Self-Insured Registration and Evaluation Practice Guideline

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1. **Introduction**

This publication is intended to provide information and guidance for Self-insured employers on how ReturnToWorkSA will approach the evaluation of Self-insured employer performance for the purposes of determining:

* Whether registration should be renewed
* The registration period
* Terms and conditions of registration

This publication is not intended as a substitute for the *Return to Work Act 2014*, the *Work Health and Safety Act 2012*(SA) or the [Code of conduct for Self-insured employers](https://www.rtwsa.com/__data/assets/pdf_file/0004/52996/Code-of-conduct-for-self-insured-employers.pdf).

Self-insurance is an integral part of the South Australian Return to Work Scheme (‘the Scheme’) and self-insured status should only be granted to employers that are able to demonstrate a level of performance commensurate with the relevant sections of the [*Return to Work Act 2014*](https://www.legislation.sa.gov.au/LZ/C/A/RETURN%20TO%20WORK%20ACT%202014/CURRENT/2014.16.AUTH.PDF) (‘the Act’).

The Act allows for a grant of Self-insured employer status for a period not exceeding three years for an initial grant of registration, and up to five years for renewal of a registration. Prior to the expiry of each period of registration, the Self-insured employer must apply to ReturnToWorkSA to renew its registration, and ReturnToWorkSA must evaluate the adequacy and effectiveness of the Self-insured employer’s performance.

In determining whether to grant a period of self-insurance, ReturnToWorkSA has regard to, but is not limited to, the relevant criteria outlined in section 129 of the [Act](https://www.legislation.sa.gov.au/LZ/C/A/RETURN%20TO%20WORK%20ACT%202014/CURRENT/2014.16.AUTH.PDF). A Self-insured employer is required to demonstrate conformance with the [Work health and safety performance standards](https://www.rtwsa.com/__data/assets/word_doc/0004/67324/Work-health-and-safety-standards-for-self-insured-employers.docx) and [Injury management performance standards](https://www.rtwsa.com/__data/assets/word_doc/0020/67322/injury-management-standards-for-self-insured-employers.docx) for Self-insured employers (standards).

ReturnToWorkSA will monitor and evaluate compliance with the requirements of registration, including any specific terms and conditions applicable to an individual employer’s registration.

Self-insured employers are responsible for ensuring that they have in place the resources, processes and systems and are performing to the required standard at all times during their registration. The compliance and education work undertaken by ReturnToWorkSA supports employers to achieve this.

Helen Thomas

**Leader, Insurer Regulation**

1. Regulatory Framework

Our Regulatory Framework supports a clear, balanced and proportionate approach to verifying and monitoring compliance with the requirements of registration as a Self-insured employer, including any specific terms and conditions applicable to an individual registration.

The Regulatory Framework (Figure 1) consists of:

* Risk based verification activities.
* Clearly documented requirements of registration as a Self-insured employer.
* Monitoring activity to confirm appropriate actions, where applicable, are being undertaken during a period of registration and/or to support continued compliance with self-insurance requirements.
* Voluntary partnership activity aimed at supporting employers to continuously improve their performance and compliance.

**Handy Hint:** Ctrl + Click underlined text in this document to open links to sections of this document or other document.

Regulatory Framework

**IM Evaluation**

**EDI Transmission**

**WHS Evaluation**

**Financial Statements**

**Actuary Report**

**Financial Guarantee**

**Excess of Loss**

**Verification**

**Monitoring**

**Self- Insured Employer specific terms & conditions**

**Requirements**

[**Return to Work Act 2014**](https://www.legislation.sa.gov.au/LZ/C/A/RETURN%20TO%20WORK%20ACT%202014.aspx)

[**RTW Regulations 2015**](https://www.legislation.sa.gov.au/LZ/C/R/Return%20to%20Work%20Regulations%202015.aspx)

[**Code of conduct for Self-insured employers**](https://www.rtwsa.com/__data/assets/pdf_file/0004/52996/Code-of-conduct-for-self-insured-employers.pdf)

[**EDI Technical Specification**](https://www.rtwsa.com/media/documents/Self-Insurer-EDI-Technical-Specification-V14.docx)

[**WHS Performance Standards**](https://www.rtwsa.com/__data/assets/word_doc/0004/67324/Work-health-and-safety-standards-for-self-insured-employers.docx)

[**IM Performance Standards**](https://www.rtwsa.com/__data/assets/word_doc/0020/67322/injury-management-standards-for-self-insured-employers.docx)

**Non-conformance close out**

**Term & Conditions**

* Non-conformance
* Improvement actions
* Mid-term review
* Delegated Powers & discretions

**Compliance Reporting**

(Monitoring of financial, prudential and registration maintenance requirements)

**Partnership Activity**

(Value –add Voluntary Activity)

**Other Regulatory Activity**

* Provision of suitable employment
* S183

Figure 1: Regulatory Framework

1. Evaluation Principles

All Self-insured employers’ Work Health and Safety (WHS) and Injury Management (IM) systems will be evaluated by ReturnToWorkSA for compliance with the requirements of registration.

