

INTRODUCTION

Introducing NZI Pro Select, a comprehensive and cost-effective insurance solution tailored to meet the liability needs of business owners and the self-employed in one simple, convenient and integrated policy.

A significant number of our clients run their own businesses or work for themselves. Litigation has become increasingly common in today's commercial environment. As a result, we've observed a critical need for a comprehensive liability insurance product that's suited to business owners and the self-employed.

Every business and self-employed person needs good liability cover. No matter the size of their operation, employers and business owners face legal liability risks with the potential to cause great financial hardship, or even the demise of their business.

NZI has been insuring New Zealanders and the New Zealand business community for more than 150 years. Our reputation for great service, comprehensive products and an outstanding claims experience is built on the back of this history.

Our new **NZI Pro Select** comprehensive liability policy provides affordable liability cover for most businesses and self-employed people.

Welcome to NZI Pro Select

Exclusive to our Professional Risks team, **NZI Pro Select** combines up to 10 essential products in one convenient policy. It's a cost-effective way to secure protection for a range of exposures most commonly faced by businesses in New Zealand today.

Including either Directors and Officers or Professional Indemnity, your client must select a minimum of five of the following products:

- ▶ **PROFESSIONAL INDEMNITY – COSTS IN ADDITION**
- ▶ **DIRECTORS AND OFFICERS LIABILITY – COSTS IN ADDITION**
- ▶ **BROADFORM LIABILITY**
- ▶ **STATUTORY LIABILITY – COSTS IN ADDITION**
- ▶ **EMPLOYERS LIABILITY – COSTS IN ADDITION**
- ▶ **EMPLOYMENT PRACTICES LIABILITY**
- ▶ **FIDELITY**
- ▶ **INTERNET LIABILITY**
- ▶ **WORKPLACE DEFENCE COSTS**
- ▶ **LIABILITY CONSEQUENTIAL LOSS.**

Your client can then choose to have separate sums insured for each product or to aggregate them across all products for a more cost-effective solution.

On the following pages you'll find a short description of each product, together with case study examples of the type of risk it protects your client against.

Talk to your NZI underwriter today to see if **NZI Pro Select** is right for your client.

PROFESSIONAL INDEMNITY – COSTS IN ADDITION

WHO IS A PROFESSIONAL?

A professional is anyone who gives another person advice and/or services of a skilful character according to an established discipline. The definition extends beyond those in traditional professions, such as accountants and lawyers, to a wide range of people in business, including computer consultants, counsellors, veterinary surgeons, advertising agents, and employment and training consultants.

WHAT IS PROFESSIONAL INDEMNITY INSURANCE?

This insurance covers the business for its legal liability for errors in the conduct of its professional services defined in the policy schedule. A separate legal liability sum insured must be specified. If the legal liability is covered, the insurance also covers the defence costs of what can be a time-consuming, expensive and damaging lawsuit. A separate sum insured must be specified for defence costs. The insurance is structured to protect this sum insured so that defence costs remain available even when the potential legal liability exceeds the legal liability sum insured.

The insurance also covers the legal liability of the principals, employees and consultants of the business for errors while conducting the same professional services.

This insurance helps your client to keep its business going by protecting the business's financial position when it is facing an allegation that it is legally liable to others.

In brief, our Professional Indemnity insurance covers:

- ▶ the business's legal liability for acts, errors or omissions in the conduct of its professional services defined in the policy schedule
- ▶ the legal costs and expenses of investigating and defending covered claims against you (note: the sum insured for these defence costs is separate from and additional to the sum insured for legal liability)
- ▶ defamation (libel and slander) claims
- ▶ the loss of or damage to documents owned by someone else that are in your safekeeping
- ▶ unintentional infringements of patents, copyrights, designs or trademarks
- ▶ breaches of the Fair Trading Act 1986
- ▶ up to \$100,000 towards your legal costs and expenses for disciplinary proceedings or inquiries
- ▶ damages that a court rules you must pay, or that you must pay through a negotiated settlement (up to the amount you're insured for)
- ▶ acts, errors or omissions made anywhere in the world (as long as the claim is first brought in a New Zealand court or in a court in a jurisdiction specified in the schedule).

CLAIMS EXAMPLES

INCORRECT ADVICE

An employee of Company A seeks advice from an employee of Company B on the appropriate lubricating fluids to use in Company A's mechanical press. Company A relies on Company B's advice, but the lubricating fluid recommended is the wrong type and the press suffers mechanical damage. Company B is held liable to Company A for the cost of repair, which Company B claims against its Professional Indemnity policy.

