

Workers Compensation Policy



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We would like to make sure You are aware of all Your entitlements under this policy, so please read the document carefully. After You have read it, please contact Our Office if You would like further information.

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Introduction and agreement

We agree to provide the cover set out in this policy during the period of cover provided You have paid the premium and subject to the policy's terms, limits, conditions and exceptions.

Your insurance contract consists of three parts:

1. this printed policy document;
2. the personalised schedule, with details of the cover which applies to You. (The policy schedule is updated from time to time as changes are made to Your cover. Any changes to the standard cover in this policy will be noted on the schedule or other specification); and
3. the proposal or application form or brokers submission

Definitions

Definitions explain words frequently used in the policy. Defined words are shown in **bold style** paragraphs 1 to 27

1. **The Company, Insurer, Dominion, We, Us or Our** means Dominion Insurance (Tonga) Limited.
2. **The Insured, You or Your** means the insured named in the schedule.
3. **Reserved**
4. **Period of cover** means the "period" or "period of insurance" specified in the schedule.
5. **Schedule** is the latest current policy schedule, expiry notice or insurance renewal issued to You.
6. **Other specification** is the amended or additional terms and clauses agreed to by Us and confirmed in writing.
7. **Premium** is the consideration for this contract. This may mean the first premium or any subsequent renewal or endorsement premium and includes any government levies and charges.
8. **Tongan Dollar** is the currency in which this policy is issued.
9. **Sub Limit** means the maximum amount that can be claimed in respect to any loss to which the sub limit refers irrespective of the total sum insured.

10. **Deductible or Excess** is the first amount of any claim that You must pay. You must contribute the amounts shown in the policy and/or schedule under the heading “deductible and or excesses” as the first amount of any claim. It is the amount which will be deducted from the adjusted loss (net of salvage and other recoveries) in respect to each loss/each location arising out of any one event.
11. **Riot** is an act of a group of at least 12 (twelve) persons, who in the execution of their common purpose cause public disturbance tumultuously with violence and damage to the property of others, not amounting to a Civil Commotion.
12. **Strikes** is a deliberate act of damage, by a group of workers of at least 12(twelve) persons or one half of the entire workforce (if the number of workers is less than 24 persons), refusing to work as usual in an attempt to force the employer to accept their demands or to protest against any terms of employment enforced by the employer.
13. **Locked-out Workers** is a deliberate act of damage, by a group of workers of at least 12 (twelve) persons or one half of the entire workforce (if the total number of workforce is less than twenty-four persons), to protest against the termination or suspension of a fellow employee by the employer.
14. **Malicious Acts** is an act of any person (s) deliberately causing damage to the property of others driven by vengeance, hatred, anger or vandalistic intentions, except such acts done by the employee(s) of Yours, or any person(s) on behalf of You, or by person (s) entrusted by You to maintain or keep such property, or by thieves or robbers.
15. **Civil Commotion** is an act of a large number of people acting together disrupting public peace and disturbance tumultuously with violence and a chain of destruction of a large number of properties, indicated by the cessation of more than one half of the normal activity of commercial/shopping or business areas or schools or public transportation in one city or town for at least 12 (twelve) hours consecutively commencing immediately before, during or after the event.
16. **Insurrection/Popular Rising** is an uprising of a majority of the people in the capital city of the country, or in three or more of the towns in the country within 12 (twelve) days, demanding a change in the government de jure or de facto, or open resistance against the government de jure or de facto, not amounting to a rebellion
17. **Usurped Power** is a situation where the established order has been overthrown and replaced by some illegal authority which is in a position to lay down rules of conduct and also ensure that the rules are obeyed.
18. **Revolution** is an uprising of the people with force to make a radical change to the current public administration system of the country or to overthrow the established government de jure or de facto, not amounting to a Rebellion.
19. **Rebellion** is a state of organised resistance against the established authority with the object of supplanting or overthrowing it with force using firearms which threatens the existence of such authority.
20. **Military Rising** is an act by a group of home or foreign armed forces personnel consisting of at least 30 (thirty) persons using force with the intention to overthrow the established authority or to cause public disorder and disturbance.
21. **Invasion** is an act by the military power of one country to penetrate or invade the territory of another with the object of permanently or temporarily occupying and taking control over such territory.
22. **Civil War** is an armed conflict between regions or political factions within the territorial limits of a country with the object of gaining legitimate power.
23. **War and Hostilities** is a widespread armed conflict (whether or not war has been declared) or a warlike situation between two or more countries, including military exercises of a country or joint-military exercises between countries.
24. **Subversive Acts** is an act by any person on behalf of or in connection with any organisation with activities directed towards the overthrow by force of the government de jure or de facto, or to the influencing of it by terrorism or sabotage or violence.
25. **Terrorism** is an act by any person using force to create public fear in an attempt to achieve a goal that according to public opinion has a political background.
26. **Sabotage** is a destructive act against property or the obstruction of work process or causing the reduction in value of work, by any person in an attempt to achieve a goal that according to public opinion has a political background.
27. **Looting** is the appropriation of property belonging to another by any person (excluding those employed by or under Your control, with the intention of permanently depriving the other of it.

