

WORKCOVER LEVY

Mr PETER DRAPER (Tamworth) [11.55 a.m.]: I move:

That this House calls on the Special Minister of State to advise whether the Government plans to expand the WorkCover levy to include compulsory superannuation contributions, directors' fees or termination payments made to separating employees.

More than sixteen months ago I called on the Special Minister of State, Mr John Della Bosca, to advise whether the Government planned to expand the New South Wales WorkCover levy as indicated. My question was answered shortly thereafter, on 30 June 2003, when new WorkCover regulations came into force with major changes made to the definition of wages. The reasoning behind my original question was to raise concerns being brought to me by farmers and business operators who feared that the then rumoured changes would make it increasingly difficult for them to operate successfully in what was then, and still is today, a difficult economic environment. These fears, unfortunately, have been realised.

I acknowledge that WorkCover reform is attempting to address pockets of wage underdeclaration and avoidance touted as contributing to the scheme's debt of \$2.9 billion, but it is now apparent that the legislation pendulum has swung too far, hitting primary producers and small business operators unnecessarily hard in the hip pocket. As outlined by WorkCover, the expanded definition of wages for new or renewed policies now includes "total gross earnings and some payments not generally thought of as wages". I directed my question to the Minister over the expanded WorkCover levy because of concern in the business community that extra payments to be included as wages would further increase the already exorbitant premium rate for employers engaged in farming and manual occupations. And indeed it has.

While they are not generally thought of as wages, WorkCover now lists as remuneration employer superannuation contributions, termination payments, payments to working directors including directors' fees and, of additional concern, trust distributions to workers. In relation to superannuation, all employer contributions to superannuation schemes paid for a worker are now also counted as remuneration. With directors' payments, any payments made to a working director, including directors' fees, are counted as remuneration. If a working director receives a dividend and the dividend is in lieu of wages, those payments also are counted as remuneration. In relation to termination payments to separating employees, any payments, including lump sum payments, in respect of annual leave, long service leave, sick leave and other related leave loadings are now counted as wages. I must raise the point here that if WorkCover allegedly covers employers against claims made by employees in relation to injuries that occur at work, why is a termination payment, where an employee is no longer working with the employer, deemed as an assessable wage? It simply does not make sense.

In reference to trust distributions, WorkCover says it will look at the nature of the trust arrangements when determining whether the payments constitute wages. Under the changes, distributions to beneficiaries for work performed for the trust will now be counted as wages. A distribution constitutes wages if it is remuneration for a

beneficiary's work or the distribution is a substitute for wages. An accounting firm has provided me with an example of how these changes to assessable wages to include superannuation are translating to extra costs for primary producers. In this case the firm considered a sheep farmer who is paying an employee and shearers a combined total of \$50,000 in wages per year. In addition to that, there is now a compulsory superannuation contribution of \$4,500, at 9 per cent. Because this \$4,500 is now considered as wages, the workers compensation premium has been increased to an incredible \$6,583, or 12 per cent per annum. Businesses cannot afford this impost.

The fact that superannuation payments are now assessable as wages is also proving to be a real burden on farmers who have elected to set up their businesses as family trusts to conduct their affairs. Many farming families find trusts useful for managing their tax as well as giving security in terms of asset protection against creditors. But those families are now facing a financially debilitating situation where WorkCover assesses as wages the profits paid to family members from the trust, as well as the superannuation contributions. Where the regulation fails farmers in this situation is that the hard-won profit from the farm is not a salary. But because they are operating under a trust the money made from the farm is now assessed as wages.

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I will give a typical example of a farming couple who operate their property under a trust and make an annual profit of \$50,000, to illustrate the point I am making. The couple each receives \$25,000 and contribute a combined \$20,000 to their superannuation fund. The amount WorkCover assesses as wages is now \$70,000 and with the rate for primary producers sitting at around 10 per cent, the couple now has a \$7,000 WorkCover premium to pay.

This scenario is in stark contrast to that of a sole trader who, like this farming couple, does not have any employees but, unlike them, does not have to pay a cent in worker's compensation premiums. This is grossly unfair and discriminatory. Primary producers in a trust commonly set aside large superannuation contributions to fund their retirement, so they do not have to rely upon succeeding generations to support them. According to my source, the extra workers compensation costs in many cases will cause a total rethink of the commercial viability of such arrangements. I believe the changes to be unreasonable and unfair, and to have pushed the concept of what is considered as wages too far. I concur with the view of business owners in my region that "the legislation seems to be aimed fairly and squarely at fixing WorkCover's funding problems at the cost of employers in this state". In fact, the changes to assessable wages have been described by professional advisers of farmers and business owners in my region as "hostile", "obscene", "unreasonable" and "a disgrace", while a more sweeping sentiment has been that "people hate WorkCover".

