

ASSOCIATION LIABILITY

Product Overview

innovative insurance protection

Does your organisation have the resources to pay the costs of a law suit against it or its board members, employees or volunteers?

Whether or not you win or lose the 'argument' going to court means your organisation will face significant costs. It is very easy to spend \$20,000 to \$30,000 and not unusual to see \$100,000 plus being spent on legal fees alone, let alone settlements if your organisation loses the case. For the period 2001-05 the average costs associated with defending and/or settling a claim brought against an Association was more than \$12,000.

Perhaps you rely on it just not happening or hope that your organisation's mantle of non-profit will deter someone from suing you. With organisations becoming subject to stringent accountability and litigation becoming more widespread in New Zealand, not-for-profit's can face legal action from employees, members or prospective members, contractors and funders, and beneficiaries or clients. Investigations and enquiries by regulatory or funding agencies can also see organisations facing significant additional costs. Traditional insurance will not protect you against these expensive exposures.

The Rosser Association Liability Policy, however, has been designed to respond to just these circumstances. It provides protection if your association has to defend itself, its employees, board members or volunteers against claims. The individuals enjoy the benefit of protection against a wide range of personal liability.

The policy covers non-profits for the cost of a court case or formal enquiry into an actual or alleged

- breach of professional duty,
- a board member or committee's wrongful act,
- employee theft,
- employment dispute, or a breach of statute.

The Rosser Association Liability Policy has been designed with simplicity in mind. That's why we use a simple 2 page proposal and an even easier declaration for renewal.

The Rosser policy is of equal value to non-profits both large and small. All your Liability insurance is in one simply arranged and yet comprehensive policy designed for today's legal environment.

WHAT COVER IS PROVIDED?

Who does the policy cover?

The Rosser Association Liability Policy offers comprehensive protection to past, present and future

- Trustees, Executive members, Governors, and Board members,
- employees, committee members,
- independent contractors,
- volunteers,
- and the Association itself.

What does it cover?

Broad cover is provided for:

- Management Liability including lost documents
- Professional Liability including defamation
- Liability under the Employment Relations Act
- Dishonesty of Employees and Executives
- Unforeseen events that threaten the income of the Association
- Accidental death of an Executive
- Protection of the Reputation of the Association or its Executives
- Costs of Defending registration decisions
- **Costs incurred through challenging an official investigation against an insured Executive**

Options are available to extend the policy to include cover for:

- Criminal Prosecutions
- Breaches of Statutes including Resource Management Act and Health and Safety legislation
- Employee compensation if ACC coverage does not apply to a workplace injury
- General and Products Liability for property damage and personal injury

The Rosser Association Policy offers substantial protection to the organisation and all associated people

CLAIMS EXAMPLES

Since the year 2000 the majority of claims paid under the Rosser Association policy have been for Employment Practices Liability. Annually these would account for 69% of all claims. However, individual claims paid under other sections of the policy have either actually exceeded or have the potential to exceed in value any employment practice claim paid so far. These other claims include those for Fidelity (theft of money, 4% of all claims) and Defamation (11% of all claims). In the case of Fidelity insureds have suffered 6 figure losses and made limit claims on the policy.

Other significant claims have included those for property damage to others belongings, legal costs of defending action taken by vexatious litigants making malicious allegations, costs of representation at official enquiries by the courts or government agencies and allegations of breaches of confidentiality.

Details of some actual individual claims follow:

Professional Liability

A major sporting body gave financial advice regarding sporting contract construction, errors in this advice led to a third party incurring significant legal costs in defending a claim from an athlete. This third party attempted recovering these costs from the sporting body. A settlement was negotiated with the consent of AIG New Zealand in order to finalise this claim.

A professional body produced a brochure for its members, in which some unintentionally libellous comments resulted in a major defamation claim by a third party. In conjunction with AIG New Zealand, settlement was reached in order to avoid a lengthy trial.

Executive and Outside Executive Liability & Association Reimbursement

Executives of an Industry Association were called to attend a formal enquiry into fair trading. They were not found to be at fault but incurred legal fees for their representations of \$4,500 with the consent of AIG New Zealand.

An Association was called before a complaints review tribunal to answer malicious allegations. Legal costs of \$28,900 were incurred with the consent of AIG New Zealand to defend the claims.

Employment Practices Liability

A former employee alleged wrongful dismissal against the Association and lodged an action with the Employment Relations Authority (ERA). This was defended in court in conjunction with AIG New Zealand. The ERA found in favour of the former employee, awarding damages and costs against the Association. With the addition of the \$38,000 in legal costs required to defend the claim the total costs covered by the policy amounted to close to \$80,000.

An action was taken against an Association by two former employees alleging a breach in the Association's advertising of employment positions. In conjunction with AIG New Zealand a \$36,000 settlement was negotiated to achieve timely and final resolution of the matter. Legal costs incurred in reaching this resolution amounted to an additional \$3,400.

Fidelity Loss

An office bearer of a small Association could not account for the deficit in the organisation's accounts. On investigation it was found that at least \$16,000 was stolen over a period of twelve months. When the accounts were accidentally destroyed in a suspicious fire and external auditors called in to create new accounts, the shortfall was discovered and the auditors alerted the Association. Upon notification of the claim, AIG New Zealand stepped in to cover the loss in excess of the retention.

A part-time employee of an insured Association was found to have made fraudulent electronic transfers and written fraudulent cheques in her own favour while working for the Association and for another organisation. The employee admitted theft of \$320,000 over a 24 month period in order to fund a gambling addiction. The combined loss was calculated at over \$400,000. The Association was fortunate in having a Rosser Association Liability policy that responded to this type of loss. A limit claim was paid with the consent of AIG New Zealand.

