

Australian Capital Territory

Workers Compensation (Cancellation of Policy) Approved Protocol 2014 (No 1)

Notifiable instrument NI2014–508

made under the

Workers' Compensation Act 1951, section 153 (Cancellation)

1 Name of instrument

This instrument is the *Workers' Compensation (Cancellation of Policy) Approved Protocol 2014 (No 1)*

2 Commencement

This instrument commences on the day following notification.

3 Approval

I approve the attached protocol for the cancellation of workers' compensation policies.

Mick Gentleman
Minister for Workplace Safety and Industrial Relations
15 October 2014



ACT

Government

Chief Minister and Treasury

PROTOCOL FOR APPROVED INSURERS

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| Protocol Number | 2014-1 |
| Protocol Name | Cancellation of Workers' Compensation Policy for Approved Insurers |

Purpose

To establish guidelines for the cancellation of workers compensation policies under the *Workers Compensation Act 1951*¹.

Context – law and policy

The Act empowers the Minister to grant commercial insurers a licence to underwrite workers' compensation insurance policies (known as compulsory insurance policies) to Territory employers in accordance with the Act (s145).

An employer commits an offence under the Act if the employer fails to maintain a compulsory insurance policy with an approved insurer.

Under section 153(1) of the Act, an approved insurer² must not cancel a compulsory workers' compensation insurance policy unless it is cancelled in accordance with a protocol about cancellation.

This Cancellation Protocol for insurers has been approved by the Minister in accordance with s101 of the *Workers Compensation Regulation 2002* and forms part of the conditions of approval/exemption which the insurers must adhere to. The Cancellation Protocol sets out the procedures that insurers must follow when cancelling a policy.

The Cancellation Protocol is enforceable under the regulatory framework as a condition of licence/exemption.

Objectives

The Cancellation Protocol is intended to achieve the following objectives:

- enhance transparency around the conduct of insurers and the areas of regulatory scrutiny;
- to provide consistency of decision making across insurers;
- to provide clarity on cancellation procedures to those insured; and
- ensure insurer compliance with the conditions of approval/exemption and the undertakings made as part of the licence/exemption approval process.

¹ The Act

² insurer

Implementation

This Protocol establishes separate procedures for two types of cancellation:

1. insurance cancellations performed at the written request of the insured employer or their authorised representative; and
2. insurance cancellations initiated by the insurer.

Procedures – Cancellation at the request of the insured employer or their authorised representative

If an insurer initiates cancellation of a workers' compensation policy in response to a written request from the insured employer or their authorised representative, the following procedures must be followed

Step One verify request is properly made

Verify the request to cancel the policy is made in writing by either the insured employer or a third party authorised to act on their behalf.

The insurer must be satisfied any third party is authorised to act on behalf of the insured. Information used to inform this decision should be retained on file for audit purposes.

This cancellation procedure may only be applied to written requests. If only a verbal request is received, the procedures for an insurer initiated cancellation must be used (see over page).

Step Two Cancel the policy

The insurer must issue a policy cancellation notice to the insured or their nominated representative. The notice must include:

- date cancellation notice is issued
- name and business address of the insured
- insurer name, type of policy, policy number
- inception date of the coverage
- coverage end date
- insurer contact details
- reason for cancellation

Insurance coverage must not be cancelled retrospectively. Consequently, the policy end date must be later than the date of issuance of the cancellation notice.

The cancellation notice must be provided to the insured or their nominated representative. Acceptable methods of delivery include post or email.

Cancellations once executed are final. In the event an insurer determines to resume cover after a cancellation, then a new coverage must be used.

Step Three report cancellation

Details of cancelled policies must be included in the first available policy data submission following the policy end date.

Please note: When reporting a cancellation made in accordance with this procedure, Insurers must use the National Insurer Data Specifications (NIDS) P029 coverage type code – 05 – Lapsed Notification.

Procedures – Cancellation initiated by the insurer

If an insurer initiates cancellation of a workers' compensation policy without the prior written consent of the insured employer or their authorised representative the following procedures must be followed:

Step One Notification of intent to cancel policy (1st letter)

The insurer must send a notification of intent to cancel policy letter to the insured or their nominated representative and include:

- date
- name and business address of the insured
- insurer name, type of policy, policy number, inception and proposed expiry dates of the coverage
- insurer contact details
- reason for proposing cancellation
- description of action required of the insured in order to prevent cancellation, and
- an opportunity for the insured to respond to the notification of intent letter within an adequate timeframe, at a minimum it must be at least 14 days from date of letter.