Those are strong words indeed, but I challenge the Minister to attend any one of the WorkCover seminars so generously provided in places like Tamworth that are supposedly designed to "help small business owners comply with workers compensation and OH&S laws". The Minister will hear much feedback to the contrary. I guarantee the Minister will find a group of business people experiencing intense frustration, hardship and a sense of helplessness due to their requirements and obligations under the scheme and the escalating unaffordability of their workers compensation premiums. For the large group of employers who attended a seminar in Tamworth, the feeling toward compliance with WorkCover regulations was very

much a case of being damned if they do and damned if they don't. As a result of changes that are being implemented to broaden the net of WorkCover compliance, I submit that many people are tempted to simply break the rules.

I have heard of farmers who are running their operations under a trust but who are not declaring contributions to superannuation, hoping they do not get caught. Many others ignore the regulations, or do whatever they can to get around them, because the general feeling is that if they do pay extra owing to superannuation being assessable as wages, they are paying substantially more for nothing. For many farmers who run their farm alone without employees, they will never get anything back from the scheme as they are highly unlikely to ever make a claim on their insurance policy. My understanding is that WorkCover is now placing a heavier emphasis on targeting non-compliance, with the number of wage audits being conducted increasing. WorkCover is broadening the net over non-compliance but is forcing law-abiding citizens to break the law. This legislation is making criminals out of decent, hardworking country people.

I have spoken in this House previously about the problems WorkCover is creating for employers in my electorate. There has been a literal flood of representations to my office and also to the Tamworth and District Chamber of Commerce and Industry from business operators and primary producers detailing scenarios relating to WorkCover that are almost beyond belief. Skyrocketing premiums, businesses still paying for claims that are blatantly fraudulent, and hardworking people being forced out of business solely due to the WorkCover premium costs are just a sample of complaints. Soaring workers compensation premiums are also hitting big business hard, with suspect claims lodged by employees at a major meat processing plant in my electorate resulting in their premiums more than doubling. This situation is particularly dire, with the plant facing closure if a solution is not found through government channels to ease a \$1.9 million premium.

Many small business operators are also living with the very real fear of being put out of business due to high premiums. Costs continue to escalate, particularly if there is a claim, but even when the employer is proved to be not at fault the premiums still continue to rise. Farmers are living in fear of not being able to comply with the regulations and having an audit conducted that would almost certainly shut them down. The recent WorkCover seminar in Tamworth revealed a group of business owners who are intimidated by WorkCover and who are experiencing despair over their obligations under the scheme. As such, I argue that there is a strong case for the Government to send a consultant to its series of meetings to learn about the legislation's impact on the ground. Not only would employers be educated in how to comply with WorkCover but the Government would gain a keen insight into the truly detrimental effect this scheme is having on employers.

Having said that, I also point out that the consulting company, McKinsey and Company, conducted a review of WorkCover as part of reforms that were announced in this Parliament in June 2000. When the review came out in October 2003, it listed 57 recommendations that aimed to build a "fair, efficient and affordable" scheme for New South Wales. A New South Wales WorkCover Authority prosecution of a Central West machinery dealer will test the fairness of this scheme. The dealer sold a combine harvester upon which an operator lost his lower leg. This separate but critical

WorkCover issue is creating a great deal of disquiet in my electorate among farm machinery dealers and many other dealers. The outcome will have enormous ramifications for the industry and could greatly affect its long-term viability. The scheme has a long, long way to go before it even comes close to achieving fairness, efficiency and affordability. At present it is arduous and very complicated. But I would urge the Minister to continue working toward reform by consulting first and foremost with employers. Most are generally supportive of the theory of protection that underlies the legislation, yet they are still being savagely penalised by many unworkable clauses in the legislation's current form.

Mr TONY STEWART (Bankstown—Parliamentary Secretary) [12.04 p.m.]: Honourable members are aware that this Government has given a high priority to improving compliance with workers compensation obligations. Since 2000 the Government has progressively introduced an overall package of compliance initiatives aimed at employers, workers and service providers. For employers, these changes have taken the form of legislation to extend the liability for premium debt to directors of corporations, increase penalties for premium evasion and other failures to comply with workers compensation insurance, make principal contractors liable for their subcontractors' unpaid workers compensation premiums unless they take appropriate steps to ensure the subcontractors are properly insured, introduce grouping provisions, and expand the definition of wages. These changes have been necessary to improve equity for employers in sharing the costs of the WorkCover Scheme.

