

ANNUAL REVIEW 2005

ABOUT THE COMMISSION

The Workers Compensation Commission is an independent statutory tribunal within the justice system of New South Wales, which began operating on 1 January 2002.

Established under the *Workplace Injury Management and Workers Compensation Act 1998*, the Commission aims to provide a just, timely and cost effective forum for the resolution of workers compensation disputes. The Commission's non-adversarial dispute resolution process directly involves the parties in an accessible and accountable process that ensures injured workers obtain a fair and quick resolution to disputes about their workers compensation entitlements.

Under legislation, the Commission is required to try to bring the parties in a workers compensation dispute, to an agreed resolution where possible.

The Commission's independent Arbitrators, who have expertise in conciliation and mediation, work with the parties to reach agreement where possible through a series of conference style meetings (by telephone and in person). Where parties are unable to reach agreement about their workers compensation dispute, the Arbitrator makes a determination on their behalf.

The Commission makes decisions on a wide range of workers compensation disputes, permanent impairment/pain and suffering, medical and related expenses, weekly benefits paid as compensation for loss of earnings, as well as registration of certain agreements.

PUBLICATION OF ANNUAL REVIEW

Each year the Commission publishes an online summary of its operations during the preceding calendar year. This is the fourth annual review published by the Commission and covers the 12-month period from January to December 2005.

2005 AT A GLANCE

- § 12,761 applications to resolve disputes were registered
- § An application can have more than one issue in dispute. Most applications have more than one issue in dispute (12,761 applications is equal to 21,004 issues in dispute).
- § 14,548 applications to resolve a dispute were finalised. Of those:
 - Ø 41% of applications were settled (an agreement between the parties)
 - Ø 24% of applications were discontinued by the parties
 - Ø 3% applications were struck out
 - Ø 5% of those finalised applications had other miscellaneous outcomes
 - Ø 12% of applications were decided by an arbitrator
 - Ø 15% of applications had more than one type of outcome (these applications all had more than one issue in dispute)
- § Of the total number of applications finalised, 3400 had at least one issue that was decided by an arbitrator. This number includes the 12% of applications that were decided by an arbitrator (as above), plus those applications decided by an arbitrator from the 15% of applications (above) that had more than one type of outcome
- § 331 appeals against a decision of an arbitrator were registered
- § 224 appeals against a decision of an arbitrator were finalised
- § 2% of Arbitrator determinations were overturned on appeal
- § 5,160 Medical Assessment Certificates (MACs) were issued by independent Approved Medical Specialists
- § 1,222 appeals against MACs were registered
- § 1,113 appeals against MACs were finalised
- § 5% of MACs were revised on appeal
- § 570 applications for Interim Payment Directions (IPDs) were registered

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- § 523 applications for IPD were finalised. Directions for payment were issued in about 54% of finalised applications
- § 83 applications for expedited assessment of Workplace Injury Management (WIM) disputes were registered
- § 244 applications for mediation for Work Injury Damages were registered
- § 666 applications for assessment of costs were registered
- § The WCC registered:
 - Ø 167 redemption agreements
 - Ø 51 commutation agreements
 - Ø 7,180 section 66A agreements.

- KEY INITIATIVES IN 2005 -

NEW WEBSITE AND SEARCH ENGINE

The Commission launched a new look website in 2005 that aims to provide easy to follow information for injured workers seeking resolution of their workers compensation dispute. The improved site will greatly assist injured workers by guiding them through our dispute resolution process in a step-by-step fashion. Many of the new design features on the website came about during user focus groups conducted by an independent organisation on behalf of the Commission.

The new website also caters to the needs of our other main site users, lawyers and insurers, by including in-depth information on the legislation, practices and guidelines.

The search engine was also upgraded to allow for improved searching of the website.

LAUNCH OF COMMISSION VIDEO/DVD TO ASSIST WORKERS

In June 2005 the NSW Commerce Minister, John Della-Bosca launched the Commission's video *Information for injured workers*. The video was designed to be seen by injured workers who are considering having their workers compensation dispute resolved in the Commission and ensures that they are better informed about the resolution process.

