



Cook Islands Occupational Safety and Health National Reform

Final Draft National Overarching Policy for OSH and Workers' Compensation

11 January 2019

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Preamble

Purpose	This overarching policy sets out the Government of the Cook Islands' framework for Occupational Safety and Health (OSH), Workers Compensation (WC) and Employers Liability Insurance (ELI) Policies.
Commitment	<p>The Government of the Cook Islands is committed to providing clear policies and regulatory frameworks for OSH, WC and ELI that:</p> <ol style="list-style-type: none">1. support public and private employers to provide safe and healthy workplaces; and2. ensure a fair and sustainable system for compensating workers who are unable to work because of occupational injuries, diseases and fatalities.
Rationale	<p>The current legal and policy framework in the Cook Islands is not adequate to achieve relevant ILO standards or to support contemporary approaches for preventing and dealing with occupational ill-health (encompassing occupational diseases, injuries and fatalities). It does not meet the Cook Islands' need for clear and relevant legal standards that can guide effective action by the government, employers, workers and other duty holders. The legal framework may also not meet the Cook Islands Government's duty to protect life under international human rights laws and conventions. Furthermore, with increasing levels of employment in higher risk industries such as construction, it is likely that the risks of occupational injuries and diseases will increase without effective and cooperative action by the Government, employers and workers. New policies for OSH, WC and ELI are clearly required.</p>
<i>The burden of occupational ill-health</i>	<p>The burden of occupational ill-health in the Cook Islands is not well-understood and is almost certainly much higher than currently recognised. Using the ILO estimate of the cost of poor OSH practices as 4 per cent of Gross Domestic Product each year, the Cook Islands loses over \$NZ16.5 million each year as a result of occupational injuries, diseases and fatalities. This is more than the budget allocation for the Ministry of Health in the Cook Islands' 2017/18 budget (\$16.3 million). Other costs include temporary replacement costs, staff turnover, equipment damage, expenses associated with domestic support for injured workers, and productivity reductions. Lessening this financial burden on the Cook Islands' economy is a worthwhile investment.</p> <p>As well as financial costs, poor OSH results in social costs. Many of these social costs cannot be quantified in dollar terms, but increase the burden on families, communities and the social safety net. In a culture like the Cook Islands, with a strong family focus and close community links, these social costs are likely to be distributed widely across the society. Intangible costs are also borne by employers: unsafe workplaces are usually less harmonious as well and frequent cases of occupational ill-health result in poorer working relationships and thus less discretionary effort from a workforce.</p>

While the scale of the burden of occupational ill-health in the Cook Islands cannot be reliably quantified, improving the OSH and workers' compensation system in the Cook Islands will definitely reduce it.

Approach

Our values

OSH, WC and ELI mean looking after people at work – making sure that work does not cause harm to people and supporting them if harm occurs. This is part of the Cook Islands’ culture and expresses our values. Our greeting of Kia Orana means “may you live long”; “may you have a long and fulfilling life”. OSH, WC and ELI express this aim in Cook Islands’ workplaces.

By raising the standards of OSH, WC and ELI in the Cook Islands through better laws, the Government of the Cook Islands will support Cook Islands’ workplaces to operate on the basis of our cultural values.

Meitaki

Meitaki means that here everything is good and well and describes a feeling of wellbeing.

Workplaces that provide a safe and healthy working environment support Meitaki.

Ututuanga

Ututuanga means to care for, cherish or nourish other people and signifies sharing.

Looking after workers who have been injured and a cooperative approach to OSH, with Government, workers and employers working together to build safe and healthy working environments, demonstrates Ututuanga.

Pirianga Taeake

Pirianga Taeake means to have a relationship built on genuine friendliness.

This value guides us to treat others as members of our own family and to make decisions about our work as if it was our own children who would suffer the consequences of bad decisions.

Tiaki Meitaki

Tiaki Meitaki means acting as a virtuous host who is responsible for the well-being and safety of those in your care.

Taking action to look after injured workers and to ensure that workplace risks are prevented and controlled shows Tiaki Meitaki.

Matenga

Matenga means passion for what we do and our roles in workplaces.

Commitment from employers, workers and the Government of the Cook Islands to making sure workplaces are healthy and safe expresses Matenga.

Tupuranga Tangata

Tupuranga Tangata means to grow and develop our people.

