

28 November – 1 December 2004

# Xth Accident Compensation Seminar

2004



Institute of Actuaries of Australia

 **ERNST & YOUNG**

 **KPMG**

**PRICEWATERHOUSECOOPERS** 

  
**IAG**  
Insurance  
Australia  
Group

28 November – 1 December 2004

# Xth Accident Compensation Seminar

2004



## Tort Reform: Scheme Impact

Gae Robinson, Trowbridge Deloitte



Institute of Actuaries of Australia



# The PL Reforms

- Aimed at small claims:
  - eliminate trivial
  - reduce cost of small
- GD threshold and scale
- Other reforms:
  - procedural, legal costs, discount rates etc



# This Session

- PL vs scheme entitlements
- Impact of tort reform
- Tort reform/scheme interactions
- Scheme risk



# NSW Comparison

	Public Liability	Workers' Comp	Motor Accidents
Scheme type		Stat + CL	Common law
GD threshold	15% most extreme case (physical + psych)	1% WPI (psych 15%)	10% WPI (psych 10%)
GD scale	Based on % MEC	Based on WPI	Based on WPI
GD assessment	Common law	Medical	Common law
GD max	\$385,000 (i)	\$250,000 (ni)	\$341,000 (i)
Max at	75%	75%	100%
Common law threshold		15% WPI (eco loss only)	



# Vic Comparison

	Public Liability	Workers' Comp	Motor Accidents
Scheme type		Stat + CL	Stat + CL
GD threshold	5% WPI (psych 10%)	10% WPI (psych 30%)	10% WPI (psych 10%)
GD scale	n/a	Based on WPI	Based on WPI
GD assessment	Common law Medical panels assess 5%	Medical panels	TAC assessed
GD max	\$383,000 (i)	\$350,000 (i)	\$80,000*
Max at	n/a	80%	100%
Common law threshold		Seriously injured 30% WPI or narrative Max GD \$438,000 (i)	Seriously injured 30% WPI or narrative

\* Will increase to \$250,000 under new legislation



## Qld Comparison

	Public Liability	Workers' Comp	Motor Accidents
Scheme type		Stat + CL	Common law
GD threshold	None	None	None
GD scale	100-point scale	Based on % impairment	100-point scale
GD assessment	Common law	Medical	Common law
GD max	\$250,000 (ni)	\$325,000 (i)	\$250,000 (ni)
Max at	100 pts	Applies to GD+ wklies	100 pts
Common law threshold		< 20% elect CL or stat > 20% can get CL+ stat	



# SA Comparison

	Public Liability	Workers' Comp	Motor Accidents
Scheme type		Stat	Common law
GD threshold	7 days impairment or \$3,000 (i) med	None	7 days impairment or \$3,000 (i) med
GD scale	60-point scale	Based on WPI	60-point scale
GD assessment	Common law	Medical	Common law
GD max	\$245,000 (i)	\$200,000 (i)	\$245,000 (i)*
Max at	60 pts		60 pts
Common law threshold		No common law	

\* Increased from around \$110,000



# WA Comparison

	Public Liability	Workers' Comp	Motor Accidents
Scheme type		Stat + CL	Common law
GD threshold	\$12,000 pre-reform	None	\$12,000
GD scale	Siding scale to \$48,500	Based on % disability	Siding scale to \$48,500
GD assessment	Common law	Medical	Common law
GD max	n/a	\$136,000 (i)	n/a
Max at	n/a	Applies to GD+ wklies	n/a
Common law threshold		16% disability < 30% elect CL or stat > 30% can get CL+ stat	



# General impact of PL reforms

- Claim numbers lower across the board
- Savings on smaller claims
- Hard to distinguish impact from other factors:
  - H1H, Sep 11, strong economy
  - changes to portfolios
  - changes to T&C, deductibles, underwriting
  - changes in community/court attitudes



## General impact of tort reform (cont)

- Courts' application of law
- Too early to tell for large claims
- Lawyers looking elsewhere:
  - WC recoveries (NSW/Vic schemes pushing too)
  - PI
  - other



## NSW – impact of PL tort reform

- Small claims gone – frequency down
- Lower size for claims up to \$30-40k
- Pressures on threshold:
  - use of psych impairment
  - still subjective
  - arbitrators/District Courts weaker than Court of Appeal



## **NSW – impact of tort reform (cont)**

- No impact on larger claims
- More willingness to settle early
- 3 years up in early 2005: will out of time claims be allowed?



## **Vic – impact of PL tort reform**

- Very few claims at the moment
- GD regulations only recent
- Current claims relate to pre-reform “spike”
- Objective threshold seen as a positive
- All up – too early to tell



## Qld – impact of tort reform

- PL claims:
  - reported faster
  - moving faster
  - frequency lower
  - more parties joined (no cost penalty)
- Scale:
  - objectivity/certainty seen as positive
  - not tested yet



## Qld – impact of tort reform (cont)

- PL and CTP:
  - GD reduced on small claims
  - no larger claims yet
  - legal costs reduced
  - more willingness to settle



## **SA – impact of PL tort reform**

- Claim numbers have reduced (fewer small claims)
- Certainty of the GD scale seen as a positive
- Subjectivity in points value
- Overall - too early to tell full impact



# WA

- Impact of PL tort reform:
  - frequency down
  - significant impact of threshold – minor injuries ruled out
- Interactions – CTP/PL same



## Scheme Risk Arising from PL Reforms

	WC	CTP
NSW	*	*
Vic	**	*
Qld	*	***
SA	*	***
WA	*	***



# Interaction issues

- Use of same scales (Qld, SA CTP)
- Courts dealing with PL and accident comp:
  - common trends
  - one may affect other
- Administrative interaction:
  - medical assessment
  - reporting limits etc



# Interaction issues (cont)

- Lawyers – shift in focus
- Codependence of PL and schemes:
  - share information
  - cooperation