



**ACCIDENT INSURANCE (TRANSITIONAL CONTRACTS)
REGULATIONS 1999**

MICHAEL HARDIE BOYS, Governor-General

ORDER IN COUNCIL

At Wellington this 24th day of May 1999

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to sections 411 and 412 of the Accident Insurance Act 1998, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council and on the recommendation of the Minister for Accident Rehabilitation and Compensation Insurance, makes the following regulations.

ANALYSIS

1. Title, commencement, and expiry
2. Interpretation

*Requirements Relating to Transitional Insurance
Contracts*

3. Listed employers to enter transitional accident insurance contracts with specified insurer
4. Provision of information by listed employers
5. Terms of transitional accident insurance contract
6. Premiums
7. Creation of transitional accident insurance contracts
8. Specified period applies for most transitional accident insurance contracts

9. Corrections to list

Provision of Information by Regulator

10. Communication by Regulator
11. Regulator to provide specified insurer with list of listed employers
12. Specified insurer may rely on information provided by Regulator

Miscellaneous Provisions

13. Giving notices and documents
 14. Offence to fail to provide information
 15. Production of Regulator's lists in proceedings
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REGULATIONS

1. Title, commencement, and expiry—(1) These regulations may be cited as the Accident Insurance (Transitional Contracts) Regulations 1999.

(2) These regulations come into force on 25 May 1999 and expire on the close of 1 January 2000.

2. Interpretation—In these regulations, unless the context otherwise requires,—

“Act” means the Accident Insurance Act 1998:

“Listed employer” means an employer—

(a) Who has not entered into an accident insurance contract by 5 pm on 25 June 1999 and would be required to enter into one under section 169 of the Act on 1 July 1999; and

(b) Who appears on the list given by the Regulator to the specified insurer under regulation 11 (1) or 11 (3); and

(c) Who has not been removed from the list given by the Regulator to the specified insurer under regulation 11 (3):

“Specified insurer” means At Work Insurance Limited, a State enterprise within the meaning of the State-Owned Enterprises Act 1986:

“Specified period” means the period beginning on 1 July 1999 and ending with 30 September 1999:

“Transitional accident insurance contract” means an accident insurance contract between a listed employer and the specified insurer that—

(a) Is required to be entered under regulation 3; and

(b) Is for (at least) the specified period; and

(c) Satisfies the employer obligation under section 169 of the Act.

Requirements Relating to Transitional Insurance Contracts

3. Listed employers to enter transitional accident insurance contracts with specified insurer—(1) Every listed employer is required to enter into a transitional accident insurance contract with the specified insurer by 1 July 1999.

(2) The specified insurer is required to enter into a transitional accident insurance contract with each listed employer by that date.

4. Provision of information by listed employers—(1) The specified insurer may require listed employers to provide information to it that it reasonably requires to set premiums for transitional accident insurance contracts.

(2) Any requirement by the specified insurer under subclause (1) may be made in writing on or after 27 June 1999.

(3) A listed employer required to provide information under subclause (1) must do so within 10 working days of the requirement being made.

5. Terms of transitional accident insurance contract—(1) The specified insurer must set the terms and conditions of transitional accident insurance contracts.

(2) Terms and conditions set by the specified insurer may be set—

(a) For a particular listed employer:

(b) For a category or categories of listed employer, identified by the specified insurer:

(c) By public notice, if terms and conditions are set under paragraph (b):

(d) In any other manner that the specified insurer considers appropriate.

(3) A category of listed employers may consist of all known listed employers.

6. Premiums—(1) The specified insurer need not set a premium for a transitional accident insurance contract until it has received, from the listed employer affected, any information required under regulation 4.

(2) The specified insurer may, however, set a premium for a transitional accident insurance contract after requiring the provision of information under regulation 4, although it has not received the information required.

(3) The specified insurer must give a listed employer notice of any premium set by it.

7. Creation of transitional accident insurance contracts—(1) A transitional accident insurance contract comes into force on 1 July 1999 as if—

(a) The listed employer has been offered the transitional accident insurance contract before 1 July 1999; and

(b) The terms and conditions of the transitional accident insurance contract, including any terms and conditions set by the specified insurer under regulations 5 or 6, have been accepted by the listed employer; and

(c) The specified insurer has not specified any mandatory premium payment as part of that acceptance; and

(d) The listed employer has provided the insurer with the listed employer's insurance number; and

(e) Details of the listed employer appeared on the list given by the Regulator under regulation 11 (1).

(2) Subclause (1) applies notwithstanding section 184 of the Act.

(3) A transitional accident insurance contract exists, and is enforceable, from 1 July 1999, even though the premium for the contract has not been set nor paid by then.

(4) Subclauses (1) (c), (2), and (3) do not affect the obligation of a listed employer to pay the premium for a transitional accident insurance contract.

