

Default Insurance Fund – Acts of Terrorism

The *WCIMA23* repeals the *Workers' Compensation and Injury Management (Acts of Terrorism) Act 2001* and integrates relevant provisions into the principal Act. The *WCIMA23* also clarifies the trigger for activating acts of terrorism claims, provides for an increase in the total amount payable on claims and for claim payments to be met by the Default Insurance Fund.

Key Points

Act ref: Part 5, Division 9

Part 5 Division 9 of the *WCIMA23* provides for:

- A statutory definition of 'act of terrorism' based on the Commonwealth's *Criminal Code Act 1995*, modified to ensure application to personal injury.
- Ministerial declaration as the sole trigger to activate acts of terrorism claims.
- An employer who has a compensation liability in respect of a declared act of terrorism may claim on WorkCover WA for payment or reimbursement.
- Amounts paid to satisfy claims are payable from the Default Insurance Fund via a levy on licensed insurers and self-insurers.
- Regulations may impose a claims limit on the total liability of all employers in respect of a declared act of terrorism. Either or both of the following limits may be imposed:
 - a limit on the total amount of the compensation liability for claims payable during a specified period; or
 - a limit on the total amount of the claims that are payable in respect of a particular declared act of terrorism.
- The present exclusion regarding common law liabilities relating to terrorism claims will be maintained.

Questions & Answers

Q. What is the basis for funding terrorism claims through the Default Insurance Fund via a levy on licensed insurers and self-insurers?

A. The Default Insurance Fund provides for payments to be made to address scheme and system risks. Claim costs relating to acts of terrorism are met by the DIF as a system risk as insurers are unable to secure reinsurance from reputable AAA rated reinsurers. DIF payments are met via a levy on licensed insurers and self-insurers which is comparable with other jurisdictions and preferable to a direct levy on employers.

Q. What is the proposed limit on the total cost of claims per terrorism event?

A. The limit on the total amount of the compensation liability under the 1981 Act is \$25 million. Under the *WCIMA23* the limit will be prescribed in regulations and it is intended the prescribed limit will be \$100 million as recommended in WorkCover WA's 2014 Final Report. The amount of \$100 million is an industry standard retention amount for comparable catastrophic events.