Experience rating within the context of a changing work environment
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Overview

• ‘Experience Rating’ non-claims programme for small businesses

• Address issues around:
  – Collection and analysis of injury data
  – Small business sector eg compliance, competencies & business failures among
  – Labour force: aging population, increasingly diverse and rise in non-standard work
  – Changes to ER law & ACC Regulations

• And what does this mean in terms of experience rating?
What is Experience Rating?

• Experience rating takes into account a business’s ACC claims history when setting its levies.

• Under the experience rating framework, employers who have lower-than-average injury rates, with better-than-average rehabilitation or return to work rates, MAY receive a discount on their ACC work levy.

• Those with worse-than-average claims experience may receive a loading on their levy.

• Experience rating encourages a focus on:
  – injury prevention in the workplace
  – helping injured employees return to work as safely and quickly as possible.
Experience Rating
Framework Objectives

• The 3 objectives of the experience rating (ER) framework are:
  – to provide a financial incentive to prevent injuries
  – to encourage appropriate return-to-work programmes
  – to make levies fairer for businesses by ensuring that low-risk employers do not subsidise high-risk employers.
Experience Rating Framework Components

• The proposed experience rating framework has two components:

1. Industry risk groups

2. Two new performance pricing programmes:
   - The Experience Rating Programme for large employers, which recognises and rewards effective workplace safety practices and return-to-work programmes.
   - The No-Claims Discount Programme for small employers (a no-claims discount or a high-claims loading)
Experience Rating Coverage

• It will **not** apply to businesses in the ACC Partnership Programme as they are individually responsible for the actual costs of their injuries and administration
  – Only 1.2% of employers will be in the experience rating programme for large businesses.

• It is estimated that **49% businesses** will be in the “no claims discount” programme
  – Small employers, self-employed or non-PAYE shareholders who pay less than $10,000 levy

• So how are injury rates/claim data gathered?
Issues with Experience Rating: Injury Data

- Two sources of work-related injury data in NZ are:
  - the ACC primarily generates claims data for the purpose of administering claims and rehab. The injury data is secondary & is used only for prevention purposes
  - the DoL. compiles occ injury datasets based only on notifications of serious harm as defined under the HSE Act
- Government databases are frequently incompatible, making any comprehensive analysis difficult if not impossible.
Issues with Experience Rating: Injury Data

• There are significant issues around:
  – under-reporting & subjected to manipulation; &
  – data surveillance systems rarely capture occ injury and illness data of precariously employed, vulnerable workers, many of whom are employed in the small business sector.

• Thus, government indices on occ injury and illness rates in NZ are considerably underestimated and present an inaccurate picture.
Issues with Experience Rating: Small Businesses

• Complexities of supply chains -
  – Blurred relationship between the principle and subcontractor and the head office and subsidiary.

• Low level of compliance of SMEs (refer to “...with better-than-average rehabilitation or return to work rates”)

• Issues around competencies & business failures among SMEs

• Tighter margins (eg transport) and more competitive markets
Issues with Experience Rating: Labour Force

- **Aging workforce**: Those aged 75 and over now make up 5.5% of the total population.

- **Immigration**: Increasingly diverse workforce eg Auckland CBD approx over 50% are non-European.

- Rise in the rate of *non-standard employment* & precariously employed workers, many of whom are employed in SBs within the primary, construction & service sectors.

- Many workplaces are affected by *major changes*:
  - the introduction of new technology;
  - the emergence of more flexible forms of work organisation; and
  - the ongoing intensification of work itself.
Issues with Experience Rating: Changes to ER & ACC Law

• Accident Compensation Act, 2001:
  – Earnings-related compensation is to be based on **52 weeks** in a year (refer *precariously employed workers*)

• Employment Relations:
  – Lowering of the threshold of the minimum wage, enabling the employer to deduct expenses from their employees’ pay, which may result in the net pay being below the minimum wage of $13.00 per hour (refer *ACC payments*)

• 90-Day Trail Period:
  – Businesses are able to hire new staff for a trial period of up to 90 days & terminate employment if the employer feels the working relationship is not working.
  – High % of the injuries occur within the first 90 days of work
  – *Difficult to raise a claim?*
Applying Experience Rating

Application and implications of experience rating:

• It provides the wrong incentive to employers and encourages the practice to hide claims

• Claimants may be encouraged to register claims under other parts of the scheme (i.e. home or sport) which results in the cost of injuries being placed on the general levy payer rather than employer.

• In Canada it has had the effect of inciting employers to fight claims as the blame & costs are shifted primarily to the employer

• It undermines the advantages of the ‘no fault’ system in which the responsibility of the injury is borne primarily by the community.
How Relevant is Experience Rating?

• The question is *why* introduce experience rating given:
  – NZ’s predominance of SMEs businesses & the inherent issues in this sector
  – Complex contractual relationships between large- and small-sized businesses
  – The rise of non-standard employment and increasingly diverse workforce
  – Inaccurate, unreliable injury surveillance data

• Ian B Campbell: “*It requires little thought to conclude that such a proposition is completely impracticable.*”
THANK YOU