

Welcome to NZI. Thank you for selecting us as your insurer. This is your Employers Liability Policy document.

It will tell you what you are insured for and what you are not insured for, as well as any obligations that you or we must abide by to ensure an enforceable policy. This policy document is a legal contract so please read it thoroughly and keep it in a safe place. If you need help with understanding your policy document, please contact your insurance broker.

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NZI, a business division of IAG New Zealand Limited, has relationships with brokers and other insurance intermediaries who issue our policies. IAG New Zealand Limited pays remuneration to brokers and insurance intermediaries when they issue NZI policies, and when these policies are renewed or varied.



INTRODUCTION

AGREEMENT

You agree to pay **us** the premium described in the **schedule** and comply with this policy. In exchange, **we** agree to insure **you** as set out in this policy.

POLICY CONTRACT

This policy consists of the following parts:

1. **your** application for insurance, and any oral or written supporting statements or documents supplied by **you**, and
2. this policy wording (including any endorsement or warranties), and
3. the **schedule**.

INTERPRETING THIS POLICY

Certain words in this policy have a specific meaning. These words appear in **bold** and **you** will find the meaning listed in the 'Definitions' section at the end of this policy. The definitions apply to the plural and any derivatives of the bolded words.

You will also find examples and comments to make parts of this policy easier to understand. These examples and comments, which appear in *italics*, do not affect or limit the meaning of the section they refer to.

The headings in this policy are for reference only and do not form part of it. They are not to be used when interpreting the policy.

WHAT YOU ARE INSURED FOR

A. CIVIL LIABILITY – DAMAGES

You are insured for all sums that **you** become legally liable to pay (including punitive or exemplary damages) arising from an **employee** sustaining **injury**, provided that:

1. the **injury** is sustained:
 - 1.1 in New Zealand, and
 - 1.2 after the first inception date of this policy, and
 - 1.3 in connection with the **business**, and
2. **you** first become aware of the **claim** during the **period of insurance**, and
3. **you** have advised **us** of the **claim** as soon as possible, but no later than 30 days after the **period of insurance** ends.

We will insure **your** liability arising from that **claim**, both during and after the **period of insurance**, based on the policy terms that applied at the time **you** advised **us** of that **claim**.

B. CIVIL LIABILITY – DEFENCE COSTS

You are insured for legal costs and legal expenses necessarily and reasonably incurred by **you** with **our** prior written consent, to defend any legal action (or threat of legal action) that if proven, would be insured under 'What You Are Insured For Part A'.

We will meet these costs even if the legal action seems groundless.

EXCLUSIONS

A. ACC

You are not insured if compensation:

1. is available under the Injury Prevention, Rehabilitation and Compensation Act 2001, or
2. would have been available under that Act, except for **your** status as an exempt employer under that Act.

B. ASBESTOS

You are not insured for loss, legal liability, prosecution or expense of any type in connection with asbestos.

C. BUILDING DEFECTS

You are not insured for loss, legal liability, prosecution or expense of any type in connection with a building or structure being affected by:

1. moisture or water build-up or the penetration of external moisture or water, or
2. the action or effects of mould, fungi, mildew, rot, decay, gradual deterioration, micro-organisms, bacteria, protozoa, or any similar or like forms,

provided that the liability is caused directly or indirectly by:

- (a) non-compliance with the New Zealand Building Code, or

- (b) faulty design or faulty specification, including but not limited to faulty sequence, procedure or programme, or

- (c) faulty materials, or

- (d) faulty workmanship, or

- (e) faulty inspection, or faulty certification of compliance,

when the building or structure was constructed, manufactured, altered, repaired, renovated or maintained.

This exclusion does not apply to **your** liability that is caused by, or directly arises from, the leakage of internal pipes, internal water systems or internal cisterns.

D. DISHONESTY OR FRAUD

You are not insured for legal liability in connection with **your**:

1. wilful breach of duty or wilful breach of an Act of Parliament, or
2. dishonest, fraudulent or malicious act or omission, or
3. act or omission committed with a criminal intent.

E. EMPLOYMENT CONTRACTS ACT

You are not insured for sums that **you** become liable to pay under the Employment Relations Act 2000.



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F. EXISTING LITIGATION

You are not insured for legal liability in connection with any litigation in existence or that **you** should have anticipated at the commencement of the **period of insurance**.

G. FINES

You are not insured for any fine or penalty imposed on **you** (whether under contract or by statute).

H. FOREIGN COURTS

You are not insured for legal liability in connection with a claim:

1. first brought in a court outside New Zealand, or
2. brought in a court within New Zealand to enforce a judgement made by a court outside of New Zealand, or
3. where the claim is governed by or the liability arises under the proper law of a country other than New Zealand.