Workplaces that make sure everyone has the skills and resources they need to make the workplace safe and healthy show Tupuranga Tangata.

The National OSH and WC policies set out how the Government of the Cook Islands will support Cook Islands' workplaces to operate according to these values.

Principles

The National OSH and WC policies are based on the following principles:

1. **Fairness.** The policies aim for greater equity in sharing the costs of occupational ill-health.
2. **Comprehensiveness.** All workers and enterprises should have the benefit of improved OSH and WC legislation and all relevant OSH risks (including physical and psychosocial) must be addressed.
3. **Prevention.** The policies focus on how to prevent occupational ill-health, not just treat and compensate.
4. **Sustainability.** The legislative system must be able to fund the required entitlements without damaging the Cook Islands' economy.

Independent Labour Tribunal

The Cook Islands Government will establish an independent Labour Tribunal (ILT) to deal with employment-related disagreements across a range of inspectorate functions. In particular, it will deal with the range of OSH, WC and ELI matters.

The terms of reference and staffing of this tribunal will be defined in the Employment Relations Act.

Purpose

The purpose of the ILT will be to consider and determine disputes about Labour Relations issues, including OSH, WC, ELI and enforcement functions, to support efficient and effective functioning of the law.

Principles

The ILT will operate in accordance with the following principles:

- Independence;
- Natural justice;
- Consistency;
- Fairness;
- Transparency and accountability;
- Accessibility and low cost; and
- Flexibility.

Membership

The ILT will have a minimum of three (3) members. Membership of the ILT will be part-time appointments. The President of the ILT will be legally qualified with good standing and relevant experience, appointed by the Minister for Internal Affairs. There will be one member nominated by the employer representatives on the National Labour Advisory Board (NLAB) and one member nominated by the worker representatives on the NLAB. Membership of the ILT may be expanded, but will always represent the tripartite partners and the diversity of Cook Islands' workplaces. All members must be people with relevant experience, capable of contributing to the ILT's role and functions.

Dealing with conflicts of interest

Given the particular circumstances of the Cook Islands, a robust approach to dealing with potential conflicts of interest will be established. This will require a member with a personal or pecuniary interest in any matter under consideration to declare that interest and withdraw if required by the President of the ILT or requested by any party to the dispute.

Functions

The functions of the ILT in relation to OSH, WC and ELI will be specified in the two Acts.

Powers of the ILT

The ILT will have the power to affirm, vary or set aside decisions made by INTAFF, based on evidence provided by the parties to the disagreement. The ILT will have the right to obtain expert advice where necessary to inform its decisions. ILT decisions will be open to review

by the Supreme Court of the Cook Islands if any party seeks such review. The President and one other member will constitute a quorum for exercising the ILT's powers.

Secretariat

The Labour and Consumer Division of INTAFF will provide a secretariat for the ILT.

Resourcing

The economic and social costs of poor OSH have been hidden until now because of the inadequate legal framework. As a result, these costs have been borne by the Cook Islands' community. With more accurate data available as a result of implementing this policy, the Government of the Cook Islands will establish a more equitable and realistic model for resourcing effective OSH and WC regulatory regimes. This will include using income from the workers compensation fund to support strategies that will improve OSH performance and therefore reduce fund liabilities. The costs of the effective operation of the OSH, WC and ELI system, such as the Secretariat for the ILT, will be met from the workers' compensation fund.

Reporting and review

The Government of the Cook Islands is committed to achieving transparency and accountability about OSH and WC governance. To this end, INTAFF will produce annual reports on measures taken to implement the National OSH and WC Policies, the activities it undertakes in fulfilling its role and on the results of these activities each year. This will include NLAB's annual report on its activities in relation to OSH, WC and ELI.

In addition, INTAFF will produce an annual report that provides statistics about occupational ill-health in coordination with the Ministry of Health. This report will cover occupational accidents, occupational diseases, fatalities and other injuries to health which arise in the course of or in connection with work.

The Government of the Cook Islands is committed to undertaking regular reviews of OSH and WC governance. Every five years, the legislative framework for OSH, WC and ELI will be reviewed. At the first five year review, a wider review of OSH governance more broadly will be undertaken alongside this legislative review to identify any major or emerging OSH problems, ensure that the current strategies and priorities are the most effective methods for dealing with them, and evaluate results from this OSH National Reform Project.