

Employers' Liability Insurance Regulations 1965



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 EMPLOYERS' LIABILITY INSURANCE REGULATIONS 1965

Pursuant to the Cook Islands Workers Compensation Ordinance 1964, the [High Commissioner], acting by and with the advice and consent of the Executive Committee of the Cook Islands, hereby makes the following regulations. (1 April 1965.)

[The words "High Commissioner" were substituted for the words "Resident Commissioner" by S.3(4) of the Cook Islands Amendment Act 1965.]

REGULATIONS

1. Short Title and Commencement - (1) These regulations may be cited as the Employers' Liability Insurance Regulations 1965.

(2) These regulations shall come into force on the 1st day of April 1965.

2. Interpretation - (1) In these regulations unless the context otherwise requires:-

"The Ordinance" means the Cook Islands Workers Compensation Ordinance 1964;
 "Accident" includes any disease to which section 10 of the Ordinance applies;

PRICE 4.50

"Employer" shall have the same meaning as in Part I of the Ordinance;
"Insurer" in relation to any employer means the Treasurer of the Cook Islands acting on behalf of the Cook Islands Legislative Assembly;
"Wages" includes all salaries, wages, emoluments, holiday pay, and benefits of whatsoever kind received by a worker from his employer;
"Worker" shall have the same meaning as in Part I of the Ordinance;
"Statement of Wages" means a statement in the form prescribed as form 1 in the First Schedule of these regulations.

(2) Every person who in the Cook Islands acts as agent of or carries on business for or on behalf of any other person who is absent from the Cook Islands or has his principal place of business outside of the Cook Islands shall for the purposes of these regulations be deemed to be the employer of every worker employed in the Cook Islands by that other person.

(3) For the purposes of these regulations all money payable by an employer under the Ordinance, whether by way of compensation or expenses or otherwise howsoever, shall be deemed to be compensation payable under the Ordinance.

3. Employers and workers to whom these regulations apply - (1) These regulations shall apply to every employer who employs any worker.

(2) Except as hereinafter provided these regulations shall apply with respect to every worker employed in the Cook Islands whether on a Cook Islands Ship or otherwise.

(3) These regulations shall not apply with respect of any worker ordinarily employed outside of the Cook Islands by an employer who carries on business chiefly outside of the Cook Islands but temporarily employed by that employer in the Cook Islands for a period not exceeding six months at any one time.

CONTRACT OF INSURANCE

4. Statements of wages to be delivered by employer to the insurer - (1) This section shall apply to every employer who employs any worker or workers.

(2) Every person who is or becomes an employer on or after the 1st day of April 1965 shall not later than 7 days after the 1st day of April 1965 if he is already an employer on that date or not later than 7 days after any subsequent date on which he becomes an employer deliver to the insurer a statement of wages showing -

(a) An estimate of the wages which he expects to pay to all such workers during the period commencing from the 1st day of April or such subsequent date as the case may be and ending with the 31st March next thereafter;

- (b) Such other information as the insurer may require from him.
- (3) Where any person is on the 1st day of April in any subsequent year an employer, he shall within one month after that date deliver to the insurer a statement of wages showing -
- (a) The amount of wages paid during the year ending with the 31st day of March then last past to all such workers employed by him;
- (b) An estimate of the wages which he expects to pay to all such workers during the year commencing on the said 1st day of April;
- (c) Such other information as the insurer may require from him.
- (4) Notwithstanding the provisions of subsections (2) and (3) of this section where by the terms of the engagement of the worker the employer will cease to be such an employer at or before the expiration of seven days from the date of his becoming such an employer, he shall deliver the statement as aforesaid not later than one day after the date on which he becomes an employer.
- (5) Every employer who between the 1st day of April in any year and the 1st day of April in the next succeeding year ceases to be an employer to whom this section applies shall within fourteen days after the date on which he ceased to be such an employer deliver to the insurer a statement of wages showing the amount of wages paid by him to all such workers during the period from the last day of March preceding that date up to that date.
- (6) The insurer shall not refuse to accept delivery of any statement of wages.
- (7) Where two or more persons are for the purposes of the Ordinance the employers of the same worker or workers, it shall be a sufficient compliance with the provisions of this section if one of them makes a statement of wages on behalf of himself and the other or others or if they make a joint statement of wages.
- (8) Every employer, being a partnership, shall deliver any statement of wages required to be delivered under the Ordinance in the name of the partnership.
- (9) Notwithstanding anything in the foregoing provisions of this section, the insurer may at his discretion agree with any employer to accept from that employer statements of wages for periods other than those prescribed in the foregoing provisions of this section.

