



Workers Compensation Approval as an Approved Insurer in the ACT

ACT
Government

**Access
Canberra.**

WORKERS COMPENSATION APPROVAL AS AN APPROVED INSURER IN THE ACT

GUIDE FOR APPLICANTS

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Disclaimer

This Guide provides general information about the obligations of persons conducting a business or undertaking and/or persons in control of premises and workers under the *Work Health and Safety Act 2011*. The Guide gives some suggestions for complying with these obligations. However, this Guide is not intended to represent a comprehensive statement of the law as it applies to particular problems or to individuals or as a substitute for legal advice. Full details of legal obligations and responsibilities are set out in the *Work Health and Safety Act 2011* referred to in this Guide. If you refer to the legislation you should take care to ensure that you use the most up-to-date version, available from www.legislation.act.gov.au. You should seek legal advice if you need assistance on the application of the law to your situation.

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1. OVERVIEW

1.1 INTRODUCTION

This information pack has been prepared to facilitate the application for approval of insurers under the ACT Workers Compensation Act 1951 (the Act) and the Workers Compensation Regulation 2002 (the Regulation).

Section 145 of the Act states that:

“The Minister may, in accordance with the regulations, approve an insurer for this Act.”

Insurers approved by the Minister are normally approved for a 3 year period. At the end of the approval period, those re-applying for approval are required to submit a full application.

The purpose of this document is to provide insurers with information that will enable them to submit an application for approval under the Act. This document includes:

- > Guidelines for eligibility, including details of information to be supplied for the application process.
- > The approval process, including:
 - **the application assessment process;**
 - **the approval process; and**
 - **the application fee.**
- > Insurer penalties under the Act.
- > Conditions relating to action against Approved Insurers.
- > A mechanism for appeal to the Minister.

It should be noted that the conditions and information outlined in this document are minimum requirements. Additional conditions and information requirements may be imposed at any time during the approval period and such conditions and requirements must be complied with.

1.2 APPLICATION PROCEDURE

Application for approval is made to Access Canberra. The application must contain:

- > The completed Application Form
- > The Completed Checklist
- > The required information and supporting documentation as outlined in the Checklist

To enable prompt assessment, applicants should ensure that their application is complete prior to submitting to Access Canberra.

Applications and any enquiries should be forwarded to:

**Applications and enquiries should be forwarded to:
Workers Compensation Inspectorate
Access Canberra - PO Box 158,
Canberra ACT 2601**

**Telephone: (02) 6207 3000
Fax: (02) 6205 0336
E-mail: workerscompensation@act.gov.au**

1.3 APPLICATION COSTS

The prescribed fees associated with an application for approval as an Insurer in the ACT are set by the Minister each financial year.

For information contact the Workers Compensation Team.

1.4 APPLICATION TIMEFRAMES

Any insurers wishing to re-apply for an approval that is about to expire will have to provide a full and completed application at least 3 months in advance of the expiry date.

For any new applicants applying to become an Approved Insurer must supply a full and complete application and be aware that approval may take up to three months.

2. GUIDELINES FOR ELIGIBILITY INFORMATION TO BE SUPPLIED

All documentation relating to the requirements listed below must be part of or appended to the application. Failure to supply the required documentation will cause delays in processing the application.

2.1 INFORMATION TO BE INCLUDED IN THE APPLICATION

The application must include or be accompanied by the following information as per Section 68 of the Workers Compensation Regulation 2002 (the Regulation):

- a written statement by the insurer that the insurer will be able to meet present and future claims under the Act for which the insurer is, or is expected to be, liable;*
- evidence that the insurer has a place of business in the ACT, and the place's address;*
- if the insurer has, or is applying for, a corresponding approval—evidence of the approval or application;*
- evidence that the insurer has unlimited reinsurance for a single event to cover the insurer's future liability under the Act;*
- a copy of the insurer's annual report and balance sheet (or, if either is not available, equivalent information) for each of the previous 3 years;*
- a written agreement by the insurer to allow the Minister to discuss the affairs and performance of the insurer with Commonwealth or State Ministers responsible for workers compensation or corporate or prudential regulation;*
- a written agreement by the insurer to allow, and pay the costs of, an audit by the Minister to establish that the insurer has adequate resources to meet the insurer's current and expected liabilities under the Act;*
- a written statement by the insurer that the insurer will be able to meet its obligations under the Act in relation to injury management programs and personal injury plans;*
- a written agreement by the insurer to allow, and pay the costs of, an investigation by the Minister to assess the insurer's statement under paragraph (h).*

