Licence Conditions

Version 5 - 1 January 2021

WorkCover TASMANIA

Release notes

This document replaces *Licence Conditions Version 4 October 2013*.

This document is a managed document. For identification of amendments each page contains a version number and a page number. Changes will only be issued as a complete replacement document. Licensed insurers should remove superseded versions from circulation.

Document name	Date of release
WorkCover Tasmania - Licence Conditions Version 5 - 1 January 2021	30 June 2020

Contents

Background

The licence conditions contained in this document were approved by the WorkCover Tasmania Board on 2 June 2020 and are imposed on licences pursuant to section 102(1) of the *Workers Rehabilitation and Compensation Act 1988*, effective 1 January 2021.

Licence conditions are subject to any variation made by the Board in accordance with section 102(3) of the Act.

A breach of licence conditions may constitute an offence under the Act. Licences may be revoked or suspended by the Board in accordance with section 111 of the Act if the licensed insurer is convicted of an offence under the Act.

Sam Thompson
Secretary
WorkCover Tasmania Board

30 June 2020

Interpretation

In this document (including the licence conditions), unless the contrary intention appears:

- **Expressions** defined in the Act have the same meanings when used in this document
- **Act** means the *Workers Rehabilitation and Compensation Act 1988* (Tas)
- **Approved Injury Management Program** means the Injury Management Program submitted by the licensed insurer and approved by the Board
- **Board** means the WorkCover Tasmania Board
- **Business day** means a day when banks are generally open for business in Hobart but does not include a Saturday, Sunday or public holiday
- **Corporations Act** means the *Corporations Act 2001* (Cwlth)
- **Injury Management Program** means an organisation's process for effectively managing workplace injuries
- **Licence** means the licence issued to the licensed insurer under section 101 of the Act
- **Licence conditions** means the licence conditions in this document imposed by the Board on the license issued to the licensed insurer
- **Licensed insurer** means an insurance organisation granted a licence under section 102 of the Act.
- **Prescribed person** has the meaning in the *Insurance Act 1973* (Cwlth)
- **Related body corporate** has the meaning in the *Corporations Act 2001* (Cwlth)

Licence conditions are obligations in addition to the licensed insurer's obligations under the Act.

If there is any inconsistency between the licence conditions and the Act, the Act prevails to the extent of the inconsistency.

Licence Conditions

Pursuant to section 102 of the *Workers Rehabilitation and Compensation Act 1988*, the Board imposes the licence conditions set out below on licences issued to licensed insurers:

1. General Requirements

Compliance

1.1 The licensed insurer must have documented procedures for ensuring compliance with all licence conditions and legislative obligations.

1.2 The licensed insurer must provide a declaration of compliance in the approved format no later than 31 August each year. The declaration must be signed by the licensed insurer's authorised senior manager.

1.3 The licensed insurer must comply with any directives from the Board in respect to their activities as a licensed insurer.

Solvency and APRA requirements

1.4 At all times during the continuation of the licence the licensed insurer must be authorised under section 12 of the *Insurance Act 1973* (Cwlth) to carry on business in Australia, including the business of insuring against the liabilities referred to in section 97 of the Act.

1.5 The licensed insurer must notify the Board in writing if the Australian Prudential Regulation Authority (APRA):

(i) revokes the licensed insurer's authorisation under section 12 of the *Insurance Act 1973* (Cwlth)

(ii) takes, or threatens to take, any action in relation to the authorisation

(iii) imposes, or threatens to impose, any conditions, or additional conditions, or varies or revokes any conditions on the authorisation including any change in the licensed insurer's supervisory level

(iv) commences or conducts any investigation in relation to the licensed insurer, any related body corporate of the licensed insurer, any person who is a prescribed person in relation to the licensed insurer or any related body corporate of the licensed insurer.

The notice in respect of each of the above matters must be given to the Board not later than 24 hours after the licensed insurer becomes aware of the matter.