5. Contract of insurance to be complete on delivery of a statement of wages - (1) On the delivery to the insurer of a statement of wages made by an employer the insurer shall, subject to the provisions of these regulations, be deemed to have contracted by a contract of insurance to indemnify the employer

in respect of all sums which the employer becomes liable to pay under or by virtue of the Ordinance for compensation for the death of or personal injury to any worker caused by accident happening, at any time during the period of the insurance to that worker in the course of his employment by the employer:

Provided always that the indemnity shall not extend to any case where the liability of the employer is not enforceable by action in the High Court of the Cook Islands.

(2) The insurer shall be entitled in respect of any employer under this section to the benefit of all indemnities and other rights given to the employer by the Ordinance or otherwise and to use the name of the employer in any action or proceeding in relation to the liability against which he is insured or in relation to any such indemnities or other rights.

(3) In consideration of the insurance hereinbefore provided for any employer, the employer shall pay premiums as hereinafter provided and shall otherwise comply with the provisions of the Ordinance and of these regulations.

6. Insurance to continue from year to year unless terminated - (1) The period of any insurance under section 5 of these regulations shall be the period covered by the estimate of wages contained in the statement of wages delivered by the employer to the insurer: Provided that every such period of insurance shall be deemed to be extended until the 31st day of March next after the end of the period and thereafter from year to year:

Provided also that every such period or extended period of insurance shall end with whichever of the following dates first occurs, namely:

- (a) The date on which a new period or insurance commences by virtue of the delivery of a further statement of wages by the employer to the insurer;
- (b) The 31st day of March next after the date on which the employer having ceased to be an employer has delivered to the insurer a statement of wages as required by sub-section (5) of section 4 or section 7 of these regulations or has ceased to be an employer for a period of twelve months;
- (c) Where a period of not less than one year has elapsed since the end of the period covered by the estimate of wages contained in the last statement of wages delivered by an employer to the insurer.

7. Statement of wages to be delivered by employer to insurer at the end of period of insurance - Where an employer ceases on the 31st day of March in any year to be insured under the Ordinance by the insurer, the employer shall within the month

following that date deliver to the insurer a statement of wages showing the amount of wages paid by him during the year ending with that date to all workers in respect of whom he was so insured.

8. Rates of premium - (1) The rates of premium to be charged to an employer by the insurer for the indemnity under the Ordinance shall be the several rates set out in the Second Schedule of these regulations.

(2) The rates shown are per £100 of wages.

(3) Where there is no classification describing the employers trade, business, or profession, or where there is doubt as to the appropriate classification the insurer may fix a suitable rate of premium to be charged.

(4) Except in respect of Government Departments and Island Councils clerical workers where occupied solely in office work, or in the supervision of office work, shall be rated at the rate shown in the said Schedule for offices, irrespective of the employer's occupation. The manager of any employer's business or any branch thereof who undertakes no work of any kind other than supervision may be classed as a clerical worker.

9. Assessment of premiums payable by employers -

(1) The insurer shall as soon as practicable after receiving any statement of wages assess the amount payable by way of premium by the employer for the indemnity to which he is entitled under the Ordinance for the period covered by the estimate of wages contained in the statement.

(2) Every such assessment shall be made in the form set out in form 2 of the First Schedule of these regulations.

(3) The insurer may from time to time and at any time make a new assessment in substitution for an earlier assessment and containing such alterations and additions as he thinks necessary in order to ensure the correctness thereof, notwithstanding that the premiums already assessed may have been paid.

10. Adjustment of premiums where wages paid are ascertained -

(1) When the wages paid by an employer during the period have been ascertained, the assessment of the premium payable by him in respect of that period shall be adjusted and an adjusted assessment shall be made accordingly, if the wages paid differ from the wages on which the premium was assessed.