LOSS OF DOCUMENTS

An architect agrees by contract to release the sole copyright/ownership of his drawings of a multi-storey office block to a builder. In the meantime, the drawings are to stay in his possession until the building's completed. Unfortunately a fire at the architect's office means most of the drawings are lost, which leads to lengthy delays in construction. The builder argues he's suffered a direct financial loss from the destruction of his documents. He sues the architect, who claims under the loss of documents extension of his Professional Indemnity policy.

Note: This cover is subject to a number of exclusions set out in the policy.

DIRECTORS AND OFFICERS LIABILITY – COSTS IN ADDITION

WHAT IS DIRECTORS AND OFFICERS LIABILITY INSURANCE?

This insurance covers the directors and officers of a company for their legal liability arising from wrongful acts committed by them in their capacity as directors or officers. If this legal liability is covered under the company's constitution, it reimburses the company for this cost. A separate legal liability sum insured must be specified. If the legal liability is covered, the insurance also covers the defence costs of what can be a time-consuming, expensive and damaging lawsuit. A separate sum insured must be specified for defence costs. The insurance is structured to protect this sum insured so that defence costs remain available even when the potential legal liability exceeds the legal liability sum insured.

WHY IS THIS INSURANCE SO IMPORTANT?

In today's business environment, company directors and officers face an increasing number of risks when managing their businesses.

These risks include:

- ▶ competitors alleging misleading and deceptive conduct by a director or officer
- ▶ shareholders alleging mismanagement of the company and/or its finances by a director or officer
- ▶ employees alleging practices by a director or officer such as discrimination, harassment, breaches of employment contract, defamation and wrongful disciplinary action
- ▶ regulators alleging breaches of legislative requirements by a director or officer.

As well as resulting in significant legal costs, allegations like these take up time, energy and other resources far better spent on running the business effectively.

CLAIMS EXAMPLES

SHAREHOLDER ACTION

The court grants leave for an action to be brought by a shareholder against the directors. The company is a highly profitable private company with 77.5 per cent of shares held by the founder and his son. The father's nephew holds the balance of the shares. The nephew claims \$650,000, arguing that excessive salaries have been paid to the father and son, leaving only a modest dividend for the shareholders. Issues of conflict also arise because the father and son also own the company that leases the premises from which they operate.

EMPLOYMENT PRACTICES LIABILITY (YOUR COVER)

A woman is employed as a receptionist. She tells her boss, a director of the company, when she becomes pregnant. Some weeks later she notices her boss interviewing job applicants. After several days sick leave, she returns to work to find one of the job applicants working at her desk. She's dismissed by the director with no warning, no holiday pay, and no notice or severance pay. She doesn't even receive her wages for the previous week. The Complaints Review Tribunal considers that she has lost her job and been treated unfairly because she was pregnant. She's awarded \$10,000 in damages, \$5,000 of which is to be paid by the director.

FALSE AND MISLEADING STATEMENTS

Company A and Company B both sell tyres. Unfortunately, one of Company A's salespeople makes a false and misleading statement to a number of trucking companies when comparing his company's product with Company B's counterpart. After Company A goes into liquidation, Company B sues the salesman personally, alleging a breach of the Fair Trading Act and negligent misstatement, and seeks compensation for the sales it has lost.

Note: This cover is subject to a number of exclusions set out in the policy.

BROADFORM LIABILITY

WHAT IS BROADFORM LIABILITY INSURANCE?

This insurance covers a business for its legal liability arising from its activities or products causing damage or injury to others. In addition to meeting court judgments or out of court settlements, it also covers legal costs and expenses of investigating and defending covered claims.

WHAT DOES IT COVER?

The main covers include but are not limited to:

- ▶ Public and products liability*
- ▶ Bailee's liability
- ▶ Forest and Rural Fires Act
- ▶ Goods on hook
- ▶ Innkeeper's/Landlord's/Tenant's liability
- ▶ Keys cover
- ▶ Motor and watercraft repair and storage
- ▶ North American business travel
- ▶ Product withdrawal costs (New Zealand)
- ▶ Underground services
- ▶ Vibration and removal of support
- ▶ Warrant of fitness.

* Products liability covers legal liability for resultant damage only.