The honourable member for Tamworth, Peter Draper, submitted a notice of motion to the House calling for the Minister to advise whether the Government plans to expand the WorkCover levy to include compulsory superannuation contributions and directors' fees or termination payments made to separating employees.

Mr Chris Hartcher: Who wrote this?

Mr TONY STEWART: I am here and I am making the speech. That is good enough for me. The notice has taken some time to come before the House and honourable members will recall that these changes to the definition of wages were introduced under the Workers Compensation Legislation Amendment Act 2002 and have applied to all policies issued since 4.00 p.m. on 30 June 2003. The New South Wales WorkCover Scheme is funded by premiums paid by employers. Policies taken out by employers are assigned to the industry class which most closely reflects the risk profile of the employer, based on their business operations and activities. The basic tariff rate for an industry class is determined each year having regard to the claims made by all the employers in the class. Employers in the industry class then pay a basic tariff premium calculated by multiplying the basic tariff rate by their wages bill.

Under the Workers Compensation Act 1987, wages have always been defined broadly and many of the payments covered generally might not be thought of as wages. The key objective of the wages definition is to achieve neutrality in the treatment of different sources of wages. An employer's premium liability should remain the same, regardless of salary packaging or the employment category of a worker. In other words, the premium liability does not change whether remuneration takes the form of income received from wages, grossed-up fringe benefits or superannuation

contributions and so on. This is the concept of economic efficiency: It implies that where wage income sources are treated equally, employers with similar employment costs are treated equally also. To achieve this objective, the definition of wages needs to be kept current to reflect contemporary work practices and remuneration arrangements for workers.

In early 2002, the Government appointed two special advisers who were asked to consider options and make recommendations on measures to improve employer compliance with workers compensation insurance and payroll tax obligations. Specifically, the terms of reference required the special advisers to provide recommendations on amending the definitions of wages that are liable to attract payroll tax and workers compensation premiums to achieve greater consistency between the payroll tax and workers compensation legislation, and to reduce scope for evasion.

The special advisers provided their final report in September 2002. A number of the recommendations contained in the final report were adopted, including changes to the definition of wages. The definition of wages has been expanded to include payments such as long service leave, employer superannuation contributions, and working directors' fees. The approach taken in developing a definition of wages for workers compensation premium and payroll tax purposes was based on the following criteria: first, the adoption of a common definition of wages for workers compensation premium and payroll tax to simplify compliance and reduce compliance and administration costs for employers; second, alignment with and use of the same terminology as the Commonwealth definitions to provide significant compliance benefits and cost savings; and, third, a simply defined, broad definition of wages that is economically efficient.

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All this can be summarised by saying that the broadest definition of wages helps to improve equity for employers by ensuring they compete on a level playing field, because that provides equity. Following the changes, the definition of wages for workers compensation and payroll tax is both broad and closely aligned. The changes have simplified compliance for employers, so workers compensation wages calculations are made in much the same way as payroll tax. Narrowing the definition of the wages base would have the effect of increasing the effective rate of premium or tax in order to collect the same total revenue. Broadening the base has the opposite effect. Overall, it is the Government's intention that the changes to the wages definition not only achieve neutrality in the treatment of remuneration paid to workers but also are revenue neutral to the scheme.

Therefore, in conjunction with the introduction of the changes, every single classification rate was reduced by at least 10.3 per cent to take into account the additional payments to workers not previously included. F-factors, which are used to calculate an employer's experience-adjusted premium, have also been reduced to account for the expanded definition of wages, as I have mentioned. The reduction of 10.3 per cent was determined based on advice from WorkCover's consulting actuaries. In addition, WorkCover consulted a number of employer associations, which indicated that such a reduction was reasonable. In other words, the changes occurred on a wide consultative basis involving employer groups as the major stakeholders.

The ever-so-wise actuaries of WorkCover were also involved in making sure that the figures stacked up on equitable needs. Some employers will find their premiums reduce further, due to a good claims record in their industry, and that is not a bad thing. For example, WorkCover has advised me that the premiums for cotton growing, clothing and footwear retailers, newsagents, pharmacies, underground gold mining and soft drink manufacturing reduced by 24 per cent in 2003-04, due to the offset and as a result of fewer claims. That is a positive result already; a reduction for major industry bases of 24 per cent during the 2003-04 period.

