



# Application for Insurer Licence **Guidelines**

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## Introduction

1. The Western Australian workers compensation scheme is privately underwritten by insurers granted a licence by WorkCover WA. Licensed insurers fulfil significant responsibilities and obligations in the privately underwritten workers compensation scheme, including:
  - underwriting employer liabilities for workers compensation and common law damages payable to workers
  - issuing and renewing workers compensation insurance policies to employers
  - assessing and collecting premiums
  - evaluating and managing risks
  - claim and injury management
  - complaint management
  - dispute resolution
  - data collection and reporting
  - demonstrating effective performance to WorkCover WA as the regulator.
2. An insurer must be granted a licence by WorkCover WA in order to provide workers compensation insurance in Western Australia.
3. These Guidelines set out the matters taken into consideration in determining an application for an insurer licence including:
  - criteria for the grant of a licence
  - operational conditions that must be complied with
  - how an application is made and what information needs to be provided in an application
4. The Guidelines also provide important information about the circumstances in which a licence may be suspended or cancelled.
5. The Guidelines should be read in conjunction with the *Workers Compensation and Injury Management Act 2023* (the Act), *Workers Compensation and Injury Management Regulations 2024* (the Regulations) and the WorkCover WA Insurer and Self-insurer Principles and Standards of Practice (Principles and Standards). These documents are available on the WorkCover WA website.

## Application for insurer licence

6. A body corporate authorised under the *Insurance Act 1973* (Commonwealth) section 12 to carry on insurance business in Australia may apply to WorkCover WA for the grant of an insurer licence.
7. An application must be in the approved form and accompanied by the documents determined by the WorkCover WA CEO (see licence application requirements).

8. Prior to applying for a licence, prospective applicants should contact WorkCover WA to discuss their intentions and for further information on the process and criteria, as well as identifying any issues which might impact the proposal.

### **Specialised insurer licence**

9. WorkCover WA may grant an insurer licence subject to a condition (specialised insurer condition) which limits the insurance business carried on pursuant to the licence to a particular industry or class of business/employer.
10. A specialised insurer licence cannot be granted unless WorkCover WA is satisfied the insurance business to be carried out pursuant to the licence:
  - will be limited to a particular industry or class of business or employer, and
  - will not have an adverse effect on the efficiency and sustainability of the workers compensation scheme under the Act generally.
11. WorkCover WA's discretion to issue a specialised insurer condition with reference to a particular industry may include more than one industry class as that term is used in the WorkCover WA Industry Classification Order.
12. An applicant applying for a specialised insurer licence should therefore identify the relevant class(es) of industry, business or employers it seeks to insure.
13. WorkCover WA may, at any time by notice in writing to a specialised insurer, vary the terms of, or cancel, a specialist insurer condition to which the licence is subject.

### **Insurance Commission of Western Australia and public authorities**

14. The Insurance Commission of Western Australia (Insurance Commission) is taken to be a specialised licensed insurer limited to insurance of public authorities (as defined under section 3 of the *Insurance Commission of Western Australia Act 1986*).
15. Special arrangements for the Insurance Commission and public authorities are specified in section 235 of the Act.

### **Duration of licence**

16. Insurers approved before 1 July 2024 are taken to be licensed insurers under the Act. Licences issued to insurers approved before 1 July 2024 remain in force indefinitely until and unless they are suspended, cancelled, surrendered, or WorkCover WA converts the licence to a fixed period.
17. New applicants on or after 1 July 2024 will be granted a licence for an initial three-year period, after which time, and subject to WorkCover WA review, consideration to convert to an indefinite licence will be made.

### **Contribution to statutory funds**

18. There is no application fee for an insurer licence.
19. Licensed insurers are required to make a financial contribution (a levy) to WorkCover WA for the following statutory funds, if a levy is required for a financial year:
  - WorkCover WA's General Account – the agency operating account

- WorkCover WA's Default Insurance Fund – liabilities associated with uninsured employers, insolvent insurers and self-insurers, and acts of terrorism
  - Insurance Commission's Motor Vehicle and Workplace Accidents (Catastrophic Injuries) Fund – liabilities associated with catastrophically injured workers who are participants in the Insurance Commission's catastrophic injuries support scheme.
20. The amount that a licenced insurer is required to contribute to each fund (if a levy is required) is based on the insurer's proportionate share of premium income, or the minimum contribution amount of \$100,000, whichever is greater.

