



Policy on extension of a self insurance licence

Introduction

1. This policy outlines the steps the Safety, Rehabilitation and Compensation Commission (the Commission) may take in considering to extend a self insurance licence.
2. Regulatory decisions made by the Commission are subject to the *Administrative Decisions (Judicial Review) Act 1977*.
3. By publishing this policy, the Commission has ensured that licensees and other interested parties are aware of the type of issues that the Commission will take into account when making any decision to extend a self insurance licence. This policy does not set out an exhaustive list of the issues that the Commission may take into account.
4. This policy is intended for use where the licensee requests the consideration of an application for extension of licence.
5. This policy is not legally enforceable.

Who does this policy apply to?

6. This policy applies to all self insurance licensees under the *Safety, Rehabilitation and Compensation Act* (SRC Act). The policy applies to both Commonwealth licensees and non-Commonwealth licensees (licensed corporations).

The principles underpinning this policy

7. There are several principles of successful regulation which underpin the drafting and application of this policy. These principles will inform any decision by the Commission to extend a self insurance licence.
 - **Openness and transparency:** The Commission recognises the need for the licence extension application consideration process to be as open and transparent as possible.
 - **Adequacy of time to consider extension applications:** The evaluation of licence applications is a complex process which requires information to be supplied from a number of bodies. The Commission has imposed a minimum timeframe of 12 weeks for the consideration of licence extensions.
 - **Opportunities for views to be expressed to the Commission:** The Commission has established a process and timetable for interested individuals and bodies to make their views on the licence extension application known.

What can the Commission do?

8. The Commission grants an eligible corporation a self insurance licence under the SRC Act for an initial period of two years.
9. Under Section 105 of the SRC Act, the Commission may, at any time while a licence is in force, on the written application of the licensee, extend the term of the licence. Licence extension applications are usually considered by the Commission at its March and June meetings.

What does a licence extension application involve?

10. The licensee must submit a written application, signed by the Principal Officer, to the Commission for an extension of licence using a modified version of the full licence application form prescribed by the SRC Regulations.
11. A licence extension application must be received by Comcare no later than 12 weeks prior to the Commission meeting at which the application will be considered. Comcare is then able to verify that all the information and documentation required to be assessed by the Commission has been provided. There is a licence extension application fee to cover the extension application analysis.
12. The Commission agreed to apply Subsection 104(2) of the SRC Act (which applies to the granting of a new licence) to an extension of licence; that is that
 - the applicant has sufficient resources to fulfil the responsibilities imposed on it under the licence
 - the applicant has the capacity to ensure that claims will be managed in accordance with standards set by the Commission for the management of claims
 - the grant of the licence will not be contrary to the interests of the employees of the licensee whose affairs fall within the scope of the licence and
 - the applicant has the capacity to meet the standards set by the Commission for the rehabilitation and occupational health and safety of its employees.
13. Comcare is required to undertake audits of all three functions, regardless of tier level, during the last year of a licence. This regulatory cost is factored in to the licensee's licence fee.
14. The audit requirements for the final year of licence are the same as those for a licensee with a function in Tier 1. If a licensee is in Tier 1 and in the final year of licence they will only undergo one audit per function by Comcare.
15. Comcare is required to analyse the information that supports the licensee's licence extension application, however it is the Commission that makes the decision on whether to grant a licence extension. In analysing this information, Comcare considers a range of matters including:
 - OHS Investigation outcomes;
 - Commission Indicator performance;
 - Audit results;
 - Evidence of consultation with employees and relevant unions;
 - Financial desktop reviews;
 - Liability reports;
 - Prudential performance; and
 - Compliance with the conditions of licence.

Registering the licence extension application on SRCC website

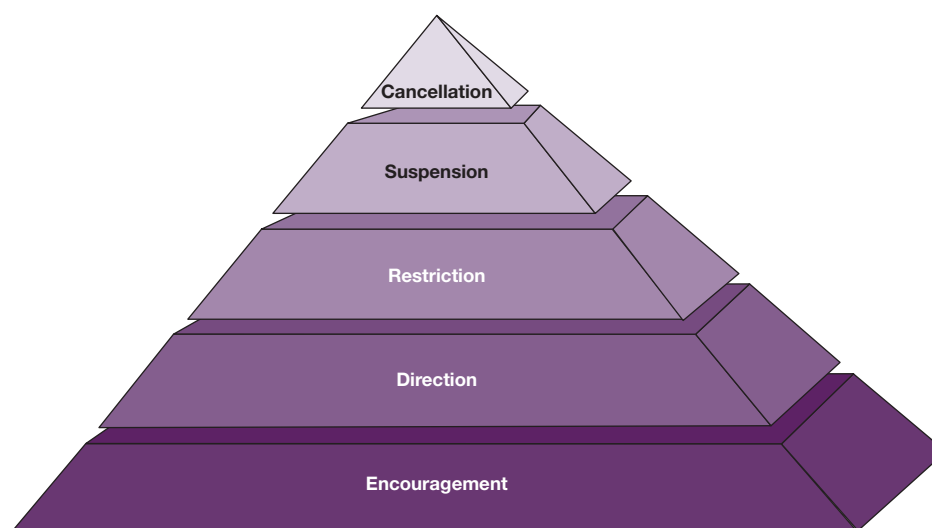
16. The licence extension application will be registered on the Commission's website at least 12 weeks prior to the application being considered by the Commission. This step is essential to ensure an open and transparent process and to give third parties the opportunity to express views regarding the licence extension application to the Commission. The deadline for the submission of comments on licence extension applications is four weeks prior to the Commission meeting at which the application will be considered. However, the Commission may exercise its discretion to accept submissions made after that deadline.