The DVD/Video has been developed following research that showed injured workers would benefit from being better informed on the role of the Commission before lodging their dispute with the Commission. The DVD/video explains the best way to prepare for a workers compensation dispute process, and helps injured workers understand what to expect when dealing with the Commission.

We offer our video/DVD to all injured workers prior to their Teleconference, and it can also be viewed online at www.wcc.nsw.gov.au. The video is accompanied by a brochure outlining what to expect at the Commission. The DVD and brochures are available in 11 community languages.

Since the launch of the video in June 2005 through to December 2005 we distributed 2039 DVDs and 775 videos.

ARBITRATOR PROFESSIONAL DEVELOPMENT

The Commission provides a comprehensive professional development program for Arbitrators, involving a range of mandatory and voluntary programs. Three days of mandatory professional development training were held during 2005. A number of other voluntary programs were held including sessions on working with interpreters.

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In addition, all Arbitrators participated in two performance review programs to ensure they continue to meet the Commission's objectives of professionalism, independence and fairness.

APPROVED MEDICAL SPECIALIST PROFESSIONAL DEVELOPMENT

The Commission also provides a comprehensive professional development program for Approved Medical Specialists (AMS), involving a range of mandatory and voluntary programs. In 2005 two mandatory training sessions were held for AMS and a further six voluntary training sessions were held.

VENUE REVIEW

During 2005 we reviewed all venues we use outside the Sydney metropolitan area to hold conciliation and arbitration conferences. The review was conducted to ensure all venues are suitable and most particularly that they comply with the requirements set out in our Access and Equity Service Charter. The Commission will be publishing a venues policy in early 2006 that outlines the Commission's approach to locations for Commission proceedings, and sets out the minimum standards required for suitable venues.

COMMISSION PUBLICATIONS

In June 2005, the Commission introduced a new report, the **Quarterly Review** to provide more timely information about the Commission's performance. Two reports were produced, both of which are available on the Commission's website.

The Commission published four E-bulletin newsletters in 2005, available on the Commission's website.

Amendments were made to:

- § Practice Direction No. 8 Appeal against medical assessment made under Part 7 of Chapter 7 of the Workplace Injury Management and Workers Compensation Act 1998

The Commission introduced new forms for:

- § Form 18 Wages schedule
- § Form 7 – Referral for Medical Assessment

USER GROUP

2005 saw the establishment of a User Group. The group currently comprises two solicitors who primarily represent workers and two solicitors who primarily represent employers/ insurers and a member of the Bar, together with Justice Sheahan and the Registrar, Helen Walker.

The group was established to create a forum for lawyers who practise daily in the Commission and the senior staff of the Commission, to work collaboratively to address operational issues and problems encountered by members of the profession in working with and within the Commission.

Meetings have been held bimonthly and a number of problems raised on behalf of practitioners have been addressed, and the Commission processes improved, from the feedback it has received from the members of the Group.