Four key processes underpin the evaluation process:

|  |  |  |  |
| --- | --- | --- | --- |
| **Preparation** | **Evaluation** | **Reporting** | **Monitoring** |
| Notification  Industrial Associations  Application | Scoping  Opening meeting  Evaluation  Closing Meeting | Draft report  Response  Final Report | Terms and Conditions  Partnership Activity |

**Note:** This guide does not relate to evaluation of an application for the initial grant of registration as a Self-insured employer. For information about becoming a Self-insured employer, visit ReturnToWorkSA’s [becoming self-insured](https://www.rtwsa.com/insurance/self-insurance/becoming-self-insured) web page at [www.rtwsa.com](http://www.rtwsa.com).

* 1. **Interpretation of standards, elements and sub-elements**

ReturnToWorkSA is committed to achieving a consistent and transparent approach to evaluation.

When applying the WHS and IM standards, we will take into account the nature of the employer’s business, risk profile, and performance to date.

Basic principles to assist understanding of the standards:

Principle 1: WHS and IM systems must demonstrate legal compliance in design and application.

Principle 2: WHS and IM systems must provide clear direction as to how legal compliance will be achieved.

Principle 3: Compliance with all of the standards, elements, and sub-elements will assist an employer to achieve and maintain better performance in WHS and Injury management.

Principle 4: The ‘plain’ reading rule is used when considering the meaning of an element or sub-element within a standard.

Principle 5: Natural justice principles apply to the evaluation process. An employer will be provided an opportunity during the course of the evaluation to demonstrate compliance. If any disagreement over findings cannot be resolved during the evaluation process, the employer can request a further review.

For additional guidance on how to meet the requirements of the WHS and Injury Management standards, refer to:

* Self-Insured Employer [Code of conduct](https://www.rtwsa.com/__data/assets/pdf_file/0004/52996/Code-of-conduct-for-self-insured-employers.pdf)
* [Injury Management Standards Guidelines](https://www.rtwsa.com/__data/assets/word_doc/0009/27477/Self-Insured-Injury-Management-Standards-Guidance-Notes.docx)
* [Work Health Safety Standards Guidelines](https://www.rtwsa.com/__data/assets/word_doc/0008/67319/Self-insured-workplace-health-and-safety-evaluation-guidelines.docx)
  1. **Sampling principles**

To achieve compliance with the standards, WHS & IM systems are expected to comply with all elements and sub-elements of the standards.

All elements of the injury management standard will be included in an evaluation.

WHS systems will be evaluated against a selection of key elements of the WHS standard. The elements selected will be based on consideration of the employer’s injury and claim profile, current terms and conditions of registration, previous evaluation scope and outcomes, and operational risk profile.

The elements of the WHS Standards selected for evaluation will be recorded in a Scope document which may have input from the employer.

While evaluation scope and sampling requirements will be determined prior to commencement of evaluation, this may change during the course of the evaluation, particularly if a potential non-conformance issue emerges that requires further investigation or testing.

1. Safety

We are committed to ensuring that our staff can perform their evaluation duties safely at employer worksites, in accordance with safety requirements.

* 1. **Safe client interaction**

For evaluation activities conducted on site, an Evaluator will require an appropriate workspace and equipment (e.g. ergonomic chair and work station).

For Evaluator meetings with employees, or former employees a private meeting room at the worksite should be provided where possible.

* 1. **Personal protective equipment (PPE)**

The Evaluator should be advised of all PPE required to be worn at an employer’s worksites. Evaluators are equipped with PPE such as high-visibility clothing, steel cap shoes/boots, safety glasses and hard hat. Where additional PPE is required, an employer should advise the Evaluator (e.g. respirators, hearing protection etc.).

* 1. **Immediate threat**

If an Evaluator identifies an issue that poses a serious and immediate threat to safety during the course of the evaluation, they will notify the employer’s safety representative so they can address the issue.

