

A GUIDE TO CHURCH LIABILITY INSURANCE

Public Liability

Public Liability policies provide religious institutions, business, non profit, sporting and numerous other entities with protection against claims for compensation in respect of unexpected and unintended personal injury or property damage for which they may be legally liable arising out of their business activities.

The definitions of "Personal Injury" and "Property Damage" are broad. "Personal Injury" extends beyond actual bodily injury to mental injury and defamation. "Property Damage" includes either loss of or damage to tangible property and loss of use of tangible property, which is undamaged.

In addition, the policy provides for the costs of defending these claims in court, as well as any necessary investigations or negotiations.

Specific areas for which coverage is available are:

- Manufacture, supply or distribution of products in NZ.
- Worldwide product exports including USA, Canada and territories for Insureds with no physical presence there.
- Damage to property in the Insured's care, custody or control (subject to a sub limit of liability).
- Design error provided property damage or personal injury occurs.
- Damage to leased premises.
- Ownership, maintenance, operation or use of watercraft up to 8 metres.
- Exemplary damages.
- Sudden and accidental discharge of pollutants.
- Liability assumed by agreement.
- Liability under the Forests and Rural Fires legislation.
- Service and repair of motor vehicles.

Who is Protected

Coverage is provided to the named insured and extends automatically to any:

- Subsidiary.
- Organisations controlled and actively managed.
- Director, employee, partner or shareholder of the Insured, in that capacity.
- Person or organisation to whom the Insured has promised to arrange insurance.
- Social or sporting club formed with the Insured's consent.
- New organisation which the Insured acquires and notifies to us.

Professional Indemnity

Professional Indemnity Insurance provides protection for religious institutions, businesses and professional persons in respect of legal liability arising from the conduct of their practice or business.

Specifically coverage is provided for:

- Settlements by or judgements against the business and/or professional person arising out negligent advice or services.
- Legal costs and expenses associated with the defence of legal action.

Extensions to the basic coverage provided may be provided for:

- Defamation
- Liability arising from a previous business or occupation
- Loss of Documents
- Breach of Confidentiality
- Automatic Reinstatement of Policy Limits

- Liability or loss through dishonesty by employees

In a church situation, the area of Counselling provides very specific exposures, and the Counselling Liability extension provides personal liability protection to Counsellors, Lay Persons and Ministers, should an action be taken against them. Doubtless this extension can also be “tailored” to include Religious.

The Crimes Act cover relates to legal costs in defending allegations of improper conduct in or about the performance of the activities of the Insured. If the person is convicted, then the insurer has the right to seek a refund of any payments made.

The Libel cover relates to claims arising by reason of an alleged injury or potential injury to the reputation, name, title, goodwill, office, calling, profession, trade, business or credit of parties in consequence of any libel, slander, or defamation. This insurance is particularly relevant to any publications issued by the Order.

Who is Protected

Coverage is provided to The Insured as declared in respect of:

- Its own negligence
- The negligence of its predecessors in the business
- The negligence of its employees
- The negligence of any person, partnership, company or firm acting on its behalf.

Employment Dispute

Employment Dispute insurance provides protection to employers for personal grievance actions taken by employees and prospective employees as a result of unjustified dismissal, discrimination or other disadvantage.

Coverage is provided for:

- Compensation for intangible loss, such as humiliation or loss of future prospects of employment (but not remuneration).
- Compensation for most breaches of an employment contract, and also certain breaches of the Privacy Act 1993 and Human Rights Act 1993
- The costs incurred in defending injunctions or orders restraining employers from initiating dismissal or other disciplinary procedures.
- Defence costs, reparation costs and penalties arising out of breach of certain compliance provisions of the Employment Relations Act 2000.

Who is Protected

Coverage is provided for:

- The employer company as declared
- If a partnership, each of its partners

Trustees Liability

Trustees' Liability provides protection for trustees who can be made personally liable for the debts of that trust and for penalties awarded against it. A Trustee's role is to protect and administer the Trust and its funds / assets.

Trusts that are not created by Statute do not have legal capacity, which means that individual trustees can be held personally liable for the debts of the Trust and all penalties awarded against it. Trusts created by Statute have legal capacity, but rather than diminishing personal liability, trustees assume responsibility similar to Company directors.

Who is Protected

Coverage is provided to:

- All Trustees of the organisation, plus any directors and employees in those capacities.

Directors' & Officers' Liability

Directors and Officers Liability and Company Reimbursement Insurance together provide protection to directors and senior management for wrongful acts committed whilst carrying out their duties associated with the management of the company.

Insurance is typically arranged by the company on behalf of its board.

Coverage is provided for:

- The costs of personal legal representation incurred by individual directors and officers in the defence of any civil or criminal proceedings.
- Settlements by or judgments, including claimant's costs awarded against directors and officers where no indemnity is given by the company.

Who is Protected

Coverage is provided to the:

- Officers of the company and its subsidiaries. This includes any directors and employees in those capacities, and also extends to deemed directors under the Companies Act 1993.
- Company itself, by way of reimbursement to the extent that the company has directly indemnified any officer of the company as it was legally obliged or permitted to do so.

Individual Coverage - Personal Financial Protection

Because traditional policies are designed for the directors and officers as a collective unit and arranged by the company, it does not necessarily provide the ideal coverage from the standpoint of the individual.

A personally arranged policy will provide more relevant and secure coverage for the individual providing the following advantages over a group policy:

- The amount of cover is available exclusively for the individual director. It cannot be exhausted by claims from others in the way that company arranged policies can.
- Non disclosure of material facts by others cannot affect the coverage. The individual is the only insured party.
- The policy cannot be cancelled by others such as the company, other board members, successors, receivers and the like providing the individual with improved security of cover following retirement, resignation or departure from a board.
- There will be consistency of coverage across all directorships.
- The individual and the insurer have the opportunity to develop a mutually beneficial long-term relationship.

Employers Liability

Provides protection to employers for:

- Settlements or damages payable (including exemplary damages) in respect of claims for personal injury to employees suffered in the course of their employment and not covered by accident compensation.
- The costs incurred in defending or settling these claims, including any prosecution, inquiry or investigation.
- The costs incurred in defending allegations of a breach of the Health and Safety in Employment Act 1992, and any reparation costs or cash penalty following a conviction of an offence under the Act.

Who is protected?

Coverage is provided to:

- The Employer Company and any subsidiary company as declared.
- Any officer which includes a director, trustee, manager or employee in that capacity, in respect of any allegation of a breach of the Health and Safety in Employment Act 1992.

Statutory Liability

Provides protection to religious institutions and businesses for:

- Defence costs associated with alleged breaches of the Health and Safety in Employment Act, the Building Act, Consumer Guarantees Act, Fair Trading Act, Privacy Act and most other statutes affecting commercial activities. The notable exceptions are police prosecutions and taxation legislation.
- The costs of representation at an investigation or inquiry.
- Any reparation costs or cash penalty payable by the insured following conviction for an offence under the insured statutes.

Who is protected?

The policy protects the interests of the:

- Company, including any declared subsidiary, for its own liability.
- Company, by way of reimbursement to the extent that the company has directly indemnified any officer as it was legally obliged or permitted to do so.
- Officers, which includes directors, trustees, managers and employees, in that capacity, to the extent that the company has not directly indemnified them.