In fact, 39 per cent of New South Wales employers received decreases of 15 per cent or more in their basic tariff rate. That is an important aspect of the change. However, other employers will experience an increase despite the offset—and I have outlined some of the reasons for that—due to a larger number of injuries and claims in their industry. That needs to be understood by the industry bases. I am aware of instances where some employers have claimed that the changes are unfair because superannuation payments are not made to workers compensation claimants or because a worker may be compensated at their award rate exclusive of payments which are included in the wages definition. I have already outlined the reasons for a broad-based wages definition. In addition, I would say to those employers that the benefits available under the WorkCover Scheme are extensive and need to be viewed as a whole, not individually. Weekly benefits are structured to provide an incentive for injured workers to return to suitable work as early and as safely as possible.

In addition to weekly benefits, injured workers are entitled to receive a wide range of additional benefits that have no relationship at all to the workers' wage level. These include payment of medical costs and rehabilitation costs where required, a payment for permanent impairment and, depending on the extent of the injury, a payment for pain and suffering. WorkCover's "Wages Definition Manual" provides guidance for employers regarding the types of remuneration that will be counted as wages when calculating the basic tariff premium. The manual is available from the WorkCover website, or by contacting the WorkCover Publications Hotline, as many do, on 1300 799 003.

Mr CHRIS HARTCHER (Gosford) [12.14 p.m.]: I move:

That the motion moved by the honourable member for Tamworth be amended as follows:

That all words after the word "House" be deleted and replaced with:

1. notes changes to WorkCover premiums expanding the definition of wages to include compulsory superannuation contributions, directors' fees or termination payments made to employees,
2. notes more recent gazetted changes to WorkCover premiums raising the F-factor or experience factor greatly increasing the premiums of businesses in New South Wales, and
3. calls on the Minister for Commerce to admit that despite promising works compensation premium rates would not increase, he has done everything in his power

to impose higher workers compensation premiums on businesses in New South Wales to boost funds to the failing and highly indebted WorkCover Authority.

Last year the Carr Government expanded the definition of "wages" to include superannuation, directors' fees and redundancy payments. That increases the amount of money on which premiums are calculated. As a direct result, many businesses have experienced, as the honourable member for Tamworth illustrated, an increase in their workers compensation premiums without an increase in claims or workplace accidents and without an increase in employees. This is the most blatant form of increase; an increase in premiums without giving anything back to the businesses paying them.

This year the Minister for Commerce authorised the gazetting of an increase of the F-factor. Anyone who heard the excellent report this morning at about 6.15 a.m. on the Mike Carlton 2UE radio program would know how the new premiums are starting to flow under the increased F-factor, which are having a devastating affect on aged people's homes. An example was give of the Cardinal's village, which is facing possible closure due to its massive increase in workers compensation premiums due to the F-factor increase. The F-factor is one portion of the complicated formula used to calculate workers compensation premiums. The F-factor is the portion of the formula that denotes the experience of the scheme. If the F-factor increases, the premiums of New South Wales businesses go with them.

The Minister gave an evasive answer in the Legislative Council when the Opposition asked him whether he planned to increase the F-factor portion of workers compensation premiums. The Minister of course knew at that time that he had already planned the increase in F-factor premiums. But instead of simply answering the question the Minister stumbled through a top-of-the-head answer, confusing himself and trying to confuse members of the Legislative Council. He did not want to answer the question. He did not want to admit that his plans were already out, even though he had a chance to do so before he quietly signed the Insurance Premium Order 2004-05. There are two experience factors; two F-factors allocated depending on the type of business involved and the number of employees.

The first F-factor, denoted in the Insurance Premium Order 2003-04 as F90, has a value of 4.4. That was increased this year and the same factor appears in the Insurance Premium Order 2004-05 as F95 with a value of 5.55. Although the wage calculation premium has not risen, the multiplying factor on wage calculations has gone up from 4.4 to 5.55. Most people do not understand how that works, they just get last year's premium and compare it to this year's premium. The Government stands up and piously says, "We have not increased the premium on wages"; no, it has not. What the Government has increased is the F-factor, which is the multiplying factor. The Government has been dishonest and has massively increased insurance premiums for this year.

