



Safety, Rehabilitation and Compensation Directions 2019

I, KELLY O'DWYER, Minister for Jobs and Industrial Relations, make the following directions to the Safety, Rehabilitation and Compensation Commission.

Dated 7 March 2019

KELLY O'DWYER
Minister for Jobs and Industrial Relations

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Part 1—Preliminary

1 Name

This instrument is the *Safety, Rehabilitation and Compensation Directions 2019*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3	The day after this instrument is registered on the Federal Register of Legislation.	
2. Sections 4 to 21	The later of: (a) the start of the day after it is registered on the Federal Register of Legislation; and (b) immediately after the commencement of the <i>Safety, Rehabilitation and Compensation Regulations 2019</i> . However, these provisions do not commence at all if the <i>Safety, Rehabilitation and Compensation Regulations 2019</i> do not commence.	
3. Schedule 1	The later of: (a) the start of the day after it is registered on the Federal Register of Legislation; and (b) immediately after the commencement of the <i>Safety, Rehabilitation and Compensation Regulations 2019</i> . However, these provisions do not commence at all if the <i>Safety, Rehabilitation and Compensation Regulations 2019</i> do not commence.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under section 89D of the *Safety, Rehabilitation and Compensation Act 1988*.

4 Definitions

Note: A number of expressions used in this instrument are defined in the definitions section of the Act, including the following:

- (a) Commission;
- (b) Commonwealth authority;
- (c) licence;
- (d) licensee.

In this instrument:

Act means the *Safety, Rehabilitation and Compensation Act 1988*.

preserved licence has the same meaning as in the Regulations.

Regulations means the *Safety, Rehabilitation and Compensation Regulations 2019*.

5 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Part 2—Criteria and procedures—grant of licences

6 Matters to be considered in deciding whether to grant a licence— Commonwealth authorities

The Commission must not grant a licence to a Commonwealth authority, other than to the Australian Capital Territory, under section 104 of the Act, unless the Commission is satisfied that claims will be managed by employees of:

- (a) the applicant; or
- (b) Comcare; or
- (c) a Comcare subsidiary; or
- (d) another Commonwealth authority.

7 Matters to be considered in deciding whether to grant a licence—eligible corporations

The Commission must not grant a licence to an eligible corporation under section 104 of the Act unless the Commission is satisfied, on reasonable grounds, that satisfactory arrangements have been made to ensure that payments that would be required to be made under the Act to, or in respect of, the eligible corporation's employees will continue to be paid if that corporation is wound up.

8 Licence decision

- (1) In the written notice informing the applicant of the Commission's decision to grant the licence sought in accordance with subsection 104(1) of the Act, the Commission must specify:
 - (a) the scope of the licence so far as concerns the degree to which, and the circumstances in which, the licensee may accept liability for compensation; and
 - (b) the scope of the licence so far as concerns the degree to which, and the circumstances in which, the licensee is authorised to manage claims; and
 - (c) the conditions to which the grant of the licence is subject; and
 - (d) the period for which the licence is granted.
- (2) The Commission must publish the written notice referred to in subsection (1) in the *Gazette* or by notifiable instrument.

Part 3—Scope and conditions of licence

Division 3.1—Licences granted to Commonwealth authorities

9 Application

This Division applies to a licence granted by the Commission to a Commonwealth authority.

10 Acceptance of liability – prior Class 3 licence or Class A or B licence

If, immediately before 1 April 2002, the licensee held a Class 3 licence under Part VIIIA of the Act or a Class A or B licence under Part VIIIB of the Act (the *previous licence*), the Commission may authorise the licensee to accept liability to pay compensation and other amounts under the Act for a particular injury, loss or damage suffered by, or for the death of, some or all of its employees for claims for an injury, loss, damage or death:

- (a) that occurred during the period for which the previous licence was in force;
or
- (b) that occurs during the period specified in the licence.

11 Claims management

- (1) The Commission may only grant a licence to a Commonwealth authority that authorises the licensee, or a specified person acting on the licensee's behalf, to manage some or all of the claims made by employees of the licensee under the Act if the licence authorises only the persons set out in subsection (2) to manage claims on behalf of the licensee.

Who may manage claims on behalf of a licensed authority

- (2) The licence may only authorise the following persons to manage claims on behalf of the licensee:
 - (a) Comcare;
 - (b) a Comcare subsidiary;
 - (c) employees of Comcare or of a Comcare subsidiary;
 - (d) another Commonwealth authority;
 - (e) employees of another Commonwealth authority.
- (3) This provision does not apply in relation to a licence that is, or will be, granted to the Australian Capital Territory.

Division 3.2—Licences granted to eligible corporations

12 Application

This Division applies to a licence granted by the Commission to a corporation (other than a corporation that is a Commonwealth authority).

