

## Overseas Workers

In order for a worker to have an entitlement to compensation in Western Australia under the *Workers Compensation and Injury Management Act 2023 (WCIMA23)* their employment must be connected with Western Australia.

The *WCIMA23* provides for an exclusion of liability for compensation in respect of an injury suffered by a worker outside Australia if the worker has never resided in Australia or has been continuously resident outside Australia for more than 24 months when the injury occurs.

### Key Points

Act ref: s. 19, Part 12

- The *WCIMA23* provides for a legislative method to determine which state or territory jurisdiction a worker is connected to for liability and compensation purposes (known as state of connection). The provisions affect workers who may work across state, national and international borders.
- The state of connection test is a progressive test which requires identification of where the worker usually works; where the worker is usually based; or the jurisdiction in which the employer has their principal place of business.
- The *WCIMA23* implements an express period of cover of 24 months for persons working outside Australia if their employment is connected with the State.
- The *WCIMA23* does not apply the 24-month limitation to a dust disease or firefighter disease to accommodate latent onset injuries where the exposure or entire qualifying period may have occurred outside this timeframe.

### Questions & Answers

**Q. Do the state of connection tests apply to persons working overseas?**

**A.** Yes. The worker must be connected to Western Australia based on the state of connection tests in Part 12 of the *WCIMA23*. Liability is excluded for a worker whose employment is connected to Western Australia if the person has been continuously resident outside Australia for at least 24 months (with the exception of a dust disease or firefighter disease).

**Q. Is there an insurance policy exclusion for common law liabilities arising in respect of injuries or claims brought outside Australia?**

**A.** Yes, this is set out in regulation 100(3) of the *Workers Compensation and Injury Management Regulations 2024*.