

Workers Compensation (Employer Indemnity) Policies

The *WCIMA23* will clarify and standardise workers compensation (employer indemnity) policies including the scope of the indemnity 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

- The *WCIMA23* maintains the existing obligation requiring 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 will be required to provide to the licensed insurer information required by 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 *WCIMA23* clarifies that a workers compensation policy provides indemnity for an employer's liability to pay compensation or damages for injury in respect of employment during the period of insurance (not an injury occurring during the policy period).
- The *WCIMA23* provides for regulations to 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), or to limit the amount insured (e.g. aggregate amount of damages arising out of all claims in respect of a single event).
- The form, content, terms and conditions of a workers compensation policy will be standardised and prescribed in regulations.

Key Points

- The *WCIMA23* provides a framework for adjustable premium policies (also known as burning cost policies) that meet requirements in regulations.

Questions & Answers

Q. Will the existing employer indemnity policy standard wording need to change when the *WCIMA23* commences?

A. Yes. The existing standard employer indemnity policy wording will be reviewed as part of the development of regulations. The terminology in workers compensation policies issued by insurers will need to align with terminology in the *WCIMA23* including the reference to indemnity for injuries arising in respect of employment during the policy period, policy extensions, and clauses relating to indemnity conditions (e.g. refusing indemnity).

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

A. Industry will be consulted on the status of policy extensions, endorsements and contractual indemnities as part of the development of regulations to standardise workers compensation policies.

Q. What will happen to policies issued before the new Act commences?

A. Savings and transitional provisions clarify 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*.