(2) Where any person fails to make a statement as required by section 6 or section 7 of these regulations showing the amount of wages paid by him during any period, the insurer may make an estimate of the amount that he considers likely to have been paid and make an adjusted assessment of the premium payable by that person in respect of that period accordingly.

(3) When an adjusted assessment is made under this section, the insurer shall credit the employer with the amount of the premium already paid by the employer in respect of the period concerned, and if the premium assessed on the adjustment is less than the amount of the premium already paid by the employer in respect of that period, the insurer shall refund the amount of the difference to the employer or credit him therewith in respect of any premium payable in respect of any subsequent period.

11. Premiums to be paid by employers - (1) The amount of any premium to be paid by any employer as assessed by the insurer under the Ordinance shall be paid by the employer to the insurer within one month after the date of the assessment.

(2) If the amount of any premium is not paid by an employer at the time when it becomes payable the employer shall be liable to pay to the insurer forthwith, in addition to the premium, an amount equal to five per cent of the premium as a penalty for his default: Provided that the insurer may if he thinks fit reduce or remit in whole or in part any penalty so incurred, and may if he thinks fit refund in whole or in part any penalty so paid.

(3) On payment of the amount of the premium assessed by the insurer, the insurer shall issue his official cash receipt and this together with the assessment shall constitute for the purposes of the Ordinance and all other purposes a certificate of insurance for the period shown on the assessment.

(4) No employer shall directly or indirectly take or receive any money from any worker in his employment, whether by way of deduction from wages or otherwise in respect of any premiums payable by the employer in respect of the insurance provided by the Ordinance or these regulations.

12. Extra charge on premium - Where in the opinion of the insurer the business of an employer is designed, equipped, organised, or conducted in such a manner that the number or cost of accidents to workers in consequence thereof is likely to be considerably more than is usual in other businesses of that class, the insurer may impose an extra charge to be made in assessing the premium payable by that employer for any period: Provided that the total premium payable by the employer shall not exceed by more than 100% the premium computed at the rate prescribed in the Second Schedule hereto.

13. Notification of accidents and of claims -

(1) Whenever any accident happens which causes personal injury to or the death of any worker the employer shall as soon as practicable -

- (a) Give notice thereof to the insurer on form 3 set out in the First Schedule of these regulations;
- (b) Provide such other particulars as the insurer may require.

(2) If any employer receives notice of a claim or of the intention of any person to make a claim in respect of injury to or the death of a worker, the employer shall as soon as practicable give to his insurer particulars of the notice or, if it is in writing, the notice or a copy of it.

14. Settlement of claims - (1) The employer shall sign all such warrants and authorities as the insurer may require for the purpose of enabling the insurer to have the conduct and control of any claim in accordance with sub-section (3) of section 28 of the Ordinance.

(2) The employer shall render all reasonable assistance to the insurer to enable the insurer to conduct any such proceedings and defend any claims which the insurer decides to defend.

(3) No employer shall without the consent in writing of the insurer, make any payment, settlement or arrangement in respect of any claim arising from injury to or the death of a worker and no employer shall, without the like consent, make any admission of liability in respect of any claim or allow any claim or allow any action to be undefended or judgment to go by default, by confession, or by consent.

(4) If any employer fails without reasonable cause to comply with the provisions of this section he shall be liable to pay to the insurer any amounts which have been paid, or may become payable by the insurer in respect of the claim and proceedings concerned.

15. Value of benefits allowed as part of wages - Where a worker is allowed by his employer free board and lodging or the free use of a house or any other emolument or benefit of whatsoever kind not paid in cash any such allowance shall for the purposes of these regulations be valued at such amount as any statutory authority governing the terms of the employment may have determined should be paid in cash in the absence of the allowance, or, in the absence of any such determination, at such amount as the insurer decides.

16. Workers Compensation Fund - In accordance with the provisions of sub-section (1) of section 29 of the Ordinance the Treasurer shall keep an account to be known as the Workers Compensation Fund.