## Matters relevant to determining application

21. The following matters are taken into consideration by WorkCover WA in determining an application for an insurer licence:
- the licence criteria for the grant of a licence
  - operational conditions that will be imposed by WorkCover WA when the licence is granted
22. The onus is on the applicant to satisfy WorkCover WA as to any matter that is relevant to the grant of an insurer licence including demonstrating to WorkCover WA the licence criteria are met and demonstrating the ability to comply with operational conditions.

### Licence criteria

23. The regulations specify the following criteria must be satisfied for the grant of an insurer licence:
- (a) the insurer is authorised under the *Insurance Act 1973* (Commonwealth) section 12 to carry on insurance business in Australia;
  - (b) the insurer is financially and prudentially viable to the extent that it is able to comply with the prudential standards determined by APRA under the *Insurance Act 1973*;
  - (c) WorkCover WA considers that the insurer has sufficient material and financial resources and the capacity and capability to —
    - i. meet current and future claim liabilities for the workers compensation policies issued by the insurer
    - ii. carry out the functions and obligations of a licensed insurer as required by the Act
    - iii. comply with any requirements or timeframes imposed by the Act
    - iv. comply with any condition of the licence, whether imposed by the Act or WorkCover WA
    - v. provide a high standard of claims management and injury management to optimise return to work outcomes
    - vi. underwrite and administer workers compensation policies effectively

- vii. manage disputes and complaints arising out of the activities of a licensed insurer effectively
- viii. provide a high standard of service to employers, workers and other scheme participants
- ix. establish processes to provide information as required to WorkCover WA
- x. comply with the laws of the State and the Commonwealth, including laws relating to record keeping, security of information, privacy and confidentiality.

## **Licence operational conditions**

24. In addition to satisfying the licence criteria an applicant will need to demonstrate capacity and capability to comply with the following operational conditions imposed by WorkCover WA when the licence is granted.

### 1. Statutory requirements

- 1.1 The insurer must comply with obligations, requirements and timeframes as a licenced insurer in accordance with the Act and the Regulations.
- 1.2 The insurer must continue to satisfy the criteria for the grant of the licence prescribed in the Regulations.

### 2. Principles and standards of practice

- 2.1 The insurer must comply with WorkCover WA's *Insurer and Self-insurer Principles and Standards of Practice* as amended from time to time.

### 3. Further conditions

- 3.1 The insurer must comply with any further condition or variation of a condition following written notice by WorkCover WA.

### 4. Performance and review

- 4.1 The insurer must participate in audits and reviews as required by WorkCover WA in accordance with section 232 of the Act.
- 4.2 The insurer must ensure staff are appropriately trained and provide support to assist them in professional development.

### 5. Data and interactions with WorkCover WA

- 5.1 The insurer must provide accurate and timely data and information as required by WorkCover WA or Data Directions.
- 5.2 The insurer must ensure senior staff are available to respond to WorkCover WA and ensure up to date contact details of senior staff are provided.

### Outsourcing/offshore processing

- 6.1 The insurer must not contract out claim management functions or outsource or offshore any insurer function unless discussed with and approved by WorkCover WA.

## 7. Notification about significant changes to service delivery model

7.1 The insurer must notify WorkCover WA of any proposal to make significant changes to the way claims, injury management, or insurance functions are delivered.

## 8. Notification of APRA relevant events

8.1 The insurer must notify WorkCover WA of APRA relevant events as prescribed in clause 97 of the Regulations.

8.2 Where an APRA relevant event occurs Insurers must, within seven days:

- a) provide WorkCover WA, in writing, a detailed description of the issues identified by APRA
- b) provide WorkCover WA, in writing, details of the actions it is taking to comply with any APRA intervention and how such action may impact on Western Australian operations
- c) provide WorkCover WA, in writing, advice as to how it proposes to inform WorkCover WA on progress
- d) the insurer must agree WorkCover WA may exchange information with APRA regarding its prudential status, including relevant documentation.