What is the period of extension?

17. The Act, SRC Regulations 2002 and Ministerial Directions do not specify criteria to be considered in setting an appropriate period of licence, merely that the period must be specified in the licence. The duration of a licence is therefore at the discretion of the Commission.
18. The current licence extension model was endorsed by the Commission at its meeting on 5 October 2005. The model was developed by a working party comprising of Comcare and licensee representatives.
19. The Commission agreed with the recommendations of that working party in that the extension should be for a period of four years.
20. However, in exceptional circumstances, the Commission may consider issuing or extending licences for a shorter period of time than the standard term.
21. What constitutes 'exceptional circumstances' has not been defined. This allows the Commission the flexibility to determine the period of licence extension on a case-by-case basis.
22. Irrespective of the duration of the licence period, the Commission has the capacity under Section 108D of the Act to require additional licence conditions or to vary the licence conditions for any particular licensee where necessary.
23. The Commission also has a number of mechanisms to manage licensee performance, as set out below.

Mechanisms to manage licensee performance

24. The Commission has endorsed a number of staged responses to assist in managing licensee performance. They are:



25. The various mechanisms associated with each staged response enable regulatory measures to be implemented proportionate to the issue and identified risk. Some of these regulatory measures are designed to have the same effect as granting a licence for a shorter period.

26. The Encouragement stage focuses on education and voluntary compliance. This is usually the domain of Comcare and includes activities such as information and presentations provided by Comcare.
27. The Direction stage outlines a range of activities the Commission could apply to a licensee. For example, the Commission can:
- issue a letter of statutory warning to the principal officer
 - issue a letter requesting an action/direction (such as a report)
 - issue a request that the principal officer of the licensee appear in front of the Commission
 - direct that further audits and/or investigations be undertaken to address the issue (this may include tier movement within the tier model)
 - report the licensee's poor performance/breach of the conditions of licence on the Commission's website.
28. Under the Restriction stage, the Commission may consider reviewing and amending a self insurance licence by varying the conditions of licence to remove or add specific conditions. Section 108D(2) allows the Commission, at any time while the licence is in force, to vary the conditions to which the licence, as long as it considers that the conditions are necessary to achieve the objects of the SRC Act.
29. Under the Suspension and Cancellation stages, it is open to the Commission to revoke a licence if they consider it appropriate to do so, in accordance with Section 106 of the SRC Act.
30. A separate mechanism to manage licensee performance is the Licensee Improvement Program (LIP). The LIP's objective is to provide the Commission advice on the performance of the licensees' prevention, rehabilitation and claims management functions. In particular, it provides evidence-based analysis of the relevant inputs to support the level of auditing and the regulatory oversight required for each licensee for the coming financial year. The level of oversight is dictated by tier level.

Circumstances when a licence is not extended

31. These circumstances are rare and ultimately could result in the licence being revoked. Not all circumstances are identified and discussed here.

The licensee indicates that they will not be seeking a licence extension

32. In this scenario, the licensee has decided that they no longer wish to be self-insured in the Comcare scheme.
33. The important factor is that the licensee must write to the Commission and request that their current licence be revoked.

The application is deficient and Comcare makes a recommendation that an extension not be granted

34. This scenario presumes that attempts to address the deficiencies prior to the Commission meeting could not be resolved and the Commission accepts and endorses Comcare's recommendation. Such a scenario would have the effect of recommending that a licence be revoked.
35. For more information on licence revocation and suspension procedures – see the Policy on revocation and suspension of a self insurance licence.

Advising the licensee of the Commission's decision

36. A letter containing the outcome of the Commission meeting and the extension notice will be signed by the Commission Chair and sent to the licensee's Principal Officer.
37. The Commission must also publish the notice of extension in the Commonwealth Gazette stating the commencement date and end date of the licence extension.