

South Australia

Return to Work Corporation (Claims Management—Contractual Arrangements) Regulations 2015

under the *Return to Work Corporation of South Australia Act 1994*

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1—Short title

These regulations may be cited as the *Return to Work Corporation (Claims Management—Contractual Arrangements) Regulations 2015*.

2—Commencement

These regulations will come into operation on 1 July 2015.

3—Interpretation

In these regulations—

Claims Agent's services means the services to be provided for the Corporation by a claims agent pursuant to the terms of a contract authorised under these regulations.

4—Authorisation of contracts

- (1) For the purposes of section 14(4)(d) of the *Return to Work Corporation of South Australia Act 1994*, a contract entered into by the Corporation with a private sector body (the *Claims Agent*) that involves the conferral of powers referred to in section 14(3) of that Act (other than the power to collect premiums, payments and fees) 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;
 - (b) a right to extend, and further extend, for a period of (in each case) not more than 5 years (an *extension period*), with this right being subject to—
 - (i) the Claims 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 extension period;

- (c) the Claims Agent is to—
 - (i) manage and determine claims under the *Return to Work Act 2014*; and
 - (ii) implement or manage programs to assist or encourage the recovery and return to work of injured workers,as agent for the Corporation, with the scope of these functions to be specified in the contract;
- (d) the Claims 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 Claims Agent's services, the Claims Agent is to be a delegate of the Corporation under section 17 of the *Return to Work Corporation of South Australia Act 1994*;
- (f) the Corporation's liability to pay compensation under the *Return to Work Act 2014* is not underwritten by the Claims Agent;
- (g) the Claims Agent is not entitled to receive or invest premiums, payments or fees paid by employers under the *Return to Work Act 2014*;
- (h) the number of claims to be managed or determined by the Claims 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 Claims Agent in consideration of provision by the Claims Agent of the Claims 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 Claims Agent, the degree to which the Claims 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 established by the *Return to Work Act 2014*); and
 - (ii) may be adjusted by the Corporation for any other reason;
- (j) in determining whether the fee payable to the Claims 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 Claims 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 Claims 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 Claims Agent of its services, or on any other basis agreed between the parties, terminate the Claims Agent's services, or a part of those services;
 - (n) the Claims 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 Claims Agent, or a person employed or engaged by the Claims Agent, must act in accordance with section 185 of the *Return to Work Act 2014*, as it applies to the Corporation;
 - (p) the Claims Agent must, in carrying out the Claims Agent's services, use information technology systems of a kind specified by the Corporation on terms and conditions determined by the Corporation;
 - (q) the Claims Agent must prepare, maintain and implement an employee training program in accordance with any requirements of the Corporation and the program, or such part of the program as is specified by the Corporation, must be submitted to the Corporation for approval;
 - (r) the Claims Agent is not to provide the service of managing and determining claims under the contract until the Corporation has issued a certificate (a ***certificate of readiness***) certifying that the Claims Agent is ready to provide that service.
- (2) A contract referred to in subregulation (1) must also—
- (a) regulate the use of external service providers by the Claims Agent; and
 - (b) include the following:
 - (i) a method for monitoring and evaluating the performance by the Claims Agent of the Claims Agent's services;
 - (ii) a method, agreed between the parties, to be used by the Claims Agent for improving the Claims Agent's performance in delivery of the Claims Agent's services;
 - (iii) a code of conduct (consistent with section 3 of the *Return to Work Act 2014* and section 12 of the *Return to Work Corporation of South Australia Act 1994*) to be observed by the Claims Agent in respect of the performance of its obligations and functions under the contract.
- (3) A contract—
- (a) extended pursuant to a term complying with subregulation (1)(b); or
 - (b) assigned in accordance with subregulation (1)(n),
- 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 19 March 2015

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