

Australian Capital Territory

# Workers Compensation (Insurer Licence Application) Protocol 2022

Notifiable instrument NI2022-164

made under the

*Workers Compensation Regulation 2002*, section 68 (Application for licensing of insurers) and section 101 (Approved protocols for licensed insurers and licensed self-insurers)

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## 1 Name of instrument

This instrument is the *Workers Compensation (Insurer Licence Application) Protocol 2022*.

## 2 Commencement

This instrument commences on the day after its notification day.

## 3 Approval

I approve the attached Insurer Licence Application Protocol 2022.

Mick Gentleman MLA  
Minister for Industrial Relations and Workplace Safety  
30 March 2022



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

# Insurer Licence Application Protocol 2022

## 1. Introduction

For the purposes of the Workers' Compensation Scheme, the *Workers Compensation (Insurer Licence Application) Protocol* (the Protocol) is made under section 100 of the *Workers Compensation Regulation 2002* (the Regulation).

Insurers must be licensed to provide an insurance service under the Act<sup>1</sup>. To become a licensed insurer, applicants will need to apply for a workers' compensation insurer licence under section 145A of the *Workers Compensation Act 1951* (the Act).

Section 145A of the Act requires applications to:

- a) be in writing;
- b) comply with the requirements for the application.

Section 145B of the Act allows the regulator to request more information that the regulator reasonably needs to decide the application.

The application requirements are made under the Regulation<sup>2</sup> and in this Protocol<sup>3</sup> as set out in section 3 below.

### How to apply for a licence

Applications are made to the regulator<sup>4</sup> who is responsible for assessing licence applications in accordance with the Act and the Regulation.

When applying for a licence, an insurer must submit an application to WorkSafe ACT:

By post to:     WorkSafe ACT  
                  GPO Box 158  
                  CANBERRA ACT 2601

Att: WHS Commissioner

Or by email to:     [workerscompensation@worksafe.act.gov.au](mailto:workerscompensation@worksafe.act.gov.au)

<sup>1</sup> Insurance service is defined under section 143A of the Act.

<sup>2</sup> Section 145J(a) allows the Regulation to prescribe how an insurer may apply for an insurer licence. Section 68 of the Regulation sets out the requirements for an insurer licence application.

<sup>3</sup> Refer section 68 of the Regulation.

<sup>4</sup> Regulator means the WHS Commissioner as prescribed in the *Work Health and Safety Act 2011*

If an insurer has questions about the application process, they may contact WorkSafe ACT by email at: [workerscompensation@worksafe.act.gov.au](mailto:workerscompensation@worksafe.act.gov.au) or phone: 13 22 81.

## When can a licence be issued?

A licence may be issued by the regulator only where the regulator is satisfied that:

- a) an insurer is financially and prudentially sound; and
- b) the insurer, if licensed, will:
  - i. be able to meet their existing and expected liabilities under the Act; and
  - ii. be able to meet the insurer's obligations under the Act; and
  - iii. comply with the conditions of their licence.<sup>5</sup>

Once a licence is granted, it remains in force until such time as it is cancelled<sup>6</sup> or suspended.

## 2. Application requirements

This Protocol incorporates the minimum application requirements when an applicant applies for an ACT workers' compensation insurer licence. The regulator may request additional information<sup>7</sup> over and above what is contained in this protocol if required to provide evidence that the insurer will be able to meet existing and expected liabilities under the Act; is financially and prudentially sound; or will be able to meet obligations under the Act in relation to injury management programs and personal injury plans.

This Protocol is made up of three parts:

- **Part A** – application requirements under the Regulation;
- **Part B** – application requirements under this Protocol: additional information and evidence which is required to assist the regulator to make a fully informed determination of the application; and
- **Part C** – application requirements under this Protocol: the insurer declarations required when applying for an insurer licence.

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<sup>5</sup> Criteria for issuing insurer licence (section 69 of the Regulation)

<sup>6</sup> Surrender of a licence is taken to be a cancellation (section 145G of the Act)

<sup>7</sup> Regulator may request additional information to decide an application (section 145B of the Act)

### 3. Application specifications

#### Part A – Application requirements under the Regulation

##### Financial and prudential information

1. All applications for a licence must submit information demonstrating (section 68 of the Regulation):
  - a. evidence of APRA approval to carry on an insurance business under section 12 of the *Insurance Act 1973* (Cth); and
  - b. in relation to a corresponding licence:
    - i. if the insurer is applying for a corresponding licence—evidence of the application; or
    - ii. if the insurer holds a corresponding licence—evidence of the corresponding licence; and
  - c. evidence of adequate reinsurance, or other arrangements in place to cover the insurer's future liability under the Act.

##### Corresponding licence information

2. To allow the regulator to fully consider the applicant's ability to operate as a licensed insurer, if the applicant has a corresponding workers' compensation licence in another jurisdiction, the application must include evidence of:
  - a. the corresponding workers' compensation insurer licence; and
  - b. if the corresponding insurer licence is subject to conditions—the conditions on the licence.