13 Conditions

- (1) The licence may include the following conditions:
 - (a) if requested in writing by the Commission to do so, the licensee must give to the Commission the information relating to the licensee's operations under the Act that is specified in the request;
 - (b) the licensee must lodge with the Commission, within 120 days after the end of each accounting period (or, if the Commission allows a longer period, within that period), a copy of the accounts required under the law of the place of the licensee's incorporation for the accounting period;
 - (c) the licensee must include and identify in the accounts mentioned in paragraph (b) provision for meeting the licensee's accrued and contingent liability as at the end of the accounting period for claims made under the Act in the accounting period.
- (2) If the licence includes the condition mentioned in paragraph (1)(c), the licence must also include a condition that:
 - (a) the provision mentioned in that paragraph must be consistent with a written evaluation, by an actuary, of the licensee's accrued and contingent liability for the accounting period; and
 - (b) the evaluation mentioned in paragraph (a) must be lodged with the Commission.

Division 3.3—General

14 Conditions—claims management

- (1) The Commission may only grant a licence that authorises a licensee, or a specified person acting on the licensee’s behalf, to manage some or all of the claims made by employees of the licensee under the Act if the licence contains the conditions in subsection (2).

Conditions

- (2) The licensee or specified person, in managing claims:
 - (a) must be guided by equity, good conscience and the substantial merits of the case, without regard to technicalities; and
 - (b) is not required to conduct a hearing; and
 - (c) is not bound by the rules of evidence.

Part 4—Criteria and procedures—suspension and revocation of licences

15 Revocation or suspension of licence at the instance of the Commission

- (1) The Commission may, under section 106 of the Act, suspend or revoke a licence held by a Commonwealth authority.
- (2) The Commission may, under section 106 of the Act, revoke, but may not suspend, a licence held by a licensed corporation.

Notice to the licensee

- (3) If the Commission suspends or revokes a licence under section 106 of the Act, the Commission must give the licensee written notice:
 - (a) stating that the Commission has suspended or revoked the licence under section 106 of the Act; and
 - (b) stating the date of effect of the suspension or revocation; and
 - (c) for notices relating to a suspension—state the period for which the licence is suspended; and
 - (d) setting out the reasons for the suspension or revocation.

Notice to be published

- (4) If the Commission revokes or suspends a licence under section 106 of the Act, the Commission must publish a notice in the *Gazette* or by notifiable instrument:
 - (a) stating that the licence has been suspended or revoked under section 106 of the Act; and
 - (b) stating the date of effect of the suspension or revocation; and
 - (c) for a notice relating to a suspension—state the period of suspension.

16 Suspected breach of condition

- (1) For subsection 106(2) of the Act, the procedure set out in this section is a procedure preliminary to the suspension or revocation of a licence at the instance of the Commission.
- (2) If the Commission believes, on reasonable grounds, that a licensee may have breached a condition to which the grant of the licence is subject, the Commission may give a written notice to the licensee:
 - (a) stating that the Commission believes that the licensee may have breached a condition of its licence; and
 - (b) giving details of the matters that the Commission considers may constitute the breach; and
 - (c) stating that if the Commission is satisfied that a breach has occurred, the Commission may:
 - (i) if the licensee is a Commonwealth authority—suspend or revoke the licence; or

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- (ii) if the licensee is a licensed corporation—revoke the licence; and
 - (d) inviting the licensee to make written submissions in relation to the matter to the Commission, within 30 days after receiving the notice.
- (3) If the licensee makes a submission within the period mentioned in paragraph (2)(d), the Commission must consider the submission.

17 Revocation of licence at the request of licensee

- (1) If the Commission decides to revoke a licence under section 107 of the Act, the Commission must give the licensee a notice in writing, stating:
 - (a) that the Commission has revoked the licence under section 107 of the Act; and
 - (b) the date of effect of the revocation.
- (2) The Commission must publish the written notice referred to in subsection (1) in the *Gazette* or by notifiable instrument.

Part 5—Notices

18 Variation of scope of licence or extension of term of licence

- (1) If the Commission varies the scope of a licence or extends the term of a licence, the Commission must publish a notice in the *Gazette*, or by notifiable instrument, setting out the variation made to the scope of the licence or the extension of the term of the licence.
- (2) If the Commission varies the scope of a preserved licence, the Commission must publish a notice in the *Gazette*, or by notifiable instrument, setting out the variation made to the scope of the preserved licence.

19 Variation of conditions

If, the Commission varies a condition to which the grant of a licence or preserved licence is subject, the Commission must publish a notice in the *Gazette*, or by notifiable instrument, setting out the variation made to the condition.

Part 6—Recordkeeping and reporting

20 Commission must keep records

The Commission must keep records of the following:

- (a) applications for licences;
- (b) refusals to grant licences;
- (c) grants of licences, including the scope of the licences and the conditions to which the licences are subject;
- (d) expiry of licences;
- (e) suspensions of licences;
- (f) revocations of licences;
- (g) breaches of licences and preserved licences;
- (h) suspected breaches of licences and preserved licences.

21 Reporting

The Commission must include details of the records mentioned in paragraphs (a) to (g) inclusive in section 20 for a financial year in the Commission's annual report for that financial year under section 89S of the Act.

Schedule 1—Repeals

Safety, Rehabilitation and Compensation Directions 2002

1 The whole of the instrument

Repeal the instrument.