Example for par (h)

An insurer includes in its written statement that it has hired an external provider to establish and maintain its injury management program, and gives details about the arrangement with the provider.

Please note that the current Approved Insurers in the ACT that are able to meet the “Conditions on Insurers” of the Regulation will also be reviewed as part of the application process. Supporting documentation must also be provided as part of your application.

2.2 REVIEWING THE APPLICATION

Applications are assessed against the following criteria as identified in the Act and Regulation. More specifically an application must identify internal processes to ensure the obligations on insurers are met:

- > in accordance with Section 68 of the Regulation, the Insurer is able to meet the approval requirements;
- > in accordance with Sections 68 and 69 of the Regulation, the Insurer is able to meet the financial requirements;
- > in accordance with Section 153 of the Act, the Insurer is aware of the any protocols in relation to the cancellation of a compulsory insurance policy and that they have relevant procedures in place;
- > in accordance with Section 154 of the Act, the Insurer has not issued any cover notes for a compulsory insurance policy that extended beyond 30 days;
- > in accordance with Section 75 of the Regulation, the Insurer is using the prescribed principles for working out premiums;
- > in accordance with Section 88 of the Act, the Insurer has established an appropriate Injury Management Program;
- > the Insurer has the appropriate processes in place to meet its obligations in regard to:

Injury Management Programs (Section 89 of the Act), particularly relating to the processes involved in ensuring employers were aware of their obligations and responsibilities under the Act;

Prompt Payment for services (Section 90 of the Act);

Notification of Injury (Section 96 of the Act);

Personal Injury Plans (Section 97 of the Act);

Provision of Information about the Personal Injury Plan (Section 98 of the Act); and

Rejecting claims (Section 129 and 130 of the Act);

- > in accordance with Notifiable instrument

| | |
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| NI2015-495 | Workers Compensation (National Insurer Data Specifications) Approved Pro-ocol 2015 (No 1) |
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- , the Insurer collects all information as specified in the Download Specifications;
- > in accordance with Notifiable instrument,

| | |
|------------|--|
| NI2015-495 | Workers Compensation (National Insurer Data Specifications) Approved Pro-ocol 2015 (No 1) |
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- > the Insurer can provide data within the specified timeframes as specified in the Download Specifications; and

2.3 OTHER REQUIREMENTS

Additional documentation required to assess an application for approval are:

- > The Insurer's Injury Management Program;
- > An outline of the applicants Personal Injury Plan processes;
- > Detailed description of the applicants claims management processes;
- > A copy of all forms in relation to workers compensation policies and claims;
- > Details of the processes used to calculate premiums; and
- > Details of how the applicant will meet its reporting requirements under the Act.

These processes will be examined by Access Canberra - with a view to identifying any deficiencies.

For a detailed checklist on the approval process, see section 3.2.

2.4 ADDITIONAL INFORMATION

As part of the approval process, applicants will need to supply the following with their application:

- > An agreement to comply with any guidelines produced by Access Canberra - ;
- > An agreement to allow Access Canberra - to use the data provided under the reporting requirements for compliance purposes;
- > An agreement for insurers to move to a new data system, to be specified by Access Canberra - if required during the term of their licence;
- > An agreement to supply data in accordance with the WCMS system requirement or any other reasonable request from Access Canberra - ;
- > An agreement to provide data for National Comparative Performance Monitoring requirements.

3. APPLICATION ASSESSMENT PROCESSES

3.1 APPLICATION PROCESS

Applications for approval as an approved insurer in the ACT must allow Access Canberra - a period of three months . At the time the application is received the application fee must be paid.

