

Permit Conditions

Version 6 - 1 January 2021



Release notes

This document replaces *Permit Conditions Version 5 November 2013*.

This document is a managed document. For identification of amendments each page contains a version number and a page number. Changes will only be issued as a complete replacement document. Licensed insurers should remove superseded versions from circulation.

Document name	Date of release
WorkCover Tasmania - Permit Conditions Version 6 - 1 January 2021	30 June 2020

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Background

The permit conditions contained in this document were approved by the WorkCover Tasmania Board on 2 June 2020 and are imposed on permits to self-insure pursuant to section 107(1) of the *Workers Rehabilitation and Compensation Act 1988*, effective 1 January 2021.

Permit conditions are subject to any variation made by the Board in accordance with section 107(2) of the Act.

A breach of permit conditions may constitute an offence under the Act. Permits may be revoked or suspended by the Board in accordance with section 111 of the Act if the self-insurer is convicted of an offence under the Act.

Sam Thompson
Secretary
WorkCover Tasmania Board

30 June 2020

Interpretation

In this document (including the permit conditions), unless the contrary intention appears:

- **Expressions** defined in the Act have the same meanings when used in this document
- **Act** means the *Workers Rehabilitation and Compensation Act 1988* (Tas)
- **Approved Injury Management Program** means the Injury Management Program submitted by the licensed insurer and approved by the Board
- **Board** means the WorkCover Tasmania Board
- **Business day** means a day when banks are generally open for business in Hobart but does not include a Saturday, Sunday or public holiday
- **Corporations Act** means the *Corporations Act 2001* (Cwlth)
- **Injury Management Program** means an organisation's process for effectively managing workplace injuries
- **Permit** means the permit issued to the self-insurer under section 105 of the Act
- **Permit conditions** means the permit conditions in this document imposed by the Board on the permit issued to the self-insurer
- **Self-insurer** means an organisation granted a permit under section 105 of the Act
- **Prescribed person** has the meaning in the *Insurance Act 1973* (Cwlth)
- **Related body corporate** has the meaning in the *Corporations Act 2001* (Cwlth)

Permit conditions are obligations in addition to the self-insurer's obligations under the Act.

If there is any inconsistency between the permit conditions and the Act, the Act prevails to the extent of the inconsistency.

Permit Conditions

Pursuant to section 102 of the *Workers Rehabilitation and Compensation Act 1988*, the Board imposes the permit conditions set out below on permits issued to self-insurers:

1. General Requirements

Compliance

- 1.1 The self-insurer must have documented procedures for ensuring compliance with all permit conditions and legislative obligations.
- 1.2 The self-insurer must provide a declaration of compliance in the approved format no later than 31 August each year. The declaration must be signed by the self-insurer's authorised senior manager.
- 1.3 The self-insurer must comply with any directives from the Board in respect to their activities as a self-insurer.

Solvency

- 1.4 The self-insurer must advise the Board at any time if any of the following things occur:
 - (i) it is placed under administration
 - (ii) it becomes insolvent
 - (iii) it enters into an arrangement with its creditors
 - (iv) an application is made for an order that it be wound up or that a provisional liquidator or receiver and manager be appointed
 - (v) a liquidator or provisional liquidator is appointed
 - (vi) anything having a substantially similar affect to any of the events above.

The notice in respect of each of the above matters must be given to the Board not later than 24 hours after the self-insurer becomes aware of the matter.

Notification of corporate changes

- 1.5 The self-insurer must, as soon as practicable, but within 14 days, notify the Board in writing if any of the following things occur:
 - (i) any change, or any proposal to change, the self-insurer's name
 - (ii) any change to the self-insurer's status under the Corporations Act, or any proposal to make such a change
 - (iii) any change in the directors or secretary of the self-insurer
 - (iv) the self-insurer becoming a subsidiary (as defined in the Corporations Act) of another body corporate (as defined in the Corporations Act)
 - (v) the self-insurer ceasing to be a subsidiary of another body corporate
 - (vi) any change in the control (as defined in the Corporations Act) of the self-insurer
 - (vii) any change in the management personnel responsible for the management of the self-insurer's Tasmanian business
 - (viii) any other change that may affect the ability of the self-insurer to perform its obligations as a self-insurer.

Organisational changes

- 1.6 The self-insurer must submit to the Board any proposal in respect to planned significant changes to the manner in which it manages its claims and injury management functions.

2. Prudential Requirements

Excess of loss policy

- 2.1 The self-insurer must maintain in force an excess of loss insurance policy providing indemnity for the self-insurer in the event of major loss or disaster, for at least \$50 million for each individual claim or series of claims arising out of a single occurrence. The policy excess is not to exceed \$1 million without Board approval.

The self-insurer must give to the Board evidence of the terms of the excess of loss policy and evidence of payment of the premium for that policy and such other information as required by the Board.

Financial undertaking

- 2.2 The self-insurer must provide the Board with a financial undertaking in favour of the Nominal Insurer.

