

# **WorkCover Update**

**Janine Reid  
Legal Counsel  
28 May 2014**

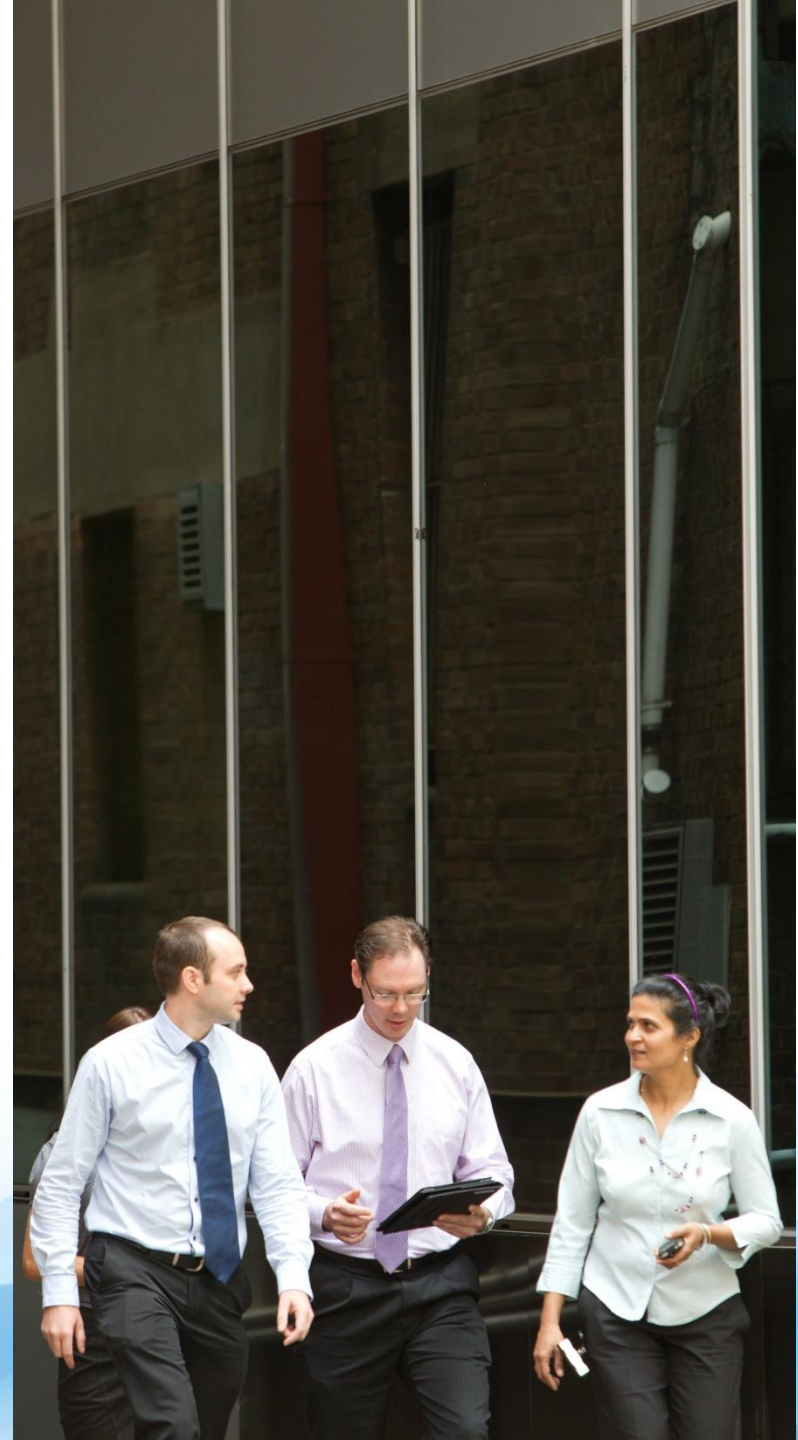
## Agenda

- WorkCover's premium changes
- Update on impact of legislative changes
- Recent common law judgements
- Draft urgent claims policy



## Premium changes

- Premium rate reduced to \$1.20
- New rating model for employers with \$1.5M or less wages
  - Five ratings categories
  - Employer rating depends on performance comparative to their industry
  - Employers can only move up or down one category each year
  - Experience is based on payments made in previous financial year (rather than costs per injury year) – this will help employers see more immediate impact on premium due to their performance
- Improved instalment plans
- Reviewing premium for other employers for 2015/16



