

Australian Capital Territory

Workers Compensation (Licensed Insurer Cancellation of Policy) Protocol 2022

Notifiable instrument NI2022–593

made under the

Workers Compensation Act 1951, section 153 (Cancellation) and Workers Compensation Regulation 2002, section 101 (Approved protocols for licensed insurers and licensed self-insurers)

1 Name of instrument

This instrument is the *Workers Compensation (Licensed Insurer Cancellation of Policy) Protocol 2022*.

2 Commencement

This instrument commences 14 days after notification.

3 Approval

I approve the attached *Licensed Insurer Cancellation of Policy Protocol*.

4 Revocation

This instrument revokes the *Workers Compensation (Cancellation of Policy) Approved Protocol 2014 (No 1)* [NI2014–508].

Mick Gentleman
Minister for Industrial Relations and Workplace Safety
22 November 2022



ACT
Government

Licensed Insurer Cancellation of Policy

Protocol

October 2022

1. Introduction

For the purposes of the Workers' Compensation Scheme, the protocol for the cancellation of workers' compensation policies is made under section 153 of the *Workers Compensation Act 1951* and section 101 of the *Workers Compensation Regulation 2002*.

The Cancellation Protocol:

- is to be used by all licensed workers' compensation insurers in the Territory when cancelling a workers' compensation policy;
- forms part of the conditions of approval of an insurer's licence to which insurers must adhere;
- sets out the procedures that insurers must follow when cancelling a policy;
- is enforceable under the regulatory framework as a condition of licence.

2. Objectives

A licensed insurer must not cancel a compulsory workers' compensation insurance policy unless it is cancelled in accordance with a protocol about cancellation.

The Cancellation Protocol is intended to:

- enhance transparency around the conduct of insurers and the areas of regulatory scrutiny;
- provide consistency of decision making across insurers; and
- provide clarity on cancellation procedures to those insured.

3. Implementation

This Protocol establishes separate procedures for two types of cancellation:

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

4. Cancellation procedures

4.1 Cancellation of a policy at the request of the insured employer or their authorised representative

If an insurer cancels 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	<p>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.</p> <p>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.</p> <p>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 Part 2 of this Protocol).</p>
Step Two: Cancel the policy	<p>The insurer must issue a policy cancellation notice to the insured or their nominated representative. The notice must include:</p> <ul style="list-style-type: none">• the date the cancellation notice is issued;• the name and business address of the insured;• insurer name, type of policy, policy number and contact details;• inception date and proposed cancellation date of the coverage; and• the reason for cancellation. <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, unless evidence of a new policy with another insurer is provided. In that instance, the policy may be cancelled on a date to coincide with the commencement of the new policy, ensuring no gap in cover.</p> <p>The cancellation notice must be provided in writing to the insured or their nominated representative in accordance with the service of documents provisions under Part 19.5 of the Legislation Act 2001 (Service of documents).</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 Three: 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 – 04 – Cancellation Notification.</p>

4.2 Cancellation of a policy initiated by an 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.

<p>Step One: Notification of intent to cancel policy (first letter)</p>	<p>The insurer must send a <i>notice of intent to cancel policy</i> to the insured employer or their nominated representative and include:</p> <ul style="list-style-type: none">• the date;• name and business address of the insured employer;• insurer name, type of policy, policy number;• inception date of the coverage and proposed cancellation date for the coverage – the proposed cancellation date must be no less than 28 days from the date of the letter;• reason for proposing cancellation; and• a description of the action required to prevent cancellation;• information about insured employer's obligations to hold a policy covering all their employees and the possible penalties for non-insurance;• an opportunity for the insured employer to respond to the cancellation advice within an adequate timeframe. At a minimum it must be at least 28 days from date of the cancellation advice;• advice on the insured employer's obligation to provide wages declarations for the period of the insured employer's policy up to the date of cancellation; and• advice that the Office of the Work Health and Safety Commissioner (WorkSafe ACT) has been notified of the intent to cancel a policy. <p>The notice of intent to cancel must be provided in accordance with the service provisions under Part 19.5 of the Legislation Act 2001 (Service of documents).</p> <p>A copy of the notice of intent to cancel must be sent to WorkSafe ACT via email to Workerscompensation@worksafe.act.gov.au. The notice to WorkSafe ACT should be accompanied by the most recent wage declaration and any relevant correspondence or records of discussions between the insurer, the insured employer, or their representatives during the 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 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>
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<p>Step Two: Confirm cancellation (second letter)</p>	<p>If at the end of the 28-day period from the date of the first letter, subject to and excluding any period relating to the suspension of the cancellation process by WorkSafe ACT under step two above, the insurer does not have a satisfactory commitment from the insured employer to rectify the reason for the proposed cancellation, the insurer may issue a <i>notice of cancellation</i>.</p> <p>If an insurer receives a response from the insured employer which is deemed as unsatisfactory, the reason for this decision should be retained on file for audit purposes.</p> <p>The notice of cancellation must include:</p> <ul style="list-style-type: none"> • the date; • name and business address of the insured employer; • insurer name, type of policy, policy number; • inception date of coverage; • coverage end date; • advice of the decision about any unsatisfactory commitments made by the insured employer for rectification; • advice that WorkSafe ACT has been notified of the cancellation; and • advice on the insured employer’s obligation to provide wages declarations for the period of the cancelled policy. <p>Insurance coverage must not be cancelled retrospectively. Consequently, the policy end date must be the later of the date specified in the <i>notice of the intent to cancel</i> (first letter) or the date in the <i>notice of cancellation</i> (second letter) is issued, unless evidence is provided of a new policy with another insurer. In that instance, the policy may be cancelled on a date to coincide with the commencement of the new policy, ensuring no gap in cover.</p> <p>Cancellations, once executed, are final. In the event an insurer determines to resume cover after a cancellation, then a new policy must be used.</p>
<p>Step Three: Report the cancellation</p>	<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 – 04 – Cancellation Notification.</p>

Note: For all lapsed policies – policies expiring at the end of the policy period, the National Insurer Data Specifications (NIDS) P029 coverage type code – 05 – Lapsed Notification should be used.