

Employers' Indemnity

Policy Wording – Tasmania



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Employers' Indemnity Policy – Tasmania

Introduction

Under the Workers Rehabilitation and Compensation Act 1988 (the *Act*), employers who are not self-insured must obtain a policy of insurance from a licenced insurer indemnifying them of their liability under the *Act* to pay compensation to any *worker* they employ.

The insurer of this product is Zurich Australian Insurance Limited (ZAIL), ABN 13 000 296 640, AFS Licence Number 232507. In this policy, ZAIL may also be expressed as 'Zurich', 'we', 'us' or 'our'.

The words 'you' and 'your' refer to the named Employer specified in the *schedule*.

In this policy, we sometimes capitalise or italicise to show that words have a particular defined meaning. *You* should refer to the Definitions below to obtain the full meaning of such terms.

Cover

This policy consists of this policy wording, the proposal form, the *schedule* and any applicable extensions and endorsements.

Subject to payment of the premium as set out in the *schedule*, we agree to provide *you* with cover on the terms and conditions set out in this policy.

Definitions

The following definitions apply to the words used in this policy.

Act

Act means the Workers Rehabilitation and Compensation Act 1988 as amended and replaced from time to time, including any subordinate rules and regulations.

Acts of terrorism

act of terrorism means any act including but not limited to the use of force or violence and/or threat thereof, of any person or groups of persons whether acting alone or on behalf of or in connection with any organisations or governments, which from its nature or context is done for, or in connection with, political, religious, ideological, ethnic or similar purposes or reasons including the intention to influence any government and/ or to put the public, or any section of the public, in fear.

Business

business means the Business, Occupation, Trade or Profession specified in the *schedule*.

Contractors

contractor means any person engaged by *you* under a contract for service with *your business* to perform work at a certain price or rate.

Injury

injury means injury as defined by the *Act*.

Policy

policy means this policy wording, the proposal form, the *schedule* and any applicable extensions and endorsements.

It also includes any wages declaration or estimates that *you* provide to us in relation to the *business*.

Period of insurance

period of insurance means the period commencing on the start date and ceasing on the end date, at 4.00pm local time, as specified in the *schedule*, and includes any subsequent period for which the policy is renewed.

Schedule

schedule means the document pertaining to this policy and titled 'Policy Schedule'.

Wages

wages means all wages, salaries, remuneration, commissions, bonuses, overtime, allowances and the like, directors' fees, superannuation contributions (except those made by force of law), fringe benefits, and all other benefits paid (whether paid in cash or non cash benefits such as vehicles, equipment, mortgage payments, travel, school fees etc.) to or in relation to a *worker* (including working directors declared as such to us) or to *contractors*, before deduction of income tax.

'*Wages*' does not include termination payments, retirement pay, retrenchment pay in lieu of notice, pensions, 'golden handshakes', or weekly payments of workers' compensation.

Worker

worker means:

- (a) a person who is defined as a *worker* by the *Act* and who is employed or engaged by *you*;
- (b) a person in respect of whom *you* are deemed to be an employer pursuant to the *Act*; or
- (c) a person deemed to be *your worker* pursuant to the *Act*.

Workers have a corresponding meaning.

You or Your

you or *your* refers to the named Employer specified in the *schedule*.

Insuring Clause

If during the *period of insurance* and in the process of carrying out *your business*, a *worker* suffers:

- (a) *injury*, not being a disease, arising out of or in the course of their employment; or
- (b) *injury*, which is a disease, arising out of or in the course of their employment and to which their employment contributed to a substantial degree,

and:

- (i) *you* are liable to make payments either independently or under the *Act* in respect of that *injury*; or
- (ii) *you* on behalf of another *worker* is liable to make payments under the *Act* in respect of that *injury*,

then we will indemnify *you* against such payments.

Subject to our written consent, we will also pay any costs and expenses incurred in connection with the defence of any legal proceedings as a result of the *injury* suffered by the *worker*.

Exclusions

We will not indemnify *you* against:

- (a) claims directly or indirectly occasioned by any happening through or in consequence of war, invasion, acts of foreign enemies, hostilities whether war be declared or not, civil war, rebellion, revolution, insurrection, military or usurped power, or *acts of terrorism*;
- (b) *injury* which occurs outside the state of Tasmania or in respect of a claim brought against *you* outside the state of Tasmania (except where *you* have authorised, requested or directed the *worker* to be out of the state of Tasmania at the time the *injury* occurs); or
- (d) exemplary or punitive damages.