The financial undertaking must be provided at such times and in such format as required and approved by the Board.

The quantum of the financial undertaking will be as determined by the Board and may be varied annually.

Actuarial assessment

- 2.3 The self-insurer must carry out an annual independent actuarial assessment of its outstanding Tasmanian workers compensation claims liability as at the end of its most recent financial year.

The assessment must be conducted by an appropriately certified actuary and the actuarial report must be submitted within three months of the end of the self-insurer's financial year.

3. Exit Provisions

- 3.1 The self-insurer must apply to the Board to cease being a self-insurer. An application to cease being a self-insurer must:
- (i) be made in accordance with any guidelines issued by the Board
 - (ii) be received by the Board no later than 90 days prior to the date on which the self-insurer wishes to cease being a self-insurer.

4. Provision of Information

- 4.1 The self-insurer must establish and maintain systems to ensure that the workers compensation information it provides to workers and the Board is current and accurate. The systems must be established and maintained in accordance with any guidelines issued by the Board.

- 4.2 The self-insurer must provide information to its injured workers in accordance with the requirements set out in Schedule 1 or as directed by the Board.

Alternatively, should the self-insurer wish to provide its own information to its injured workers, such information must be equivalent to that specified in Schedule 1 and have first been approved by the Board.

- 4.3 The self-insurer must, as directed by the Board, provide information in writing, on any changes to the Act to injured workers with an active claim at the time of any legislative amendment.

Information may be provided by letter or by email.

5. Information and Records Management

- 5.1 The self-insurer must establish and maintain a documented records management system in respect to the management of records pertaining to its activities as a self-insurer.
- 5.2 The self-insurer is responsible for ensuring the security of all information relevant to their activities as a self-insurer. The self-insurer must:
- (i) establish and maintain systems and controls to ensure the security of information and compliance with relevant privacy legislation
 - (ii) ensure that any third parties have appropriate systems and controls in place to ensure the security of information and compliance with relevant privacy legislation.

6. Disputes/Complaints Handling

- 6.1 The self-insurer must establish and maintain documented policies and procedures for the management of disputes and complaints arising from its activities as a self-insurer.

7. Conflict of Interest

- 7.1 The self-insurer must:
- (i) have documented policies and procedures in place to identify and manage conflict of interest.
 - (ii) as soon as practicable, but no later than 14 days, following the identification of a conflict of interest, either real or perceived, relating to the insurer's activities as a self-insurer, notify the Board in writing of the conflict and what action is being taken to manage it.

8. Injury Management and Return to Work

Injury Management Programs

- 8.1 The self-insurer must:
- (i) ensure that there is an Injury Management Program in place approved by the Board that complies with the Guidelines issued by the Board
 - (ii) ensure that it complies with the approved Injury Management Program.
- 8.2 The self-insurer must establish and implement a system to conduct an annual review of its approved Injury Management Program to ensure consistency with legislation, Injury Management Program Guidelines issued by the Board and the insurer's current claims and injury management practices.

Return to work

- 8.3 The self-insurer must ensure the policies, procedures and systems documented in the Injury Management Program approved by the Board are applied equitably and transparently to ensure that in all instances its primary aim is the recovery of and return to work of injured workers and that all decisions made relating to injury management are made in the best interests of the worker.
- 8.4 The self-insurer must apply the Return to Work Hierarchy when assisting an injured worker to return to work:
1. Return to work, same employer, same job
 2. Return to work, same employer, different job
 3. Return to work, different employer, same job
 4. Return to work, different employer, different job.

Injury management co-ordinator

- 8.5 The self-insurer must not impede, obstruct or prevent an appointed injury management co-ordinator from performing his or her functions under the Act.
- 8.6 The self-insurer must develop and implement an internal dispute management procedure to manage internal disputes concerning the work or recommendations made by an injury management co-ordinator. Such procedures must be available and communicated to any appointed injury management co-ordinator assigned to a worker.

9. Claims Management

- 9.1 The self-insurer must establish and maintain documented policies and procedures for the management of claims. The policies and procedures must be established and maintained in accordance with any guidelines issued by the Board.

Changes in entitlements

- 9.2 The self-insurer must provide a written explanation to employers and claimants when step down provisions are applied to weekly payments. The explanation must be provided at least 14 days prior to the change occurring.
- 9.3 Where a self-insurer intends to take any action to reduce, suspend or terminate a worker's entitlement to weekly compensation the insurer must, in addition to any action required by the Act:
 - (i) ensure the decision is reviewed by a senior manager, and that the senior manager has considered whether the action is reasonable having regard to the relevant provisions of the Act and the individual circumstances of the worker
 - (ii) ensure that the reason(s) for the action have been documented
 - (iii) ensure the worker has been notified verbally of the decision, unless there is a reasonable basis for not doing so
 - (iv) ensure the worker has been notified in writing of the decision, unless service of documentation is required
 - (v) provide the worker with information in respect to the self-insurer's dispute resolution process
 - (vi) provide the worker with information in respect to dispute resolution options available under the Act. For example, referral to the Workers Rehabilitation and Compensation Tribunal.

