

South Australia

WorkCover Corporation (Claims Management— Contractual Arrangements) Regulations 2005

under the *WorkCover Corporation Act 1994*

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Legislative history

1—Short title

These regulations may be cited as the *WorkCover Corporation (Claims Management—Contractual Arrangements) Regulations 2005*.

3—Interpretation

In these regulations—

Agent's services means the services to be provided for the Corporation by an agent pursuant to the terms of a contract authorised under regulation 4;

alliance contract means a contract authorised under regulation 6(1);

alliance contract claims means claims under the *Workers Rehabilitation and Compensation Act 1986* determined to be within the scope of an alliance contract in accordance with criteria determined by the steering committee overseeing the alliance under the contract.

4—Authorisation of contracts

- (1) For the purposes of section 14(4)(d) of the *WorkCover Corporation Act 1994*, a contract entered into by the Corporation with a private sector body (the *Agent*) that involves the conferral of powers referred to in section 14(3) of that Act (other than the power to collect levies) and includes (but is not necessarily limited to) the following terms, or terms that have the effect of providing for the following, is, subject to subregulation (2), an authorised contract:
 - (a) an initial contractual term of not more than 5 years, commencing on or after 1 January 2006;
 - (b) a right to renew, and further renew, for a period of (in each case) not more than 5 years (a *renewal period*), with this right being subject to—

- (i) the Agent achieving a satisfactory level of performance, in the opinion of the Corporation, under the preceding term of the contract; and
 - (ii) the parties reaching agreement as to the financial terms to apply during the renewal period;
- (c) the Agent is to manage and determine claims under the *Workers Rehabilitation and Compensation Act 1986* as agent for the Corporation, with the scope of this function to be specified in the contract;
- (d) the Agent may exercise such of the Corporation's statutory functions, powers and discretions as may be necessary for the performance of its functions under the contract;
- (e) for the purpose of providing the Agent's services, the Agent is to be a delegate of the Corporation under section 17 of the *WorkCover Corporation Act 1994*;
- (f) the Corporation's liability to pay compensation under the *Workers Rehabilitation and Compensation Act 1986* is not underwritten by the Agent;
- (g) the Agent is not entitled to receive or invest levies paid by employers under the *Workers Rehabilitation and Compensation Act 1986*;
- (h) the number of claims to be managed or determined by the Agent, and the identity of those claims, is to be determined in a manner specified by the Corporation from time to time;
- (i) a fee is to be paid by the Corporation to the Agent in consideration of provision by the Agent of the Agent's services, and such fee—
 - (i) may be adjusted from time to time, having regard to the quality of the service provided by the Agent, the degree to which the Agent performs its functions successfully and other performance measures, including in relation to outcomes in respect of claims (or other outcomes relevant to the operation of the scheme for rehabilitation and compensation established by the *Workers Rehabilitation and Compensation Act 1986*); and
 - (ii) may be adjusted by the Corporation for any other reason;
- (j) in determining whether the fee payable to the Agent is to be adjusted under paragraph (i) (whether by increasing or decreasing the fee), regard may be had to any evaluation undertaken in accordance with the method referred to in subregulation (2)(b)(i);
- (k) the Corporation may at any time, for such reason or reasons as may be specified in the contract, step in and take over from the Agent the management or determination of a specific claim or claims of a particular class or classes;
- (l) in the event of a breach of the terms of the contract by the Agent, the Corporation may—
 - (i) terminate the contract; or
 - (ii) exercise such other remedies or sanctions as may be appropriate in the circumstances;

- (m) the Corporation may, having regard to the performance by the Agent of its services, or on any other basis agreed between the parties, terminate the Agent's services, or a part of those services;
 - (n) the Agent must not, without the approval of the Corporation (which may be withheld at the discretion of the Corporation), assign the contract (or the performance of any part of the contract) or make use of subcontractors;
 - (o) the Agent, or a person employed by the Agent, must act in accordance with section 112 of the *Workers Rehabilitation and Compensation Act 1986*, as it applies to the Corporation;
 - (p) the Agent must, in carrying out the Agent's services, use information technology systems complementary to and compatible with those used by the Corporation;
 - (q) the Agent must implement an employee training and accreditation system approved by the Corporation;
 - (r) the Agent is not to provide services under the contract until the Corporation has issued a certificate (a *certificate of readiness*) certifying that the Agent is ready to provide those services.
- (2) A contract referred to in subregulation (1) must also—
- (a) regulate the use of external service providers by the Agent; and
 - (b) include the following:
 - (i) a method for monitoring and evaluating the performance by the Agent of the Agent's services;
 - (ii) a method, agreed between the parties, to be used by the Agent for improving the Agent's performance in delivery of the Agent's services;
 - (iii) a code of conduct (consistent with section 2 of the *Workers Rehabilitation and Compensation Act 1986* and section 12 of the *WorkCover Corporation Act 1994*) to be observed by the Agent in respect of the performance of its obligations and functions under the contract.
- (3) A contract renewed pursuant to a term complying with subregulation (1)(b) is itself an authorised contract.
- (4) A contract assigned in accordance with subregulation (1)(n) continues as an authorised contract.

5—Renewal of authorisation

Pursuant to section 14(4a)(b) of the *WorkCover Corporation Act 1994*, the authorisation of the contract as set out in regulation 4 is renewed.