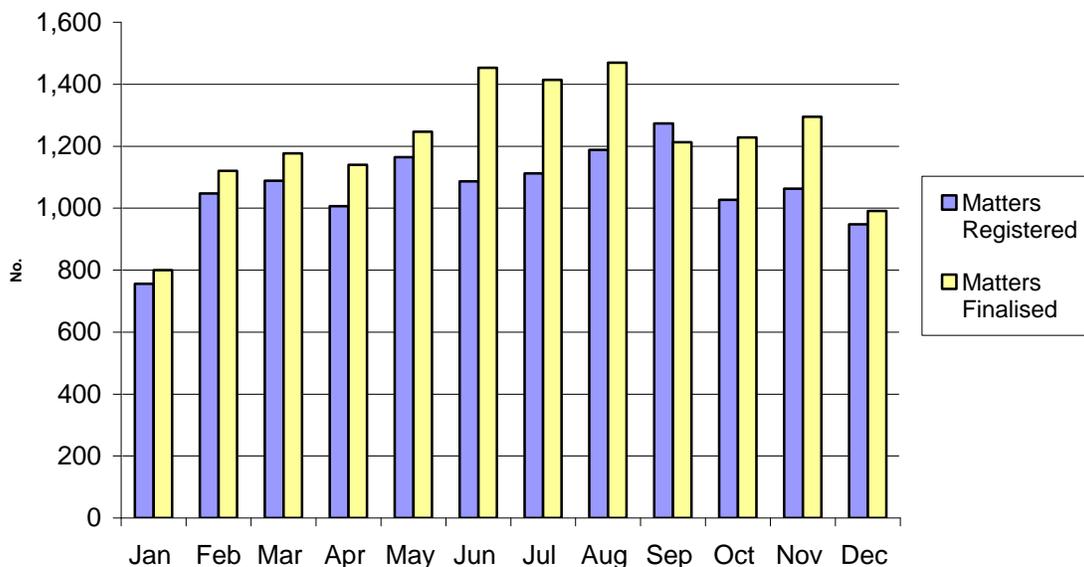
It is anticipated the User Group will continue to meet throughout 2006. There are a number of items currently on the agenda that the group is working to resolve over the next year

DISPUTE RESOLUTION

A total of 12,761 Applications to Resolve a Dispute were registered with the Commission during 2005. This is a slight reduction (3%) over the 13,142 disputes lodged with the Commission in 2004.

The number of new disputes per month is around 1,050 per month.

New and Finalised Disputes, 2005 by month



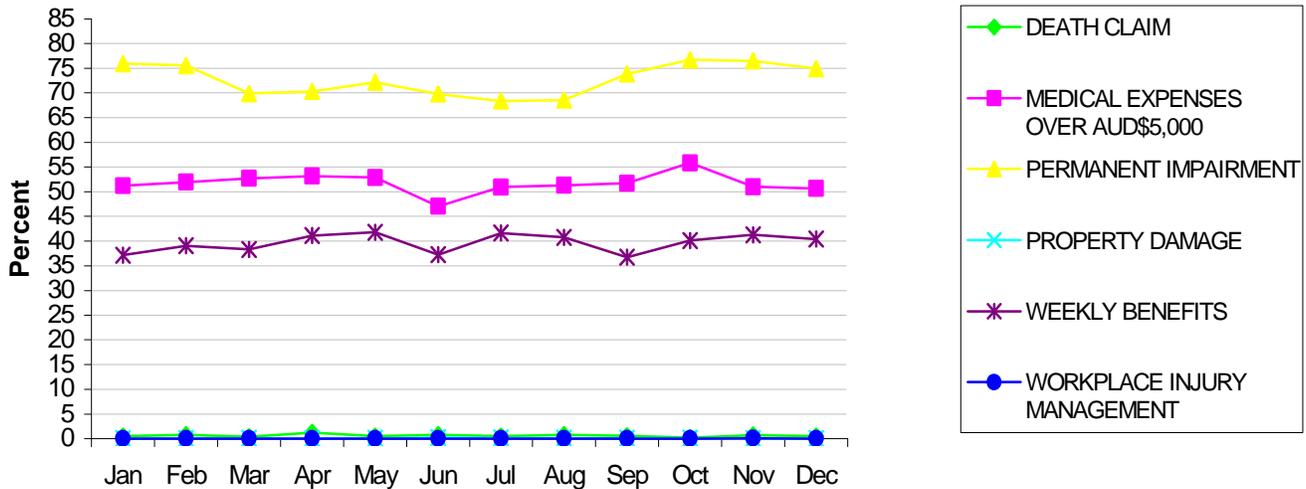
ISSUES IN DISPUTE

An Application to Resolve a Dispute may identify one or more disputed issues about an injured worker's claim for compensation. On average, there were approximately 1.65 disputes per application during 2005.

Around 73% of new disputes concerned statutory compensation for permanent impairment (section 66 claims), down from 77% in 2004. Other common disputed issues included medical expenses (52% of all disputes) and weekly benefits (40%).

