

Employment Practices Liability Insurance Policy

Please read this policy in conjunction with the
Certificate of Insurance



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Ansvar Insurance – Insurance products with flexible solutions

Our history

Ansvar Insurance has been a trusted name in Australia since 1961. Owned by UK Insurance company, Ecclesiastical Insurance Office plc, we enjoy substantial financial backing and are proud to meet the rigorous regulatory requirements of an insurer serving Australians.

Why insure through Ansvar Insurance?

With almost 50 years of experience in Australia we understand what customers are seeking in their insurance company: a trusted, responsible and professional organisation where you are treated with respect and care and offered choice and flexibility. Offering value for money, personal service and a demonstrated commitment to community programs explains why we are the insurer of choice for our Australia wide customers.

Developing our young Australians

We are honoured to provide support to many community organisations throughout Australia. Each organisation provides valuable support to improve and enrich the lives of Australian youth so that they may contribute positively to the community in which they live. To find out more about our grants to Community Education Program please visit our website ansvar.com.au

Our insurance advantage

Ansvar Insurance is a specialist insurance company with a deep understanding of the issues confronting our customers.

We believe in offering more than just insurance. Our dedicated staff are committed to helping clients protect their assets by providing:

- specialist insurance advice in our core markets
- flexibility in underwriting
- independent, on-site, risk management inspections and expert advice to find solutions
- risk management seminars and advice on helping clients develop their risk management programs

Who is the insurer and how can we be contacted?

Ansvar Insurance Limited, ABN 21007 216 506, is the issuer of this insurance policy. The registered office of Ansvar Insurance is Level 18, 303 Collins Street, Melbourne, Victoria. The Ansvar Insurance Australian Financial Services Licence number is 237826.

You can contact us by:

- calling in person at any Ansvar Insurance office
- telephoning 1300 650 540
- facsimile on 03 9614 1545
- writing to any office of Ansvar Insurance
- email to insure@ansvar.com.au

Cooling off period

We will refund the entire premium you have paid for cover under this insurance policy if you cancel the policy within 21 days of its commencement. To do this, you must advise us in writing and return the insurance policy and certificate of insurance to your nearest Ansvar Insurance office.

You will **not** receive a refund if you have made a claim, or intend to make a claim, under the insurance policy.

Costs

The premium payable by you is shown in your Certificate of Insurance. The factors used to determine the premium payable under this policy include:

- the nature, age and size of the business and recent merger/restructure history;
- the main occupation of the insured and the activities the business are engaged in;
- the number and classification of employees and employee turnover;
- the human resources management in place;
- the extent of cover and any extensions required;
- the period of insurance (short-term/annual), and length of retroactive cover;
- the sums insured or limits of liability;
- the excess selected;
- past claims, incidents, proceedings and disciplinary history.

The premium is payable either when the product is purchased or by direct bank debit when you elect to pay it monthly. If you elect to pay monthly there is an additional fee. A cancellation fee may apply if you cancel your insurance policy before expiry.

Premiums and fees are subject to Commonwealth and State taxes and levies which include the Goods and Services Tax and Stamp Duty, if applicable to your state. All are shown on your Certificate of Insurance

Code of Practice and Privacy Act

As a signatory to The General Insurance Code of Practice we are committed to raising standards of service to our customers. This voluntary code sets out the minimum standards we will uphold in the services we provide to you.

The Privacy Act sets out how we are to collect, use, disclose and protect your personal information. It also describes the circumstances for you to access and, if necessary correct your personal information.

Complaints

If you are not satisfied with our service we recommend that you use the complaints procedure set out below. The type of complaint could relate to the behaviour of or advice given by an Ansvr Insurance employee or authorised representative, a decision on a claim, the privacy of your personal information or any other matter relating to your insurance that is of concern to you. These procedures are available free of charge to you.

First, contact the employee or authorised representative with whom you have had contact to see if he or she can resolve the problem. If that is not possible, then contact the Regional Manager in your state. The Regional Manager will review the information and give you a response as quickly as possible; but no later than three working days from the date when the complaint is received.

