

ICWA Industrial Diseases Policy for Mining Employers

The *Workers Compensation and Injury Management Act 2023 (WCIMA23)* provides for the discontinuation of the special insurance policy mining employers are required to hold with the Insurance Commission of WA 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 1 July 2024. The special insurance arrangement will continue to respond only to liabilities arising out of employment before 1 July 2024.
- Relevant operative provisions in the *Insurance Commission of Western Australia Act 1986* continue the CIDF for liabilities arising in respect of employment before 1 July 2024.

Questions & Answers

Q. What is a 'liability arising in respect of employment before or after 1 July 2024' 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 1 July 2024' 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 when the *WCIMA23* commenced operation?

A. Historical ID policies (where the period of insurance expired before 1 July 2024) will continue to cover mining dust diseases contracted on or after 1 July 2024 but only if the disease arises from employment before 1 July 2024.

Historical ID policies lapse immediately before 1 July 2024 in respect of liabilities arising from employment on or after 1 July 2024. The coverage that a historical ID policy would have provided to a mining employer for employment on or after 1 July 2024 is provided by the standard workers compensation policy that the employer is required to hold with a licensed insurer.