#### Part B – Application requirements under this Protocol: additional information requirements

##### Part B.1 – General information requirements

##### Organisation details

3. An application for a licence must include information to identify and contact the applicant.
4. The application must contain the following general information:
  - a. applicant's name;
  - b. if the applicant operates the insurance service under another name – the applicant's trading name;
  - c. applicant's ABN, or ACN if applicable;

- d. applicant's registered business address;
- e. applicant's primary email contact; and
- f. applicant's business contact phone number.

### **Key Personnel information**

- 5. Key personnel information is required for the purposes of administering and monitoring the scheme, data reporting, monitoring scheme performance, claims queries and other purposes.
- 6. All applicants must provide the name, title and contact details (email address and phone number) for each key personnel of the applicant. Key personnel are considered to be:
  - a. the relevant executive office with responsibility for the applicant's workers' compensation portfolio;
  - b. the primary contact for enquiries about insurer performance;
  - c. the primary contact for enquiries from the regulator;
  - d. the primary contact for attending insurer meetings;
  - e. the primary contact for insurer data enquiries;
  - f. the primary claims management contact for claims enquiries; and
  - g. the primary financial information contact for invoicing scheme levies.

## **Part B.2 – Other additional information and evidence requirements**

### **Location of claims management services**

- 7. Insurers have a critical role under the Act in supporting injured ACT workers to return to work.
- 8. To ensure insurers have an understanding of ACT's private sector workers' compensation scheme, local providers and workplaces, all applicants must, subject to clause 11 below, maintain an office and employ claims personnel in the ACT.
- 9. An application for an insurer licence must include the applicant's ACT registered office where claims management services for the insurer will be provided, if different to the registered business address provided in part B.1 above.
- 10. Claims management services include, but are not limited to, claims administration and processing, claim payments and claims management procedures and data management.

### **Claims management functions carried on outside of the ACT**

- 11. If an applicant proposes to provide claims management services under the Act outside of the ACT, this must be approved by the regulator.

12. An applicant must provide evidence to the regulator to demonstrate that the services proposed to be provided outside the ACT meet the same service delivery standard regardless of whether claims management functions are provided in the ACT or outsourced.
13. Evidence to be submitted in relation to clause 12 above includes:
  - a. details of claims management functions for the applicant's ACT workers' compensation portfolio that are proposed to be managed outside of the ACT;
  - b. evidence that personnel performing claims management functions have information, training, knowledge and experience of workers' compensation and the legislation in the ACT.

### **Injury management programs**

14. Licensed insurers are required to establish and maintain an injury management program under section 88 of the Act.
15. An application for an insurer licence must include a copy of the insurer's proposed injury management program.

## **Part C – Application requirements under this Protocol: declarations required for insurer licence applications**

### **Declarations**

16. When applying for an insurer licence, the applicant must acknowledge their insurer responsibilities under the Act and agree the following declarations:
  - a. the applicant agrees to comply with the *Workers Compensation Act 1951* (the Act) and the *Workers Compensation Regulation 2002* (the Regulation);
  - b. the applicant, if granted a licence, agrees to comply with the conditions of licence imposed under section 145E of the Act and division 9.2 of the Regulation and any guidelines issued by WorkSafe in relation to workers' compensation;
  - c. the applicant agrees to comply with any approved protocols made that relate to a licensed insurer;
  - d. the applicant agrees to provide information, comply with reasonable requests of a person conducting a compliance or financial audit, and pay reasonable fees and expenses of a compliance audit or financial audit required by the regulator under part 10A of the Regulation<sup>8</sup>;
  - e. the applicant declares it will be able to meet present and future claims under the Act for which they are or are expected to be liable; and

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<sup>8</sup> Section 73 of the Regulation.

- f. the applicant agrees to allow the Minister to discuss the affairs and performance with Commonwealth or State Ministers responsible for workers compensation, or corporate or prudential regulation.
17. When submitting an application for licence, the applicant acknowledges that information provided by the applicant under the Act, including data about workers compensation claims, is reasonably necessary if it is used:
- a. for compliance purposes;
  - b. to monitor and review scheme performance, insurer performance, reporting for comparative purposes across Australia; and
  - c. for research commissioned for the purposes of monitoring the scheme and promoting worker safety and injury management; and
  - d. agrees to collect information in a manner that would facilitate these uses.
18. When submitting an application for licence, the applicant agrees the regulator may:
- a. by written notice, require the applicant to provide:
    - i. further evidence or information in relation to the requirements set out in section 68 of the Regulation; and
    - ii. any other relevant evidence or information necessary to determine whether the regulator may licence the applicant;
  - b. request further evidence or information or inspect evidence or information given to the regulator as part of the application to verify its contents.
19. An insurer licence application must be signed by an officer with authority to act on behalf of the applicant.