The adjustments come out in September and are calculated under the F-factor. whereas the premiums that come out on 30 June are calculated on last year's wages. The September adjustments will show a sharp increase, as illustrated this morning by Mike Carlton on 2UE. The second F-factor, denoted in the Insurance Premium Order 2003-04 as F91, has a value of 2.9. So, we have gone from 2.9 as the multiplier to 5.55. This was also increased this year and the same factor appears in the Insurance

Premium Order 2004-05 as F96 with a value of 3.95. The WorkCover scheme continues to be a black hole for the Government. The Government may claim that its reforms of 2001 have brought the scheme's income and expenditure into parity, but it has done nothing to alleviate the enormous suffering of farmers. The honourable member for Lismore has been a particularly strong advocate for farming and rural communities on the North Coast of New South Wales. The Coalition remains determined to reform this rotten, discredited scheme.

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Ms NOREEN HAY (Wollongong) [12.20 p.m.]: Honourable members will be aware that in 2002, as part of its agenda to reform workers compensation in New South Wales, the Government commissioned an independent review into compliance by employers with workers compensation insurance and payroll tax in New South Wales. The final report issued in 2002 made several recommendations. One of the key recommendations outlined in the final report was that the definition of “wages” for workers compensation and payroll tax be expanded and substantially aligned to include employer superannuation contributions, working directors' fees or payments for unused leave on termination of employment.

The special advisers delivered their final report in September 2002, making a number of recommendations. Some of those recommendations were adopted in legislation passed in December 2002, including: expanding and substantially aligning the definition of wages for workers compensation and payroll tax to include employer superannuation contributions, working directors' fees or payments for unused leave on termination of employment; the introduction of grouping provisions for workers compensation; and the introduction of provisions that place an obligation on principal contractors to check that their subcontractors have appropriate workers compensation coverage. These changes have helped to ensure a level playing field, meaning that the costs of the WorkCover Scheme are shared equally amongst employers.

The motion of the honourable member for Tamworth called on the Minister to advise whether the Government plans to expand the WorkCover levy to include compulsory superannuation contributions, directors' fees or termination payments made to separating employees. The motion has taken some time to come before the House and honourable members will recall that these changes to the definition of wages were introduced under the Workers Compensation Legislation Amendment Act 2002, and have applied to all policies issued since 30 June 2003.

Premiums paid by employers in New South Wales are used to fund the operation of the WorkCover Scheme. Employers are assigned an industry class that most closely reflects the risk profile in that industry. Tariff rates assigned to those industry classes are based on the claims experience of the industry in which the employer is engaged. An employer's basic tariff premium is calculated by multiplying the basic tariff rate by the total wages. Broadening the definition of wages has achieved greater equity by ensuring that comparable employers are treated equally, regardless of the methods they use to remunerate their workers.

The definition of wages for workers compensation and payroll tax are now closely aligned. This has simplified compliance for employers, as many of the calculations used and records kept for payroll tax purposes may now also be used for workers

compensation. Narrowing the wage base would have the effect of increasing the effective rate of premium or tax in order to collect the same total revenue, and would provide employers with an incentive to hide wages paid to employees within income sources that do not attract workers compensation premiums or payroll tax. To offset the increase in wages generated by these changes, every industry classification rate was reduced by at least 10.3 per cent. F-factors, which are used to calculate an employer's experience-adjusted premium, were also reduced to account for the expanded definition of wages.

The reduction of 10.3 per cent was determined based on advice from WorkCover's consulting actuaries. In addition, WorkCover consulted a number of employer associations, which indicated that such a reduction was reasonable. Some employers whose industry has a good claims records will find their premiums reduced further. Premiums for cotton growing, clothing and footwear retailers, newsagents, pharmacies, underground gold mining and soft drink manufacturing were reduced by 24 per cent in 2003-04 due to the offset and as a result of fewer claims. Due to a large number of claims and injuries in their industry, some employers will experience an increase in their tariff rate. This is not related to the expansion of wages.

Some employers have claimed that the changes to the wages definition are not fair because some of the elements of wages considered for premium purposes are not reflected in benefits paid when a workers is injured. Weekly benefits are structured to provide an incentive for injured workers to return to suitable work as early and as safely as possible. Additional to weekly benefits, the WorkCover scheme provides a range of other benefits including payment of medical costs and rehabilitation costs, lump sum payments for permanent impairment and, depending on the extent of the injury, a payment for pain and suffering.

Mr ROBERT OAKESHOTT (Port Macquarie) [12.24 p.m.]: I support the motion moved by the honourable member for Tamworth and the amendment to that motion moved by the honourable member for Gosford. It is my understanding that the honourable member for Tamworth also supports the amendment and I encourage the Government to do likewise. I wish to outline to the House the concern that has been expressed by local businesses on the mid-North Coast related to problems being experienced with WorkCover in general, and with the WorkCover levy in particular. A number of changes have taken place in an attempt, supposedly, to improve WorkCover when the reality is that business is once again paying for a failing government scheme.