I. KNOWN CLAIMS & CIRCUMSTANCES

You are not insured for legal liability in connection with any claim or circumstance that may give rise to a claim that **you** first knew of, or ought to have known of, prior to the inception date of this policy.

J. LATENT DISEASES

You are not insured for sums that **you** become legally liable to pay in connection with **injury** where:

1. the **injury** is caused by a disease, and
2. an **employee** is first exposed to the conditions leading up to the disease before the first start date of this policy.

K. NOTICES UNDER THE HEALTH AND SAFETY IN EMPLOYMENT ACT

You are not insured if **you** fail to comply with any lawful notice that **you** receive from an appropriate authority under the Health and Safety in Employment Act 1992.

L. NUCLEAR

This policy does not insure any loss, liability, prosecution or expense of any type in connection with:

1. ionising radiation or contamination by radioactivity from:
 - 1.1 any nuclear fuel, or
 - 1.2 any nuclear waste from the combustion or fission of nuclear fuel,
2. nuclear weapons material.





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M. TERRORISM

This policy does not insure any loss, liability, prosecution or expense of any type in connection with an **act of terrorism**, including in connection with controlling, preventing, suppressing, retaliating against, or responding to an **act of terrorism**.

N. WAR

This policy does not insure any loss, liability, prosecution or expense of any type in connection with any of the following, including controlling, preventing or suppressing any of the following:

war, invasion, act of foreign enemy, hostilities or war like operations (whether war is declared or not), civil war, mutiny, rebellion, revolution, civil commotion assuming the proportions of or amounting to an uprising, insurrection, military or usurped power.

BASIS OF SETTLEMENT

A. CIVIL LIABILITY – MAXIMUM AMOUNT PAYABLE

The most **we** will pay for all **events**, in the aggregate, during an **annual period** is the sum insured shown in the **schedule**.

B. CIVIL LIABILITY – EXCESS

The excess shown in the **schedule** applies to each **injury** sustained by an **employee**.

The excess will be deducted from the amount of the **claim**.

The excess must also be paid when **we** only provide cover under ‘What You Are Insured For – Part B Defence Costs’.

MANAGING YOUR CLAIM

A. YOUR OBLIGATIONS

1. Do Not Admit Liability

You must not:

- 1.1 admit **you** are liable, or
- 1.2 do or say anything that may prejudice **our** ability to defend the claim against **you** or take recovery action in **your** name.

2. Advise us

If **you** become aware of any situation that is likely to give rise to a **claim**, **you** must contact **us** immediately. This is regardless of whether the claim amount exceeds the excess.

3. Minimise the Loss

You must take all reasonable steps to minimise the claim and avoid any further loss or liability arising.

4. Notify the Police

You must immediately lay a complaint with the Police if **you** suspect burglary, theft, arson, or intentional damage has occurred.



5. Provide Full Information

When **you** make a claim **you** consent to **your** personal information in connection with the claim being:

- 5.1 disclosed to **us**, and
- 5.2 transferred to the Insurance Claims Register Limited.

You must:

- (a) give **us** free access to examine and assess the claim, and
- (b) send any relevant correspondence or documents to **us**, and
- (c) complete a claim form or statutory declaration to confirm the claim if **we** request it, and
- (d) provide any other information, proof of ownership or assistance that **we** may require at any time.

6. Be Truthful

If **your** claim is dishonest or fraudulent in any way, **we** may:

- 6.1 decline **your** claim either in whole or in part, and/or
- 6.2 declare this policy or all policies **you** have with **us** to be unenforceable from the date of the dishonest or fraudulent act.

This is at **our** sole discretion.

7. Incurring Costs

You are not authorised to incur any costs or expenses without **our** prior written consent.

B. MANAGING YOUR CLAIM

1. Allocation of defence costs

If a claim is covered only partly by this policy, then **we** will attempt to ensure fair and proper allocation of the legal costs and legal expenses for insured and uninsured portions.

If all parties are unable to agree upon the allocation of the legal costs and legal expenses then that allocation shall be referred to a lawyer that **we** and **you** agree to instruct, whose determination shall be binding upon all parties.

The cost of the lawyer's determination is to be taken as part of 'What you are insured for Part A, item 3'.

If the parties cannot agree on a lawyer, then a lawyer will be appointed by the President of the New Zealand Law Society.

2. Apportionment

If **we** incur costs and/or expenses above the maximum amount payable, then:

- 2.1 **you** must pay this amount when **we** ask for it, or
- 2.2 **we** can offset that payment against what **we** must pay to **you** under this policy.