What You are insured for

You will be indemnified by payment by Us if during the period of insurance:

1. any workman employed by You shall sustain any personal injury or illness by accident or disease and You shall be liable to pay compensation for such injury or illness under the Workmen's Compensation Act, or any amendments thereof in force at the commencement of this policy or any renewal date;
2. in addition, We will be responsible for all costs and expenses incurred with Our written consent in connection with any claim for such compensation.

Subject always to the terms and conditions of this policy.

Excluded perils and events

1. It shall be a condition precedent to Your right to indemnity under this policy that You prove to Our satisfaction that the circumstances claimed for did not arise directly or indirectly from, was not related in any way to, and was not contributed to in any way by:
 - 1.1 The period of any temporary incapacity (weekly benefits) as specified in the policy schedule.
 - 1.2 Any Liability for Injury or Disease caused by or arising from:
 - 1.2.1 War, invasion, act of foreign enemy, hostilities or warlike operations (whether war be declared or not) civil war, mutiny, civil commotion assuming the proportions of or amounting to a popular uprising, military rising, rebellion, revolution, insurrection, terrorism, military or usurped power;
 - 1.2.2 Nuclear weapons material or ionising radiation or contamination by radioactivity from any nuclear waste or from the combustion of nuclear fuel;
 - 1.2.3 Confiscation, nationalisation or requisition by order of the Government or Local Authority;
 - 1.2.4 Riot, malicious acts, civil commotion, strikes or locked-out workers, persons taking part in labour disturbances or any activities in connection therewith;
 - 1.2.5 Civil war, insurrection, popular rising, rebellion, revolution, terrorism, sabotage, subversive acts, any action of any political or vigilante group, military rising, military or usurped power, invasion, war and hostilities, any action of military, police, security, or other authorities or instrumentality whether governmental or not, including any loss damage or liability directly or indirectly resulting from any of the above;
 - 1.2.6 Looting, sacking and/or pillaging;
 - 1.2.7 Permanent or temporary dispossession resulting from confiscation, commandeering, requisition by any lawfully constituted authority or body, or unlawful occupation by any person.
 - 1.3 Any unscheduled aerial flight or attempt at aerial flight.
 - 1.4 Any process, treatment, conveyance, storage or handling of asbestos or materials containing asbestos.
 - 1.5 Employment on any offshore oil or gas rig.
 - 1.6 Underground activities
 - 1.7 Underwater activities
 - 1.8 Any consequential loss of any kind

Extensions only apply if stated in the schedule and You have paid an additional premium

1. **Common law liability cover**
 - 1.1 Where this extension has been specified in the policy schedule and an additional premium paid by You the policy is extended to indemnify You for:
 - 1.2 All sums which you may become legally liable to pay by way of damages at Common Law in consequence of Injury or Disease happening to any Employee during the period of Insurance. ("Injury" and "Disease" shall have the same meaning as in the Workmen's Compensation Act or any amendment to or replacement of that Ordinance)
 - 1.1 All costs of litigation and other expenses recovered by any claimant against you and all costs of litigation and other expenses incurred by Us or with Our consent in respect of any claim or action alleging Injury or Disease to which the indemnity in this extension applies.
2. Provided that-
 - 2.1 The liability under this extension in respect of all Injury or Disease happening to any one Employee (or more than one employee where the injury or disease arises out of one accident or event) during the period of Insurance shall not exceed the Limit of Liability as specified in the policy schedule.

Deductibles and sub-limits

In the event of any claim made under this policy the final adjusted loss shall be subject to the deductibles and sub limits to any one item/column as specified in the policy schedule.

Conditions

1. Inspection

- 1.1 We shall have the right and opportunity at all reasonable times to inspect the plant, works, machinery, and appliances used in Your business.

2. Wages record

- 2.1 The name and earnings of every workman employed by You shall be entered regularly in a proper Wages Book, so that a record may exist of such workmen as are entitled to call upon You for Compensation and this wages book must be available for inspection at any reasonable time by Us.

3. Fraud

- 3.1 This policy is void in case of fraud by You at any time as it relates to this policy. It is also void if You or any other insured, at any time, intentionally conceal or misrepresent a material fact or circumstance concerning:
- 3.1.1 This policy
 - 3.1.2 The Property Insured
 - 3.1.3 Your interest in the Property Insured; or
 - 3.1.4 A claim under this policy including the value of any property lost or damaged.