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Issues in Dispute, 2005



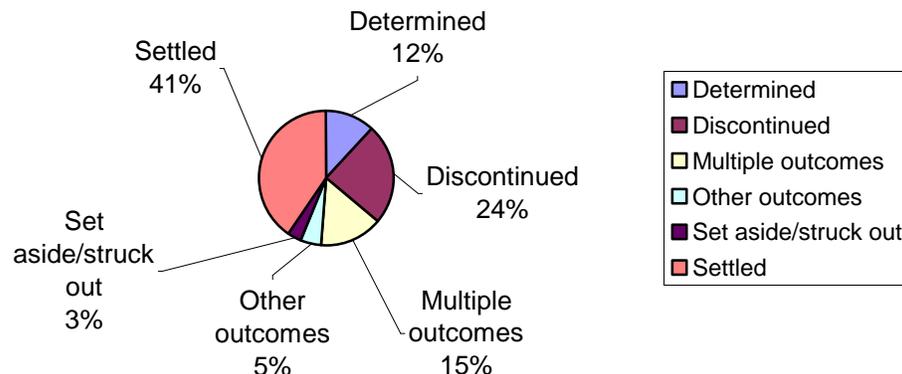
DISPUTE OUTCOMES

A significant proportion of disputes are discontinued or withdrawn by the parties (24%). About 22% of those applications were discontinued before the teleconference, and 77% after the teleconference. The discontinuance includes settlement.

14,548 applications to resolve a dispute were finalised during 2005. In about 12% of these a determination by an Arbitrator resolved all issues. In 15% of matters finalised there are different outcomes recorded for different issues in dispute. These are reported as 'multiple outcomes'.

A further 3% of disputes were struck out by the Registrar for failure to comply with procedural requirements.

Dispute Outcomes, 2005



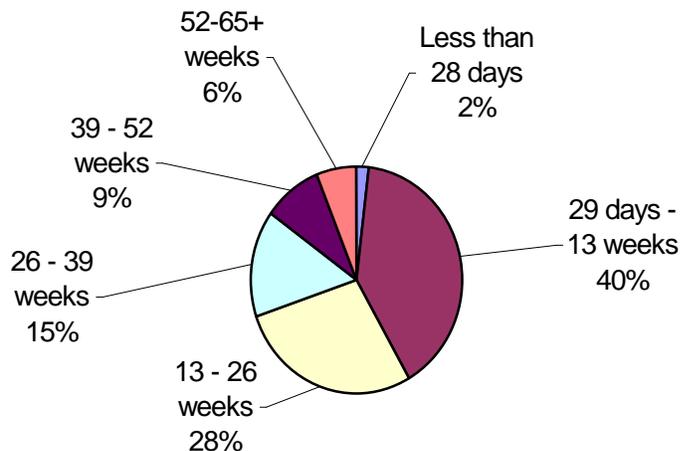
TIME TAKEN

The time taken to resolve disputes may vary considerably due to a number of factors. These include:

- § whether an assessment by an Approved Medical Specialist is required
- § whether an appeal is lodged in relation to a medical assessment
- § whether the application is resolved during or after the teleconference or requires a hearing before an Arbitrator
- § delays in the information exchange process – during 2005, 58% of disputes involved at least one application to seek access to documents under Direction. This is down from 82% of disputes in 2004.

Of the disputes resolved in 2005 that did not have a medical or arbitral appeal, 70% were resolved within 26 weeks and 85% were resolved within 39 weeks.

Time Taken to Finalise Disputes, 2005 No medical or arbitral appeal



APPEALS

Appeals Against Medical Assessments

During 2005, 5160 Medical Assessment Certificates were issued and 1,222 appeals against Medical Assessment Certificates were registered, an appeal rate of 24%.

1,113 medical appeals were finalised during 2005. Of these, 243 (or 5% of all Medical Assessment Certificates issued) resulted in the original Medical Assessment Certificate being revoked and replaced.

