

Labour Hire Employers & Host Organisations

The *Workers Compensation and Injury Management Act 2023 (WCIMA23)* sets out the obligation of labour hire employers to cover workers who are hired to host organisations and the obligation for host organisations to cooperate with the labour hire employer to comply with their injury management obligations if a labour hire worker is incapacitated for work.

Key Points

Act ref: ss. 14, 167

- The *WCIMA23* defines labour hire employment as employment of an individual (the employee) under a contract of employment pursuant to which the services of the employee are temporarily lent or let on hire by the employer (the labour hirer) to another person (the host).
- If employment is labour hire employment, the employee is a worker for the purposes of the Act. The labour hirer (and not the host) is the worker's employer for work done personally by the worker for the host, but only if there is no contract between the worker and the host for the work to be done for the host.
- If a worker has an incapacity for work as a result of an injury from employment for work done for the host, the host will be required to cooperate with the labour hirer to assist them to comply with their obligations to establish and implement a return-to-work program and provide the pre-injury position or a suitable position.

Questions & Answers

Q. Does 'labour hire employment' include finding work for a worker as an employment agent?

A. No. The *WCIMA23* does not make an employment agent the employer of a person for whom the agency finds work if there is no contract of employment with the person.

Q. How can a host assist a labour hirer in injury management?

A. In many labour hire arrangements workers work exclusively for a single host or client organisation for an extended period when suffering an incapacity for work while working for the host. Labour hirers have obligations in relation to maintaining employment of the worker and implementing return to work programs. The objective is to return the worker to the position they were doing before being incapacitated for work, and that requires cooperation and involvement of the host. The obligation applies to the extent it is reasonable to do so.

Q. Under what circumstances might a host have a liability to pay compensation to a worker?

A. The host may be liable as "principal" to pay compensation to the worker if the specific circumstances related to contractors and subcontractors apply (s. 215).