This letter may be sent to the insured or their nominated representative via email or by post.

If a satisfactory commitment from the insured to rectify the reason for the proposed cancellation is not received within the allowed time, the decision to cancel a policy must be reviewed and approved by a senior underwriting officer or manager of the insurer.³

³ If an insurer deems a response as unsatisfactory the reason for this decision should be retained on file for audit purposes.

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| <p>Step Two Cancellation advice (2nd letter)</p> | <p>If the senior underwriting officer or manager of the insurer decides to cancel coverage, a cancellation advice must be issued via registered mail.</p> <p>The cancellation advice must include:</p> <ul style="list-style-type: none"> • date • name and business address of the insured • insurer name, type of policy, policy number, inception and proposed expiry dates of cover • the date and reason for proposing cancellation • insurer contact details • advice that the policy will be cancelled if a response/premium not received • advice that WorkSafe ACT will be informed of the proposed cancellation • information about employer obligations to hold a policy covering all of their employees and the possible penalties for non-insurance, and • an opportunity for the insured to respond to the cancellation advice within an adequate timeframe, at a minimum it must be at least 14 days from date of the cancellation advice. <p>A copy of the cancellation advice must be sent to WorkSafe ACT via email:</p> <p style="text-align: center;"><i>Workers' Compensation Inspectorate WorkSafe ACT Office of Regulatory Services Email: workerscomp@act.gov.au.</i></p> <p>The email should be accompanied by the most recent wage declaration and any relevant correspondence or records of discussions between the insurer, the insured or their representatives during cancellation process.</p> <p>Investigation or compliance and enforcement activity – WorkSafe ACT</p> <p>At any time within 14 days from the date of the second letter, WorkSafe ACT may intervene for the purposes of investigation or compliance and enforcement activity. WorkSafe ACT may instruct the insurer in writing to suspend the cancellation process until any such activities are completed for up to a maximum of 28 days.</p> <p>If WorkSafe ACT instructs an insurer to suspend the cancellation process, the insurer must not cancel the policy unless 28 days has lapsed or WorkSafe ACT informs the insurer in writing that the suspension has been lifted.</p> <p>If WorkSafe ACT does not suspend the cancellation process and a satisfactory response from the insured is not received within 14 days of the date of the second letter, the insurer may serve a notice of cancellation.</p> |
| <p>Step Three Served notice of cancellation (final letter)</p> | <p>If at the end of the 14 day period allowed at Step Two above, the insurer does not have a satisfactory commitment from the insured to rectify the reason for the proposed cancellation, the insurer may issue a notice of cancellation.</p> <p>If an insurer deems a response as unsatisfactory the reason for this decision should be retained on file for audit purposes</p> |

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| | <p>The insurer must be certain the notice of cancellation has been received by the policy holder or an executive officer of the insured business before the policy can be cancelled.</p> <p>To ensure this, the notice of cancellation must be served by giving it to the policy holder or by giving it to an executive officer of the insured business.⁴</p> <p>The notice of cancellation must include:</p> <ul style="list-style-type: none"> • date • name and business address of the insured • insurer name, type of policy, policy number • inception date of coverage • coverage end date • advice that WorkSafe ACT has been notified of the cancellation; and • advice on the insured’s obligation to provide wages declarations for the period of the cancelled policy.⁵ <p>Insurance coverage must not be cancelled retrospectively. Consequently, the policy end date must be later than the date of issuance of the cancellation notice.</p> <p>Cancellations once executed are final. In the event an insurer determines to resume cover after a cancellation, then a new coverage must be used.</p> |
| Step Four report cancellation | <p>Details of cancelled policies must be included in the first available policy data submission following the policy end date.</p> <p>Please note: When reporting a cancellation made in accordance with this procedure, Insurers must use the National Insurer Data Specifications (NIDS) P029 coverage type code – 05 – Lapsed Notification.</p> |

⁴ This can be either through the physical serving of the letter or confirmed receipt of registered mail.

⁵ Section 157 of the Act.