

APPENDIX ITHE BRITISH, ONTARIO AND AMERICAN APPROACHES

The influence of the British and Ontario schemes on the evolution of the New Zealand scheme have been mentioned. It would be impossible, in a short summation such as this, to describe adequately all the differing facets of schemes operating overseas.<sup>1</sup> None of them are designed to cover non-work accidents, and all differ in coverage, level of benefits, method of funding, etc. Some of the most salient features regarding financing, differential levies, merit-rating and penalty provisions will be summarised for the above three countries.

(a) Britain.

The stance taken by the British government, after the Beveridge report was recorded in the Command Paper 6551 of 1942, has already been discussed.<sup>2</sup> The abandonment of rate differentials and merit-rating marked the end of an attempt to tie compensation to prevention. The emphasis was placed on safety legislation which was developed to enforce standards and which, by 1970, was complex and unwieldy. New laws and regulations had been added, in piecemeal fashion, to cope with new dangers of industrial advance. The committee of 1972, under Lord Robens,<sup>3</sup> expressed the view that too much law was counter-productive and proposed a new approach to

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1. For a definitive study of schemes currently operating in all major overseas countries, see Royal Commission on Civil Liberty and Compensation for Personal Injury, Report, v.3, London HMSO, March 1978.
  2. See Chapter II, Rise of the Levy System, p.13.
  3. Gt. Britain, Committee on Safety and Health at Work. Safety and Health at Work Cmd 5034, London, HMSO, 1972.

encourage more flexibility and self-regulation in the achievement of adequate safety. In this they were influenced by the work done by Heinrich<sup>1</sup>, who is sometimes referred to as the founder of the modern safety movement. His thesis was that the correct approach to accident prevention was the systematic analysis of all accidental occurrences, whether or not injury was sustained. From his approach grew the 'total loss control' movement, one of whose main values is to make explicit the full costs of accidents to management. Heinrich developed a 4:1 formula of indirect to direct costs (i.e. compensation insurance) and since then various other ratios have been tested. Thus the committee saw promotion of health and safety as a normal management function and not something which needed to be imposed by excessive regulation. The committee felt that the flat-rate contribution system failed to provide any incentive to accident prevention. The recommendation was made that study be made of the possibility of differential rates, even if a simple system under which only employers with relatively very good or very bad records would pay rates different from the norm. A broad study of compensation schemes was undertaken under the chairmanship of Lord Pearson and the recommendation of the final report which appeared in March 1978 was that the introduction of differential levies was not warranted because of the marginal incentive to safety and the huge administrative difficulty.<sup>1</sup> Professor Prest

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1. H.W. Heinrich, Industrial Accident Prevention, 4th ed., McGraw-Hill Book Co., 1959.

2. Royal Commission on Civil Liberty ... v.1.

dissented<sup>1</sup>, remarking that this put Britain out of step with the rest of the world and at variance with what he was led to believe was sound economic principle.

(b) Ontario.

The Ontario experience is often cited, although most other Canadian provinces have similar schemes.<sup>2</sup> The financial arrangements fall somewhere between the British flat-rate system and the prevailing U.S. system. Each class is a mutual assurance association of employers of that class, but a disaster reserve is maintained to cushion the impact of highly unusual occurrences. A second injury and enhancement fund is maintained to absorb increased costs of claims where an industrial injury is superimposed on an existing condition - thus eliminating disincentives to firms in hiring the disabled. Benefits from the Act include compensation at 75% of the worker's average earnings from the day following the accident without time limit but subject to an earnings ceiling.

In 1953 section 99(3) was added to the Ontario Act to allow for merit-rating when voted for by the majority of the class. After this had been operating for 10 years, trade associations expressed concern that some were taking advantage of the collective liability provision and penalty provisions were enacted. Those with an abnormally high number

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1. Royal Commission on Civil Liberty, Report, v.1, pp.200-3.
  2. For a detailed description see Somers and Somers. pp.309-17 and paper by B. Legge, 'Industrial Accident Prevention in Ontario' in National Safety Association of N.Z., A Record of the Third National Industrial Accident Prevention Congress, held at Auckland 28-29<sup>1</sup> May 1969, pp.32-44.

of accidents, as well as higher-than-average accident costs, are isolated and the following tests applied :

- (i) The employer must have incurred a deficit accident cost experience in two out of the last three years.
- (ii) He must have incurred a lifetime deficit accident cost experience.
- (iii) The frequency rate of compensatable accidents must be at least 25% higher than average for two out of the last three years of operation.

Increased premiums are levied, 100% for first penalty, 125, 150, 175, for second, third and fourth penalties respectively.

Data processing techniques can warn when firms are approaching the danger point and the firm can acquire help. The sharpness of the penalty provision is supposed to produce good results in accident reduction in poor record industries. A reserved opinion was expressed in the Pearson Report, and by Atijah, see Chapter IV.

(c) The United States of America.

The history of the different insurance arrangements, coverage and benefits of Workers' Compensation Schemes in the different states are discussed by Somers and Somers.<sup>1</sup> The Occupational Safety and Health Act of 1970 established The National Commission on State Workmen's Compensation Laws, whose function was to evaluate and research the existing laws

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1. H. and A. Somers, op.cit., pp.38-42.

to determine their adequacy. Out of this came a vast body of empirical and theoretical work published in 1973,<sup>1</sup> some of which is of relevance to issues of optimal charging schemes, although the U.S. schemes are more restricted in benefits and coverage than the New Zealand one.

One problem is the huge variation between the states detailed in M. Berkowitz's paper on Adequacy and Equity.<sup>2</sup> Most employers insure with private or state carriers and costs are based on the industrial or occupational category.<sup>3</sup> The classification code provides several thousand classifications. Each class has a manual rate located in a state schedule. As each state may have differing payroll limitations, comparisons are complicated. The standard earned premium is modified for various factors, including claims experience to give the standard earned premium, to which may be added a loss or expense cost for small firms or deductions for large firms. Details of rate modification formulae and procedures can be found in the United States Department of Labour handbook, 'Insurance Arrangements under Workmen's Compensation'.<sup>4</sup>

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1. National Commission on State Workmen's Compensation Laws, Supplemental Studies for the National Commission ... v.1,2,3, Washington, 1973,
  2. M. Berkowitz, 'Adequacy and Equity', Supplemental Studies .. vI, pp.189-288.
  3. For more detail see N. Watkins and J. Burton, Employer Costs of Workmen's Compensation', Supplemental Studies .. v2, pp.217-40.
  4. C. Arthur Williams Jr, Insurance Arrangements under Workmen's Compensation, U.S. Dept. of Labour, Bulletin no.317, 1969, pp.67-69.