts to design premium formulas which result in a fair distribution of premium and encourage employers to provide safe workplaces and effective return to work when someone is injured. The average rates for 2015/16 are illustrated in the table below, showing a comparison with 2014/15.



New South Wales

New Premium Scheme for medium/large employers (Basic Tariff Premium (BTP) of \$30,000 or more; the BTP is calculated by multiplying the industry rate by payroll)

NSW has introduced a new premium scheme for medium to large employers, and supported the introduction of the scheme with a much improved premium notice.

The 2014/15 hindsight premium is the last time that estimates of future costs of claims will be used in calculating an employer's workers compensation premium in NSW.

The 2015/16 medium/large premium calculation will take into account payments made for weekly compensation, provisional weekly compensation, permanent impairment, commutations death benefits and common law. Costs associated with journey claims and recess claims will not be included in premium calculations.

In calculating premium, an employer's claims costs will be compared with the *Basic Tariff Premium* for their industry to determine the *Claims Performance Measure (CPM)*.

The *CPM* is then compared to the average scheme performance to identify whether the employer's performance is better or worse than scheme average (creating a *Claims Performance Rate - CPR*). The *CPR* will then be used to identify a *Claims Performance Adjustment* multiplier that will be applied to the *BTP*.

The following table illustrates the minimum and maximum multiplying factors that can be applied to the *BTP* to determine the premium payable by an employer. It shows how much more or less your premium can be compared to the industry rate.

Basic Tariff Premium (Industry Rate x Payroll)	Minimum multiplier	Maximum multiplier
>\$30,000 to \$50,000	0.975	1.750
>\$50,000 to 100,000	0.875	1.850
>\$100,000 to \$200,000	0.775	2.000
>\$200,000 to \$300,000	0.700	2.250
>\$300,000 to \$500,000	0.650	2.500
>\$500,000 to \$1,000,000	0.625	2.750
>\$1,000,000 to \$2,000,000	0.500	3.000
>\$2,000,000	0.450	3.500

Important Note: WorkCover NSW has advised us that 70% of employers are performing better than scheme average, which will result in them paying a premium that is less than the industry rate. 18% of employers have been identified to have claims costs that are at least 200% of the scheme average; this latter group of employers will most likely find that their 2015/16 premiums are much higher than the final 2014/15 premium.

In these circumstances an employer can apply to have their premium rate capped at 130% of the 2014/15 premium.

Another important change to the premium process is that the experience *rate* payable will only be calculated once, at the commencement of the year, rather than having experience calculated again at the end of the premium year.

However, there are two opportunities to receive a discount at the end of the insurance period:

- If the employer has no premium sensitive claims costs on any claims lodged in the premium year and the three preceding years, a 5% discount will be applied.
- If the scheme performs well there is the potential that a *performance discount* may be applied to the premium at the end of the year. It is our understanding that this will be available to employers whose claims performance is better than scheme average.

In New South Wales, a major opportunity exists to reduce the premium payable in 2016/17 and beyond.

A unique feature of the new premium scheme in NSW is a Return to Work Incentive (RTWI%) that will be applied to all claims lodged against a policy that took effect at or after 4pm on 30 June 2015. The incentive will be payable from the 2016/17 premium year.

This incentive will be applied to individual claims, where the worker has returned to *sustained suitable employment*, for at least 3 consecutive months prior to the premium year.

If the worker has a relapse and requires further income support, the appropriate discount rate will apply to the latter absence. The cost of claims utilised for calculating the premium will have the following incentive discounts applied from 2016/17, for claims lodged against a policy that took effect on or after 4pm on 30 June 2015.

Return to work after date of injury	RTWI%
Less than 13 weeks	15%
13 weeks or greater, but less than 26 weeks	10%
26 weeks or greater, but less than 52 weeks	5%

The best way to reduce the workers' compensation premium payable is to have good safety performance.

If claims do occur, employers should be very focused on working with their injured workers, and their Agent to maximise opportunities to receive this incentive by getting injured workers back to *sustained suitable employment* within the first 13 weeks. It will also be important to ensure that the Agent is aware of the return to work, and codes the claim correctly.

If you have experienced significant increases in your premium, and would like assistance developing strategies to reduce the premium in the future, contact ramon.gebert@aigroup.com.au

Workers' Compensation Inquiry

It is likely there will be an Upper House Inquiry into the operation of the NSW Workers' Compensation scheme later this year. If so, Ai Group will be actively involved in representing members' interests. If you wish to raise your views about the current operation of the scheme please contact ramon.gebert@aigroup.com.au

South Australia

Return to Work Act

Members have previously been advised of the significant changes to the South Australian workers' compensation system. See [here](#).

