



# **Safety, Rehabilitation and Compensation Act (Criteria for Approval and Renewal of Rehabilitation Program Providers) Determination 2020**

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I, Susan Weston, Chief Executive Officer Comcare, make the following Determination.

Dated 5 September 2019

Susan Weston  
Chief Executive Officer Comcare

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## Part 1—Preliminary

### 1 Name

This instrument is the *Safety, Rehabilitation and Compensation Act (Criteria for Approval and Renewal of Rehabilitation Program Providers) Determination 2020*.

### 2 Commencement

This Instrument commences on 1 January 2020.

### 3 Authority

This Instrument is made under section 34D of the Act.

### 4 Definitions

Note: A number of expressions used in this instrument are defined in section 4 and section 5 of the Act, including the following:

- (a) Comcare
- (b) rehabilitation authority
- (b) rehabilitation program
- (c) employee
- (d) injury
- (e) approved program provider

In this instrument:

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

*applicant* means:

- (a) a person applying under section 34B of the Act for approval as a rehabilitation program provider; or
- (b) a person applying under section 34J of the Act for renewal of approval as a rehabilitation program provider.

*conditions of approval* means the conditions as specified by Comcare under section 34P of the Act in relation to the approval of a person as a rehabilitation program provider.

*registered health practitioner* means an individual registered to practise a health profession under the Health Practitioner Regulation National Law as in force in the relevant State or Territory, but does not include an individual who holds a non-practising registration under that Law.

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***rehabilitation program provider*** means a person that would deliver services as part of a rehabilitation program to an employee that has suffered an injury, should that person be approved as an approved program provider.

***rehabilitation services*** means services provided as part of a rehabilitation program.

***solvent*** has the same meaning as in subsection 95A(1) of the *Corporations Act 2001*.

## **5 Repeals**

Division 1 of Part 2 of the *Criteria and Operational Standards for Workplace Rehabilitation Providers 2015* is repealed.

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## Part 2—Criteria for approval or renewal of approval as a rehabilitation program provider

### 6 Criteria relating to qualifications

#### *Application of this section*

- (1) This section applies to a person who:
  - (a) makes an application under section 34B of the Act for approval as a rehabilitation program provider; or
  - (b) makes an application under section 34J of the Act for renewal of approval as a rehabilitation program provider.

#### *Qualifications required of the applicant*

- (2) The applicant must be an individual, or employ or otherwise engage at least one individual, with at least five years' relevant professional experience in delivering rehabilitation services.
- (3) The applicant must provide rehabilitation services only by means of individuals who are relevantly qualified to provide those services.
- (4) For this section, an individual is **relevantly qualified** in relation to a rehabilitation service if they are:
  - (a) a registered health practitioner who is registered to practise one of the following health professions:
    - (i) Occupational therapist;
    - (ii) Physiotherapist;
    - (iii) Psychologist;
    - (iv) Medical practitioner;
    - (v) Nurse; or
  - (b) a rehabilitation counsellor who holds full membership of the Australian Society of Rehabilitation Counsellors; or
  - (c) a rehabilitation counsellor who holds associate membership of the Australian Society of Rehabilitation Counsellors and is in the process of progressing to full membership in accordance with the rules of the Society at the time they provide the rehabilitation service; or
  - (d) a rehabilitation counsellor who holds full membership of the Rehabilitation Counselling Association of Australasia; or
  - (e) an exercise physiologist who is accredited with Exercise and Sports Science Australia; or
  - (f) a social worker who has full membership of the Australian Association of Social Workers.

### 7 Criteria relating to probity and financial arrangements

#### *Application of this section*

- (1) This section applies to a person who:

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- (a) makes an application under section 34B of the Act for approval as a rehabilitation program provider; or
  - (b) makes an application under section 34J of the Act for renewal of approval as a rehabilitation program provider.

*Criteria for approval*

- (2) The applicant must satisfy Comcare that its probity and financial arrangements are appropriate for the applicant to be approved as a rehabilitation program provider.
- (3) In assessing whether the applicant's probity and financial arrangements are appropriate for the purpose of subsection 7(2), Comcare may have regard to any matter that it considers appropriate, including the extent to which the applicant can demonstrate:
  - (a) appropriate financial administration and management;
  - (b) appropriate case data collection and record management;
  - (c) compliance with all applicable legal requirements;
  - (d) acquisition and maintenance of all insurance necessary to carry out work as a rehabilitation program provider;
  - (e) the existence and implementation of policies relevant to allowing the applicant to safely and effectively carry out work as a rehabilitation program provider.
- (4) Where the applicant is not an individual, the applicant must be solvent at the time of application.
- (5) Where the applicant is an individual, the applicant must not, at the time of application, be:
  - (a) bankrupt; or
  - (b) applying to take the benefit of a law for the relief of bankrupt or insolvent debtors; or
  - (c) compounding with their creditors or assigning remuneration or property for their benefit.

## **8 Additional criteria for renewal applications under section 34J**

*Application of this section*

- (1) This section applies to an applicant who makes an application under section 34J of the Act for renewal of approval as a rehabilitation program provider (***a renewal applicant***).

*Criteria for approval of a renewal applicant*

- (2) The renewal applicant must satisfy Comcare that the renewal applicant has appropriately managed at least five of any of the following in the period 12 months prior to making the application:
  - (a) an arrangement with a rehabilitation authority to provide a rehabilitation program for an employee as an approved program provider under the Act; or

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- (b) an arrangement or referral (however described) to provide rehabilitation services (however described) to an injured person under any of the following Acts:
    - (i) the *Military Rehabilitation and Compensation Act 2004*; or
    - (ii) the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*; or
    - (iii) the *Seafarers Rehabilitation and Compensation Act 1992*.
  - (3) Subsection 8(2) does not apply to a renewal applicant who:
    - (a) has previously been an approved program provider for a period of less than 12 months prior to making an application under section 34J of the Act; or
    - (b) in the opinion of Comcare, has demonstrated reasonable grounds for being unable to comply with subsection 8(2) during the renewal applicant's prior period as an approved program provider.

## 9 Criteria for approval in the case of a previous revocation

### *Application of this section*

- (1) This section applies to an applicant:
  - (a) who makes an application under section 34J of the Act for renewal of approval as a rehabilitation program provider; and
  - (b) who has previously had its approval as a rehabilitation program provider revoked by Comcare under section 34Q of the Act for a failure to comply with the conditions of approval to which the applicant was subject (***the previous conditions***).

### *Criteria for approval*

- (2) The applicant must satisfy Comcare that the applicant would be able to comply with the previous conditions if the previous conditions were again imposed on the applicant under section 34P of the Act, should the applicant be approved as a rehabilitation program provider.