Conditions

All insurance cover provided by this policy is conditional on the following conditions:

1. Change in risk

You will provide us with written notice of every change materially altering *your* business, workers or the nature or extent of the risk insured by us, as soon as possible.

As a result of *your* change of risk, we may require *you* to pay additional premium for the balance of the period of insurance or renewal.

2. Misrepresentation

The proposal for this insurance and any other information supplied to us by *you* or on *your* behalf, form the basis of this policy and must contain no misrepresentations, whether innocent or otherwise.

3. Notices in writing

Every notice or communication given or made to us under this policy must be in writing. Delivery in writing may be electronic.

4. Notice of injuries

You must notify us of any injury as soon as practicable and *you* must send us every written notice of claim or legal proceedings, and details of every verbal notice of claim or legal proceedings immediately after *you* receive it.

5. Litigation, settlement or admission of liability

You must not incur any expense of litigation or make any payments (including weekly payments and medical expenses), settlement or admission of liability in respect of any injury to or claim made by any worker, without our written consent. This condition does not apply to *your* obligations of payments under the *Act*.

6. Use of your name

Once we agree that *you* are entitled to be indemnified by us, we are entitled to use *your* name in any legal proceedings and to exercise any rights *you* may have against anyone to recover any payments that we make on *your* behalf. When we require it, *you* must execute any necessary documents to assist us in taking action in *your* name.

7. Your assistance

In respect of any injury, *you* must give us any information, documents and assistance we request, and otherwise cooperate with us in the management, defence or settlement of any claim.

8. Reasonable precautions and rehabilitation

You must take all reasonable precautions to prevent *injury* to workers and must comply with all relevant laws, including the Workplace Health and Safety Act 1995.

You must also cooperate with us in devising and implementing any reasonable rehabilitation program for and on behalf of your *workers*.

9. Right of inspection

After an injury to a worker, *you* must not (as far as reasonably practicable) alter, repair or dispose of any works, machinery, plant, tools or equipment involved in the injury or documents pertaining to the injury without our consent.

We may, at all reasonable times, inspect the works, machinery, plant, tools, equipment and documents pertaining to the injury, used in *your business*.

10. Premium calculation

The first premium and every renewal premium payable to us will be calculated on the amount of the wages *you* estimate *you* will pay during the year following the inception or renewal of the policy. *Your* estimate must include all amounts *you* estimate *you* will pay contractors.

You must provide to us within sixty days after the expiry of each year of the period of insurance, the correct amount of all wages paid by *you* in that year, and when required, the number of workers and contractors *you* employed or engaged in that year.

The wages *you* declare must include all payments *you* made to contractors. If the amount of the wages, the number of workers and contractors or the type of business in which they were engaged differs from the information on which the premium for that year was calculated the premium will be adjusted and *you* must pay a further premium to us or we will refund premium to *you*, whichever might be the case, subject to our retaining a customary minimum premium.

In accordance with the *Act*, we will calculate *your* premium based on various factors, including:

- (a) *your* past claims experience;
- (b) *your* commitment to workplace health and safety; and
- (c) *your* agreement to provide suitable alternative duties to injured *workers*.

11. Wages record

You must keep accurate and up-to-date records of the names of, amounts *you* pay to, and dates of payments to, *your* workers and contractors.

12. Inspection of wages record

You must at all times allow any officer authorised by us to inspect *your* wages record.

13. Assignment

You must not assign *your* interest in this policy without our written consent.

14. Waiver

You must not rely on any waiver of any provision of this policy unless we have confirmed the waiver to *you*, in writing.

15. Cancellation

Subject to our being permitted to do so, we may cancel this policy and, in that event, *you* must supply us with a correct account of all wages *you* have paid in the most recent year of the period of insurance up to the cancellation. We will adjust the premium as described above and refund any unearned premium.

16. Goods and Services Tax

If we make any payments to the *worker* or on the *worker's* behalf, we will reduce the amount of the payment by the amount of any input tax credit that the *worker* is, or will be, or would have been entitled to under A New Tax System (Goods and Services Tax) Act 1999, had the payment been applied to acquire such goods, services or supply.

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