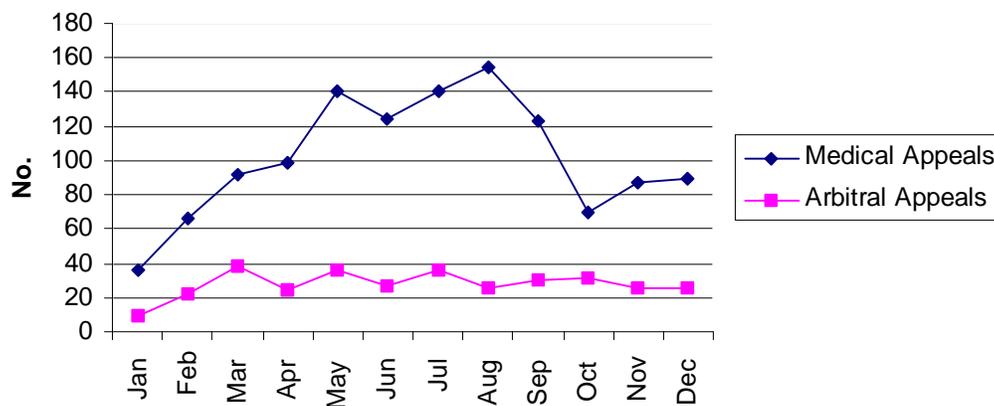
Appeal Against decisions of Arbitrators

During 2005, 3,400 decisions were made by Arbitrators.

331 appeals against decisions of Arbitrators were registered during 2005, an appeal rate of approximately 10%.

224 arbitral appeals were finalised during 2005 of which 79 (or approximately 2% of all Arbitrator decisions) resulted in the Arbitrator's decision being overturned.

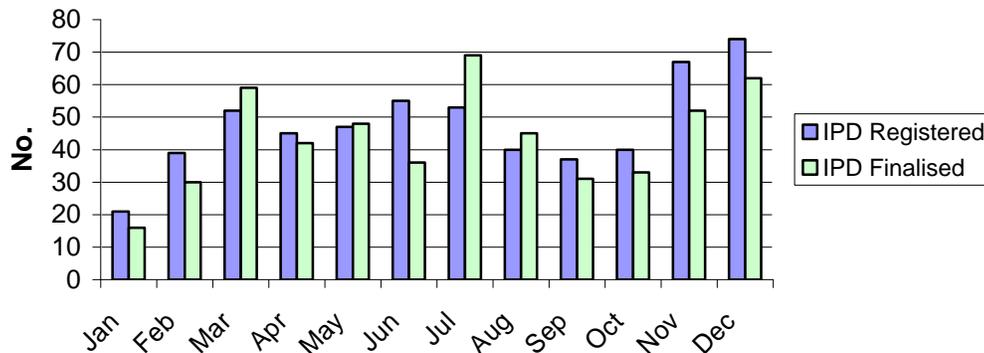
New Appeals against decisions of Arbitrators and AMS, 2005



INTERIM PAYMENT DIRECTIONS

A total of 570 applications for an Interim Payment Direction were registered in 2005, a slight decrease of 7% over the 613 received in 2004.

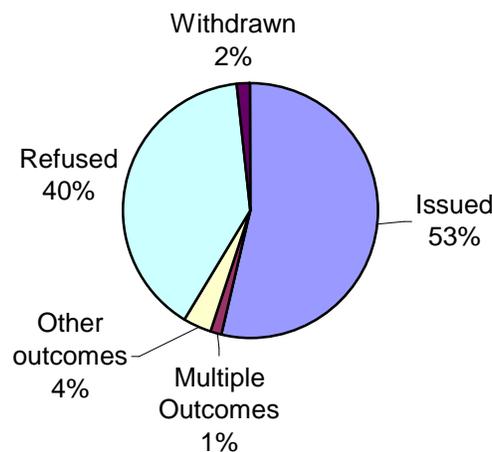
New and Finalised Applications for Interim Payment Directions 2005, by Month



523 applications for Interim Payment Directions were finalised during 2005, with Interim Payment Directions being issued in about 54% of cases.

