



Approved Insurers Application Guidelines

Drafted by Scheme Development

February 2008

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Part 1

Foreword

WorkCover WA is the statutory authority responsible for administering the Workers' Compensation and Injury Management Act 1981 (the Act) on behalf of the state.

Our mission is to minimise the social and economic impact of work-related injury and disease by working together with workers, employers and service providers to achieve a workers' compensation scheme that is fair and accessible to injured workers and affordable to employers and the community.

WorkCover WA achieves this through the effective regulation and administration of the Act and related legislation, the provision of quality policy advice to government and the maintenance of excellent stakeholder relationships.

As a privately underwritten workers' compensation scheme, insurers approved by WorkCover WA are major stakeholders in the system. These guidelines are provided for the assistance of any incorporated insurance office seeking approval to issue employer's indemnity policies in Western Australia.

WORKCOVER WA

Part 2

Overview of WorkCover WA

1. The WorkCover Western Australia Authority (“WorkCover WA”) is the statutory body corporate with responsibility for functions conferred under section 100 of the *Workers’ Compensation and Injury Management Act 1981* (the Act).
2. WorkCover WA advises the Minister for Employment Protection (Minister) on insurance matters and associated legislation and, where appropriate, makes recommendation to the Minister for the approval of an “incorporated insurance office” where such a corporation applies for approval to issue or renew workers’ compensation policies.
3. One of the principal roles of WorkCover WA is to ensure that once an “incorporated insurance office” has been approved they are able to fulfil their obligations under the Act and that the interests of stakeholders are safeguarded. This includes the collection of information and returns from insurers to facilitate the compilation and recording of such statistics, records and reports, as it considers desirable for the better administration of the Act. WorkCover WA reviews the adequacy and relevance of the information provided by approved insurers, and monitors their performance.
4. Approved insurance offices provide resources that are pivotal to the delivery of services to both employers and workers, including:
 - evaluating risk;
 - setting and collecting premiums;
 - managing risk including reinsurance requirements;
 - claims and injury management;
 - payment of benefits;
 - dispute resolution; and
 - managing investments.
5. These guidelines provide information for an incorporated insurance office to make application to the Minister for the grant of an approval to issue a policy insuring an employer against its liability to pay compensation under the Act.
6. The Guidelines were prepared in consultation with stakeholders and are effective from 2008. The Guidelines will be reviewed by WorkCover WA in conjunction with stakeholders every 12 months.

Part 3

Approval Criteria

7. An incorporated insurance office, including any incorporated company authorised to carry on insurance business in the State under the *Insurance Act 1973*, may make Application.

Statutory Requirements

8. In accordance with section 161(3) of the Act (refer Appendix 3), recognition as an approved insurer is dependent on an incorporated insurance office demonstrating to the Minister's satisfaction that it:
 - has sufficient material and financial resources available to enable it to discharge its obligations for the purposes of the Act and to a standard satisfactory for the expeditious handling of claims;
 - shall maintain in the State, an office having adequate resources and authority;
 - shall provide the required standard of service to employers and, on behalf of employers, to workers;
 - shall comply with the time limits and other requirements imposed under the Act and related legislation; and
 - shall maintain a consistent and satisfactory standard in the detail and accuracy of information provided to WorkCover WA.
9. In advising the Minister regarding applications and without limiting the generality of section 161, WorkCover WA will consider the applicant's performance and capabilities in relation to the following matters.

Financial

10. Applicants must provide a commitment to provide supporting evidence that they are solvent and will remain solvent during the period of approval and agree at all times to exceed the minimum assessed solvency margin stipulated for authorised general insurers under the *Insurance Act 1973 (Cwth)*.
11. Applicants must agree at all times to comply with the *General Insurance Prudential Standards* as specified by the Australian Prudential Regulation Authority (APRA) and to provide evidence they have satisfied the requirements of the APRA.
12. Applicants must advise the Board if at any time they are unable to meet their financial liabilities.

13. Applicants must disclose any event or unique factor, or the likely development, of which their Directors are aware, which could materially impact on the Applicant's assets and liabilities and or, its ability to continue to meet its liabilities and or, the grant or renewal of an approval as an approved insurer under the Act.
14. Applicants must provide a business plan over a five-year period including the applicant's:
 - capital adequacy;
 - risk management system; and
 - reinsurance management strategy.
15. Applicants must provide details of any breaches of a prudential standard or reporting standard including any direction issued by APRA to the applicant.
16. Applicants must provide details of the financial resources they have available to discharge their obligations for the purposes of the Act.