* 1. **Workplace Clearance**

If an employer requires an Evaluator to obtain any kind of clearance to attend its workplaces, e.g. working with children, working with aged or vulnerable persons etc., this needs to be communicated to the Evaluator during the scoping stage.

1. Evaluation Process
   1. **Preparation**

This section describes the process for initiating the renewal of a registration.

### Process: Preparation

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| Notification & Application | In accordance with clause 4.2 of the [Code of conduct](https://www.rtwsa.com/__data/assets/pdf_file/0004/52996/Code-of-conduct-for-self-insured-employers.pdf), a Self-insured employer must notify ReturnToWorkSA of its intention to renew its registration.  Nine months prior to the expiry of a registration, the account manager will contact the employer to seek confirmation of intention to renew their registration. |
|  |  |
| Views of Industrial Associations | Section 129(11)(h) of the [Act](https://www.legislation.sa.gov.au/LZ/C/A/RETURN%20TO%20WORK%20ACT%202014/CURRENT/2014.16.AUTH.PDF) requires ReturnToWorkSA to have regard to the views of any industrial association that has, in the opinion of the Corporation, a proper interest in the matter. To fulfil this requirement, an employer must seek the view of relevant industrial associations prior to the commencement of an evaluation. Relevant industrial associations are those which represent or advocate for any part of the employer’s workforce.  Please provide copies of letters sent and any responses received to the Evaluator. The Evaluator may also make contact with relevant industrial associations during the evaluation to seek their views on the potential renewal of registration. |

* 1. **Scoping**

This section describes the scoping activities undertaken prior to the commencement of a renewal evaluation.

### Process: Scoping

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| Scope | Prior to evaluation, the Evaluator will meet with the employer to agree the scope of work to be undertaken during the evaluation process.  ReturnToWorkSA will use a range of information sources (e.g. claims data, previous evaluation results, regulatory activities, outcomes of partnership activities etc.) to inform the evaluation scope.  Employers may have input into the development of the scoping document, in particular the timing of evaluation and selected business units/locations.  Scoping documents will be provided to the Self-insured employer, and will:   * Detail the systems (WHS or Injury Management or both) to be evaluated. * Confirm information related to evaluation team and dates, sampled elements of the WHS/IM standards, evaluation stages, personnel, communication arrangements and reporting processes. * Contain information on the obligations of the employer in relation to access to documentation, employees, locations etc. |
|  |  |
| Evaluation Schedule | Attached to the scoping document is the Evaluation Schedule. The schedule will identify the evaluation dates, locations, and key personnel required.  This will enable the employer to ensure appropriate information and resources are available during evaluation.  The Evaluator will pre-book meetings with key personnel wherever possible to maximise the effectiveness of time spent on site and minimise the impact to the employer’s operations. |
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* 1. **Evaluation**

Evaluations are usually undertaken 6 months before registration expiry date.

### Process: Evaluation

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| Opening Meeting | The opening meeting is essential to confirm the scope of the evaluation and provide the employer with an opportunity to discuss any related matters.  The opening meeting is usually held on the first day of the evaluation. An employer should ensure the relevant management representatives are present at the opening meeting. |
|  |  |
| Desktop Review | An Evaluator will examine the employer’s system documentation (e.g. policies and procedures) for conformance against the elements and sub elements scoped for evaluation.  The Evaluator(s) will comment on the adequacy of the systems against each scoped element.  An employer must provide the evaluator with access to the documents and records necessary to complete the evaluation. |
|  |  |
| Compliance Check | During this stage the Evaluator will examine, objectively test, and record compliance against system and legislative requirements.  Evidence is obtained by interview, examination of documentation, and observation of work practices and the work environment.  It is the responsibility of the employer to provide evidence demonstrating that its management systems meet the requirements of the scoped standards.  Findings of the desktop review and compliance check will be recorded in the Evaluator’s Assessment Report, including references to the objective evidence considered. |

* 1. **Decision Tools**

The Decision Tools assist an Evaluator to determine the materiality of issues identified during an evaluation. It is used as a guide only, and is included here for transparency.

