

MINISTERIAL GUIDELINES AS TO AUTHORISED AGENT, SELF-INSURER, EMPLOYER AND WORKERS' ASSISTANT CONDUCT AT CONCILIATION CONFERENCE

Preamble

1. These guidelines are issued to the Senior Conciliation Officer pursuant to Part 3, section 52F of the *Accident Compensation Act 1985* (the Act).
2. They are intended to assist the conciliation of workers compensation disputes by requiring that the Senior Conciliation Officer ensure that Conciliation Officers record their opinion of Authorised Agent ("Agent"), self-insurer, employer and workers' assistants conduct during the conciliation process.
3. The Guidelines apply from the date of signature and are to operate in conjunction with the legislative requirements.

Conduct of Agents, Self-Insurers, Employers and Worker Assistants

4. When issuing a certificate of outcome the Senior Conciliation Officer must ensure that a Conciliation Officer forms an opinion as to whether the Agent, self-insurer, employer or workers' assistant has complied with the requirements as set in paragraphs 5,6,7 and 8.
5. When participating in the conciliation process, Agents must take all reasonable steps to settle disputes. This will be evidenced by, among other things, an Agent:
 - a) providing all relevant information in its possession in a timely manner prior to a conference. If unable to provide information in a timely manner prior to the conference, the reasons for non-compliance
 - b) attending the conference
 - c) meaningfully and genuinely discussing all relevant issues raised at conference
 - d) ensuring that it maintains only the decisions which have a reasonable prospect of success were they to proceed to Court.
6. When participating in the conciliation process, self-insurers must take all reasonable steps to settle disputes. This will be evidenced by, among other things, a self-insurer:
 - a) providing all relevant information in its possession in a timely manner prior to a conference. If unable to provide information in a timely manner prior to the conference, the reasons for non-compliance
 - b) attending the conference
 - c) meaningfully and genuinely discussing all relevant issues raised at conference
 - d) ensuring that it maintains only the decisions which have a reasonable prospect of success were they to proceed to Court.
7. When participating in the conciliation process employers must take all reasonable steps to settle disputes. This will be evidenced, among other things, by the employer:
 - a) providing all relevant information in its possession in a timely manner prior to a conference. If unable to provide information in a timely manner prior to the conference, the reasons for non-compliance
 - b) attending the conference, where appropriate

- c) meaningfully and genuinely discussing all relevant issues raised at conference
 - d) ensuring that they maintain only the decisions which have a reasonable prospect of success were they to proceed to Court.
8. When participating in the conciliation process workers' assistants must take all reasonable steps to settle disputes. This will be evidenced, among other things, by the workers' assistants:
- a) providing all relevant information in their possession in a timely manner prior to a conference. If unable to provide information in a timely manner prior to the conference, the reasons for non-compliance
 - b) attending the conference
 - c) meaningfully and genuinely discussing all relevant issues raised at conference
 - d) ensuring that they maintain only the decisions which have a reasonable prospect of success were they to proceed to Court.
9. If a Conciliation Officer is of the opinion that the Agent, self-insurer, employer or workers' assistant has not complied with any of these requirements or in any other way has not made every reasonable effort to resolve the dispute, the Senior Conciliation Officer must ensure that the Conciliation Officer completes the form as set out in Appendix A and delivers it to the Senior Conciliation Officer.
10. Where the Conciliation Officer has completed the form in Appendix A with respect to the Agent's conduct, the Senior Conciliation Officer must provide the Agent with a copy of that completed form.
11. Where the Conciliation Officer has completed the form in Appendix A with respect to the self-insurer's conduct, the Senior Conciliation Officer must provide the self-insurer with a copy of that completed form.
12. Where the Conciliation Officer has completed the form in Appendix A with respect to the employer's conduct, the Senior Conciliation Officer must provide the employer with a copy of that completed form.
13. Where the conciliation Officer has completed the form in Appendix A with respect to the workers' assistants conduct, the Senior Conciliation Officer must provide the workers' assistant with a copy of that completed form.

ACCS to Keep Database

14. The Accident Compensation Conciliation Service (ACCS) must maintain a database of these records. This database must include details of any challenges made to the form and whether those challenges were accepted or rejected by the Senior Conciliation Officer.

Review Rights

15. Should the Agent, self-insurer, employer or workers' assistant disagree with any information contained in the form, the Agent, self-insurer, employer or workers' assistants has 14 days from receipt of the completed form to contact the Senior Conciliation Officer in writing and make submissions as to why it considers the information contained in the form to be incorrect.

16. The Senior Conciliation Officer has an obligation to review the decision of the Conciliation Officer.
17. The Senior Conciliation Officer has 14 days to accept or reject the submissions made by the Agent, self-insurer, employer or workers' assistants.
18. If the submissions are accepted, the Senior Conciliation Officer must advise the workers' assistant, employer, self-insurer or Agent that the form is being withdrawn and the database updated accordingly.
19. If the submissions are not accepted, the Senior Conciliation Officer must advise the workers' assistant, employer, self-insurer or Agent that the decision is maintained and the database updated accordingly.

Reporting Requirements

20. The Senior Conciliation Officer must provide an annual report as to the information contained in the database to the Assistant Treasurer. A copy of this annual report will be publicly available upon request from the Senior Conciliation Officer

GORDON RICH-PHILLIPS MLC
Assistant Treasurer

Dated: 13 APR 2011