If you are not satisfied with the response given by the Regional Manager, then please either telephone or write to:

The Secretary
Internal Dispute Resolution Committee
Ansvr Insurance Limited
GPO Box 1655N Melbourne VIC 3001
PH +61 3 8630 3100
FX +61 3 9614 2740

The Secretary will refer your complaint to the Committee which comprises the CEO, Operations Manager and one of the non executive directors of Ansvr Insurance Limited, for a decision.

The Internal Dispute Resolution Committee has appropriate authority to deal with unresolved complaints. You will receive a response within seven (7) working days from the time the Internal Dispute Resolution Committee receives your unresolved complaint, or alternatively you will be asked for further information. If further information is required, you will receive a decision within seven (7) working days from the time Ansvr Insurance receives the additional information.

What if we don't resolve your problem?

Once the Internal Dispute Resolution Committee gives you an answer, we will provide you with information about external dispute resolution if that is available.

For many complaints this is the Insurance Ombudsman Service (IOS), which costs you nothing. You have three months from the date of the decision by the Internal Dispute Resolution Committee to lodge your complaint with the IOS. The IOS may be contacted by calling 1300 78 08 08 for the cost of a local call, or by writing to them at PO Box 561, Collins Street West, Melbourne 8007.

Alternatively, you may further pursue your unresolved complaint through a formal legal process such as the courts, mediation, or arbitration.

For privacy complaints you may approach the Federal Privacy Commissioner. A copy of the General Insurance Code of Practice and privacy principles can be obtained from our website ansvar.com.au or from one of our offices.

Important notices to Policyholders

It is important to read/retain the following documents and keep them in a safe and convenient place:

- this document
- your current Certificate of Insurance

Remember to regularly review your insurance policy, particularly at renewal to ensure your insurance policy provides the cover that you currently need.

Duty of disclosure

Before you enter into an insurance contract with us, you are required to tell us every matter that is known to you, being a matter that:

- you know to be relevant to the decision by us to accept the risk and if so, on what terms; or
- a reasonable person in the circumstances could be expected to know to be a matter so relevant.

If you have not disclosed all relevant information, or if you have misinterpreted the facts, then we may be entitled to cancel the policy, reduce the sum insured, or treat the policy as never having existed.

If you do not tell us all relevant matters we can reduce the amount we pay for any claim or cancel this insurance policy. If your non disclosure is fraudulent we can void the insurance policy from the beginning.

The contract between you and Ansvar Insurance

When we receive your premium, we will insure you against any wrongful act described in this insurance policy in connection with your business in Australia. Your insurance commences and concludes at 4.00pm local time on the dates shown.

This is a claims-made policy and only covers claims first made against you and notified to us during the period of insurance. This policy also covers you for claims made against you during the period of insurance but reported to us no later than 30 days after expiry of the policy.

If the terms of this agreement are not observed, cover under this policy may be reduced or cancelled.

Additional parties

Where this policy insures more than one party, any failure on the part of any of the parties to:

1. comply with the duty of disclosure in terms of the Insurance Contracts Act 1984, or
2. comply with any obligation in terms of this policy, or
3. refrain from conduct which is dishonest, fraudulent, criminal or malicious

shall not prejudice the right of the remaining party or parties to indemnity in terms of this policy;

Provided that such remaining party or parties shall be entirely innocent of and have had no prior knowledge of any such failure and/or non compliance and as soon as practicable after becoming aware of any such failure advised us in writing of all its relevant circumstances.

This policy shall apply to each separate legal entity or person, other than partners in a partnership, in the same manner as if a separate policy had been issued to each of them, provided that:

1. nothing in this clause shall be deemed to increase the limit of liability under this policy in respect of any one occurrence or in the aggregate for the period of cover, and
2. such additional insured party shall comply with the terms of this policy.

We hereby agree to waive all rights of subrogation or action which we may be entitled to against any insured party under this policy.

The insolvency or bankruptcy of any party comprising the insured shall not release us from any of our obligations to the other insured parties.