## 9. Notification of significant corporate changes

9.1 The insurer must notify WorkCover WA within seven days if any of the following things occur:

- a) any change, or any proposal to change, the insurer's name
- b) any change to the insurer's status under the Corporations Act 2001 (Commonwealth), or any proposal to make such a change
- c) any change in the directors or secretary of the insurer
- d) the insurer becoming a subsidiary of another body corporate (as defined in the Corporations Act 2001)
- e) the insurer ceasing to be a subsidiary of another body corporate
- f) any change in the control (as defined in the Corporations Act 2001) of the insurer
- g) any change in the personnel responsible for the insurer's Western Australian business operations
- h) any other change that may affect the ability of the insurer to perform its obligations as licensed insurer.

## Licence application requirements

25. This section sets out information to be provided to support an application to become a licensed insurer.

### Applicant information

26. Applications must be made in the approved form with corporate details and the accompany supporting documents as required by the WorkCover WA CEO:

- full legal entity name, ABN, place of incorporation, and registered office of the applicant
- evidence the applicant is authorised by APRA under section 12 of the *Insurance Act 1973* (Commonwealth) to carry on business in Australia
- group corporate structure of the applicant
- proposed date of commencement as a licensed insurer in Western Australia
- proposed principal place of business in Western Australia.

### Specialised insurer applicant

27. If applying for a specialised insurer licence condition, applicants must provide additional information on:

- the proposed class or classes of industry, business or employer to which the licence is intended to be restricted
- why it is intended there be a limitation of the insurance business with reference to the benefits to policy holders and the insurance market
- how the specialised insurer licence, if granted, will not have an adverse effect on the efficiency of the workers compensation scheme or operation of the Act generally.

### Financial resources

28. Applicants must demonstrate sufficient financial resources to ensure it is financially and prudentially viable in order to meet its obligations as a licensed insurer.

### Solvency

29. Applicants must provide a certificate from an auditor approved by APRA verifying the level of capital and capital ratios for the applicant.

### Prudential requirement

30. Applicants must provide evidence of compliance with APRA's General Insurance Prudential Standards, such as the most recent APRA quarterly return.

31. Applicants must provide an actuary's report from an actuary approved by APRA in accordance with the Prudential Standard GPS 340 Insurance Liability Valuation.



32. Applicants must disclose any event or unique factors, or the likely development, of which their directors are aware, which could materially impact on:

- the applicant's assets and liabilities
- its ability to continue to meet its liabilities
- the grant of an approval as a licenced insurer under the Act.

33. Applicants must provide details of any breaches of a prudential standard or reporting standard including any direction issued by APRA over the past five years.

## **Material resources**

### *Business plan*

34. A business plan is to be submitted providing details on:

- the proposed scale of workers compensation operation in Western Australia
- maintaining material and financial resources to fulfil obligations as a licensed insurer
- delivery of high-standard underwriting, claim and injury management services
- existing or intended ownership or majority control in any insurance broking firms
- governance, risk management, and compliance framework
- reinsurance management strategy.

### *Organisational expertise and capacity*

35. Applicants must provide details of:

- the organisational structure of the workers compensation business portfolio
- the primary management positions in Western Australia if the licence is granted
- underwriting –
  - senior staff members who will be responsible for underwriting and administering workers compensation policies, including relevant qualifications and experience
  - if applying for a specialised insurer licence, demonstrate how senior staff members' experience and expertise is relevant to the industry or class of business/employer to which the licence will be limited
  - proposed number of full-time employees (FTEs) who will be actively involved in underwriting policies located both within and outside Western Australia.

- claims management –
  - senior staff members who will be responsible for claims management, including their qualifications and experience with respect to workers compensation
  - proposed number of FTEs who will actively involve in management of claims located both within and outside Western Australia
  - an estimated average number of claims managed per claims officer.

### *Established systems*

36. Applicants must provide details of their internal facilities, policies and procedures, service delivery models, and self-assessment arrangements in the following areas:

- training of staff
- insurance underwriting and assessment of premiums
- determination of liability of claims for compensation
- planning, monitoring, and evaluating return to work programs
- claim and injury management
- payments and reimbursements to injured workers, employers, and service providers
- involvement of workplace rehabilitation services
- internal dispute resolution process for handling complaints regarding premium assessments and claims management
- litigation management
- monitoring of the conduct of assessors and investigators
- information technology and security
- records management
- disclosure and management of conflicts of interest.