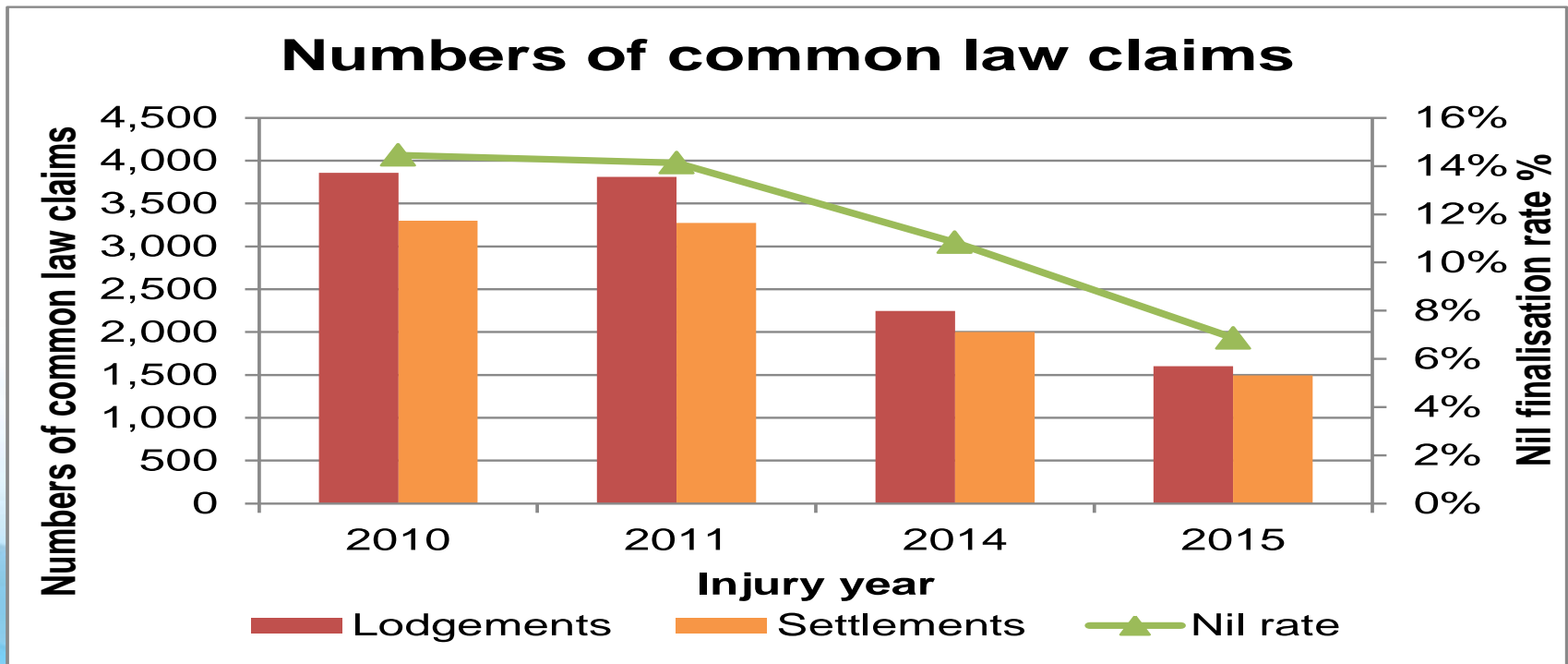
## Update on impact of legislative changes

The majority of these changes have had little/no immediate impact:

- New injury definition for psych claims – no impact yet on decision rates
- Employer can request injury history from prospective workers (s571B) – many employers were interested but we have worked with the ADCQ and industry associations to caution employers on the appropriate use of these provisions – very few employers have adopted it
  - Upcoming webinar 5 June – employers can register via our website
- New medical process – whilst we've had a few assessments for post October 2013 injuries, only one has requested a medical review; all new NOAs and letters have been updated to explain the process to workers
- IME tender underway and will be finalised (and published) by July
- Table of Costs – with ASIEQ

## Update on impact of legislative changes

Common law claim numbers have stabilised in recent months (after busy 2013). The new common law threshold is expected to substantially reduce claim numbers but increase average damages payments. The actuaries have shared this projection at the last stakeholder update:





## Recent common law judgements

### **Millard v RI-CO** [2014] QSC 15 April 2014

- IW injured whilst driving a crane on a public road – he alleged the employer required him to drive it and gave him no instructions about how to do that
- Court accepted he was driving it home for his private use so no employer liability

### **Harris v State of Qld** [2014] QDC 35

- IW injured whilst working as admin assistant at correctional centre
- Physical injuries when trolley ran into her leg plus subsequent psych condition
- Liability admitted; damages \$311K clear of refund