Established procedures

17. Applicants must provide details internal business processes, service delivery models and self-assessment arrangements in the following areas:
 - training of staff;
 - the calculation of premium payable by an employer;
 - the assessment of claim liability;
 - planning, monitoring and evaluating a return to work program;
 - the involvement of external vocational rehabilitation services;
 - handling and resolving long duration claims;
 - handling and resolving a dispute and complaints;
 - litigation management; and
 - monitoring of the conduct of assessors and investigators.

Claim and Policy Data Provision

18. Applicants must provide a commitment to provide any statistical information, records and reports (including quarterly and annual returns) requested by WorkCover WA, within such reasonable time as specified. In accordance with section 103(A) of the Act, a \$2,000 penalty may apply where information, false in any material particular, is provided.

19. Applicants must confirm the information technology employed in data collection and supply relating to the provision of returns, statements and information required under the Act will be compatible with WorkCover WA's "Q1 specification". The Q1 Specification contains the data definitions and validation rules enable the provision of data required by WorkCover WA. The specification is available on the WorkCover WA website at <http://www.workcover.wa.gov.au/Service+Providers/Insurers/Default.htm>. Prospective approved insurers should discuss data provision with WorkCover WA's Scheme Information section prior to submission of an application.

Performance Monitoring

20. Applicants must commit to participate in ongoing performance monitoring through the provision of the results of self audits and other data as required under WorkCover WA's specification of *Key Performance Indicators for Approved Insurers*.

Other Relevant Legislation

21. All applications should be made in accordance with reference to relevant legislation including:

- Workers' Compensation and Injury Management Act 1981.
- Employers' Indemnity Supplementation Fund Act 1980.
- Employers' Indemnity Policies (Premium Rates) Act 1990.
- Insurance Commission of Western Australia Act 1986.
- Interpretation Act 1984.
- Financial Administration and Audit Act 1985.
- Prudential Standards determined under the *Insurance Act 1973*.
- Reporting Standards determined under the Financial Sector (Collection of Data) Act 2001.
- The Australian Securities and Investments Commission Act 2001.

Part 4

Making an Application

22. Applicants able to satisfy the approval criteria should complete the application form at Appendix 1. The application should be signed by two directors of the applicant and witnessed.
23. The completed application should be forwarded to WorkCover WA, together with certified supporting documentation demonstrating their ability to meet the approval criteria.
24. Prospective applicants are encouraged to discuss their plans with WorkCover WA prior to submitting an application. This assists in identifying any additional information that may be necessary in order to assess the application.
25. A detailed outline of the information to be provided in support of an application is provided at Appendix 2. Where appropriate, copies of documents submitted with the application should be certified and signed by two directors of the Applicant.
26. Applicants must provide the full name of the body corporate applying for approval, the location details of their operations and the proposed date of commencement of operations in the State.
27. Applicants must provide details of their organisational framework, including the names and responsibilities and the curriculum vitae of the directors and senior management with specific responsibility for the applicant's obligations under the Act.
28. Applicants must provide details of resources in the State of Western Australia for discharging their obligations under or for the purposes of the Act. Including the number, skill, experience, qualifications and job descriptions of persons with decision making authority for, or employed in:
 - premium setting.
 - claims management.
 - injury management.
 - occupational health and safety
29. Applicants are also required to indicate the nature and extent of any outsourcing arrangements entered into or to be entered into.

Contacts

30. WorkCover WA's Standards and Monitoring section may be contacted to discuss the approval process and ongoing performance requirements with prospective approved insurers.

31. Data provision requirements may be discussed with WorkCover WA's Scheme Information section.

32. Appointments may be made by writing initially to:

General Manager
Regulation and Compliance
WorkCover WA
2 Bedbrook Place
Shenton Park WA 6008

Telephone: (08) 93885555
Facsimile: (08) 93885550
Email: postmaster@workcover.wa.gov.au

33. Applicants may also obtain additional information from the WorkCover WA website at:
<http://www.workcover.wa.gov.au/Service+Providers/Insurers/>

Part 5

Assessment of Application

Assessment

34. The Minister, on the advice of WorkCover WA will:

- determine whether or not an incorporated insurance office is able to meet the requirements of section 161(3) of the Act and may attach such conditions as he/she sees fit to the approval.
- assess the resources available to the applicant to enable the discharge of its obligations for the purposes of the Act.
- assess the applicant's standard of service to employers and, on behalf of employers to workers.
- assess the applicant's standard in respect of the manner in which it otherwise discharges its obligations under or for the purposes of the Act.