### *Outsourcing*

37. Insurers must not outsource or offshore any insurer function, including underwriting, claim management, and injury management unless the arrangement is discussed with and approved by WorkCover WA.

38. WorkCover WA may require the following information on an outsourced agent:

- full legal entity name of the agent and ABN
- the resources of the agent to ensure claims management and communication with workers is undertaken effectively, and the legislative obligations and functions of the insurer are met
- the skills, qualifications, and experience of the contracted agent relevant to the Western Australian workers compensation scheme

- information security and confidentiality controls
  - arrangements for provision of information to WorkCover WA
  - complaint management and dispute resolution
  - if applicable, a copy of the outsourcing agreement.
39. Outsourcing cannot be used to abrogate an insurer's responsibilities. Insurers remain liable and are accountable for meeting administrative and legislative obligations of the Act.

### *Data submissions*

40. Applicants must provide details demonstrating capacity in data collection and supply of accurate, complete, and timely information, including provision of data in accordance with Data Directions issued by WorkCover WA.

## Determination of application

41. Based on the application and supporting information provided, WorkCover WA will:
- (a) grant an insurer licence, and any specialised insurer condition, to the applicant and impose the operational conditions; or
  - (b) refuse the application

## Suspension or cancellation of insurer licence

42. The following information is not taken into account in considering an application for an insurer licence but is important information about how a licence may be suspended or cancelled after it has been granted.

### **Suspension**

43. An insurer licence may be suspended if the insurer:
- does not continue to satisfy the licence criteria
  - has failed to comply with any provision of the Act or regulations
  - has failed to comply with any licence condition.
44. The suspension of an insurer licence does not affect any liability of the insurer under a workers compensation policy issued by the insurer.
45. While an insurer licence is suspended, the insurer cannot issue or renew workers compensation policies, but otherwise has the functions of a licensed insurer.

### **Cancelling or surrendering insurer licence**

46. Once a licence is granted it may be cancelled in the following circumstances:
- Voluntarily  
Insurer requests its licence to be cancelled (surrender of licence).

- Cancelled  
Insurer fails to comply with legislative requirements, or licence conditions or criteria.
- Insolvency  
As defined in section 277 of the Act, is an insolvent body corporate or where WorkCover WA, on reasonable grounds, believes the insurer is, or is likely to be, unable to discharge in full, any insurer liability.

47. The cancellation of an insurer licence does not affect any liability of the insurer under a workers compensation policy issued by the insurer.

### **Liability and obligations for incurred injuries**

48. Insurers remain liable for all claims incurred during the period of licence approval. This includes claims which are lodged after a licence is cancelled but were incurred by the insured employer during the period of licence approval, including claims for dust diseases and other diseases of long latency.
49. Former insurers are required to manage claims incurred during the period of licence approval in accordance with the Act. This includes claim and injury management obligations and providing data and assessments of outstanding claim liabilities to WorkCover WA.

### **Surrender of an insurer licence**

50. To surrender a licence, the insurer is required to advise WorkCover WA in writing of the intent to cease operating as an insurer in Western Australia as early as possible, and submit:
- actuarially estimated outstanding claims liabilities
  - if applicable, proposal to sell or transfer workers compensation portfolio to other licensed and/or specialised insurers
  - details about funding capacity for meeting the outstanding liabilities
  - a communication plan, for example, informing employers of cessation of issuing or renewing insurance policies
  - the arrangement and resources committed for ongoing claims and injury management
  - information about the capabilities for ongoing submission of workers compensation data
  - any other proposals which may impact meeting any insurer liability following surrender of an insurer licence.

### **Insolvency**

51. Where an insurer is insolvent, a claim for compensation or damages in respect of an insurer liability may be made against WorkCover WA, who must respond to the claim and pay a claimant the amount necessary to satisfy the claim. Amounts payable are charged to the Default Insurance Fund.

52. The amount paid by WorkCover WA may be recovered by WorkCover WA as a debt due from the insolvent insurer or any person against whom the insolvent insurer has a right of indemnity, or contribution in respect of the injury or death of the worker.