8. Specified period applies for most transitional accident insurance contracts—(1) All transitional accident insurance contracts, other than those that terminate under subclause (2),—

(a) Must remain in force until the close of 30 September 1999; and

(b) Remain in force after 30 September 1999 until terminated under section 174 or section 189 of the Act.

(2) A transitional accident insurance contract may terminate before the close of 30 September—

(a) If a listed employer ceases to be an employer and that employer satisfies section 174 (1) (b) and (2) of the Act; or

(b) In the circumstances described in regulation 9.

9. Corrections to list—(1) This regulation applies to employers who demonstrate to the satisfaction of the Regulator that they are not, or should not be regarded as, listed employers.

(2) Transitional accident insurance contracts between the specified insurer and listed employers to whom this regulation applies terminate as of 1 July 1999 and subclauses (3) and (4) apply to those contracts.

(3) The parties to the transitional accident insurance contract are both obliged to refund, reconfer, redistribute, or cancel any benefits and burdens that flowed from the transitional accident insurance contract as if that contract had not been made.

(4) Without limiting the ambit of the mutual obligation in subclause (3), the specified insurer must refund to the listed employer any premium paid by the listed employer for the transitional accident insurance contract.

Provision of Information by Regulator

10. Communication by Regulator—(1) The Regulator must provide information to every employer whom the Regulator has reason to believe has not entered into an accident insurance contract and who would be required to enter into one under section 169 of the Act.

(2) That information must be given by the close of 27 May 1999.

(3) The information to be given by the Regulator under this regulation is to—

(a) Advise employers of the obligation in section 169 of the Act; and

(b) Explain that an employer who is a listed employer will be required by these regulations to enter into a transitional accident insurance contract with the specified insurer.

(4) Subclause (3) does not limit the information that the Regulator may give employers under this regulation.

(5) The Regulator must have regard to the returns filed by insurers under section 194 of the Act in identifying employers who should receive information under this regulation.

11. Regulator to provide specified insurer with list of listed employers—(1) The Regulator must give the specified insurer a list of the names, addresses, and insurance numbers of listed employers by 5 pm on 27 June 1999.

(2) The Regulator must update the list given to the specified insurer under subclause (1) and may give the specified insurer,—

(a) By the close of 25 July 1999, the names, addresses, and insurance numbers of employers for addition to the list; and

(b) At any time, the names of employers for removal from the list; and

(c) At any time, details and information necessary to correct entries or anomalies in the list.

(3) The Regulator must give the specified insurer a further list of the names, addresses, and insurance numbers of listed employers by the close of 25 July 1999; and this further list must incorporate any changes made to the first list under subclause (2).

(4) In compiling and correcting lists under this regulation, the Regulator—

(a) Must have regard to the returns filed by insurers under section 194 of the Act; and

(b) May exercise the powers in section 370 of the Act.

12. Specified insurer may rely on information provided by Regulator—(1) The specified insurer—

- (a) May rely on the lists given by the Regulator under regulation 11 (1) and (3) in—
 - (i) Entering transitional accident insurance contracts;
 - (ii) Giving notice to listed employers under regulation 6 (3);
 - (iii) Communicating with listed employers about these regulations; and
 - (b) Must take all practicable steps to enable a listed employer to comply with section 171 (3) (c) and (4) (a) and (b) of the Act.
- (2) The specified insurer need not include the trading name of a listed employer in an insurance certificate for that employer if it is not known.

Miscellaneous Provisions

13. Giving notices and documents—Notifications and documents given under these regulations may be given in accordance with section 368 of the Act.

14. Offence to fail to provide information—Every listed employer commits an offence who intentionally fails or refuses to comply with a requirement of the specified insurer under regulation 4, and is liable to a fine not exceeding \$10,000.

15. Production of Regulator's lists in proceedings—(1) In any proceedings relating to these regulations, every employer who is entered and remains on the Regulator's lists under regulation 11 is a listed employer, in the absence of proof to the contrary.

(2) The production of a copy of the lists referred to in regulation 11 under the hand of any person authorized to bind the Regulator is, in all courts and proceedings, sufficient evidence of the original, and the production of the original list is not necessary.

(3) All courts and persons must, in all proceedings, take judicial notice of the signature of any person referred to in subclause (2).

MARIE SHROFF,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations require employers who do not have accident insurance contracts by 25 June 1999 to enter into a transitional contract with At Work Insurance Limited, a State enterprise.

Transitional contracts commence on 1 July 1999 and remain in force until 30 September 1999. After that, the insured may insure with another insurer, maintain the transitional contract, or renegotiate another accident insurance contract with At Work Insurance Limited.

The regulations prescribe mechanisms for the Regulator to communicate with employers about these transitional regulations and to identify those employers to whom these regulations apply.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 25 May 1999.

These regulations are administered in the Department of Labour.