9 applications to Revoke an Interim Payment Direction were registered during 2005 and 3 were subsequently revoked.

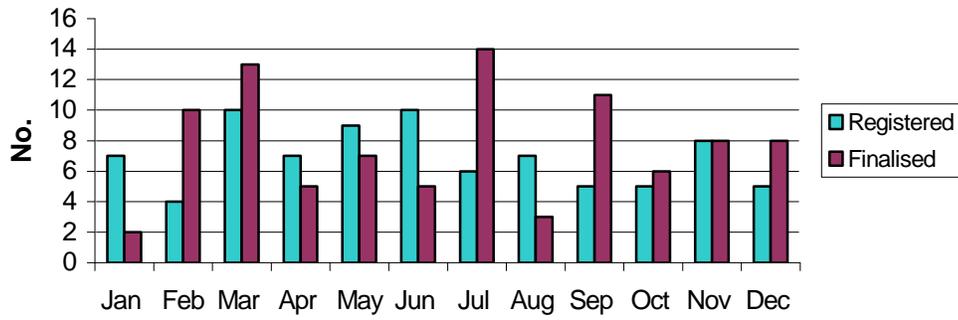
Outcomes of Applications for Interim Payment Directions, 2005



WORKPLACE INJURY MANAGEMENT DISPUTES

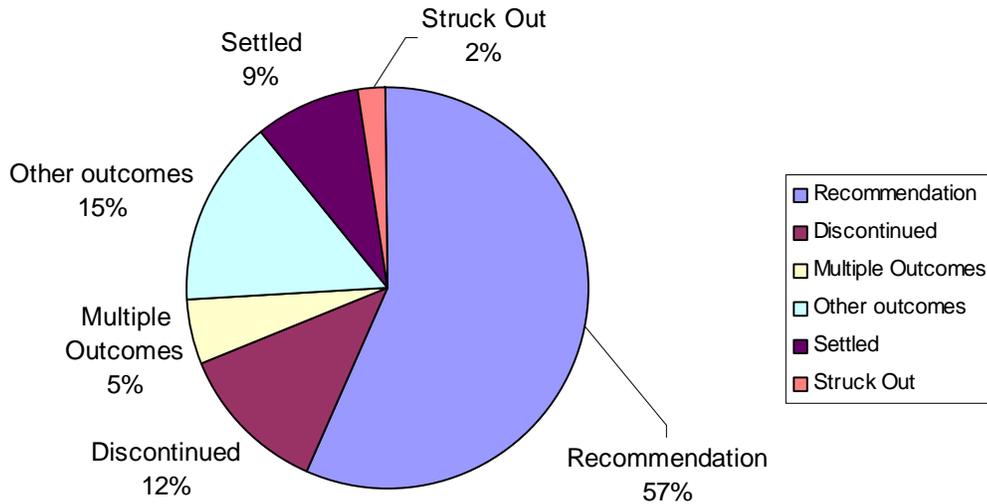
83 applications to resolve Workplace Injury Management disputes were subject to expedited assessment during 2005. This compares to 122 applications received during 2004, a decrease of 32%.

New and Finalised Workplace Injury Management Disputes, 2005



92 expedited assessments of Workplace Injury Management disputes were finalised during 2005. 56% resulted in a recommended course of action and 9% were settled by agreement.