(1) There shall from time to time be credited to the said fund -

- (a) All premiums and other money received by the Treasurer pursuant to or for the purposes of the Ordinance;
- (b) All fines and penalties recovered under the provisions of the Ordinance or regulations in connection therewith and all fines recovered in respect of any offences against those provisions;

- (c) All other money that may be lawfully payable into the Fund.
- (2) There shall from time to time be paid out of the Fund -
- (a) All claims admitted, sustained, or compromised in respect of which employers or others are indemnified under the Ordinance (including any amounts payable to the claimant for costs or other expenses);
- (b) All expenditure incurred by the Treasurer in connection with claims for any sums in respect of which employers or others are indemnified under the Ordinance, whether or not the claims are admitted, sustained or compromised;
- (c) All refunds of premiums or any part thereof made by the Treasurer.
- (3) There shall also from time to time be paid out of the Fund all salaries and allowances and other expenditure incurred by the Treasurer in the administration of the Ordinance and not provided for in the last preceding sub-section.

17. Notices to the insurer - Where it is not practicable to give notice as prescribed in these regulations direct to the insurer such notice may be given to any Resident Agent who shall be deemed to be acting for and on behalf of the insurer in receiving such notice.

Where anything is required to be in any of the forms in the First Schedule hereto it shall be sufficient if it is given in a form to the like effect and any of those forms may be modified to suit particular cases or to suit cases for which forms have not been prescribed.

Pursuant to sections 28 and 37 of the Cook Islands Workers Compensation Ordinance 1964, the [High Commissioner], acting by and with the advice and consent of the Executive Committee of the Cook Islands, hereby approves the foregoing regulations this first day of April 1965.

[The words "High Commissioner" were substituted for the words "Resident Commissioner" by S.3(4) of the Cook Islands Amendment Act 1965.]

SCHEDULES

FIRST SCHEDULE Form No. 1

THE TREASURER OF THE COOK ISLANDS
EMPLOYER'S STATEMENT OF WAGES

In accordance with the provisions of the Employers Liability Insurance Regulations 1965.
Your insurance under the Regulations expires on the date shown below.
After entering on this form particulars of the wages, including keep and other allowances,
paid last year, and the amount you expect to pay in the coming year, please sign and return
to the office.

RAROTONGA,
COOK ISLANDS
Box 99.

Employer's
Name
Address

EXPIRY DATE:

Trade,
Business,
or work
Place where
carried on

Please read the Explanations
below and on attached sheet.

DESCRIPTION OF WORK	WAGES (INCLUDING HOLIDAY PAY, OVERTIME, AND BONUSES)							
	PAID During the Past Year Ended 31 March 19.....				ESTIMATED For Ensuing Year Ending 31 March 19.....			
	Wages and Salaries	Keep	Other Allow- ances	Total	Wages and Salaries	Keep	Other Allow- ances	Total
1. OFFICE WORK Employees engaged solely in Office Work ...	£	£	£	£	£	£	£	£
2. GENERAL EMPLOYEES-PERMANENT AND CASUAL (State each class of employment)								
TOTALS	£							

(For Office Use Only)

INDEX	LEADER
Assessment No.	

I/We hereby declare that this is a true and complete statement of the wages and salaries, keep, and other allowances (including payments for holidays) paid by me/us in the past year ended 31 March and a full estimate of the same to be paid by me/us in the ensuing year ending 31 March next.

Signature of Employer: _____

Date: _____

FORM NO 3

THE TREASURER OF THE COOK ISLANDS

FIRST SCHEDULE

Please send to
TREASURER
of the Cook Islands

EMPLOYER'S REPORT OF ACCIDENT

In accordance with the provisions of the Cook Islands Workers' Compensation Ordinance 1964.

1. EMPLOYER'S CHRISTIAN NAMES (IN FULL) SURNAME ADDRESS (FULL POSTAL)
Mr _____
Mrs _____
Miss _____

2. WORKER'S Mr _____
Mrs _____
Miss _____

3. Employer's trade or business: _____

4. Worker's occupation: _____

3. Worker's Age	6. Whether Married or Single or Widowed	7. Number of Dependent Children	8. Is Worker a Member of Your Family? If so, State the Relationship <small>See definition at foot of page.</small>	9. Weekly Wages at Time of Accident (Excluding Overtime)				10. Average Weekly Earnings for Past 12 Months; or for Period of Employment if Less Than 12 Months (Including Overtime and Bonus Payments)				11. Duration of Working Week (Excluding Overtime) (a) _____ hours, if employed by the hour (b) _____ days, if employed by the day.	12. Ordinary Rate of Pay for Work _____ per hour _____ per day
				CASH	£	s.	d.	CASH	£	s.	d.		