I want to take this opportunity to express to the House, to the Government and in particular to the relevant Minister, my view that the WorkCover Scheme is failing and that business is paying the penalty for that failure. There are many examples in my local area of incidents having occurred in a workplace despite the employer having done everything possible to provide a safe working environment. Yet, to its surprise, the workers compensation premiums for that business skyrocketed the following year and will continue to increase for many years. Small business is the engine room in New South Wales and Australia. I am talking about staff numbers from one to possibly 12. If a business is hit with significant increases in premiums it will be to the future detriment of the business. I hope the Government is aware of that and is investigating alternative methods to those we have seen put forward thus far.

I recently met with a major boat-manufacturing company in Port Macquarie, Markham Manufacturing, which expressed its concern that some of the new experience factors, which have been mentioned during the course of the debate, have meant that its premiums have gone through the roof and they are affecting the way they conduct business. That company has potential export opportunities it could pursue. It could set up other business opportunities in America, for example. The company is a major boat seller in the Asia-Pacific region, but it does not propose to take advantage of those opportunities because it does not wish to employ additional staff. It wants to stay below the payroll tax threshold—another attack on business in New South Wales. It does not want the impacts that occur when, every now and then, something goes wrong in the workplace. A business as labour-intensive as boat building just does not want to go there and that attitude is stifling business in New South Wales.

I received a letter only recently from a local bus and coach service that employed a casual cleaner who earned approximately \$9,000 a year. The cleaner twisted a knee after turning the wrong way and, unfortunately, owing to a range of factors, the business's premium has skyrocketed. Its previous premium was \$20,600 a year, but that has been adjusted to \$35,000 this year. That simple, unforeseeable accident has resulted in a premium increase of \$14,600. That increase is likely to be perpetuated. In the words of the bus and coach operator, it "cannot believe this system". It states that it is compulsory to have a workers compensation policy to cover workers and that it is compelled to provide a safe workplace, which it does.

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That company is being watched carefully to ensure that it does the right thing. If one of its workers turns or twists the wrong way it is penalised with significant additional expense. In this letter it states that this is a joke and it asks, "What is the policy for?" That is a question that many businesses in New South Wales are asking. We are seeking a better direction from this Minister, who has repeatedly refused to take the hard decisions and who continues to place imposts on businesses. [*Time expired.*]

Mr STEVE WHAN (Monaro) [12.30 p.m.]: Obviously, the Government opposes the amendment that has been moved to this motion. Over a number of years the Government and the Minister have been working to reform WorkCover and to ensure that we have in place a scheme that serves our purposes—something that I am sure all honourable members agree WorkCover should be there to do. It should be an effective scheme that does not lose money, that does not cost taxpayers money, but that ensures workers are safe on the job and are compensated if they are injured. Honourable members should not forget the fundamental and core reason for compulsory workers compensation—that is, that we care about workers. No-one in this place would disagree with that statement. However, it is difficult to ensure that we have a scheme that produces the results that we want, that protects workers and that enables the Government to do that without having to outlay taxpayers' money to subsidise it. The Minister has made a number of changes to the scheme—changes that are producing results around the State and that will ensure that we have in place a fair scheme.

Today Opposition members referred to a number of problems in the scheme. People in the area that I represent have come to see me and have told me that they have had difficulties with experience-related premiums. Criticisms have been made about the

way in which the scheme works. Today not one Opposition member has offered a scheme that will do the job perfectly and no-one has offered a scheme that will do a better job. The honourable member for Gosford, who has the luxury of being in Opposition, told us about all these supposed problems that people have raised with him, but he did not offer any solution. Opposition members referred also to payroll tax. Earlier, when the payroll tax issue was being debated, the honourable member for Gosford interjected and said, "Just wipe the payroll tax." It is easy for Opposition members to make those sorts of statements.

Mr Thomas George: I made that interjection.

Mr STEVE WHAN: I apologise; the honourable member for Lismore made that interjection. That is typical of the Opposition's economic policies. It deletes \$3 billion or \$4 billion from the budget and does not replace it with anything, and it increases services. It also proposes to cut payroll tax without offering a proper solution. Opposition members are trying to con the people of New South Wales. Members of The Nationals run around the place telling people that they will reduce taxes and simultaneously increase services. That is a recipe for a budget black hole, or a budget deficit. Payroll tax forms a massive part of this State's budget. Despite the comments that Opposition members have made in the community they have never proposed deleting or eliminating payroll tax. Some of the things that they said today just shows what hypocrites they are.