Outcomes of Workplace Injury Management Disputes, 2005

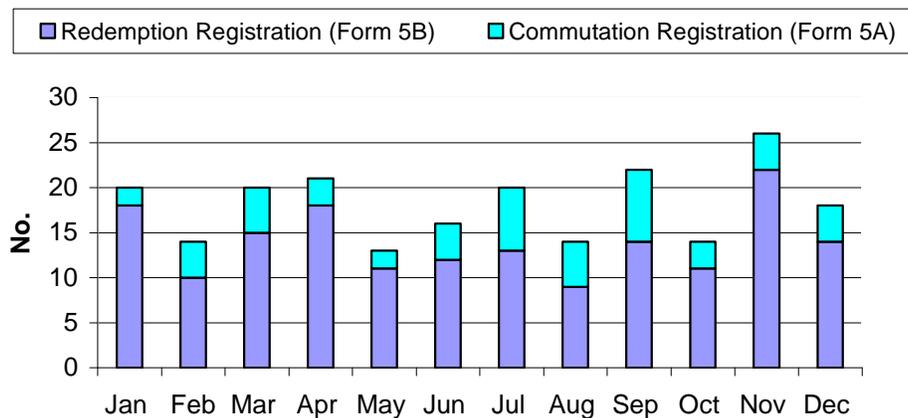


COMMUTATION AND REDEMPTION AGREEMENTS

In accordance with the legislation, agreements between insurers and injured workers for lump sum payments of future weekly benefit entitlements must be registered with the Commission. These agreements are referred to as redemptions for workers injured prior to 1 July 1987 and commutations for workers injured on or after 1 July 1987.

During 2004, the Commission received 167 applications to register a redemption agreement and 51 applications to register a commutation agreement.

Applications to register Commutations and Redemption Agreements, 2005



ASSESSMENT OF COSTS

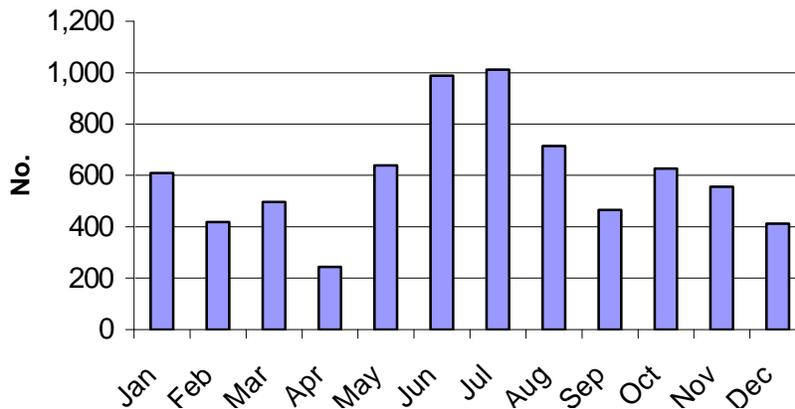
666 applications for assessment of costs were registered in 2005.

AGREEMENTS ON PERMANENT IMPAIRMENT COMPENSATION

The Commission also registers agreements between injured workers and insurers regarding lump sum payments for permanent impairment and pain and suffering under section 66A of the Workers Compensation Act 1987.

The Commission registered 7,180 agreements under section 66A of the Workers Compensation Act 1987 in 2005.

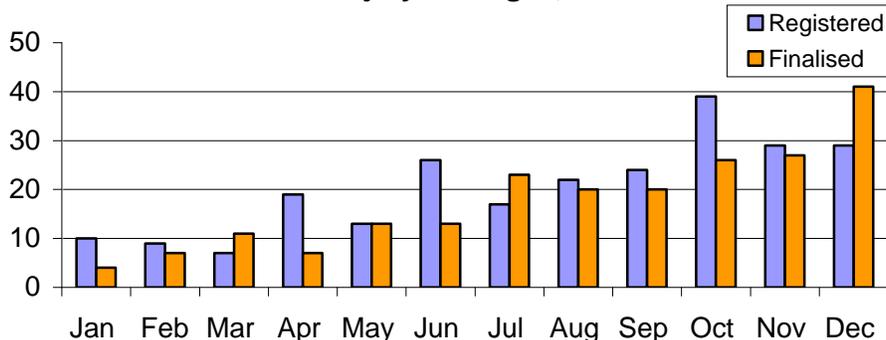
Number of New Applications to Register a Section 66A Agreement, 2005



MEDIATION - WORK INJURY DAMAGES

244 applications for mediation in relation to Work Injury Damages claims were registered in 2005, up from 50 in 2004. 212 applications for mediation were finalised in 2005.

Applications for Mediation Work Injury Damages, 2005





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Workers Compensation Commission

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