Advancement of defence costs

Where we elect not to take over and conduct the defence or settlement of any claim, we will meet the defence costs in defending or settling the claim made against you as they are incurred and prior to the finalisation of the claim, provided always that indemnity in respect of such claim has been confirmed in writing by us.

Where we have not confirmed indemnity and we elect not to take over and conduct the defence or settlement of any claim, we may, at our discretion, pay defence costs as they are incurred and, prior to the finalisation of the claim.

We reserve the right to recover any defence costs from you where it is subsequently established by judgement or other final adjudication that you were not entitled to indemnity under the policy.

Cancellation

You may cancel this insurance policy at any time by notifying us in writing. You may be required to pay a cancellation fee if you cancel the policy mid-term.

We can cancel this insurance policy in accordance with the Insurance Contracts Act 1984. We will be entitled to retain premium for the period during which the policy has been in force.

Excess

Your financial contribution if you have a claim is known as the excess. Our liability shall apply only to that part of any loss in respect of each claim which exceeds any applicable excess amount shown in the certificate of insurance.

Goods and Services Tax (GST)

This insurance policy has provision for payment of Goods and Services Tax:

- by you in relation to premiums;
- by us in relation to claims.

Interpretation

The policy consists of this policy wording, the certificate of insurance and any endorsements issued which extend or amend the cover provided.

Headings and sub-headings appearing in the policy are for ease of reference only and shall not be deemed to form any part of the context, or to affect the interpretation, of the policy.

Certain words and phrases that appear in this insurance policy have special meanings. These appear in the 'Definitions' section of this policy.

Words importing the singular number shall include the plural and vice-versa.

Jurisdiction

This insurance policy shall be governed and construed in accordance with the laws of Australia. Any dispute under this insurance policy shall be resolved in accordance with these laws.

Service of legal process or notice

You may effect service of legal process in connection with this policy by hand or by post to the address for service stated on the certificate of insurance and such service shall be deemed to be personal service upon us.

You may also give any notice or advice to us in writing by mail or email to any of our offices in Australia.

Settlement of claims

Claims under this policy will be settled in accordance with the section titled 'Claims Procedures'.

Unless these terms are complied with, our liability in respect of any claim shall be reduced by the amount that fairly represents the extent to which our interests have been prejudiced thereby. If your failure to comply caused the loss for which you claim, we may be entitled to refuse the claim.

Suspension or deregistration

You must advise us in writing immediately your registration or business certification is cancelled, suspended or terminated.

Third party interests

You must not transfer interests in this policy without our written consent.

All persons entitled to any benefit are bound by the terms of this policy.

We insure those interests you notify to us when we issue cover or which are notified to us during the currency of this policy and which we agree to insure.

Waiver of any rights

We will not pay any claim where you have agreed not to recover from persons liable to compensate you in respect of such claim.

Definitions

In this insurance policy:

<i>back-pay</i>	means, arising from an order of reinstatement or re-employment, the amount you are legally obliged to pay an employee for the period between the time of termination of the employee's employment, and the time the employee is reinstated or re-employed.
<i>business</i>	means your business as described in the certificate of insurance carried out within the geographical limits, and including any incidental work undertaken on your behalf or for your benefit.
<i>certificate of insurance</i>	means the certificate of insurance issued by us in confirmation of the currency of cover attaching to this policy, or any certificate of insurance subsequently issued at renewal or during the period of insurance.
<i>claim</i>	means any writ, summons, application or other originating legal or written demand or arbitral proceedings, cross-claim or counter-claim or written demand alleging any wrongful act, which is served upon you.
<i>contract worker</i>	means a person engaged by you through a labour hire firm, under an agreement between you and the labour hire firm, to perform duties related to the conduct of the business.
<i>deemed employee</i>	means any person deemed to be an employee under any workers' compensation or similar legislation, who would not, but for the law, be recognised as an employee.
<i>defence costs</i>	means all reasonable costs, charges and expenses incurred by you with our prior written consent in the investigation, defence and settlement of any alleged wrongful act (other than wages or overtime, salaries or fees of any director, officer or employee), including costs incurred by you for legal representation in defending, investigating, attending or monitoring any claim or proceedings, official investigations, examinations, inquiries and the like, or from any subsequent appeals, together with all reasonable costs of bringing such appeals.