In summary, key changes include:

- Modifying the calculation of weekly benefits, and changing the "count" of weeks to elapsed weeks; benefits will be paid at 100% for the first 52 weeks and 80% in subsequent weeks.
- Benefits ceasing at 2 years, unless the worker has a *whole person impairment* of 30% or more.
- Removing provisional liability, but requiring the Agent to determine a claim within 10 days or pay interim benefits.
- Requiring recovery and return to work plans to be completed within 4 weeks of an incapacity occurring.
- Introducing common law access, with an access threshold of 30% or more *whole person impairment*.

There will continue to be a strong focus on rehabilitation and return to work obligations, with employers having an open-ended obligation to

provide suitable duties, unless it is not reasonably practicable to do so.

A new provision of the Act establishes that an injured worker can apply to the South Australian Employment Tribunal, seeking that the employer be directed to provide suitable duties in accordance with a recovery/return to work plan.

This right exists once a worker has provided written notice to the employer that confirms they are ready, willing and able to return to work and provides information about the type of work they believe they are capable of performing; and the employer does not provide suitable employment within one month.

Hence, it is essential that employers who receive written requests from workers to return to work respond appropriately to the request. Ai Group advisers are well-equipped to assist members in relation to such applications.

The Act can be accessed [here](#)

If you need assistance understanding the changes in South Australia contact tracey.browne@aigroup.com.au

New Premium Scheme in SA

The 2014/15 hindsight premium is the last time that estimates of future costs of claims will be used in calculating an employer's workers compensation premium in South Australia.

The 2015/16 premium calculation will take into account income support costs only; other costs such as medical expenses and lump sum payments will not be used.

The income support costs that will be utilised are payments made in the 2014/15 financial year, for claims with an injury date between 1 July 2012 and 30 June 2015.

The premium calculation will first apply a discount factor to the base premium (industry rate times remuneration); claims costs will then be utilised to determine the penalty applied for incurring income support costs on the claim.

The table below shows the discount factors, and maximum penalties that can be applied, based on the size of the employer.

Base Premium (industry rate x remuneration)	Discount Factor (as %)	Maximum Penalty (%)
\$0 to <\$10k	5%	10%
\$10k to <\$50k	10%	20%
\$50k to <\$100k	15%	30%
\$100k to <\$500k	20%	40%
500k to <\$1m	25%	50%
>\$1m	30%	60%

Another important change to the premium process is that the *rate* payable will only be calculated once, at the commencement of the year. The only reason an employer's amount of premium payable will change at the end of the year is if remuneration has changed. This will provide much more certainty for employers than the current approach of calculating a hindsight premium at the end of the insurance period.

This new approach to premium calculations coincides with a significant reduction in the average premium rate in South Australia; down from 2.75% to 1.95%. Hence, whilst changes to the way premium is calculated will have different impacts on different employers, it is expected that most employers will see a reduction in their premiums in 2015/16.

If you need assistance in relation to South Australian premiums, contact tracey.browne@aigroup.com.au

Queensland

Amendments to the Premium Scheme for medium/large employers (greater than \$1.5m wages)

During 2014, Ai Group members met with WorkCover QLD to discuss proposals to modify the premium paid by medium/large employers.

A major concern raised by employers was the delayed impact that common law claims have on the premium calculation. In response to this feedback, WorkCover have made some amendments to the premium calculation.

From 2015/16, common law costs will only be used in the premium calculation once. This will result in the following claim costs impacting the 2015/16 premium calculation:

2015/16 Premium Year	Statutory Payments	Common law Payments
2014/15	Yes	
2013/14	Yes	
2012/13	Yes	
2011/12		Yes

If you require assistance with the changes to the Queensland premium contact tracey.browne@aigroup.com.au

Funding opportunities; WorkCover QLD Prevention and Performance Initiative

WorkCover QLD has just announced a new initiative in 2015, designed to support employers with wages greater than \$1.5m to implement initiatives to improve safety or return to work opportunities and outcomes for injured workers.

Successful applicants will receive a maximum of \$20,000, up to 75% of the cost of the initiative.

Information about how to apply for the funding can be found on the [WorkSafe QLD website](#).

Northern Territory

Return to Work Act

The Northern Territory has renamed their workers' compensation legislation as the Return to Work Act, and made some amendments to entitlements. Key amendments include:

- The definition of worker (considering when contractors would be deemed workers) has been changed to match the ATO PAYG criteria.
- Workers injured after retirement age will be entitled to 104 weeks of compensation, rather than 26 weeks.
- Weekly compensation will generally cease after 5 years, with entitlement to medical expenses ceasing 12 months later; these changes will not affect those with a serious injury – a permanent impairment of 15% or more.
- Excluding claims for heart attacks and strokes unless it is proven that they were work related.
- Capping of weekly earnings for the purpose of compensation at 250% of average weekly earnings.

