



GOVERNMENT OF THE COOK ISLANDS
MINISTRY OF INTERNAL AFFAIRS
Labour and Consumer Division

OSH NATIONAL REFORM PROJECT

Protecting Cook Islands Workers – Supporting Cook Islands Businesses

The following questions are provided to guide your contribution to the OSH National Reform Project and respond to the issues paper. You can choose to answer any of these questions or give any other responses to the issues raised here.

Your views are important!

Please provide your submission by the close of business on 24 August 2018. Send them via email to andrea@shawidea.com.au or deliver them in hard copy to INTAFF, marked: *Attention: OSH Reform Project*.

In responding to these questions, please consider the four reform principles:

1. **Fairness**, leading to greater equity in sharing the costs of occupational ill-health.
2. **Comprehensiveness**, ensuring that all workers and enterprises have the benefit of improved OSH and workers' compensation regulation.
3. **Prevention**, focussing attention on how to prevent occupational ill-health, not just treat and compensate.
4. **Sustainability**, ensuring that the legislative system can fund the required entitlements without damaging the Cook Islands' economy.

Economic and social context

Poor control over occupational injuries and disease results in significant costs and creates social damage. Given the scale of the potential economic and social costs of poor OSH, the benefits of the proposed reform package are considerable. Implementing effective legislation for OSH, WC and ELI is likely to create economic and social benefits for the Cook Islands.

1. What costs and benefits of OSH reform can you identify?
2. How much will OSH reform cost your business or workplace?
3. How much will OSH reform benefit your business or workplace?

Occupational Safety and Health

Legislative forms and processes

4. What other reform principles should be adopted?

OSH legislation needs to deal with the following issues:

5. To what extent would the framework for OSH legislation of Acts, Regulations and Codes of Practice work in the Cook Islands?

6. How frequently should the Cook Islands Government review the OSH Act?

7. What definitions should be included in the OSH Act?

8. What objectives should be included in the OSH Act?

9. How should the role of the Tripartite Labour Advisory Council in relation to OSH be reflected in the OSH Act?

Duties and rights

10. How much detail should be included in the OSH Act about employers' duties?

11. What should be included in the OSH Act as employers' duties?

12. CEOs and other senior managers have a critical role in managing OSH. How should the role of these Senior Officers be defined in the OSH Act?

13. What special duties should Senior Officers have under the OSH Act?

14. What duties should self-employed people have under the OSH Act?

15. What special duties should suppliers have under the OSH Act?

16. What should be included in the OSH Act as employees' duties?

17. What special duties should others with influence over a workplace have under the OSH Act?

Enforcement of the law

18. What kind of inspection system would work in the Cook Islands?

19. What kinds of enforcement tools should be available to inspectors and the government?

20. What categories of offences should be defined?

21. What kinds of penalties should be included in OSH laws?

22. How should enforcement actions be reviewed?

Workplace consultation arrangements

23. How could the role of Safety and Health Representative be operationalised in the Cook Islands?

24. How could the role of Roving Safety and Health Representative be operationalised in the Cook Islands?

- Collecting and using OSH data*
25. How could the role of OSH Committees be operationalised in the Cook Islands?
26. What form should a Register of Accidents take?
27. How should serious incidents be defined in the OSH Act?
28. How should serious incidents be notified to INTAFF?
29. How could INTAFF and the Ministry of Health collect more reliable and comprehensive data about the incidence of occupational ill-health and dangerous occurrences?
- Accessing professional advice*
30. How can duty holders and INTAFF access professional OSH advice?
31. How could an Occupational Health Service work in the Cook Islands?
- Workers compensation**
- Workers' compensation schemes need to address the following issues
- Coverage of workers*
32. What should be the legal test for employment coverage for workers' compensation in the Cook Islands?
33. What exclusions to coverage, if any, should exist and why?
34. What forms of work activity that do not readily fit within the notion of a contract of employment should be given deemed coverage?
35. Which types of voluntary workers engaged in socially desirable activities should be afforded deemed coverage? To which organisations should this apply (eg Cook Islands Civil Society Organisation, Cook Islands Red Cross)?
- Coverage of conditions*
36. How should "injury" and "disease" be defined?
37. How should secondary disability be included?
38. How should coverage of occupational diseases be dealt with?
- Coverage of circumstances*
39. What test of work-relatedness (for injury, disease or death) should be included?
40. How should coverage of journey or commuting injuries be dealt with?
41. How should coverage of recess injuries be dealt with?
- Exclusions and limitations*
42. When should entitlement to compensation commence?
43. What restrictions, if any, should operate in relation to (a) entitlement to workers' compensation benefits generally and (b) ongoing receipt of periodical benefits and on what basis?

- Geographic coverage* 44. What definition of geographic coverage of “the Cook Islands” should be used?
- Range of benefits* 45. What range of benefits should be provided?
 46. In what circumstances, if any, should there be a role for lump sums in the provision of incapacity benefits?
 47. How should permanent disability benefits be assessed, eg in terms of an updated Table of Maims or by a more comprehensive coverage of impairments similar to the AMA Guides?
- Level of benefits* 48. How should the level and duration of benefits be determined?
 49. How should indexation of benefits be dealt with?
- Injury notification* 50. How should employers be required to inform their workers about their entitlement to workers compensation?
 51. In what circumstances should it be possible to maintain a claim for compensation even if a notice of accident or injury has not been provided?
 52. In what circumstances should it be possible to recover compensation even if the claim was not lodged within the prescribed period?
- Claims determination and management* 53. What should be the time period within which an employer must forward a claim for compensation received from a worker to the insurer?
 54. What should be the time period within which an insurer must make a decision about liability of a lodged claim?
- Dispute resolution* 55. What range of dispute resolution mechanisms and/or arrangements should be established to deal with WC issues?
- Funding arrangements* 56. What classificatory system should be used for the new premium-setting system?
 57. What system should be in place to collect premiums and ensure that all employers pay their premiums?
- Governance arrangements* 58. Where should ministerial oversight of the Cook Islands workers’ compensation scheme reside: with the Ministry of Internal Affairs or the Ministry of Finance and Economic Management?
 59. What, if any, model of oversight should be adopted for a new Workers Compensation Fund, or its equivalent: a stakeholder board model, a specialist board model or an amalgam of these two approaches?
 60. What should be the functions of the governance body (e.g. review investment strategy of the fund)?