employee	means any person who is under a contract of service or apprenticeship with you or employed by you under a work experience scheme, and includes a current or former member of the board of management of the insured or a minister, lay minister or other clergy receiving an allowance or stipend for services rendered to the insured. Employee does not include any independent contractor or sub-contractor or any employees of any independent contractor or sub-contractor.
endorsement	means any document so designated and issued to you by us, that amends the policy wording or any details specified in the certificate of insurance.
geographical limits	means anywhere in Australia, including its territories where the insured carries on business, and/or any other country specified in the certificate of insurance.
independent contractor	means any person (including a sub-contractor) who is engaged by you to perform a contract for services and has full control and discretion in the manner in which the services are supplied.
insolvent administration	means where a receiver, administrator, liquidator, manager, trustee or similar official is appointed to manage the business affairs of the insured because of insolvency.
known circumstance	means any fact, situation or circumstance, which you knew about prior to the commencement of the period of insurance and which a reasonable person in the circumstances would have considered might result in a claim covered under this policy.
policy	means: <ol style="list-style-type: none"> 1. all the terms, conditions, definitions, exclusions, limitations and provisions contained in this document; and 2. the certificate of insurance; and 3. any endorsements attaching to and forming part of this policy, issued either at inception or during the period of insurance.
sexual abuse	includes any assault or abuse of a sexual nature, any type of molestation, indecent exposure, sexual harassment or intimidation, whether such act is the subject of criminal investigation or not.
temporary worker	means a person whom you employ to substitute for a permanent employee on leave or to meet seasonal or short-term workload conditions.
voluntary worker	means any person who is engaged by you to work for your benefit and who receives no remuneration or compensation in money or other consideration.
we, us, our, insurer	means Ansvr Insurance Limited, A.B.N. 21 007 216 506, AFS Licence No 237826.

wrongful act

means:

1. wrongful refusal to employ an applicant for employment;
2. wrongful failure to promote, wrongful demotion, negligent evaluation of an employee, negligent reassignment or wrongful disciplinary action against such employee;
3. wrongful termination of employment, including constructive dismissal;
4. violation of employment discrimination laws (including workplace harassment);
5. oral or written publication of material that slanders, defames or libels an employee, or violates or invades an employee's right of privacy.

A wrongful act shall include an unfair or unlawful omission to act.

All related wrongful acts alleged by any one claimant against you shall be regarded as a single wrongful act arisen at the time the first of those acts occurred.

you, your, insured

means:

1. the named insured stated in the certificate of insurance resident in Australia or New Zealand or their external territories,
2. where the named insured is an individual, their spouse and, in the event of the death or incapacity of the named insured, their estate, but only in respect of liability arising out of the insured's business;
3. any subsidiary company, organisation or entity under your control and over which you exercise active management, existing at the commencement date of the period of insurance;
4. any current or former principals, partners, directors and officers of a named insured or subsidiary company, organisation or entity, joined in a claim against you;
5. any office bearer, member or voluntary helper of:
 - a. social and sporting clubs;
 - b. canteen and welfare organisations;
 - c. first aid, fire and security services;incidental to your business and formed with your consent, joined in a claim against you.

Cover

Insuring clause

Under this contract, we will cover you for your legal liability to pay compensation including back-pay arising from any claim by a current or former employee (or deemed employee), a contract worker, a temporary worker, or an applicant for employment alleging a wrongful act;

Provided that:

1. the alleged wrongful act or omission arises from your employment practices in the business carried out within the geographical limits; and
2. the claim is first made against you and notified to us during the period of insurance or during the extended reporting period indicated in the certificate of insurance.

We will pay no more than the limit of indemnity after deduction of the excess stated in the certificate of insurance in respect of:

1. any monetary damages which you are legally obliged to pay;
2. charges, expenses and legal costs recoverable from you by claimants in addition to damages or compensation (whether those costs are taxed, assessed or agreed), but not extending to relief or recovery other than monetary amounts;
3. defence costs;
4. reasonable costs incurred by you to assist us at our request, in the investigation or defence of any claim, including actual loss of earnings up to \$250 a day because of time off from work.