Lump sum settlements

- 9.4 The self-insurer must establish and maintain documented policies and procedures to manage the settlement of claims. The policies and procedures must be established and maintained in accordance with any guidelines issued by the Board.

Accredited service providers

- 9.5 The self-insurer must not engage any person or organisation to perform a prescribed service unless such person or organisation is accredited in accordance with the Act.

10. Data Reporting Requirements

- 10.1 The self-insurer must provide data as determined by the Board in accordance with Section 114 of the Act.
- 10.2 If any data provided to the Board is incorrect, corrupt or deficient, the self-insurer must notify the Board within 3 business days of the error being identified.
- 10.3 The self-insurer must take measures to rectify any errors or omissions identified in any data provided to the Board.
- 10.4 The self-insurer must forward to the Board a signed End of Year Reconciliation Certificate in a form approved by the Board. The Certificate must be received by the Board no later than 31 August in each year or as determined by the Board.
- 10.5 If the Certifier does not certify the accuracy of all of the data, the self-insurer must give the Board revised data and obtain and forward a revised Certificate. The revised data and revised Certificate must be provided to the Board within 14 days following identification of the errors.

11. Audit Requirements

Self-audits

- 11.1 The self-insurer must:
 - (i) perform a self-audit of its management systems (permit conditions, claims and injury management) at intervals determined by the Board
 - (ii) forward an audit report by the date specified by the Board
 - (iii) not conduct the audit any earlier than 60 days prior to the date specified by the Board.
- 11.2 Where the self-insurer identifies opportunities for improvement in its self-audit it must:
 - (i) Within 60 days of submitting the self-audit report, confirm that any opportunity for improvement has been addressed, or
 - (ii) if the opportunities for improvement cannot be addressed within 60 days, provide the Board with a corrective action plan within 28 days of being provided with the report, detailing the action which will be taken and the time frame in which the action will be taken, or
 - (iii) if any opportunities for improvement cannot be addressed, make a submission to the Board within 28 days of being provided with the report, detailing the reasons.
- 11.3 The annual self-audits of the management systems must be conducted by a competent person who must be able to demonstrate independence of the system being audited.
- 11.4 The self-insurer's self-audit report is to be signed by the self-insurer's authorised senior manager.

WorkCover Tasmania Board audits

- 11.5 The self-insurer must submit to and facilitate an audit in respect to its management systems (permit conditions, claims and injury management), conducted by the Board's Auditor. Audits may be conducted at such times as determined by the Board.
- 11.6 Where opportunities for improvement are identified by the Board's Auditor, the self-insurer must:
 - (i) within 60 days of being provided with the Board's Audit report confirm that any opportunity for improvement has been addressed, or
 - (ii) if the opportunities for improvement cannot be addressed within 60 days, provide the Board with a corrective action plan within 28 days of being provided with the report, detailing the action which will be taken and the time frame in which the action will be taken, or

- (iii) if any opportunities for improvement cannot be addressed, make a submission to the Board detailing the reasons within 28 days of being provided with the report
- 11.7 The self-insurer agrees that it will contribute to the cost of surveillance audits conducted by the Board in accordance with any policy approved by the Board.
- 11.8 The self-insurer must provide any additional information requested by the Board following Board audits or self-audits.

12. Work Health and Safety

- 12.1 The self-insurer must, on an annual basis submit a report, in accordance with any Guidelines issued by the Board, for approval by the Board that includes evidence of the self-insurer's commitment to work health and safety. The report is to include but not be limited to the following information:
- (i) details of the current work health and safety management system
 - (ii) work health and safety performance in the previous 12 months
 - (iii) work health and safety activities planned for the next 12 months.
- 12.2 The self-insurer must notify the Board within three days when it is served with a complaint issued under the *Justices Act 1959* by the Regulatory Authority for breaches of the following Acts:
- (i) Work Health and Safety Act 2012
 - (ii) Explosives Act 2012
 - (iii) Dangerous Goods (Road & Rail Transport) Act 2010
 - (iv) Security Sensitive Dangerous Substances Act 2005
 - (v) Workers Rehabilitation & Compensation Act 1988.
- 12.3 The self-insurer must provide the Board with any information in respect to its work health and safety policies, procedures and performance at any time requested by the Board.

Schedule 1

The information required to be provided in this schedule may be provided via electronic link in correspondence however the parties must be provided with an option to request a hard copy.

Information to be provided to workers on receipt of a claim

1. WorkCover Tasmania publication [Injury Management Making it Work](#) (GB197)
2. WorkCover Tasmania publication [Workers Compensation Handbook: The Basics](#) (GB010)
3. WorkCover Tasmania publication [The Benefits of Returning to Work](#) (IS083)

You can find these guides at worksafe.tas.gov.au by searching for the code provided.

1300 366 322
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For more information contact

Phone: 1300 366 322 (within Tasmania)
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