35. Following the receipt of an application the Minister may meet with the applicant and specify further information and or documentation that the applicant must provide in support of the application for approval.

36. Based on the advise of WorkCover WA the Minister may:

- reject the application;
- approve the application; and/or
- attach any conditions to the approval.

37. The Minister will inform the applicant in respect of the outcome of the application for approval.

38. In accordance with section 109 of the Act, on approval and annually thereafter, applicants will be required to contribute to the General Fund the amount prescribed or a percentage of total premium income as fixed by WorkCover WA.

Rejection/Lapse of an Application

39. The approval of an insurer may be revoked or suspended by the Minister if they fail to meet the requirements of section 161(3) of the Act, or otherwise fail to comply with any condition attached to their approval.

40. The Minister may not grant or renew an approval where it is considered:

- the application does not adequately and accurately address these application guidelines;

- the applicant does not have the capacity and commitment to act with integrity, prudence and professional skill on a continuing basis;
- the substantial shareholders, board members, senior management, auditors and actuaries of the applicant are not fit and proper to fulfil their roles;
- the applicant's organisational (or group) structure is likely to hinder effective supervision;
- the applicant has not complied with the requirements of the *Insurance Act 1973*; or
- the applicant is unable to meet the requirements of section 161(3) of the Act.

41. An applicant insurance office has the right to make further submissions to the Minister in respect of a decision to decline, or attach conditions to, an application for approval.

42. An approval ceases to have effect, unless sooner renewed, at the expiration of five years after the day on which approval was granted or when the Minister revokes an approval (section 161(5) of the Act).

Ongoing Approval

43. Once approved, the performance of each approved insurance office will be assessed on an ongoing basis in accordance with WorkCover WA's *Key Performance Indicators for Approved Insurers*.

44. In addition to key performance indicators related to financial management WorkCover WA relies upon prudential regulation undertaken by the Australian Prudential Regulation Authority (APRA) and has a Memorandum of Understanding with APRA in respect of:

- the monitoring of the solvency of a general insurer; and
- the provision of documentation relevant to a general insurer's compliance with requirements under the *Insurance Act 1973*.

Exit Provisions

45. An insurer who wishes to cease being an approved insurer must apply to the Board [section 161(7)(b) of the Act].

46. An approved insurer seeking the revocation of its approval may be required to enter into an agreement with the Board to continue to satisfy certain exit provisions regarding ongoing claims management and provision of workers compensation data for existing claims.

47. If an approved insurer requests the Board to revoke or suspend approval during the term of the licence, then if the request is granted, the Board will determine the effective date of revocation or suspension following its consideration of the request and supporting information.

APPENDIX 1

APPLICATION FORM

APPLICATION FOR APPROVAL TO INSURE EMPLOYERS AGAINST THE EMPLOYERS' LIABILITY TO THEIR WORKERS

Pursuant to section 161(4) of the *Workers' Compensation and Injury Management Act 1981* ("the Act"), application is hereby made to the Minister for Employment Protection for approval to issue or renew a policy insuring an employer against its liability to pay compensation under the Act. The Company is aware of the obligations imposed upon an approved insurer under the Act, and by the Board.

The full legal name of the incorporated insurance office is:.....

ACN:.....,

The date and place of incorporation of the Applicant is:.....

The date of authorisation for the Applicant to carry on insurance business under the *Insurance Act 1973* is:.....

The Applicant's registered address is:.....,

The Applicant's principal place of business in Western Australia is:.....

The Applicant's address for correspondence is:.....

The Applicant's nominated contact person is:.....

Executed for and on behalf of:

Director:.....

Director:.....

in accordance with section 127(1) of the *Corporations Act 2001* in the presence of:

Signature of witness:.....

Name of witness:.....

Occupation of witness:.....

Dated:.....