There has been much debate today about the F-factors. I received advice to the effect that this Government managed to reduce the F-factors and it adjusted them when it expanded the definition of "wages". That reduction of 10.3 per cent was determined based on the advice from WorkCover's consulting actuaries. In addition, WorkCover consulted a number of employer associations, which indicated that such a reduction was reasonable. In some industries there have been reduced premiums. For example, WorkCover has advised that premiums for cotton growing, clothing and footwear retailers, newsagents, pharmacies, underground goldmining and soft drink manufacturing were reduced by 20 per cent due to the offset and as a result of fewer claims. In fact, 39 per cent of employers in New South Wales received increases of 15 per cent or more in their basic tariff rate.

Some people will experience increases due to a larger number of injuries and claims in their industry. This evolving scheme is responsive to everyone's needs. I am sure all honourable members would agree that industries should be treated fairly based on their risk. It would be unfair to spread the burden across all levels of industry if those risks were not appropriately taken into account. However, there is always room to improve, and that is what this Minister is doing. It is a tough job but over the years that this Minister has been responsible for the WorkCover scheme he has shown that he is willing to adjust the scheme where necessary. Despite the constant interjections from Opposition members, no solution has been offered. Opposition members talk about reform but it will be just like John Howard's tax reform—it will probably mean more tax. That is not reform; that is just change.

Mr PETER DRAPER (Tamworth) [12.35 p.m.], in reply: I thank all honourable members who contributed to this important debate—the honourable member for Bankstown, the honourable member for Gosford, the honourable member for Port

Macquarie, the honourable member for Wollongong and the honourable member for Monaro. Today they raised many issues that affect the ability of businesses to operate successfully in New South Wales. The honourable member for Bankstown said that the WorkCover premium reflects "a risk profile of their class". What about farmers? Allegedly the risk profile is increasing dramatically, but individual farmers have operated successful businesses for many years without any claims, only to see their workers compensation premiums escalating to the stage where they are simply unaffordable.

Mr Robert Oakeshott: The harder you work the more you pay.

Mr PETER DRAPER: Exactly. As the honourable member for Port Macquarie said, "The harder you work, the more you pay." They are putting money into superannuation to pay for their future so that they will not be a burden on society, but that attracts a penalty of an increased WorkCover premium. There is no such impost for sole traders. Because of the way in which this system is structured at the moment it is inequitable. There are alternatives but they need to be explored. I recognise the reform processes that are being undertaken. The Minister is working towards reform and I applaud him for that. However, that reform must be undertaken in consultation with those in industry who are directly affected.

I refer to another inequity in the WorkCover scheme. WorkCover is supposed to provide cover for employees who are injured at work. By definition, a "termination payment" means that an employee is no longer working for an employer. How then can the payment that is made to that person when he or she ceases employment be used to calculate next year's WorkCover premium? It does not make any sense. No-one can answer that question. If someone leaves a business it affects the WorkCover rate that has to be paid the next year, which is illogical. The inclusion of superannuation in the definition of "wages" is causing great concern in my area. It is incongruous for the State to make workers compensation premiums payable on a form of remuneration that is legislated federally.

Prior to the changes in determining wages, workers compensation premiums were already extraordinarily high in comparison to the premiums in other States. It is not a level playing field; it is totally unlevel. Compare the premiums paid by businesses operating close to the Queensland border with the exorbitant WorkCover imposts on New South Wales businesses. That is true especially in the farming and manual labour sectors of the economy. The one-size-fits-all legislation is causing the demise of many country businesses. That issue must be urgently addressed as part of the reform process. Country people are still battling the effects of the drought, yet workers compensation premiums are proving to be greatest challenge that businesses in country areas have ever faced.

One accountancy practice asked, "Why can a system not be developed where employees pay their own income replacement insurance premiums with a no claim reward?" It suggested that employees could receive discounted loadings from an insurance company in response to the employer introducing safer working conditions or work practices. It believes that a scheme such as that would highlight the enormous cost of workers compensation and income replacement insurances to employees, thus discouraging all the frivolous and fraudulent claims and encouraging dialogue

between employers and employees in the interests of improving safe workplace practices and conditions. I am not suggesting that that is the solution, but all points of view should be considered when we are trying to implement a fair and sustainable system of providing for injured workers. As the honourable member for Monaro pointed out earlier, that is a key and critical factor that we must consider.