Should it be determined that any documentation/information is not sufficient or indeed, missing, the applicant will be informed of the appropriate course of action to rectify the situation.

Once all documentation/information has been provided in a format that is determined to meet the requirements, a detailed evaluation of the application will be conducted.

It should be noted that interviews, group meetings and on-site visits by Access Canberra - might also be part of the application process, if required.

3.2 APPROVAL PROCESS

Once all criteria have been met, including payment of the application fee, the application will then proceed through the approval process. Access Canberra - will make a recommendation to the Minister and the applicant will be notified of the Minister's decision as soon as it becomes available.

As stated in Section 69 of the Workers Compensation Regulation 2002 (the Regulation):

The Minister may approve an insurer only if satisfied—

the insurer is financially and prudentially sound; and

the insurer, if approved, will—

be able to meet the insurer's current and expected liabilities under the Act; and

be able to meet the insurer's obligations under the Act in relation to injury management programs and personal injury plans; and

comply with the conditions on the approval.

In accepting approval status, the Approved Insurer is deemed to have met and agreed to all conditions and requirements under the Act. Failure to maintain the conditions and requirements may lead to suspension or revocation of approval status or, the application of other penalties available under the Act. On approval, the Insurer must also pay an additional fee to the original application fee which is the fee to be an approved insurer.

See 1.3 in the application kit for the associated fees.

3.3 PENALTIES RELATING TO INSURERS UNDER THE ACT

Penalties prescribed under the Act relating to Insurers are:

| Offences Relevant To Insurers | | |
|-------------------------------|---|--------------------------------|
| Section | Description of offence | Maximum Penalty (Units) |
| 90 (1) | Insurer fails to pay service provider within 30 days | 10 |
| 96(1) | Insurer fails to take action under injury management program within 3 business days of being told about injury | 10 |
| 96(2) | Insurer fails to take action under injury management program within 3 business days if there are reasonable grounds that the injury is a significant injury | 30 |
| 96(3) | Insurer fails to take action under injury management program within 3 business days after the expiry of the initial 7 day period of incapacity | 30 |
| 114 (4) | Insurer not complying with Ministerial direction to recommence Weekly compensation without reasonable excuse | 10 |
| 126A(2) | Failing to give claimant information regarding repayment of compensation | 50 |
| 152 (1) | Insurer refusing to issue compulsory insurance policy required by an employer | 100 |
| 152 (2) | Insurer issuing a policy that isn't a compulsory insurance policy | 100 |
| 153 | Approved insurer not cancelling a compulsory insurance policy in accordance with a protocol | 50 |
| 154 | Approved insurer issuing a cover note for longer than 30 days | 10 |
| 164 (6) | Provision of information to the Minister | 50 |
| 176 | Charging or accepting more than the maximum prescribed rate of premium under the Regulation | 50 |
| 200 | Secrecy | 50, plus 6 months imprisonment |

Penalties:

The value of a penalty unit for an offence against the Act is—

if the person charged is an individual—\$100; or

if the person charged is a corporation—\$500.

3.4 CONDITIONS RELATING TO ACTION AGAINST APPROVED INSURERS

Details of action that may be taken against Insurers are provided in Division 9.3 of the Regulation. These regulations relate to the circumstances that may result in action being taken to suspend or revoke the approval.

3.5 APPEAL PROCESS

The following decisions made under the Act and Regulation, are reviewable decisions by the Minister:

- > Section 146 - refuse to approve insurer
- > Section 70 of the Regulation - approve insurer for less than 3 years
- > Section 79 of the Regulation - impose condition on insurer's approval
- > Section 81 of the Regulation - suspend insurer's approval, amend conditions of insurer's approval or censure the approved insurer
- > Section 82 of the Regulation - suspend or revoke insurer's approval, amend conditions of insurer's approval or censure the approved insurer

Chapter 12 deals with notification and review of decisions. The responsibility of Minister, and avenues for appeal against reviewable decisions:

A person may apply in writing to the ACT Civil and Administrative Tribunal for review of a reviewable decision within 28 days after receiving the notice.