Access the Act [here](#)

It should also be noted that a further amending Bill is currently before Parliament. Access the additional Bill [here](#)

If you require assistance on these matters, contact tracey.browne@aigroup.com.au

Work Health and Safety Update

Queensland

A Bill has recently been introduced into Parliament to reverse the changes made to the Work Health and Safety Act (WHS Act) in 2014.

If passed, the WHS Act will revert to its previous content in relation to union right of entry and the powers of elected health and safety representatives.

The Bill also proposes an amendment to the Incident Notification requirements, which require an employer to notify Workplace Health and Safety Queensland of a death, serious injury or dangerous occurrence. An additional item is included that will require notification if a person has a work related injury "causing the person to be absent from the person's voluntary or paid employment for more than 4 days".

These words would be familiar to Queensland employers, as this requirement existed in workplace health and safety legislation prior to adoption of the WHS Act in 2012.

The parliamentary committee inquiry report into the amendments was tabled in parliament on 6 July 2015. The committee was generally unable to reach agreement, making only one recommendation; this was associated with the need to provide clear communication about the new incident notification requirement.

The report, which is available [here](#), advises that the committee "was able to agree on the contents of the report, which contains details of the evidence provided to the Committee and the views of both government and non-government Members, for consideration by the Parliament during the second reading debate".

South Australia

Industrial Manslaughter Bill

A private member's Bill has been introduced into the South Australian parliament to amend the Work Health and Safety Act 2012.

If passed, the Bill will introduce a new offence of *Industrial Manslaughter*. The offence would apply to employers and officers, and attract a maximum penalty of \$1,000,000 for a body corporate and 20 years imprisonment for an individual.

In order to be successful, the Bill will require the support of the government, which is not guaranteed. Ai Group has written to the Minister responsible expressing our strong objection to this change, which we believe is unnecessary given the significant penalties already within the WHS Act.

Separating Work Health and Safety Education and Safety Compliance Functions

After a short period of consultation, the Attorney-General's Department has released a new model for the delivery of WHS services in South Australia.

The Model involves separating SafeWork SA's education functions from its compliance and enforcement functions, and creating two separate and discrete units of operation.

The Educator will contain no inspectors; the regulator will be staffed only by inspectors.

The Model advises that the "transformation will begin by undertaking a merit based recruitment process to fill three new executive positions: Executive Director, Chief Inspector, and Business Operations and Customer Services".

Asbestos

Beware of inadvertent importation

The importation and supply of asbestos into Australia has been banned since 2003. However, over recent years it has been identified that some products from overseas have been entering the country with asbestos components in them.

The responsibility for ensuring that products do not contain asbestos rests with the first, and subsequent, Australian organisations involved in the importation or use of the product.

HWSA (Heads of Workplace Safety Authorities) has recently developed material to assist Australians to understand when and how asbestos may enter the country.

This document identifies that asbestos has been entering the country in: building materials; motor vehicles, bikes and vehicle parts; mining and heavy industry equipment; vessels; and trains/locomotives.

In some cases the product has been allowed into Australia due to unreliable certification of products being asbestos free. In other cases it is because the local laws of the exporting country define a product as asbestos free if the asbestos is below a certain level.

The HWSA fact sheet can be accessed [here](#).

Employers are urged to take extra care when importing products, as the risks to health and the costs associated with remediation can be significant.

National Strategic Plan

The National Strategic Plan for Asbestos Management and Awareness 2014-18 has been endorsed by all Australian governments and is now available to access at:

www.asbestossafety.gov.au

The Plan establishes a blueprint for the management of *in situ* asbestos in plant and buildings, and covers the following key strategic areas: awareness; best practice; identification; removal; research; and international leadership.

The Plan can be accessed at:

<http://www.asbestossafety.gov.au/national-strategic-plan>

International Conference on Asbestos Awareness and Management 22 to 24 November 2015

In November 2015, the Asbestos Safety and Eradication Agency is holding the second International Conference on Asbestos Awareness and Management at the Brisbane Convention and Exhibition Centre.

The event is bringing together well renowned local and international experts in asbestos management, health, advocacy and governance to look at what is best practice in managing the dangers of asbestos in our community and abroad. The conference will feature a focus on how Australia can play an influential role in reducing the reliance on asbestos in South East Asia.

It is also planned to include sessions of relevance to employers that have asbestos in buildings and structures, covering issues such as asbestos registers and asbestos management plans.

Further information about the conference can be found at:

<http://www.asbestossafety.gov.au/asbestosconference2015>

Do you require further assistance?

Within this Compliance Advice we have provided contact details for Ramon Gebert and Tracey Browne who can assist you on the specific topics covered.

For other information or assistance, please contact **Ai group's Workplace Advice Service** on 1300 78 38 44.

For information about our safety and workers' compensation consulting and training services, contact:

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