CLAIMS EXAMPLES

PUBLIC LIABILITY

An electrician is contracted to replace light fittings in a large screen printing factory. He makes an error when installing one of the fittings, which leads to a fire one week later. The fire causes extensive damage to the building and some machinery, resulting in the factory needing to close for two months. The electrician is sued for the costs of the resultant damage to the factory (\$250,000), the machinery (\$60,000), and lost income of the screen printing company during the two months it's required to close (\$300,000). This policy provides indemnity for the electrician's legal liability (\$610,000) and any associated defence costs.

WARRANT OF FITNESS

A local mechanic's workshop issues a warrant of fitness on a vehicle brought in by a potential buyer to make sure it is up to WOF standard prior to purchase. The vehicle passes its inspection and the vehicle is sold. The new owner is subsequently involved in a collision when the car's front wheels lock up in an emergency braking situation. As a result, the driver loses control and the car crashes into another vehicle. Subsequent inspection shows the mechanic's workshop failed to adequately check the brakes in the front wheels and these faulty brakes were the main factor in the collision. The cost to repair both vehicles was covered by the mechanic's Broadform Liability policy up to the sublimit of \$100,000.

VIBRATION, REMOVAL AND WEAKENING OF SUPPORT

An employee of the insured installs a pump to drain a swimming pool; the hose is extended over a bank to the rear of the property. The employee then proceeds to empty about 25,000 litres of water from the pool. The employee is alerted that an area of the bank below has been washed away. As the employee hasn't been monitoring the "wash" of the pump, the pressure and sluicing effect of the hose has caused 25sqm of the bank to subside onto the road below, also weakening the stability of land at a neighbouring property. The insured clears the road, but they're held liable for the costs of strengthening the support of the neighbouring land. This extension would provide cover up to the sublimit of \$500,000.

Note: This cover is subject to a number of exclusions set out in the policy.

STATUTORY LIABILITY – COSTS IN ADDITION

WHAT IS STATUTORY LIABILITY INSURANCE?

This insurance covers a business for fines, pecuniary penalties and reparation sentences imposed by a court or a tribunal arising from the accidental commission of an offence under most Acts of Parliament, including:

- ▶ Health and Safety in Employment Act 1992 (excluding fines, as required by law)
- ▶ Resource Management Act 1991
- ▶ Fair Trading Act 1986
- ▶ Consumer Guarantees Act 1993
- ▶ Hazardous Substances and New Organisms Act 1996
- ▶ Building Act 2004
- ▶ Commerce Act 1986 (for individual insured persons only).

It also covers a business for its legal liability to pay damages for a breach of the Privacy Act 1993 or the Human Rights Act 1993.

A separate sum insured must be specified for the above.

Statutory Liability also covers legal costs and expenses of investigating and defending covered claims. A separate sum insured must be specified for defence costs. The insurance is structured to protect this sum insured so that defence costs remain available even when the potential legal liability exceeds the legal liability sum insured.

CLAIMS EXAMPLES

HEALTH AND SAFETY

An employee of the insured is dismantling scaffolding erected at residential apartments. When climbing the scaffolding he reaches for a face brace that isn't fitted correctly and falls six metres onto the concrete below. The employee's injuries include the permanent loss of the use of his legs. The incident is investigated by Worksafe NZ for a breach of the Health and Safety in Employment Act 1992 and the Health and Safety in Employment Regulations 1995. Claim costs under the policy, including legal fees, equate to around \$65,000.

RESOURCE MANAGEMENT ACT

An employee of a scrap metal yard, which stores car bodies and carries out the cutting of scrap steel, is cutting in the designated area when he notices a fire has broken out where the car bodies are stored. It's believed a wind gust has carried a spark to the storage area, igniting spilt petrol or oil from under a stack of cars. There's a delay in the employee noticing the fire as he's concentrating on his work and wearing a welding mask and respirator. What he's cutting also generates a lot of smoke. When he notices the fire he calls the Fire Service immediately. However, the fire has been accelerated by the wind and spreads through the stack of cars to an adjoining forest. The Fire Service extinguishes the fire, but considerable smoke is generated during the time that's elapsed. Eight weeks after the event the insured is fined under the Resource Management Act for 'Discharging Contaminants to Air'. This policy covers the insured for the cost of their legal defence and any fine imposed on the insured.

FAIR TRADING ACT

A retailer is alleged to have inaccurately labelled some toys they imported. They're charged under the Fair Trading Act and taken to court. Because the inaccurate labelling is accidental, the retailer's Statutory Liability policy covers them for all their legal advice and defence costs. If the charge had resulted in a fine being imposed, the retailer would also have been covered for this cost.

