

**Cook Islands Workplace Health and Safety Reform**

**Policy:**

**Workers’ Compensation Regulations**

**05 June 2020 - Draft**

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# Preamble

Purpose

This policy sets out the Government of the Cook Islands’ approach to Workers Compensation Regulations (Regulations) governing priority workers’ compensation issues, based on the National Workers Compensation Policy (National Policy). This policy does not extend to regulations concerning the system for collecting employer premiums and allied insurance issues which are covered in a separate policy.

Commitment

The Government of the Cook Islands is committed to establishing and maintaining a modern, fair and sustainable workers’ compensation system that provides appropriate benefits in a timely fashion to workers who suffer injuries or illnesses as a result of their work. This includes arrangements that facilitate the early and sustainable return to work of injured and ill workers.

Aims

This policy aims to:

* Provide comprehensive coverage of all employees and to some classes of volunteer workers;
* Provide mechanisms for ensuring that workers are aware of their rights and are assisted in making a claim for a work-related injury or illness;
* Provide a claim form that provides sufficient information to enable the speedy determination of claims so that workers are not unduly delayed in receiving their entitlements.

Scope

This policy:

Applies to all workers and all employers covered under the new Workers Compensation Act.

# Coverage

Coverage of Workers

The Cook Islands Government is committed to reforming the current workers’ compensation system in a manner that combines equity and fairness to workers within a framework that is economically sustainable in the long term. The broadest coverage of workers is one of the hallmarks for such a fair and equitable scheme.

Deemed extension of coverage

As discussed in the National Policy, there are a range of employment relationships that do not fit easily within the primary coverage definition for workers’ compensation in terms of a contract of service. Some of these arrangements will be afforded coverage under the new Act, particularly taxi drivers who pay the owner of a taxi a fee for use of the vehicle under a contract of bailment as well as ministers of religion. The deemed employer would be responsible for the workers’ compensation premium payments. The extension of coverage to ministers of religion will be in an opt-in basis by the relevant religious denomination. The Regulations will provide for the recording of these opt-in procedures. [cf. R65 and Schedule 4 of the Workers Compensation Regulations 2016 (NSW)]

The second significant area of deemed extension of coverage of workers applies to people who are injured or become ill as a result of work while they are engaged in what are regarded as socially desirable, but voluntary (or nominally remunerated), activities such as volunteer fire fighters or disaster relief workers. Under the new Act this extension will apply to volunteers affiliated with organisations or bodies that are members of the Cook Islands Civil Society Organisation (CICSO) and to voluntary workers engaged by or working under the auspices of a Cook Islands Government Ministry or other Cook Islands Government Authority. . It is understood that some of the latter workers may not belong to organisations affiliated with CICSO. The Regulations will prescribe how these deemed extension of coverage provisions will operate. Particularly this will include the class and type of activities that are part of such coverage. [cf. R69 of the Return to Work Regulations 2015 (SA)]

# Injury Notification

All workers’ compensation schemes struggle with under-reporting of work injuries and illnesses, but this is a particular problem in the Cook Islands with cultural barriers to reporting workplace injuries, particularly where the employer is a relative of the injured worker. Similarly, many Cook Islands workers are not aware of the existence of workers’ compensation or do not know how to lodge a claim. To address this, the new Workers’ Compensation Act will require an employer to display a notice providing summary information that can assist a worker in making a claim when they may have suffered a work-related injury or illness in their workplace, in a place readily accessible at all reasonable times to workers employed at the workplace.

The Regulations will provide the precise details of what will be necessary to have detailed in this notice. It will allow an easy updating of these details over time when there are changes to the scheme. The minimum requirements will be:

* The need to seek appropriate medical treatment for a work-related injury or illness;
* The need to give notice of an injury or illness within 30 days of it occurring or of the worker becoming aware of it;
* The need to complete a workers’ compensation claim form as soon as possible and to hand it to their employer and to be given a receipt of having made the claim;
* In the case of an injury or illness that results in time off work, the need for a certificate of capacity from a medical practitioner;
* A summary of the benefits available under the Workers Compensation Act;
* A summary of the dispute resolution arrangements in the case of a claim being declined and the processes to access such arrangements;
* The name, address and contact details for the insurer.

The new Act will require that notice of an injury must be given within 30 days after the person becomes aware of the injury. Notice of an injury will be deemed to have been given if the particulars of the injury or illness are entered into the Register of Injuries and Illnesses. This Register is similar to the Register of Accidents that will be required under the new WHS Act. For simplicity and lack of confusion it will be provided that this Register of Accidents will also serve the purpose of the Register of Injuries and Illnesses.

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# Claims Determination and Management

Quality claims determination is an essential element of any well-performing workers’ compensation scheme. This requires the combination of many elements including tight, but achievable, time frames for the chain of actions that are required so that workers who have made a compensation claim are not left in limbo and can be paid their proper entitlements in a timely fashion. For this to happen requires that as much as possible of the necessary information for being able to make a speedy determination of a claim is available to the claims determiner as early as possible. Consequently, a clear but comprehensive data and information capture through the claims form is crucially important.

The Regulations will set out the requirements of the claim form, particularly the information that needs to be provided by workers and employers, as well as the additional input from the insurer. The information from the worker will include:

* Personal information (full name, date of birth, gender);
* Address and contact information (including email address and phone number/s);
* Preferred language (if not English) and if an interpreter is required;
* Occupation and main tasks performed;
* Day, date and time that the injury event occurred;
* Where was the worker working;
* Description of what occurred;
* Nature of the injury/illness and parts of the body affected;
* When medical attention was first sought;
* To whom was the occurrence reported and when;
* Any reason for delayed reporting;
* Name of witnesses to the occurrence;
* Signature and date of signing of claim form.

The information from the employer will include:

* Name of business and trading or other name (if different);
* Address and full contact details for the business;
* Contact name and full contact details of the person at the business who will be dealing with the claim;
* Major activities of the workplace;
* Date that the employer received the completed claim form from the worker;
* Date that the employer sent the claim form to the insurer.

The information to be added by the insurer to include:

* Employer policy number;
* Claim Number;
* Employer ANZIC code.