

ICWA Industrial Diseases Policy for Mining Employers

The *WCIMA23* provides for the discontinuation of the special insurance policy mining employers are required to hold with the Insurance Commission of Western Australia for coverage of certain industrial diseases and includes a savings provision for coverage of historical liabilities.

Key Points

Act ref: s.596

- The 1981 Act requires mining employers to hold a special insurance policy covering industrial disease compensation claims relating to pneumoconiosis, mesothelioma, lung cancer and diffuse pleural fibrosis arising from exposure in any mine or mining operation.
- The insurance policy is issued by the Insurance Commission of Western Australia (an ID policy) with premium payable by mining employers and payments made from a special Compensation Industrial Diseases Fund (CIDF).
- The *WCIMA23* discontinues the special insurance arrangement mining employers are required to hold for liabilities arising in respect of employment after commencement of the new Act. The special insurance arrangement will continue to respond only to liabilities arising out of employment before commencement of the new Act.
- Relevant operative provisions in the *Insurance Commission of Western Australia Act 1986* are amended to continue the CIDF for liabilities arising in respect of employment before commencement of the new Act.

Questions & Answers

Q. What is a 'liability arising in respect of employment before or after commencement' referring to? Is it the same thing as the worker's employment when the disease was contracted?

A. The reference to a 'liability arising in respect of employment on or after commencement' is not a reference to the worker's employment when the disease is contracted. Latent onset diseases such as mesothelioma manifest years after exposure to asbestos dust. The disease is caused by exposure to asbestos while working in employment many years before and it is the policy that insured the employer over the relevant period of that employment that exposed the worker or caused the injury that will respond to the claim, irrespective of when the injury occurs.

Q. What is the effect on historical ID policies and current ID policies in force when the new Act commences?

A. Historical ID policies (those for which the period of insurance expired before commencement of the *WCIMA23*) and current ID policies (those that are in force on commencement of the new Act with a period of insurance expiring after commencement of the new Act) will continue to cover mining dust diseases contracted on or after commencement but only if the disease arises from employment before commencement.

Current ID policies will lapse on commencement in respect of liabilities arising from employment on or after commencement. The coverage that a current ID policy would have provided to a mining employer for employment on or after commencement will instead be provided by the standard workers compensation policy that the employer is required to hold with a licensed insurer.