Note: This cover is subject to a number of exclusions set out in the policy.

EMPLOYERS LIABILITY – COSTS IN ADDITION

WHAT IS EMPLOYERS LIABILITY INSURANCE?

This insurance covers a business for its legal liability for bodily injury to its employees that is not covered by ACC under the Accident Compensation Act 2001. A separate legal liability sum insured must be specified.

Employers Liability also covers the legal costs and expenses of investigating and defending covered claims. A separate sum insured must be specified for defence costs. The insurance is structured to protect this sum insured so that defence costs remain available even when the potential legal liability exceeds the legal liability sum insured.

Injuries that fall outside ACC, and could therefore expose an employer to liability, include:

- ▶ food poisoning
- ▶ stress
- ▶ fatigue
- ▶ mental anguish
- ▶ nervous shock or fright
- ▶ injury arising from gradual processes.

CLAIMS EXAMPLES

STRESS

A tavern is held up at gunpoint twice in two months. Due to the high-stress nature of the robberies, one of the employees develops Post Traumatic Stress Disorder. As a result, he is unable to work in a public setting for the following three years. The employee holds the employer liable for his lost earnings because the security measures at the tavern were substandard. The Employers Liability policy provides indemnity to the employer for the cost of legally defending itself in court and the lost earnings it was ordered to pay.

MENTAL ANGUISH

A printing company employee is killed in a printing press. The accident is witnessed by a workmate who has worked with him for 30 years. As a result of witnessing the accident, the employee suffers significant mental trauma and stress. Unable to continue work in the printing trade, he sues his former employer because ACC does not cover pure mental injury. The employer's Employers Liability policy pays for the cost of legal defence and any settlement reached to resolve the dispute (or a finding of liability imposed by the court).

Note: This cover is subject to a number of exclusions set out in the policy.

EMPLOYMENT PRACTICES LIABILITY

WHAT IS EMPLOYMENT PRACTICES LIABILITY INSURANCE?

This insurance covers a business for its legal liability for a wide range of employment-related claims made against it by its employees, as follows:

- ▶ unjustifiable dismissal
- ▶ discrimination or harassment
- ▶ wrongful demotion/failure to promote
- ▶ workplace stress
- ▶ wrongful refusal to employ
- ▶ defamation
- ▶ misrepresentation or misleading advertising
- ▶ denial of natural justice.

In respect of the dismissal or disciplining of an employee, the advice of an approved employment lawyer should be sought and followed.

This insurance also covers the legal costs and expenses of investigating and defending covered claims.

CLAIMS EXAMPLES

UNJUSTIFIED DISADVANTAGE

An insured discovers that an employee is emailing company information to her personal email address to assist her in setting up her own competing business. When a disciplinary meeting is scheduled, the employee raises a personal grievance alleging unjustified disadvantage in relation to the behaviour of her general manager, specifically regarding inappropriate comments about her weight. Communication continues between the insured and the employee's lawyer and as a result the employee resigns and is paid four weeks pay in lieu of notice. The Employment Relations Authority orders compensation of \$6725 to be paid to the employee for hurt and humiliation suffered. This amount, along with defence costs, is covered by the insured's Employment Practices Liability policy.

CONSTRUCTIVE DISMISSAL

An employee complains that his manager is routinely subjecting him to verbal abuse and physical intimidation, but very little action is taken to address the situation. The employee resigns from his job and brings a personal grievance claim against the business, alleging constructive dismissal. The Employment Relations Authority finds that the employer breached its obligation to provide a safe and secure workplace, resulting in the employee's resignation. The defence costs and damages awarded by the Authority are met under the business's Employment Practices Liability policy.

Note: This cover is subject to a number of exclusions set out in the policy.

FIDELITY

WHAT IS FIDELITY INSURANCE?

More than half of New Zealand's businesses experience some form of loss caused by employee dishonesty, which can have a critical impact on cash flow, profitability and reputation. The employees responsible for such losses are often long standing and well trusted.

Fidelity cover indemnifies the employer for money or goods stolen by employees and the claims preparation costs, which can include accountants, other professional consultants and even reasonable costs incurred by the insured's own employees in quantifying a theft.