We reserve the right to recover from you any defence costs advanced in the event and to the extent that it is agreed or subsequently established by judgment or other final adjudication that you were not entitled to be indemnified under this policy.

Limits of liability

Our total liability under this policy including defence costs shall not exceed the respective limits shown in the certificate of insurance, including the annual aggregate limit of liability.

Each payment we make under this policy for damages or defence costs also reduces the aggregate limit of liability for other claims by the amount of that payment.

The coverage extensions of this policy shall form part of and not be in addition to our aggregate liability.

Extensions

Continuity of cover

In the absence of fraudulent non disclosure or misrepresentation, this insurance policy will indemnify you for any claim arising from a known circumstance:

1. if we were your employment practices liability insurer when you first knew of such known circumstance; and

2. if we continued without interruption to be your employment practices liability insurer up until this policy came into effect; and
3. if, had we been notified by you under the previous policy of the known circumstance when you first knew or ought to have known of it,
 - a. you would have been covered under the policy in force at that time, but are not now covered by that policy; and
 - b. you would have been covered by this policy but for the known circumstance exclusion; and
 - c. the claim or known circumstance had not previously been notified to us or to any other insurer.

Our liability under this extension of cover is the lesser of:

1. the sum insured under the insurance policy in force when you first knew of the known circumstance; or
2. the sum insured under this policy.

The terms of this insurance policy otherwise apply to the indemnity provided by this extension.

New subsidiaries

Where you create or acquire a new subsidiary company, organisation or entity during the period of insurance, through consolidation, merger, purchase of its assets or assumption of effective control, we will provide indemnity in respect of such subsidiary company but only in respect of wrongful acts actually or allegedly committed or attempted after the time when such entity becomes such a subsidiary;

Provided that:

1. such company, organisation or entity is carrying on substantially the same business as the named insured, and
2. such acquisition or assumption of control is reported to us within sixty (60) days after such acquisition or creation is effected;
3. if notification is not given to us within 60 days after the acquisition or creation, cover under this extension will cease at 4.00pm, 60 days after the acquisition or creation;
4. after receipt of notification under 3 above, we confirm continuation of cover for such subsidiary company, organisation or entity, and at our discretion with such additional terms and/or premium as may be agreed, by endorsement of this policy.

Run-off cover for subsidiaries

Where an entity ceases to be a subsidiary during the period of insurance we will provide indemnity in respect of such subsidiary only in respect of claims for wrongful acts preceding the time when such entity ceased to be a subsidiary.

Exclusions

We will not cover any claim arising from or attributable to:

1. any known circumstance at the commencement of each period of insurance.
2. any claim resulting from any act, error or omission occurring or committed prior to the retroactive date.
3. any act or omission occurring after:
 - a. you are placed in any bankruptcy or insolvent administration; or
 - b. any other business entity acquires a majority or controlling interest in your organisation.
4.
 - a. any dishonest, fraudulent, criminal, or malicious act or omission by you or any of your employees; or
 - b. any deliberate breach of any statute or regulation by you or any of your employees committed with your consent; or
 - c. any deliberate or wilful act or omission of yours with a reckless disregard for the consequences.
5. any payment you are already obliged to pay pursuant to an express obligation, whether under a statute, award, contract of employment or otherwise (except back pay arising from reinstatement or re-employment), or arising from the breach of the obligation to make such payment.
6. oral or written publication of material, if such material:
 - a. was published by or at your direction with knowledge of the material's falsity; or
 - b. was first published before the retroactive date shown in the certificate of insurance.
7. fines, penalties, taxes, levies, imposts or duties, punitive, exemplary, aggravated or multiplication of compensatory damages imposed by a court or tribunal or arbitrator or under any legislation or government regulation.

