

## Disclosure of Information

The *WCIMA23* addresses various circumstances where information disclosure is permitted or prohibited, including a new provision that prohibits disclosure of a worker's claim history for pre-employment screening purposes.

### Key Points

Act ref: Part 10, Division 2

- The *WCIMA23* maintains the default position of confidentiality in the 1981 Act. A person must not, directly or indirectly, use or disclose any information obtained by the person because of:
  - the person's office, position, employment or engagement under or for the purposes of the Act; or
  - any disclosure made to the person under or for the purposes of the Act.
- The prohibition on disclosure will not apply if the information is already in the public domain or is statistical or other information that could not reasonably be expected to lead to the identification of any person to whom it relates. It will also not apply if the disclosure is authorised. Authorised disclosures include:
  - for the purposes of, or in connection with, performing a function under the Act or another law
  - as required or authorised under the Act or another law
  - for the purposes of any legal proceedings arising under the Act or another law
  - under an order of a court or other person or body acting judicially
  - with the consent of the person to whom the information relates
  - in other circumstances prescribed by the regulations.

### Key Points

- The *WCIMA23* prohibits disclosure of information about a worker's claim for compensation (or claim history) to another person for the purpose of pre-employment screening. The *WCIMA23* also provides that a worker cannot be required to disclose information about a compensation claim by the worker for the purpose of selection for employment.
- The *WCIMA23* requires WorkCover WA to disclose information to the WorkSafe Commissioner or Department CEO that is relevant to work, health and safety (same as 1981 Act). The *WCIMA23* also permits WorkCover WA to disclose historical information such as the identity of a worker's employer and the employer's insurance status at a specified time or period (for example, a dust disease that may be connected to employment in the 1970s or 1980s).

## Questions & Answers

**Q. Under what circumstances will the prohibition on disclosure of a worker's claim history apply?**

**A.** The *WCIMA23* prohibits workers being required to disclose previous workers compensation claims to employers or their agents seeking access to claim records as part of pre-employment recruitment practices. The prohibition does not apply in relation to information disclosure to facilitate return to work programs or the provision of a suitable position for workers that have an incapacity for work.

