

## **Quick Guide To Workers' Compensation & Employer's Liability Insurance**

### **How Does Liability Arise?**

An injured employee will have two courses of action available if they are injured at work.

### **Workers' Compensation Act**

The Employer is liable to all employees for injury arising from accidents occurring at work. Negligence does not need to be proved. The following are not considered workers' under the Act:

- Under 16's
- Casual Workers (works from 'time to time' with one or more employer but does not seek Employment contract rights)
- Part-Time employees (less than 15 hours per week)
- Temporary Employees (works from 'time to time' with one or more employers but does not seek Employment contract rights)\*
- Students
- Voluntary Workers

\* Cover can be provided where you specifically require

*The definitions are as per the Employment Act 2000*

### **Common Law (Tort)**

If the Employer is negligent, the employee could choose to pursue the matter through the courts. There is no guarantee of success but the damages can be significantly higher than under the Workmen's Compensation Act.

### **Workmen's Compensation Act**

#### **How much compensation could be payable under the Workmen's Compensation Act?**

##### **Death**

- Actual Earnings in 3 years prior to incident } whichever
- or } is the
- 3 year Average Annual Earning in national statistics (currently c. \$155,000) } less

##### **Permanent Total Incapacity**

- Actual Earnings in 4 years prior to incident } whichever
- or } is the
- 4 year Average Annual Earning in national statistics (currently c. \$210,000) } less

##### **Permanent Partial Incapacity**

- Percentage of Permanent Total Incapacity based on a scale of injuries

### **Temporary Incapacity**

Compensation is based on the difference between salary prior to injury and earnings capacity immediately after the injury. Earnings capacity could relate to a less strenuous job e.g. a labourer could be re-employed as a shop cashier:

- Loss of Earnings compensation for up to 8 years
- Half the shortfall in earnings
- Maximum \$170 per week

### **Medical Aid**

Compensation under the Act provides for:

- Hospital Bed Board & Medical Services at public ward rate up to 56 days
- Emergency Treatment Expenses
- Surgical & Anesthetists Fees at King Edward VII Memorial Hospital rates
- Medical, Nursing and Ambulance charges up to \$1,000
- Artificial Limbs and Appliances up to \$2,000
- Reasonable transport costs up to \$250

Please note any amounts recoverable under the Act are commonly excluded under a Health Insurance policy

### **Compulsory Insurance**

The following occupations must be Insured under the Act

- Port Operations
- Road Haulage Contractors
- Building & Other Civil Engineering Contractors
- BELCO (power plants, workshops & outside work)
- TELCO (exchanges, workshops & outside work)
- Diving & Quarrying Operations ..

### **Employer's Liability Insurance**

This is provided free with Workers' Compensation cover up to a limit of \$5m

### **Exclusions**

- Contractual Liability which would not otherwise attach
- Any sum the Insured could have recovered but for an agreement
- Non-workers under the Act (see page 1)
- Employees of Contractors
- War

**Appendix A**

**Definition of earnings**

includes :

salary, wages and any allowance in respect of increased cost of living paid to the workman by the employer and the value of any food, fuel or quarters supplied to the workman by the employer if as a result of the accident the workman is deprived of such food, fuel, or quarters; and any overtime payments or other special remuneration for work done whether by way of bonus or otherwise, if of constant character or for work habitually performed,

but shall not include

remuneration for intermittent overtime, or casual payments of a nonrecurrent nature, any ex gratia payment whether given by the employer or other person, or the value of a travelling allowance, or the value of any travelling concession or a contribution paid by the employer of a workman towards any pension or provident fund, or a sum paid to cover any special expenses entailed on him by the nature of his employment;