1.6 In addition to the obligations imposed in item 1.5, if a licensed insurer's supervisory level is elevated by APRA, the licensed insurer must, within 7 days of becoming aware of the change in stance:

(i) provide the Board, in writing, a detailed description of the issues identified by APRA

(ii) provide the Board, in writing, details of the actions it is taking to comply with any APRA intervention and how such action may impact on Tasmanian operations

(iii) provide the Board, in writing, advice as to how it proposes to keep the Board informed in respect to progress.

1.7 The licensed insurer agrees that the Board may exchange information regarding its prudential status, including relevant documentation with APRA.

Notification of corporate changes

1.8 The licensed insurer must, as soon as practicable, but no later than 14 days, notify the Board in writing if any of the following things occur:

(i) any change, or any proposal to change, the licensed insurer's name

(ii) any change to the licensed insurer's status under the Corporations Act, or any proposal to make such a change

(iii) any change in the directors or secretary of the licensed insurer

(iv) the licensed insurer becoming a subsidiary (as defined in the Corporations Act) of another body corporate (as defined in the Corporations Act)

(v) the licensed insurer ceasing to be a subsidiary of another body corporate

(vi) any change in the control (as defined in the Corporations Act) of the licensed insurer

(vii) any change in the management personnel responsible for the management of the licensed insurer's Tasmanian business

(viii) any other change that may affect the ability of the licensed insurer to perform its obligations as a licensed insurer.

In addition, wherever practicable, the licensed insurer must give at least 30 days prior notice of the change.

Organisational changes

1.9 The licensed insurer must submit to the Board any proposal in respect to planned significant changes to the manner in which it manages its claims and injury management functions.

Action to ensure compliance with the Workers Rehabilitation and Compensation Act 1988

1.10 If the licensed insurer becomes aware of any substantial breach of the Act by any person, the licensed insurer must:

(i) bring the breach to the attention of that person

(ii) if the breach continues or is not rectified, notify the Board in writing of the breach.

Clarification of obligations

1.11 Where the Act imposes an obligation on both the insurer and the employer, the licensed insurer must identify who will be responsible for satisfying the required obligation and communicate this to the employer.

2. Exit Provisions

2.1 The licensed insurer must apply to the Board to cease being a licensed insurer. An application to cease being a licensed insurer must:

(i) be made in accordance with any guidelines issued by the Board

(ii) be received by the Board no later than 90 days prior to the date on which the licensed insurer wishes to cease being a licensed insurer.

2.2 Before ceasing to be a licensed insurer, a licensed insurer must enter into a deed, in a form and substance satisfactory to the Board, pursuant to which the licensed insurer enters into obligations regarding:

(i) ongoing claims management

(ii) ongoing provision of workers compensation data for existing claims and future claims.

3. Provision of Information

3.1 The licensed insurer must establish and maintain systems to ensure that the information it provides to employers, workers and the Board is current and accurate. The systems must be established and maintained in accordance with any guidelines issued by the Board.

3.2 The licensed insurer must provide information to the employers it indemnifies and their workers in accordance with the requirements set out in Schedule 1 or as directed by the Board.

3.3 The licensed insurer must, as directed by the Board, provide information in writing, on any changes to the Act to:

(i) the employers it indemnifies

(ii) injured workers with an active claim at the time of any legislative amendment.

Information may be provided by letter or by email.

3.4 The licensed insurer must provide to the employers it indemnifies any information the Board directs.

3.5 The licensed insurer must provide an approved workers compensation claim form to a worker who requests a form if the employer of that worker is indemnified by the insurer and that employer:

(i) no longer exists, or

(ii) cannot be found, or

(iii) has refused to provide a claim form.

The claim form must be provided not later than 3 business days after the request.

4. Information and Records Management

4.1 The licensed insurer must establish and maintain a documented records management system in respect to the management of records pertaining to its activities as a licensed insurer.

4.2 The licensed insurer is responsible for ensuring the security of all information relevant to their activities as a licensed insurer. The licensed insurer must:

(i) establish and maintain systems and controls to ensure the security of information and compliance with relevant privacy legislation

(ii) ensure that any third parties have appropriate systems and controls in place to ensure the security of information and compliance with relevant privacy legislation.

5. Disputes/Complaints handling

5.1 The licensed insurer must establish and maintain documented policies and procedures for the management of disputes and complaints arising from its activities as a licensed insurer.