3. Your Defence (Queens Counsel Clause)

- 3.1 **We** are not required to defend a **claim** against **you** unless a lawyer that **we** and **you** agree to instruct, advises that the **claim** should be defended. If the parties cannot agree on a lawyer, then a lawyer will be appointed by the President of the New Zealand Law Society.
- 3.2 In formulating his or her advice, the lawyer must be instructed to consider the:
- economics of the matter, and
 - damages and costs likely to be recovered, and
 - likely costs of defence, and
 - prospects of successfully defending the **claim**.
- 3.3 The costs of the lawyer's opinion is to be taken as part of defence costs covered by this policy.
- 3.4 If the lawyer advises that the claim should be settled and if the terms of settlement that **we** recommend are within limits that are reasonable (in the lawyer's opinion and in the light of the matters he/she is required to consider), then:
- you** cannot object to the settlement, and
 - you** must immediately pay the excess shown in the **schedule**.

4. Subrogation

Once **we** have accepted any part of **your** claim under this policy, **we** may assume **your** legal right of recovery.

If **we** initiate a recovery **we** will include **your** excess, and any other uninsured losses suffered by **you**. Where **we** do this, **you** agree to pay **your** proportional share of the recovery costs, and subsequently the proceeds of the recovery will be shared on the same proportional basis, except that **we** will reimburse **your** excess first.

5. Defence of liability claims

After **you** have made a claim, **we** have the sole right to:

- act in **your** name and on **your** behalf to defend, negotiate or settle the claim as **we** see fit (this will be done at **our** expense), and
- publish a retraction or apology (in the case of defamation proceedings).

We may appoint **our** own lawyers to represent **you**. They will report directly to **us**.

6. Discharge of liability claims

We may elect at any time to pay **you**:

- the maximum amount payable under the policy, or
- any lesser sum that the claim against **you** can be settled for.

Once **we** have paid this (plus any defence costs already incurred) **our** responsibility to **you** under the policy is met in full.



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7. Waiver of Professional Privilege

The lawyers **we** instruct to act on behalf of **you** are at liberty to disclose to **us** any information they receive in that capacity, including information they receive from **you**.

You authorise the lawyers to disclose this information to **us**.

GENERAL CONDITIONS

A. HOW WE ADMINISTER THIS POLICY

1. Cancellation and Modification

1.1 By You

You may ask **us** to cancel or modify this policy at any time. **We** must agree in writing to any modification before it will take effect.

1.2 By Us

We may cancel or modify this policy by advising **you** (or **your** Broker or Agent) by letter, fax or email. Cancellation or modification will take effect at 4.00pm, on the 30th day after the date of **our** advice.

We will refund the proportion of unused premium paid, calculated from the date of cancellation.

If **you** pay **your** premium by instalments, **you** must pay **us** any unpaid instalments that are due.

2. Other Insurance

You must notify **us** as soon as **you** know of any other insurance policy that covers **you** for any of the risks covered under this policy.

If **you** or anyone else who can claim under this policy can claim under any other insurance, **we** will only pay over and above the limit payable by the other insurances.

3. Currency

All sums in this policy wording (including any attachments) and in the **schedule** are specified in New Zealand dollars.

4. Separate Insurance (Cross Liability)

If more than one person or entity is named as 'Insured' in the **schedule**, then all the parties are insured separately (as though a separate policy had been issued to each person/entity).

However, the maximum amount **we** will pay to all parties is the amount stated in each part of this policy.

5. GST

Where GST is recoverable by **us** under the Goods and Services Tax Act 1985:

5.1 all sums insured exclude GST, and

5.2 all sub limits exclude GST, and

5.3 all excesses include GST, and

5.4 GST will be added, where applicable, to claim payments.



6. Premium Payment Options

If **you** choose to pay the premium other than annually, then:

6.1 **you** must use the Deduction Authority **we** require, and

6.2 this policy is for the initial **period of insurance** starting on the 'From' date and ending on the 'To' date stated in the **schedule**.

The policy will be renewed for further fortnightly, monthly or quarterly **periods of insurance** (as indicated in the **schedule**) by payment of each premium due under the Deduction Authority.

7. Premium Adjustments

If the premium for this policy has been calculated based on estimated figures, then the premium is only a provisional premium for the **annual period**.

Within 3 months of the expiry of the **annual period**, **you** must tell **us** what the actual figures are. **We** will re-calculate **your** actual premium based on the actual figures.

The difference between the actual and the provisional premiums will either be payable to **us** or refunded to **you** depending on the outcome of the adjustment, but any refund will be limited to a maximum of 50% of the provisional premium.