6—Authorisation of alliance contracts

- (1) For the purposes of section 14(4)(d) of the *WorkCover Corporation Act 1994*, a contract entered into by the Corporation with a private sector body (the **Agent**) that involves the conferral of powers referred to in section 14(3) of that Act (other than the power to collect levies) and includes (but is not necessarily limited to) the following terms, or terms that have the effect of providing for the following, is, subject to subregulation (2), an authorised contract:
- (a) a contractual term of not more than 5 years;
 - (b) terms establishing an alliance between the Corporation and the Agent for the management and determination of alliance contract claims under which the Agent is generally responsible for day to day administrative matters;
 - (c) for the purposes of the alliance, terms—
 - (i) setting out governing principles; and
 - (ii) requiring a steering committee established under section 16 of the *WorkCover Corporation Act 1994* comprised of representatives of the Corporation and the Agent to oversee the alliance and setting out the committee's functions and procedures; and
 - (iii) setting out a dispute resolution procedure in the event that the representatives on the steering committee are unable to reach a unanimous decision on a matter; and
 - (iv) facilitating the day to day management and determination of alliance contract claims in a coordinated manner;
 - (d) the Agent may exercise such of the Corporation's statutory functions, powers and discretions as may be necessary for the performance of its functions under the contract;
 - (e) for the purpose of providing the Agent's services, the Agent is to be a delegate of the Corporation under section 17 of the *WorkCover Corporation Act 1994*, subject to specified conditions and limitations (if any);
 - (f) the Corporation's liability to pay compensation under the *Workers Rehabilitation and Compensation Act 1986* is not underwritten by the Agent;
 - (g) the Agent is not entitled to receive or invest levies paid by employers under the *Workers Rehabilitation and Compensation Act 1986*;
 - (h) a fee is to be paid by the Corporation to the Agent in consideration of provision by the Agent of the Agent's services, and such fee may be adjusted from time to time (subject to a specified cap) having regard to—
 - (i) the quality of the services; and
 - (ii) the resources required for the performance of the services; and
 - (iii) outcomes relevant to returning injured workers to work; and
 - (iv) outcomes relevant to the overall costs and liabilities of the workers rehabilitation and compensation scheme determined on an actuarial basis; and

- (v) if the contract relates to implementation of the *Workers Rehabilitation and Compensation (Scheme Review) Amendment Act 2008*—outcomes relevant to that implementation; and
 - (vi) other factors considered relevant by the Corporation;
- (i) the Corporation may at any time, for such reason or reasons as may be specified in the contract, step in and take over from the Agent the management or determination of a specific claim or claims of a particular class or classes;
 - (j) in the event of a breach of the terms of the contract by the Agent, the Corporation may—
 - (i) terminate the contract; or
 - (ii) exercise such other remedies or sanctions as may be appropriate in the circumstances;
 - (k) the Corporation may, having regard to the performance by the Agent of its services, or on any other basis agreed between the parties, terminate the Agent's services, or a part of those services;
 - (l) the Agent must not, without the approval of the Corporation (which may be withheld at the discretion of the Corporation), assign the contract (or the performance of any part of the contract) or make use of subcontractors;
 - (m) the Agent, or a person employed by the Agent, must act in accordance with section 112 of the *Workers Rehabilitation and Compensation Act 1986*, as it applies to the Corporation;
 - (n) the Agent must, in carrying out the Agent's services, use information technology systems complementary to and compatible with those used by the Corporation;
 - (o) the Agent must implement an employee training and accreditation system approved by the Corporation;
 - (p) the Agent is not to provide services under the contract until the Corporation has issued a certificate (a *certificate of readiness*) certifying that the Agent is ready to provide those services.
- (2) An alliance contract must also—
- (a) regulate the use of external service providers by the Agent; and
 - (b) include the following:
 - (i) a method for monitoring and evaluating the quality of the Agent's services under the alliance contract;
 - (ii) a code of conduct (consistent with section 2 of the *Workers Rehabilitation and Compensation Act 1986* and section 12 of the *WorkCover Corporation Act 1994*) to be observed by the Agent in respect of the performance of its obligations and functions under the alliance contract.

- (3) An alliance contract may also include terms, or terms that have the effect of providing for the matters, that may be the subject of an authorised contract under regulation 4 in relation to claims other than alliance contract claims (and, consequently, if a contract authorised under regulation 4 is amended to include terms, or terms that have the effect of providing for the matters, that may be the subject of an alliance contract, the contract continues as an authorised contract).
- (4) A contract assigned in accordance with subregulation (1)(1) continues as an authorised contract.

Legislative history

Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Revocation of regulations

The *WorkCover Corporation (Claims Management—Contractual Arrangements) Regulations 2005* were revoked by r 3 of the *WorkCover Corporation (Claims Management—Contractual Arrangements) Revocation Regulations 2014* on 13.6.2014.

Principal regulations and variations

Year	No	Reference	Commencement
2005	26	<i>Gazette 28.4.2005 p1080</i>	7.7.2005: r 2
2008	153	<i>Gazette 5.6.2008 p2219</i>	5.6.2008: r 2
2009	11	<i>Gazette 5.2.2009 p551</i>	13.5.2009: r 2
2011	49	<i>Gazette 26.5.2011 p1590</i>	26.5.2011: r 2

Provisions varied

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
r 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	
r 3		
alliance contract	inserted by 11/2009 r 4	13.5.2009
alliance contract claims	inserted by 11/2009 r 4	13.5.2009
r 5	inserted by 153/2008 r 4	5.6.2008
	substituted by 49/2011 r 4	26.5.2011
r 6	inserted by 11/2009 r 5	13.5.2009

Historical versions

5.6.2008
13.5.2009