6. Conflict of Interest

6.1 The licensed insurer must:

(i) have documented policies and procedures in place to identify and manage conflict of interest.

(ii) as soon as practicable, but no later than 14 days, following the identification of a conflict of interest, either real or perceived, relating to the insurer's activities as a licensed insurer, notify the Board in writing of the conflict and what action is being taken to manage it.

7. Injury Management and Return to Work

Injury Management Programs

7.1 The licensed insurer must:

(i) ensure that there is an Injury Management Program in respect of each employer it insures

(ii) ensure that it complies with the approved Injury Management Program

(iii) ensure that employers are provided with sufficient information in respect to the approved Injury Management Program to ensure the employer's knowledge of and compliance with the Injury Management Program.

7.2 The licensed insurer must establish and implement a system to conduct an annual review of its approved Injury Management Program to ensure consistency with legislation, Injury Management Program guidelines issued by the Board and the insurer's current claims and injury management practices.

Return to work

7.3 The licensed insurer must ensure the policies, procedures and systems documented in the approved Injury Management Program are applied equitably and transparently to ensure that in all instances its primary aim is the recovery of, and return to work of injured workers and that all decisions made relating to injury management are made in the best interests of the worker.

7.4 The licensed insurer must apply the Return To Work Hierarchy when assisting an injured worker to return to work:

1. Return to work, same employer, same job
2. Return to work, same employer, different job
3. Return to work, different employer, same job
4. Return to work, different employer, different job

Injury management co-ordinator

7.5 The licensed insurer must not impede, obstruct or prevent an appointed injury management co-ordinator from performing his or her functions under the Act.

7.6 The licensed insurer must develop and implement an internal dispute management procedure to manage internal disputes concerning the work or recommendations made by an injury management co-ordinator. Such procedures must be available and communicated to any appointed injury management co-ordinator.

8. Claims Management

8.1 The licensed insurer must establish and maintain documented policies and procedures for the management of claims. The policies and procedures must be established and maintained in accordance with any guidelines issued by the Board.

Changes in entitlements

8.2 The licensed insurer must provide a written explanation to employers and claimants when step down provisions are applied to weekly payments. The explanation must be provided at least 14 days prior to the change occurring.

8.3 Where an insurer intends to take any action to reduce, suspend or terminate a worker's entitlement to weekly compensation the insurer must, in addition to any action required by the Act:

(i) ensure the decision is reviewed by a senior manager (for example: team leader, manager, supervisor), and that the senior manager has considered whether the action is reasonable having regard to the relevant provisions of the Act and the individual circumstances of the worker

(ii) ensure that the reason(s) for the action have been documented

(iii) ensure the employer has been consulted

(iv) ensure the worker has been notified verbally of the decision, unless there is a reasonable basis for not doing so

(v) ensure the worker has been notified in writing of the decision, unless service of documentation is required

(vi) provide the worker with information in respect to the insurer's dispute resolution process

(vii) provide the worker with information in respect to dispute resolution options available under the Act. For example, referral to the Workers Rehabilitation and Compensation Tribunal.

Lump sum settlements

8.4 The licensed insurer must establish and maintain documented policies and procedures to manage the settlement of claims. The policies and procedures must be established and maintained in accordance with any guidelines issued by the Board.

Accredited service providers

8.5 The licensed insurer must not engage any person or organisation to perform a prescribed service unless such person or organisation is accredited in accordance with the Act.

9. Premium Setting

9.1 The licensed insurer must set premiums that reflect the employer's:

(i) industry risk rating

(ii) claims experience

(iii) commitment to work health and safety

(iv) commitment to provide alternative duties

(v) size of business.

9.2 The licensed insurer must inform the employer of the extent to which the criteria detailed in condition 9.1 was incorporated into the policy premium. The information must be provided at the time of providing a policy quote.

9.3 The licensed insurer must provide details of the currency of a policy to an employer at the time of policy inception and on each renewal.

Wage audits

9.4 The licensed insurer must develop a policy for the undertaking of wage audits of the employers it indemnifies. The policy must be provided to the Board no later than 30 days after the granting of a licence. The licensed insurer must notify the Board in writing of any proposed material modification of the policy at least 30 days before the modification is implemented.