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| Conformance | A conformance is reported when activities undertaken and results achieved fulfil the specified requirements. |
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| Observation | An observation is reported when minor deficiencies have been identified.  During an evaluation, corrective actions immediately undertaken by the Self-insured employer may result in the downgrading of non-conformance to observation.  Corrective actions relating to observations may be reflected in a term and condition of registration and will be monitored to completion. |
|  |  |
| Non-conformance | A non-conformance is reported when activities undertaken and the results achieved do not fulfil the specified requirements.  Corrective actions relating to non-conformance will be reflected in a term and condition of registration and will be monitored to completion.  Repeated non-conforming elements of the WHS and injury management standards not addressed during the registration period are likely to have a significant impact on the employer’s subsequent registration period. |
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Injury Prevention Decision Tool



Injury Management Decision Tool



* 1. **Reporting**

A Self-insured employer will be provided with a formal written report on the evaluation findings.

### Process: Reporting

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| Evaluation Report | The outcomes from the evaluation will be summarised in the Executive Summary and Assessment Report.   * The Executive Summary will consist of a high level description of performance against the requirements of registration, including the likely terms and conditions of future registration. * The Assessment Report details the record of the evidence considered in assessing the performance of the employer against the WHS and Injury management standards. |
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| Quality Assurance | Before the Executive Summary and Assessment Report are released to the employer, they will undergo an internal quality assurance process, which includes review by ReturnToWorkSA management of the findings and the proposed terms and conditions of registration. |
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| Closing Meeting | The closing meeting summarises the evaluation findings and will occur after the quality assurance process is complete.  At this meeting the Evaluator will communicate the outcomes of the evaluation, including the proposed registration period and terms and conditions.  This meeting also provides an opportunity for the employer to raise any issues with the evaluation findings. |
|  |  |
| Evaluation Report Review | The employer has 30 calendar days from the receipt of the reports to respond in writing to the evaluation findings and/or the proposed terms and conditions and period of registration, if they wish to raise any issues or request changes. There is no need to respond if the employer is satisfied with the evaluation outcomes.  Any changes to the reports will be at the discretion of ReturnToWorkSA, after internal management review of the employer’s response. |
|  |  |
| Dispute Resolution | If the employer is unhappy with ReturnToWorkSA’s response to the issues they have raised or the changes they have requested, the employer may apply to the Leader Insurer Regulation requesting a conciliation and/or peer review of the evaluation outcomes, including proposed terms and conditions of registration. |
|  |  |
| Appeals | Section 133 of the Act provides that where a registration period of less than 3 years is granted, the employer may appeal to the Minister. |
|  |  |
| Registration Renewal Approval | On completion of the registration renewal process, the employer will be advised in writing of the decision to renew the self-insured registration, including any applicable terms and conditions placed on the registration. |

* 1. **Monitoring**

A Self-insured employer is required to maintain compliance with all their terms and conditions of registration. ReturnToWorkSA will undertake monitoring activities to confirm an employer is compliant with their terms and conditions of registration throughout the registration period.

### Process: Monitoring

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| Specific Terms & Conditions | ReturnToWorkSA will regularly monitor the Self-insured employer’s compliance with the terms & conditions of registration.  Implementation of corrective actions relating to specific terms and conditions should be completed within the stipulated timeframes unless negotiated with ReturnToWorkSA. |
|  |  |
| Mid-term | A mid-term review is a key interaction between ReturnToWorkSA and an employer with a 4 or 5 year registration period. Mid-term review scopes will include:   * A sample of elements of the WHS and IM standards * The exercise of delegated powers and discretions by the employer during the period of registration   and where applicable   * actions associated with non-conformances, and actions to address other specific terms and conditions   A Mid-term Review Executive Summary Report will be provided to the employer on completion of the review. |
|  |  |
| Optional Value Add Activity | Value-add activities are those activities aimed at supporting the employer in maintaining compliance to the requirements of registration and improving their performance. Examples are:   * activities related to opportunities for improvement * gap analysis where systems have changed * new business familiarisation * education sessions * System element review   Employer’s participation in value add partnership activities is optional. |
|  |  |
| Partnership Plan | On completion of a registration renewal process, the Evaluator will provide the employer with a schedule of all monitoring activities (“Partnership Plan”) required to maintain compliance with terms and conditions. Any agreed optional value -add activities will also be outlined in the Partnership Plan.  Employer participation in value add partnership activities is optional. |

Further Information

For further information on this Guide, or any matter relating to self-insurance please contact the Insurer Regulation group at ReturnToWorkSA at [SelfInsured@RTWSA.com](mailto:SelfInsured@RTWSA.com) or visit our self-insured web pages at [www.rtwsa.com](https://www.rtwsa.com/insurance/self-insurance).