13. (a) Was the worker in your employ, and on your pay sheets, and actually working for you in the course of his employment at the time the accident occurred? _____
If so, please state how long he has been in your employ: _____

Or (b) If working for some other person who had agreed to do work for you, state name, trade, and address:
Name: _____
Address: _____
Trade: _____

14. The accident occurred at _____ on the _____ day of _____ 19____ at _____ a.m. / p.m.

15. Number of hours already worked on the shift at time the accident occurred: _____

16. Describe fully what worker was doing at time of accident: _____

17. Cause of the accident (full particulars): _____

18. Nature and extent of injuries: _____

19. Did worker continue at work after the accident? _____

20. If so, state time and date worker ceased work: at _____ o'clock _____ a.m. / p.m. on _____ 19____

21. How long is worker likely to be away from work? _____

22. Is worker being medically attended? If so, by whom? _____

23. Was accident reported by worker? _____
If so, to whom and when? _____

24. Was there in your opinion any negligence, direct or indirect? If so, state by whom and the nature of such negligence: _____

25. Was accident due to the serious and wilful misconduct of worker? _____

26. Was worker perfectly sober at time of accident? _____

27. Name and position of person in charge: _____

28. Names of witnesses: _____

29. HOW COMPENSATION IS TO BE PAID. Please pay the compensation direct to the worker.

30. MEDICAL CERTIFICATE: Forwarded herewith is a medical certificate from Dr. _____
(NOTE—If you cannot forward the medical certificate with this report please forward it as soon as possible afterwards)

I will keep you advised of particulars concerning his progress or otherwise, and will inform you when he returns to work or in my opinion is capable of doing so.

Employer's signature: _____

Date: _____ 19____

DEFINITION "MEMBERS OF EMPLOYER'S FAMILY"

"Member of an employer's family" means wife, husband, mother, father, son, daughter, brother, sister, grand-father, grand-mother, step-father, step-mother, grandson, granddaughter, step-son, step-daughter, half-brother, half-sister, legally adopted son, legally adopted daughter, illegitimate son or grandson, illegitimate daughter or grand-daughter, parent or grand-parent of illegitimate child, and brothers and sisters of illegitimate persons whether by same father and mother.

SECOND SCHEDULE

Employers' Liability Insurance Rates

S.8(1)

<u>Classification</u>	<u>Statistical Code</u>	<u>Rate per Cent</u>
Aerated water manufacturer (including cordials)	1	10/-
Agricultural and plantation work of any kind	2	25/-
Agricultural produce processing and the like	3	30/-
Bakers	4	17/6
Builders, Plumbers, Plasterers, Electricians and like trades	5	35/-
Carriers	6	40/-
Domestic service	7	10/-
Government Departments and Island Councils	8	10/-
Motor garages, vehicle repairers and painters and the like	9	20/-
Offices	10	2/6
Pearl diving	11	100/-
Restaurant	12	10/-
Retail and or wholesale stores	13	12/6
Shipping		
(a) Trading vessels	14	50/-
(b) Fishing vessels	15	60/-
(c) Lightering vessels (stevedores to be charged at stevedoring rates)	16	60/-
(d) General employees whilst ashore and not provided for under "Stevedore"	17	25/-
Soft goods manufacturer	18	5/-
Souvenir and island craft manufacturer, retailer or wholesaler	19	20/-
Stevedore		
(a) Waterside worker	20	100/-
(b) Foreman	21	20/-
(c) Tally clerk	22	10/-
Taxi operators	23	10/-

The minimum premium for a year or any shorter period of insurance shall be 10/- in the case of an employer who, in his capacity as a householder, is required to pay any premium, and £1 in every other case.