9.5 The licensed insurer must forward the results of any wage audits it conducts to the Board. The results must be forwarded to the Board in accordance with any guidelines issued by the Board and, in any event, no later than 30 days following the completion of the audit.

10. Data Reporting Requirements

10.1 The licensed insurer must provide data as determined by the Board in accordance with Section 114 of the Act.

10.2 If any data provided to the Board is incorrect, corrupt or deficient, the licensed insurer must notify the Board within 3 business days of the error being identified.

10.3 The licensed insurer must take measures to rectify any errors or omissions identified in any data provided to the Board.

10.4 The licensed insurer must forward to the Board a signed End of Year Reconciliation Certificate in a form approved by the Board. The Certificate must be received by the Board no later than 31 August in each year or as determined by the Board.

10.5 If the Certifier does not certify the accuracy of all of the data, the licensed insurer must give the Board revised data and obtain and forward a revised Certificate. The revised data and Certificate must be provided to the Board within 14 days following identification of the errors.

11. Audit Requirements

Self-audits

11.1 The licensed insurer must:

(i) perform a self-audit of its management systems (licence conditions, claims and injury management) at intervals determined by the Board

(ii) forward an audit report by the date specified by the Board

(iii) not conduct the audit any earlier than 60 days prior to the date specified by the Board.

11.2 Where the licensed insurer identifies opportunities for improvement in its self-audit it must:

(i) within 60 days of submitting the self-audit report, confirm that any opportunity for improvement has been addressed, or

(ii) if the opportunities for improvement cannot be addressed within 60 days, provide the board with a corrective action plan within 28 days of being provided with the report, detailing the action which will be taken and the time frame in which the action will be taken, or

(iii) if any opportunities for improvement cannot be addressed, make a submission to the Board within 28 days of being provided with the report, detailing the reasons.

11.3 The annual self-audits of the management systems must be conducted by a competent person who must be able to demonstrate independence of the system being audited.

11.4 The licensed insurer's self-audit report is to be signed by the licensed insurer's authorised senior manager.

WorkCover Tasmania Board audits

11.5 The licensed insurer must submit to and facilitate an audit in respect to its management systems (licence conditions, claims and injury management), conducted by the Board's Auditor. Audits may be conducted at such times as determined by the Board.

11.6 Where opportunities for improvement are identified by the Board's Auditor, the licensed insurer must:

(i) within 60 days of being provided with the Board's audit report confirm that any opportunity for improvement has been addressed, or

(ii) if the opportunities for improvement cannot be addressed within 60 days, provide the Board with a corrective action plan within 28 days of being provided with the report, detailing the action which will be taken and the time frame in which the action will be taken, or

(iii) if any opportunities for improvement cannot be addressed, make a submission to the Board detailing the reasons within 28 days of being provided with the report.

11.7 The licensed insurer agrees that it will contribute to the cost of audits conducted by the Board in accordance with any policy approved by the Board.

11.8 The licensed insurer must provide any additional information requested by the Board following Board audits or self-audits.

Schedule 1

The information required to be provided in this schedule may be provided via electronic link in correspondence however the parties must be provided with an option to request a hard copy.

Information to be provided to employers at policy inception

1. Details of the Insurer's approved Injury Management Program as per licence condition 7.1
2. WorkCover Tasmania publication *Workers Compensation Handbook: The Basics* (GB010)

Information to be provided to employers at policy renewal

3. WorkCover Tasmania publication *Workers Compensation Handbook: The Basics* (GB010)

   Insurers may determine the frequency of the provision of information on renewal based on:

   - the employers claims history
   - whether the information has been reviewed and updated since it was last distributed
   - the date the publication was last forwarded to the policy holder.

Information to be provided to Workers on Receipt of a Claim

4. WorkCover Tasmania publication *Injury Management Making it Work* (GB197)
5. WorkCover Tasmania publication *Workers Compensation Handbook: The Basics* (GB010)
6. WorkCover Tasmania publication *The Benefits of Returning to Work* (IS083)

You can find these guides at worksafe.tas.gov.au by searching for the code provided.

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