APPENDIX 2

SUPPORTING DOCUMENTATION

1. A certificate of incorporation.
2. A copy of the Memorandum and Articles of Association of the applicant.
3. The applicant's authorisation by APRA to carry on insurance business in Australia.
4. The applicant's annual reports for the prior two financial years.
5. A certificate from an auditor approved by APRA verifying the level of capital and, capital ratios for the applicant.
6. An actuary's report from an actuary approved by APRA in accordance with the Prudential Standard GPS 210 Liability Valuation.
7. The applicant's policies and procedures underpinning:
 - their Risk Management Strategy;
 - their Reinsurance Management Strategy.
8. A declaration signed by two directors of the applicant's board that:
 - the board undertakes a regular, informed assessment of all key risks;
 - systems have been put in place to monitor those risks;
 - the systems in place ensure compliance with legislative and prudential requirements; and
 - the board has satisfied itself as to the adequacy of and compliance with the insurer's risk management and reinsurance arrangements.
9. Any direction by APRA to the applicant including all related correspondence.
10. Operational policies and procedures including in respect of:
 - the communication of premium payable by an employer.
 - the monitoring of the interval in the employer's lodgement of claims for compensation.
 - the determination of liability for claims for compensation.
 - planning, monitoring and evaluating a return to work program.
 - managing long duration claims.
 - handling and resolving a dispute.
 - handling and resolving a complaint.
 - the conduct of assessors and investigators.
 - data collection.

- the provision of returns, statements and information required under the Act.
- self-Assessment.

11. In addition, the applicant must provide a copy of all documents relevant to any event or unique factor or likely development of which the Directors or Senior managers of the applicant are aware which could materially impact on the applicant's

- assets and liabilities;
- ability to continue to meet its liabilities; or
- the renewal of the applicant's approval as an approved insurance office under the Act.

APPENDIX 3

SECTION 161

Workers Compensation and Injury Management Act 1981

Part X – Insurance

Division 1-Liability of employers and insurers

161. Approvals

- (1) For the purpose of this Part “incorporated insurance office” includes any duly incorporated company carrying on business in the State under the *Insurance Act 1973* of the Commonwealth.
- (2) The requirements for an incorporated insurance office to be approved under this section are that it is able to meet the requirements mentioned in subsection (3).
- (3) The requirements for an incorporated insurance office that is approved under this section to remain so approved are that it:
 - (a) has material and financial resources available to it that the Minister, on the advice of WorkCover WA, considers sufficient to enable it to discharge its obligations for the purposes of this Act;
 - (b) maintains in the State an office having such resources and authority as the Minister considers satisfactory for the expeditious handling of claims;
 - (c) provides a standard of service to employers and, on behalf of employers, to workers that the Minister, on the advice of WorkCover WA, considers satisfactory;
 - (d) complies with the time limits and other requirements imposed under this Act and the *Employers' Indemnity Supplementation Fund Act 1980*;
 - (e) consistently maintains a standard of detail and accuracy in the information required under this Act to be provided by it that is satisfactory to the Minister; and
 - (f) otherwise discharges its obligations under or for the purposes of this Act to a standard that the Minister, on the advice of WorkCover WA, considers satisfactory.
- (4) Where an incorporated insurance office applies to the Minister for the grant or renewal of approval under this section, the Minister may, if he is satisfied that it meets the requirements for an incorporated insurance office to be or remain approved, as the case may be, grant or renew the approval, as the

case requires, and, in granting or renewing the approval, attach such conditions, if any, as he sees fit to the approval.

- (5) Subject to subsection (6), an approval under this section ceases to have effect, unless sooner renewed, at the expiration of 5 years after the day on which the approval was granted or, where it has been previously renewed under this section, at the expiration of 5 years after the day on which it was last renewed.
- (6) Notwithstanding subsection (5) but subject to subsection (7), an approval granted or deemed to be granted under this section and current immediately before the day of the commencement of section 38 of the *Workers' Compensation and Assistance Amendment Act 1990*¹ continues to have effect for a period of one year after that day and, unless renewed under this section, thereafter is of no effect.
- (7) Where an approved insurance office
 - (a) fails in the opinion of the Minister to meet the requirements mentioned in subsection (3) or to comply with any condition attached to its approval;
or
 - (b) so requests

the Minister may revoke or suspend his approval under this section of that office, but may not do so in any other case.