ASSOCIATION COMBINED LIABILITY INSURANCE

Please fill in the following details:

Entity Name: _____

Contact Person: _____

Entity Address: _____

Activities: _____

Website Address: _____

Number of years operating: _____

Number of Trustees/Board Members: _____

Number of Paid Employees

Full Time Equivalent: _____ Casual: _____

Number of Volunteers: _____

How many Trustees/Board Members/Employees have left in the last 12 months? _____

Gross Income: \$ _____

Total Assets: \$ _____

Total Liabilities: \$ _____

Latest financial year result (Surplus/deficit): \$ _____

From where does the primary funding come? _____

Please answer the following questions:

- | | Y | N |
|---|--------------------------|--------------------------|
| 1. Does the Association provide medical service or advice? | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. (a) Does the Association have a written Human Resources manual or equivalent written management guidelines?
(b) If yes, is this manual/guidelines distributed to all staff? | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Are duties segregated so that no individual can control any of the following activities from commencement to completion without referral to others:
(a) signing cheques or authorising payments above \$5,000?
(b) issuing funds transfer instructions?
(c) opening new bank accounts?
(d) reconciling bank statements?
(e) awarding contracts following a tender?
(f) paying of wages/salaries? | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Does the Association have written procedures and/or control policies to ensure compliance with legislation that affects the Association's business activities? | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Does the Association use, handle, transport or manufacture any chemicals, hazardous or toxic substances or goods? | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Has the Association or any Trustee or Board Member ever been refused this type of cover, had a similar policy cancelled or had special terms imposed? | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Have there been any claims made against the Association or its Trustees or Board Members or Employees which may have been covered under this policy if it were in force? | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. Has any Trustee or Board Member been employed or engaged by or otherwise involved in an entity that has been in receivership or liquidation? | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. After enquiry has the Association or any Trustee or Board Member been involved in, or is there now pending against them, any criminal proceedings or any prosecution under the Fair Trading Act, Companies Act, Commerce Act or any other NZ legislation or other similar overseas legislation? | <input type="checkbox"/> | <input type="checkbox"/> |
| 10. After enquiry of all Trustees and Board Members are you aware of any circumstance which could give rise to a claim, an investigation, examination, inquiry or other proceedings under this policy? | <input type="checkbox"/> | <input type="checkbox"/> |

If you answered YES to Question 5 - 10 please give full details (if the space provided below is insufficient, please use a separate signed and dated sheet in order to provide a complete answer to the question):

ASSOCIATION COMBINED LIABILITY INSURANCE

Please tick the covers and limits required

Y	N	TYPE OF COVER	LIMIT OF INDEMNITY
<input type="checkbox"/>	<input type="checkbox"/>	Association Liability	<input type="checkbox"/> \$250,000
	<input type="checkbox"/> \$500,000		
	<input type="checkbox"/> \$1,000,000		
	<input type="checkbox"/> \$2,000,000		
<input type="checkbox"/>	<input type="checkbox"/>	Employment Practices Liability	<input type="checkbox"/> \$250,000
<input type="checkbox"/>	<input type="checkbox"/>	Fidelity Guarantee	<input type="checkbox"/> \$100,000
<input type="checkbox"/>	<input type="checkbox"/>	Statutory Liability	<input type="checkbox"/> \$250,000
			<input type="checkbox"/> \$500,000
			<input type="checkbox"/> \$1,000,000
<input type="checkbox"/>	<input type="checkbox"/>	Employer's Liability	<input type="checkbox"/> \$250,000
			<input type="checkbox"/> \$500,000
			<input type="checkbox"/> \$1,000,000
<input type="checkbox"/>	<input type="checkbox"/>	Public Liability	<input type="checkbox"/> \$500,000
			<input type="checkbox"/> \$1,000,000
			<input type="checkbox"/> \$2,000,000
			<input type="checkbox"/> \$5,000,000

Declaration and Acknowledgment

I/We hereby declare that the information and answers given in the application are true and correct and that all information that may be material in considering this application has been fully and accurately disclosed. I/We understand that the failure to provide this information may result in the application being declined, or the insurance contract being void from the beginning.

I/We undertake to inform American Home Assurance Company of any material changes to the business or information provided here in whether occurring before or after the completion of the insurance contract.

I/We understand that this application and any other information supplied by me/us shall be the basis of and incorporated in the insurance contract.

I/We acknowledge that the premiums quoted and charged to me will include a Brokers Documentation Fee and also that the Broker will be remunerated by means of Brokerage paid to them by American Home Assurance Company.

Privacy Act

Pursuant to the Privacy Act 1993 the following is brought to your attention:

1. This Application collects personal information about you.
2. The information is collected to evaluate the insurance you seek.
3. The intended recipient of the information is your Insurance Broker and American Home Assurance Company.
4. The information is being collected and held by your Insurance Broker and American Home Assurance Company.
5. You have rights of access to, and correction of, this information subject to the provisions of the Privacy Act 1993.

Signature: _____

Date: _____

Full name of signatory and position _____



ROSSER
UNDERWRITING

PO BOX 248, WAIPUKURAU 4242, NEW ZEALAND E | info@rosser.co.nz P | +64 6 858 5183

Disclaimer: Cover is underwritten by American Home Assurance Company (New Zealand Branch), incorporated with Limited Liability in the USA, trading as AIG New Zealand, a member of American International Group, Inc. The description of coverage contained in this document is a summary and is for illustrative purposes only. The coverage is subject to terms and conditions outlined and certain restrictions, limitations and exclusions contained in the policy of insurance. In the event of any conflict between the descriptions of coverage in this document and the policy of insurance, the provisions contained in the policy of insurance will govern. This document is accurate as at March 2007.