

## What is Wrong With the 30 per cent Threshold?

The WPI test is a fundamentally flawed approach as it fails to take any account of the impact of an injury on a person's lifestyle or ability to continue working at a reasonable capacity in their chosen field.

For example, a nurse or manual labourer who suffers a debilitating back injury may be assessed at 10 per cent WPI, but might be unable to perform their required duties. A concert pianist who loses a finger may be assessed at 8 per cent on the WPI scale, but will never perform again. Conversely, a doctor, accountant or Member of Parliament may suffer 30 per cent WPI, but still be able to work full time.

### The 30 per cent Nightmare

The following are examples of injuries which **would not** reach the 30 per cent Whole Person Impairment threshold:

- Amputated foot (25% WPI).
- Total blindness in one eye (24% WPI).
- Complete loss of sexual function (20% WPI).
- A hernia with frequent discomfort precluding **any** heavy lifting (maximum 19% WPI).
- An injury which causes massive distortion or disfigurement of the face may be rated as low as 15% WPI.
- Amputation of the leg more than three inches below the knee **would not** meet the 30% WPI threshold.

## What Can You Do?

Workers' compensation is an important issue which may affect you or a family member.

You can play your part by talking to your local Member of Parliament to find out where they stand on this issue.

Contact your union to see what steps it is taking to improve the situation for injured Tasmanian workers.

For more information, phone (03) 6231 2234 or go to [www.taslawsociety.asn.au/tort](http://www.taslawsociety.asn.au/tort)

# Tasmanians Injured at Work are Hurting More Than Ever

## Fairer Compensation for Injured Workers



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## Workers' Compensation in Tasmania

In 2001, the Tasmanian Government introduced sweeping changes to the Tasmanian workers' compensation scheme, designed to halt increases in insurance premiums.

By introducing the changes, the Tasmanian Government accepted unsubstantiated assertions by insurance companies that premiums were increasing due to the rising cost of claims and a "culture of personal injury litigation in Australia".

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### 'The key element of these changes was the introduction of a 30 per cent whole-person impairment (WPI) threshold'

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In fact, claims costs had been decreasing, on average, at the rate of 7.8 per cent from December 2000 to December 2001, whilst the premiums over the same period increased by 3 per cent.

The key element of these changes was the introduction of a 30 per cent whole-person impairment (WPI) threshold. This threshold creates a barrier, restricting access to common law damages for pain and suffering (general damages) for people unable to demonstrate 30 per cent WPI under the American Medical Association guide.

## Case Study

Dean Newton was a fit 31-year-old who worked and played hard. He loved to travel and spend time in the Tasmanian outdoors.

In August 2002, Dean was fixing a wood-chipper four metres above ground. There was no safety equipment and he fell, badly fracturing his left hip, smashing both wrists and a knee.



Although Dean was severely injured and his employers were clearly negligent, he cannot sue them for pain and suffering because his injuries don't meet the tough threshold under Tasmania's workers' compensation law.

"My life has completely changed," Dean says. "I will never be the active guy I was or work in the jobs I want again. I am left with physical disabilities that are getting worse each day."

***"It is bad enough that my current injuries don't make the grade. How badly hurt do you need to be before your rights count?"***

"But the killer is that although I'm too young for a hip replacement now, my doctors know I'll need one in ten years, but I won't be covered by workers' compensation then! So the insurers get off scot-free."

## Tasmanian Workers Disadvantaged

Tasmanian workers are disadvantaged compared to their equivalents on the mainland because:

- Other states do not have such a high threshold.
- The threshold excludes 95 per cent of injured.
- If you were injured in a motor vehicle or other accident you do not have a threshold. For example, a visitor to a building site who is hit by a brick can sue, but a worker injured in the same way may not.
- There is no incentive for workplace safety.
- The only people to benefit from such a draconian system are the insurance companies.

## What Should Be Done?

Tasmanians deserve a comprehensive common law system, which provides fair and just compensation for people injured in the workplace. In order for this to happen:

- The threshold should be removed or immediately reduced.
- A test which allows consideration of the impact of injuries on lifestyle and career (similar to that in Victoria) should be introduced.