

South Australia

WorkCover Corporation (Claims Management— Contractual Arrangements) Variation Regulations 2009

under the *WorkCover Corporation Act 1994*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *WorkCover Corporation (Claims Management—Contractual Arrangements) Variation Regulations 2009*.

2—Commencement

These regulations will come into operation on the day immediately following the day on which the time for disallowance of these regulations passes (see section 14(4a)(a) of the *WorkCover Corporation Act 1994*).

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *WorkCover Corporation (Claims Management—Contractual Arrangements) Regulations 2005*

4—Variation of regulation 3—Interpretation

Regulation 3—after the definition of *Agent's services* insert:

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

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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.

5—Insertion of regulation 6

After regulation 5 insert:

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;

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- (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;

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- (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)(l) continues as an authorised contract.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 5 February 2009

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