

Workers Compensation (Employer Indemnity) Policies

The *Workers Compensation and Injury Management Act 2023 (WCIMA23)* standardises workers compensation policy terms and wording for an employer's liability to pay compensation or damages for injuries that arise in respect of employment during the period of insurance.

Key Points

Act ref: ss. 202, 236-241, 593. Regs ref: 100-104; schedule 3

- The *WCIMA23* requires insurers to issue or renew a workers compensation policy to any employer who makes a request. The obligation extends to providing a quote of the premium to be demanded for the issue or renewal of a workers compensation policy.
- An employer applying for the issue or renewal of a workers compensation policy is required to provide to the licensed insurer information reasonably required, as specified in the regulations. This is to enable the insurer to have sufficient information about the risk profile of the employer in order to issue or renew the policy, or provide a quote of the premium payable.
- The form, content, terms and conditions of a workers compensation policy are standardised and prescribed in regulations.
- Regulations limit, modify or exclude any requirement for employers to have a workers compensation policy in respect of certain liabilities (e.g. to pay damages in respect of a claim brought in respect of an injury occurring outside of Australia), and limit the amount insured (e.g. aggregate amount of damages arising out of all claims in respect of a single event).

Questions & Answers

Q. Will the 1981 Act employer indemnity policy wording need to change when the *WCIMA23* commences operation?

A. Yes - if the policy is issued with a policy period commencing on or after 1 July 2024.

No – if the policy is issued with a policy period commencing before 1 July 2024 (e.g. 30 June 2024 renewals).

Q. Are policy extensions / endorsements or contractual indemnities addressed in regulations?

A. There is no constraint or regulatory oversight of extensions, endorsements and contractual indemnities – as long as there is no inconsistency with the *WCIMA23*.

Q. What is the status of policies issued before 1 July 2024?

A. Savings and transitional provisions provide that the repeal of the 1981 Act does not affect the validity or operation of a policy issued under the 1981 Act. However, policies issued under the 1981 Act will also provide indemnity for any liability for compensation or damages arising under the provisions of the *WCIMA23*.