We must ensure that unsustainable premium levels do not force good businesses to close. I am aware of a growing number of good, solid, long-term, established businesses that used to employ people in the Tamworth electorate but that have now closed. Those business owners have come to me and have cited WorkCover premiums as the main reason for their closure. That trend has to be stopped. Closed businesses do not employ people and country jobs need to be protected. I urge the Minister to consult with the business and farming communities and to listen to those good operators who closed or the good operators who are facing imminent closure because of escalating WorkCover compliance costs.

<17>

The current system is definitely broke—and not just financially. It must be fixed before any more good business operators are ruined.

Question—That the amendment be agreed to—put.

The House divided.

Ayes, 32

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|----------------|---------------|-----------------|
| Mr Armstrong | Ms Hodgkinson | Mrs Skinner |
| Mr Barr | Mrs Hopwood | Mr Slack-Smith |
| Ms Berejiklian | Mr Humpherson | Mr Souris |
| Mr Cansdell | Mr Kerr | Mr Stoner |
| Mr Constance | Mr Merton | Mr Tink |
| Mr Debnam | Ms Moore | Mr Torbay |
| Mr Draper | Mr Oakeshott | Mr J. H. Turner |
| Mr Fraser | Mr Page | Mr R.W. Turner |
| Mrs Hancock | Mr Piccoli | <i>Tellers,</i> |
| Mr Hartcher | Mr Richardson | Mr George |
| Mr Hazzard | Mr Roberts | Mr Maguire |

Noes, 45

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|---------------|--------------|--------------|
| Ms Allan | Ms Hay | Mrs Perry |
| Mr Amery | Mr Hunter | Mr Price |
| Mr Bartlett | Mr Iemma | Dr Refshauge |
| Ms Beamer | Ms Judge | Ms Saliba |
| Mr Black | Ms Keneally | Mr Sartor |
| Mr Brown | Mr Knowles | Mr Shearan |
| Miss Burton | Mr Lynch | Mr Stewart |
| Mr Campbell | Mr McBride | Mr Tripodi |
| Mr Collier | Mr McLeay | Mr Watkins |
| Mr Corrigan | Ms Megarrity | Mr Whan |
| Mr Crittenden | Mr Mills | Mr Yeadon |
| Ms D'Amore | Mr Morris | |
| Mr Debus | Mr Newell | |

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| Ms Gadiel Mr Gaudry Mr Greene | Mr Orkopoulos Mrs Paluzzano Mr Pearce | <i>Tellers,</i> Mr Ashton Mr Martin |
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| Mr Pringle | Ms Nori |
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Question resolved in the negative.

Amendment negatived.

<18>

Question—That the motion be agreed to—put.

The House divided.

Ayes, 32

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| Mr Armstrong Mr Barr Ms Berejiklian Mr Cansdell Mr Constance Mr Debnam Mr Draper Mr Fraser Mrs Hancock Mr Hartcher Mr Hazzard | Ms Hodgkinson Mrs Hopwood Mr Humpherson Mr Kerr Mr Merton Ms Moore Mr Oakeshott Mr Page Mr Piccoli Mr Richardson Mr Roberts | Mrs Skinner Mr Slack-Smith Mr Souris Mr Stoner Mr Tink Mr Torbay Mr J.H. Turner Mr R.W. Turner <i>Tellers,</i> Mr George Mr Maguire |
|---|---|---|

Noes, 45

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| Ms Allan Mr Amery Mr Bartlett Ms Beamer Mr Black Mr Brown Miss Burton Mr Campbell Mr Collier Mr Corrigan Mr Crittenden Ms D'Amore Mr Debus Ms Gadiel Mr Gaudry Mr Greene | Ms Hay Mr Hunter Mr Iemma Ms Judge Ms Keneally Mr Knowles Mr Lynch Mr McBride Mr McLeay Ms Megarrity Mr Mills Mr Morris Mr Newell Mr Orkopoulos Mrs Paluzzano Mr Pearce | Mrs Perry Mr Price Dr Refshauge Ms Saliba Mr Sartor Mr Shearan Mr Stewart Mr Tripodi Mr Watkins Mr Whan Mr Yeadon <i>Tellers,</i> Mr Ashton Mr Martin |
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Pair

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| Mr Pringle | Ms Nori |
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Question resolved in the negative.

Motion negatived.