## Recent common law judgements

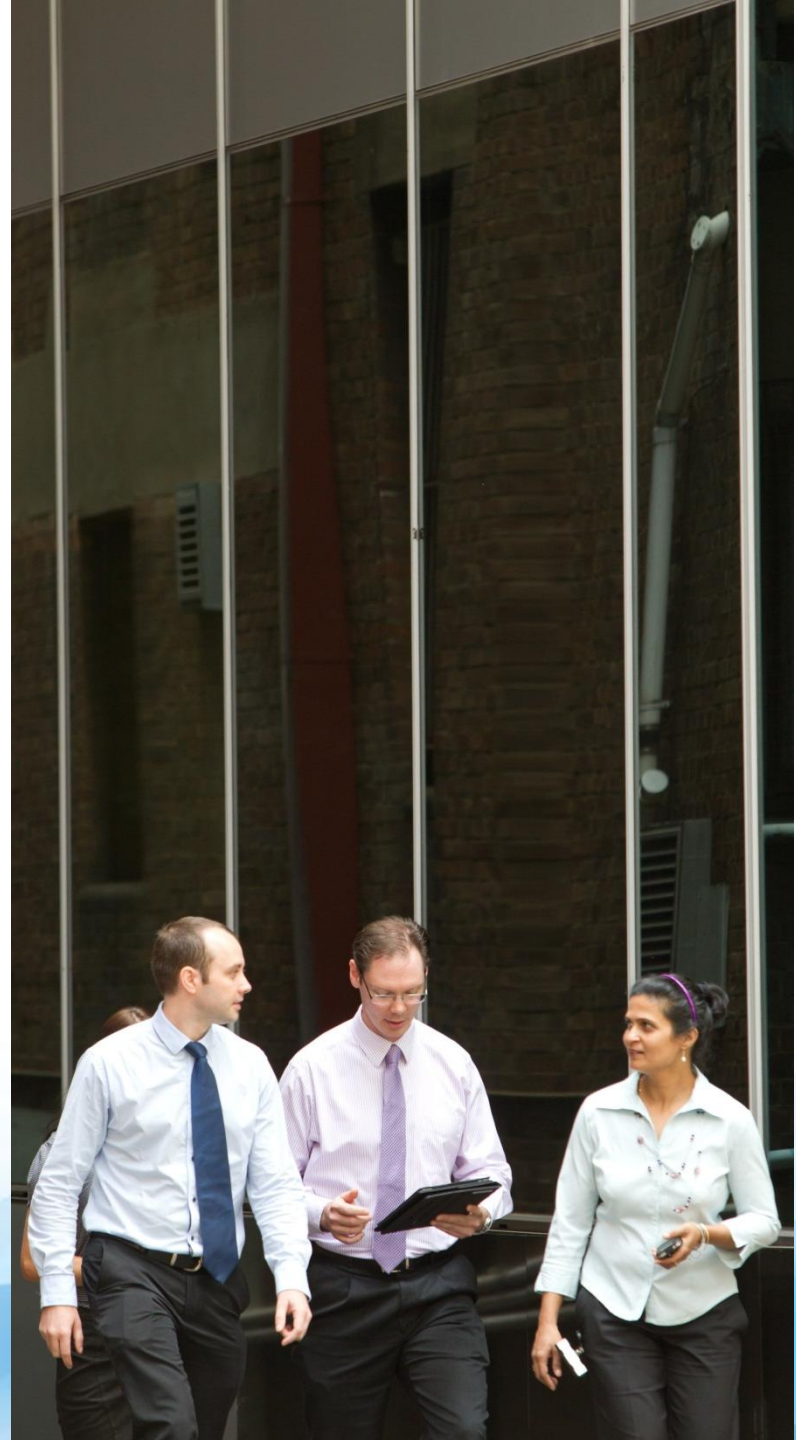
### **Martin v Golding Contractors Pty Ltd [2014] QSC 053**

- IW was a 23 year old female who had a high paying job in the mining industry and good prospects for long term mining employment
- North J preferred IW's witnesses and awarded \$1.4M including \$700K FEL

## Urgent NOC policy

In conjunction with ASIEQ, ALA, our panel lawyers and the QLS we are developing a policy to deal various scenarios. The policy will be finalised by end of May but we need to consider the following:

- The legislative intent: only workers with >5% DPI have an entitlement to seek damages
- Urgent NOC provisions generally work well for pre October 2013 injuries
- New extension of limitation period
- Monitoring claim numbers and legal costs: NIL finalisations already confuse matters and we can't add to that issue with claims lodged with <6% DPI
- Give certainty to Plaintiff lawyers and workers about how we will respond in a way that is appropriate as a model litigant – “firm but fair” – focussed on the real claim issues





## A few scenarios

### Scenario 1

- Clare suffers lower back injury 15 October 2013
- NOA issued with 5% DPI on 28 May 2014

### Scenario 2

- Today is 7 February 2016
- Stephen suffers left arm injury on 1 November 2013 and injury accepted but not yet assessed
- Also reporting psych symptoms and seeking treatment

What if today is 7 September 2016 (or later)?