However this exclusion shall not apply to:

- a. any parts of the claim which are not made up of fines, penalties, punitive or exemplary damages, taxes, levies, imposts or duties; or
 - b. compensatory damages arising from libel, slander or defamation actions.
8.
 - a. bodily injury, sickness, disease, emotional distress, mental anguish, mental stress, or death of any person all unrelated to employment or an application for employment; or
 - b. destruction of or damage to tangible property (including the loss of use thereof).
9. any requirement for physical modifications to your premises, fixtures, fittings, plant or equipment or for change to your usual business operations.
10. lockouts, strikes, picket lines, stand downs, related worker replacement(s) or other similar actions resulting from industrial disputes or negotiations.
11. company-wide industrial disputes.
12. claims arising under any of the following laws:
 - a. laws relating to workers' compensation;
 - b. laws relating to occupational health and safety;
 - c. laws concerning procedural and notification requirements in the case of termination of employment due to redundancy;
 - d. laws relating to contracts alleged to be harsh, unfair, unconscionable or contrary to public interest.

13. arising from:
 - a. your internet/intranet operations, other than liability arising out of normal, everyday use of the internet for email, intranet and associated activity or arising out of any material on your website in support of your products or services;
 - b. property damage to computer data or programs and storage media involving:
 - i. the use of any computer hardware or software;
 - ii. the provision of computer or telecommunications services by or on your behalf;
 - iii. the use of computer hardware or software of any third party, whether authorised or unauthorised, including any damage caused by any computer virus.
14. sexual abuse of any kind.
15. liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from:
 - a. ionizing radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel;
 - b. the radioactive toxic explosive or other hazardous properties of any explosive nuclear component thereof.
16. liability arising out of or in connection with any terrorism act or any action aimed at controlling, suppressing, retaliating against, or responding to any terrorism act.
17. liability arising from:
 - a. war, invasion, act of foreign enemy, hostilities, rebellion or warlike activities (whether war is formally declared or not), civil war;
 - b. mutiny, civil commotion assuming the proportions of or amounting to a popular rising, military rising, insurrection, rebellion, revolution, military or usurped power, or any act of any person acting on behalf of or in connection with any organisation the objects of which include the overthrowing or influencing of any de jure or de facto government by violent means.

Claims procedures

Notification of claims

You must forward to us every originating process, whether by way of writ, summons, third party notice or cross-claim, immediately upon receipt or service thereof and notice of any prosecution, inquest or fatal accident inquiry which you receive. These must be notified to us during the period of insurance or no later than 30 days after expiry of the policy. If this is not done your right to cover under this policy may be reduced or revoked.

You are required, at your expense, to take all reasonable steps to minimise any claim and to prevent further claims arising out of the same or similar conditions.

All notices to us under any provisions of this policy shall be validly and lawfully given if they are given in writing and delivered, given by courier, certified mail or facsimile properly addressed to the appropriate party at the address or to the facsimile number stated in the certificate of insurance.

Defence and settlement of claims

You must not make any admission of liability, offer, promise of payment, take any action that may be considered to be an admission of liability, settle or repudiate a claim without our prior written consent.

We shall have full discretion in the conduct and defence, in your name and on your behalf, of any proceedings in connection with, and in the settlement of, any claim and you shall give us all such

information and assistance as we may require. We shall be entitled to attend any inquest or fatal accident inquiry in respect of which there may arise any liability under this policy.

If you refuse to consent to any settlement recommended by us and elect to contest or continue any legal proceedings in connection therewith, our liability for the claim shall not exceed the amount for which the claim could have been so settled, less the applicable excess, plus defence costs incurred up to the date of such refusal.

Unless these terms are complied with, our liability in respect of any claim shall be reduced by the amount that fairly represents the extent to which our interests have been prejudiced thereby. If your failure to comply caused the loss for which you claim, we may be entitled to refuse the claim.

Claims co-operation

You are required to promptly do and concur in doing all things reasonably practicable to avoid or diminish any loss hereunder, and shall immediately give all such information and assistance to us as we may reasonably require to enable us to investigate and to defend the claim and/or to enable us to determine our liability under this policy.

Fraudulent claims

If a fraudulent claim is made we will not pay it and we will take action to recover any moneys already disbursed in respect of the claim. We will also cancel the insurance policy.

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