

Prohibition on Circumventing Act: No Contracting Out

The *WCIMA23* maintains and clarifies the prohibition on circumventing the Act through the use of alternative arrangements to manage workers compensation claims.

Key Points

Act ref: s. 4

- The 1981 Act prohibits 'contracting out' (s. 301) of any of the Act's provisions.
- The *WCIMA23* retains this prohibition and clarifies its meaning by stating that the application of the Act or any of its provisions cannot be excluded, restricted or modified by contract, agreement or otherwise, except as provided by the Act.
- This prevents the statutory workers compensation scheme from being circumvented or modified by 'agreements' between parties. An example is where an employer seeks a worker's agreement not to pursue a claim and instead asks them to sign up to receive certain payments outside the statutory scheme.

Questions & Answers

Q. Is it mandatory for workers to make a claim if they are injured at work?

A. No. It is the worker's choice and responsibility to make a claim and workers should not be discouraged from doing so. If a worker makes a claim an employer must progress it in accordance with the claim procedure in the *WCIMA23*, regardless of the employer's views about the merits of the claim, their insurer, or any alternative payments that may have been offered to the worker in lieu of compensation.