4. Precautions

- 4.1 You shall take all reasonable precautions to prevent accidents and must comply with all statutory obligations relating to employee safety and occupational health.

5. Claims

Upon becoming aware of any circumstance, occurrence giving rise to loss, damage or personal injury or likely to give rise, to a claim under this Policy:

5.1 You must:

- 5.1.1 take prompt steps to minimise the claim;
- 5.1.2 take all reasonable steps to prevent further loss, damage or personal injury;
- 5.1.3 immediately notify Us;
- 5.1.4 inform the police if any theft burglary, arson or malicious damage if any other criminal act has occurred or is suspected;
- 5.1.5 immediately send to Us any legal process issued or commenced against You, and give all assistance to enable the claim to be settled or resisted.
- 5.1.6 at Your expense, provide Us with any reasonably required proof and information in respect of the claim;
- 5.1.7 allow Us to enter any premises where loss or damage has occurred and take and keep possession of the property and deal with salvage in a reasonable manner;
- 5.1.8 allow Us to take proceedings in Your name to obtain relief from any third party and undertake the conduct, control or compromised of any such proceedings.

5.2 You must not:

- 5.2.1 prejudice Our ability to settle the claim;
- 5.2.2 act in any way to the detriment or prejudice Our interest;
- 5.2.3 dispose of or abandon any Property for which You intend to make a claim;
- 5.2.4 start any repairs without Our permission unless it is necessary to prevent further loss;
- 5.2.5 without Our the written consent;
 - a. incur any expense of litigation.
 - b. repudiate liability, negotiate or make any admission, offer, promise or payment.

5.3 You must then:

- 5.3.1 within 14 days submit in writing full particulars of the claim in such a form or manner as may be reasonably required by Us so that any claim is not prejudiced;
- 5.3.2 give Us free access to examine and assess any loss or damage;
- 5.3.3 provide any other information or assistance We reasonably request in relation to Your claim;
- 5.3.4 co-operate with the necessary investigations and provide all necessary information and submit all particulars in order to enable Us to expedite the claim;

- 5.3.5 forward any letters of demand or court documents to Us immediately;
- 5.3.6 if We request it, provide a statutory declaration to verify the Loss;
- 5.3.7 if We request it, attend interviews with any person We nominate;
- 5.3.8 be responsible for the payment of the Deductible to Us or to the repairer unless We are deducting it from any claim settlement to You.

Your compliance with the terms and conditions of this Policy, and the truth of any statements made to Us (whether made by You or not), are conditions precedent to any liability for Us to provide any indemnity under this Policy.

6. Other Insurance

- 6.1 If at the time of any loss, damage or liability there shall be any other insurance covering such loss, damage or liability or any part thereof, We shall be liable only for the amount of loss not covered by such other insurance.

7. Cancellation and Variations

- 7.1 You may cancel this policy at any time in which case We will refund 75% of the unused basic and burglary premium. No refund will be given in respect of any cyclone premium.
- 7.2 We may cancel this policy or amend the terms, exclusions and limitations after 4.00pm on the 14th day following dispatch or written notice to Your last known address. You shall be entitled to a return of premium proportionate to the unexpired period of the cancelled policy.

8. Jurisdiction

- 8.1 Notwithstanding anything contained in this policy to the contrary the indemnity provided herein shall not be apply to:
- 8.2 Any matter where an action for damages is brought in a court of law outside Tonga and not subject to Tongan law or where an action is brought in Tonga to enforce a foreign judgement whether by way of reciprocal agreement or otherwise.
- 8.3 Costs and expenses of litigation which are not incurred within Tonga.

9. Suit or Legal Action

- 9.1 No suit or legal action on this policy for the recovery of any claim shall be sustainable in any court of law unless all the requirements of this policy shall have been complied with, and unless commenced within twelve months after the date of the loss.

10. Proposal

- 10.1 The truth of the statements and answers in the proposal form or any other written submission provided by You or on Your behalf prior to the original inception date or each subsequent renewal date shall be a condition precedent to any liability of Us to make any payment under this Policy.

11. Policy Amendment

- 11.1 Any amendment to the terms and conditions of this policy must be evidenced by written confirmation signed by Us.

12. Debt offset

- 12.1 Any claim payment payable under this policy may be used to settle any other premium or other debt owed by You to Us.

13. Premium Payment

- 13.1 Unless We have agreed to accept payment of the premium by instalments Your policy will become null and void if the premium is not paid in full to Us before the original inception date or any subsequent renewal date
- 13.2 Where We have agreed to accept payment of the premium by instalments:
 - 13.2.1 We reserve the right in the event of a claim being made to require immediate payment of the balance of any annual premium; and
 - 13.2.2 all benefits under this policy will be forfeited if any instalments remains unpaid.