CLAIMS EXAMPLES

THEFT OF MONEY

A long-term employee resigns. A month after she leaves the firm, a sum of money is discovered as missing from the company's accounts. The loss is identified by the company's auditor, then a forensic accountant traces it to a series of withdrawals made by the employee over the last two years. It's not possible to gain a conviction against the employee in the New Zealand courts because by the time the loss is discovered, she has left the country and is believed to be somewhere in South East Asia. The employer is able to claim for the amount of loss determined by their accountant.

THEFT OF PRODUCT

A stockroom manager at a local hardware store needs extra cash to pay for his kitchen renovations. He discovers a way to remove stock undetected and then on-sell it at a discounted rate at the local market. This goes undetected for four months before the discrepancies are discovered. Neither the product, nor its cash value, can be recovered. The employer is able to claim for the amount of the property lost.

Note: This cover is subject to a number of exclusions and limitations about when the dishonesty occurred and was discovered as set out in the policy.

INTERNET LIABILITY

WHAT IS INTERNET LIABILITY INSURANCE?

This insurance covers a business for its legal liability arising from the use of the internet or email that results in any of the following:

- ▶ unauthorised use of names
- ▶ passing off
- ▶ unauthorised use of advertising
- ▶ infringement or unauthorised use of intellectual property rights
- ▶ breach of confidence or infringement of any right to privacy
- ▶ misuse of information
- ▶ defamation
- ▶ any act that belittles the product or work of others
- ▶ transmission of any computer virus.

Defence costs necessarily and reasonably incurred are also covered.

CLAIMS EXAMPLES

TRANSMISSION OF VIRUS

An employee forwards a personal email from their work computer to a number of friends at various companies. The email has an undetected virus that causes one of the companies to shut down their email server for a day, resulting in significant financial loss. The Internet Liability policy provides cover for the \$15,000 in damages claimed.

Note: This cover is subject to a number of exclusions set out in the policy.

WORKPLACE LEGAL DEFENCE COSTS

WHAT IS WORKPLACE LEGAL DEFENCE COSTS INSURANCE?

This insurance covers legal defence costs for directors, executives, managers and employees in the case of a criminal prosecution while carrying out the duties of their employment.

Provided a plea of not guilty is going to be entered and this is reasonable, it provides cover for a:

- ▶ prosecution for any alleged criminal offence under any statute (other than a traffic offence)
- ▶ prosecution for any alleged traffic offence that may result in disqualification from driving.*

* Traffic offences relating to drugs, alcohol, speeding, dangerous driving, road user charges, logbooks and overloading are all excluded.

CLAIMS EXAMPLES

ALLEGED ASSAULT

A punter at a high-end nightclub is refused service, as the bar staff believe he's intoxicated. After being refused service, he starts to abuse the staff and fellow patrons. As a result, one of the nightclub's security staff is asked to escort the intoxicated man from the bar. A struggle ensues in which the intoxicated man becomes more aggressive, only ending when he's been removed from the premises. In the following days the security staff member is served with court proceedings alleging assault. As the security staff member has not assaulted the intoxicated man and intends to plead not guilty, his legal defence costs are covered.

Note: This cover is subject to a number of exclusions set out in the policy.

LIABILITY CONSEQUENTIAL LOSS

WHAT IS LIABILITY CONSEQUENTIAL LOSS INSURANCE?

This insurance covers a business's financial loss resulting from interruption or interference to its business as a result of a covered claim under the Broadform, Statutory or Employers Liability covers of the **NZI Pro Select** policy.

Interruption or interference to the business could be:

- ▶ reduction in the income that would normally have been earned
- ▶ additional expenses reasonably incurred to avoid or minimise a reduction in income or to resume or maintain normal business activities
- ▶ equitable allowance for any financial loss suffered because stocks have been used to maintain income during the interruption or interference
- ▶ net loss of collectable amounts owed plus the reasonable costs incurred in establishing, tracing and recovering those debts
- ▶ reduction in value of undamaged stock due to the inability to process or sell that stock normally.

CLAIMS EXAMPLES

SUSPENSION OF LIQUOR LICENCE

A local bar is prosecuted and convicted of selling liquor to underage patrons and has its liquor licence suspended. Defence costs are covered by the Statutory Liability cover, which provides the trigger for a claim under the Liability Consequential Loss cover for the financial loss suffered from the loss of sales as a result of the liquor licence suspension.

Note: This cover is subject to a number of exclusions set out in the policy.

DISCLAIMER

This brochure is a summary only of the insurance provided by each cover under the NZI Pro Select policy. Please refer to each cover for a full description of the insurance provided by it.