B. LAWS & ACTS THAT GOVERN THIS POLICY

1. Acts of Parliament

Where this policy refers to any Act of Parliament, it also includes any sub-ordinate legislation made under it, and any subsequent Acts or Regulations.

2. Disputes about this policy

The law of New Zealand applies to disputes about this policy, and the New Zealand Courts have exclusive jurisdiction.

3. Insurance Law Reform Acts

The exclusions and conditions in this policy are subject to **your** rights under the Insurance Law Reform Acts 1977 and 1985.

C. YOUR OBLIGATIONS

1. Comply with the policy

You (and any other person or entity **we** cover) must comply with the conditions of this policy at all times. If **you** fail to comply, **we** may not pay **your** claim.

2. Provide Accurate Information

You must make sure all statements and representations that are made to **us**, at any time, either by **you** or anyone else, are truthful and complete.



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3. Reasonable Care

You must take reasonable care at all times to avoid circumstances that could result in a claim. **Your** claim will not be covered if **you** are reckless or grossly irresponsible.

4. Change in Circumstances

You must tell **us** immediately if there is a material:

- 4.1 increase in the risk insured, or
- 4.2 alteration of the risk insured.

Once **you** have told **us** of the change, **we** may then cancel or alter the premium and/or terms of this policy.

If **you** fail to notify **us** about a change in the risk insured, **we** may:

- (a) declare this policy unenforceable, and/or
- (b) decline any subsequent claim either in whole or in part.

These actions will be taken from the date **you** knew, or ought to have known, of the increase or alteration in the risk insured.

For avoidance of any doubt, information is 'material' where we would have made different decisions about either:

- (i) accepting your insurance, or*
- (ii) setting the terms of your insurance,*

if we had known that information. If in any doubt, notify us anyway.

5. Notices under the Health and Safety in Employment Act

You must comply with any lawful notice that **you** receive from an appropriate authority under the Health and Safety in Employment Act 1992. **You** must do this within the timeframe specified on the notice. If no timeframe is given, then **you** must comply within a reasonable time.

DEFINITIONS

The definitions apply to the plural and any derivatives of the bolded words. *For example, the definition of 'accidental' also applies to the words 'accidentally', 'accident' and 'accidents'.*

accidental

Unexpected and unintended by **you**.

act of terrorism

Includes any act, or preparation in respect of action, or threat of action designed to influence or coerce the government de jure or de facto of any nation or any political division thereof, or in pursuit of political, religious, ideological, or similar purposes to intimidate the public or a section of the public of any nation by any person or group(s) of persons whether acting alone or on behalf of or in connection with any organisation(s) or government(s) de jure or de facto, and that:

1. involves violence against one or more persons, or
2. involves damage to property, or



3. endangers life other than that of the person committing the action, or
4. creates a risk to health or safety of the public or a section of the public, or
5. is designed to interfere with or disrupt an electronic system.

annual period

The **period of insurance**. However, if:

1. **you** pay the premium fortnightly, monthly or quarterly, or
2. the **period of insurance** is for more than 12 months,

the annual period is any one 12 month period calculated from the date this policy first started, and consecutively thereafter.

business

The business described in the **schedule**.

claim

Any of the following:

1. any claim made against **you**,
2. any notice **you** receive from any other person that they intend to make a claim against **you**,
3. any situation where **you** become aware that there is likely to be a claim against **you**,

in connection with an **injury**.

employee

An employee directly employed by **you** in the **business**.

event

Any one **claim** or series of **claims** arising from one source or original cause.

injury

The **accidental** death of, or the **accidental** bodily injury to any person during the **period of insurance**, including sickness, disease, disability, shock, fright, mental anguish or mental injury.

period of insurance

The period **you** are insured for. This is shown in the **schedule**.

schedule

The latest version of the Schedule **we** issued to **you** for this policy.

we

NZI, a business division of IAG New Zealand Limited.

We may also use the words 'us', 'our' or 'company' to describe NZI.

you

Any person or entity named in the **schedule** as 'Insured'.

We may also use the word 'insured' to describe you.

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NZI EMPLOYERS LIABILITY INSURANCE POLICY

Underwritten by NZI, a business division of IAG New Zealand Limited.

IMPORTANT: PLEASE EXAMINE THIS POLICY AND IF IT DOES NOT MEET YOUR REQUIREMENTS, KINDLY RETURN IT AT ONCE TO YOUR BROKER OR AGENT OR TO OUR OFFICE OF ISSUE.

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Form no: NZ5063/3 01/10

