

A guide to liability insurance



Picking the right type of insurance can be complex, especially when it comes to liability insurance, but it is not something you can afford to get wrong.

The EMA has joined forces with Carson Risk to design an overview of some of the more common types of liability insurance to help ensure you make the right decision for your business.

It is always a good idea to speak to an experienced broker and risk advisor before signing up for a policy and you should review your policy regularly so it reflects the changing risk portfolio of your business.

The list of policy options below is not exhaustive, but it provides a good start. If you have any concerns about what is right for you please contact us and we can guide you through it.

LIABILITY

Bailees Liability

Covers liability for damage to property held under bailment, or in your custody and/or control.

Directors & Officers Liability

Covers Directors & Officers against liability they might incur in carrying out the duties of a company director or officer. The insurance will also reimburse the company where it has already indemnified its directors for any such liability; cover includes associated defence costs.

Employers Liability

Covers the employer company's liability for injury to employees that falls outside the scope of ACC; cover includes associated defence costs.

Employment Disputes Liability

Covers damages and costs arising out of certain employment related disputes such as personal grievances, harassment and discrimination; cover includes associated defence costs.

Environmental Impairment

A special form of pollution liability insurance.

Exemplary Damages (Also called Punitive Damages)

Covers damages arising out of bodily injury in New Zealand, where the law otherwise prevents legal action for compensatory damages.

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| Extra Territorial Workers Compensation | Covers liabilities where employees are injured outside their normal country or state of employment and are not covered by the relevant statutory policy. |
| Forest & Rural Fires Act | For costs imposed by statutory authorities under legislation. |
| Legal Expenses | Covers legal expenses incurred in civil action. |
| Liability Consequential Loss | To partially cover loss of gross profit and increased costs arising from an event that also leads to a valid claim on a liability policy; this limited form of cover is only available where the liability insurance is provided by the same insurer. |
| Libel & Slander/Defamation | Covers legal liability arising out of defamatory remarks made in either written or oral form; cover includes associated defence costs. |
| Private Legal Aid | Covers individuals and their families for private legal aid costs for defending a variety of criminal, traffic & civil actions. |
| Product Guarantee | Covers liability for correcting defects in products or for replacing defective products. |
| Product Liability | Covers liability arising from damage to products supplied; cover includes associated defence costs. |
| Product Recall | Covers liability for the cost of recalling products, which are defective or suspected of being defective. |
| Professional Indemnity &/or Errors & Omissions | Covers legal liability incurred by giving negligent advice or through a breach of professional duty; cover includes associated defence costs. |
| Prospectus Liability | Covers the company, its directors and senior executives for liabilities arising from the issue of a prospectus, information memorandum or other sale/purchase documents. This liability is generally excluded from Directors & Officers Liability policies unless they are specifically extended to include it. Cover includes associated defence costs. |
| Public Liability (also known as General Liability or Broadform Liability) | Covers general liability for damage or injury happening in connection with the business; cover includes associated defence costs. |
| Statutory Liability | Covers fines or penalties imposed for unintentional breaches of certain statutes; cover includes associated costs. |
| Trustees Indemnity | Covers trustees for personal liability arising from a breach of their fiduciary duties and to reimburse the trust when it has provided an indemnity to the trustees; cover includes associated defence costs. |
| Warranties & Representations Liability | Covers liability arising from specific representations or warranties made in an agreement between parties; particularly relevant in the sale and purchase of businesses. |

Why you need liability insurance - case studies

Employment Practices Liability - Wrongful Termination

The Operations Manager of a Not for Profit organisation filed a suit against his employer for wrongful termination and intentional infliction of emotional distress. The Operations Manager made statements that the charity failed to pay another employee overtime and terminated him for filing a complaint. The Operations Manager, who was subsequently dismissed, alleged that although the charity advised him that his termination was due to performance problems, he was actually terminated in retaliation for the honest statements he made in connection with a fellow employee's termination. Total defence costs and settlement exceeded \$100,000. Costs (minus the policy excess) were covered by insurance.

Directors & Officers Liability - Breach of health and safety regulations

A construction company suffered a near miss when a huge pane of glass fell from the fifth floor of a redevelopment project onto the pavement. Miraculously, no one was injured, but Worksafe made a site visit the following day. This revealed a number of legislative breaches. A variety of actions were subsequently brought against the directors resulting in costs of \$45,000. Costs (minus the policy excess) were covered by insurance.

For further information about liability insurance or the requirements for your business, please contact **Craig Graves at Carson Risk** - craig@carsonrisk.co.nz / 021 241 4881 or call **EMA's AdviceLine on 0800 300 362**.



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