

Securing Payment of Compensation.

The employer is required under the ASWC Act to secure all payment of compensation. Any employer failing to secure such payment of compensation is guilty of a Class A Misdemeanor. Where such employer is a corporation, the president, secretary, and treasurer thereof shall also be liable severally for such fine or imprisonment. The president, secretary, or treasurer of such corporation shall also severally be personally liable jointly with such corporation for any compensation or other benefit which may accrue in respect to any employee of such corporation injured at work while it so fails to secure the payment of compensation.

Transfer or Destruction of Property to Avoid Payment.

Any employer who knowingly transfers, sells, encumbers, assigns or in any manner disposes of, conceals, secretes, or destroys any property belonging to such employer after one of his employees has been injured within the purview of the ASWC Act with the intent to avoid the payment of compensation to such employee or his dependents is guilty of Class A Misdemeanor.

Claim for Services & Illegal Fees.

No claim for legal or other services rendered in respect of a claim, or an award for compensation, to or on account of any person is valid unless approved by the Commissioner, or, if proceedings for review of the order of the Commissioner in respect to such claim or award are had before any court, unless approved by such court. Any claim so approved shall in the manner and to the extent fixed by the Commissioner or such court be a lien upon such compensation. Any person who receives any fee or gratuity on account of services without approval of the Commissioner or court is guilty of a Class A Misdemeanor.

Liability for Compensation - Exemption.

Liability for compensation does not apply where injury to the employee is occasioned solely by his intoxication or by his willful intention to injure or kill himself or another. Exemption also applies to both minor employers and person employing individuals for whom a rule of liability for injuries or death arising out of and in the course of employment is provided by laws of the United States. However, the right of an employee to file a complaint against a minor employer before the Commission for any occupational hazards shall not be denied.

Failure to File an Injury Report.

Any employer who fails or refuses to send any report of an employee injury or death at work as mandated under the ASWC Act is subject to a civil penalty not to exceed \$500.00 for each such failure or refusal.

Failure to Issue Notice of Final Payment.

Any employer who fails to give the Commissioner a proper notice within 16-days after a final payment of compensation is made to an employee shall be assess a civil penalty of \$100.00 by the Commission. The employer is required to use notice form prescribed by the Commissioner.

Payment Issuance.

Compensation under the ASWC Act must be paid periodically, promptly, and directly to the individual entitled thereto, without an award, except where liability to pay compensation is controverted by the employer. The first installment of compensation must be due on the 14th day after the employer has knowledge of the injury or death and whereby such date all compensation thereafter shall be due. Compensation must be paid in semi-monthly installments except where Commissioner determines that payment installments should be made monthly or at some other interval.



AMERICAN SAMOA WORKMEN'S COMPENSATION ACT

STATUORY COMPLIANCE

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American Samoa Government
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Employers Prohibited Making Invalid Agreements.

It is prohibited under the ASWC Act for an employer to make any agreement for an employee to pay any portion of premium paid by such employer to the carrier, or to contribute to a benefit fund or department maintained by such employer for the purpose of providing compensation or medical services and supplies. In addition, no agreement by an employee to waive his right to compensation shall be valid. Any employer who makes a deduction for such purpose from the pay of any employee entitled to the benefits under the ASWC Act is guilty of a Class C Misdemeanor.

Making False or Misleading Statements.

It is prohibited for any person who knowingly makes any false or misleading statement or representation for the purpose of obtaining any benefit or payment under the ASWC Act, or to evade liability for any benefit or payment. This is considered a Class A Misdemeanor.

Re-opening Claims Suspected or Reported as Fraudulent.

The Commissioner may at any time either of its own motion or upon the application of any party reopen any case on the ground that fraud has been practiced on any party and render such decision as is proper under the circumstances.

Certificate of Compliance.

All employers conducting business in American Samoa are required to secure the proper compliance certificate with the Commission's Office - including posting of such certificate at its employment premises or place of business. Any person who violates on securing a Compliance Certificate is guilty of a Class A Misdemeanor.

Obtain & Maintain a Workers Compensation Insurance Policy.

Any employer employing 3 or more employees are required to secure a workmen's compensation insurance policy with any authorized insurance carrier. Also, the Notice of Coverage Secured as provided by the carrier as proof a policy has been secured by the employer must be posted at the employer's place of business. This notice must also be furnished and provided to the Commission's Office to obtain a Certificate of Compliance.

Authorization to Sell Workmen's Compensation Insurance in the Territory

Under the ASWC Act, no carrier or employer is allowed to insure payment of workmen's compensation in American Samoa unless granted authorization by the Commission. In granting such authorization, the Commission may take into consideration the recommendation or of any authority having supervision. The Commission may also authorize any carrier to insure the payment of compensation.

Insurance Policy Requirements.

Every policy or contract of insurance issued under authority of the ASWC Act by an authorized carrier must contain: (1) provision to carry out the provision under A.S.C.A. Sec. 32.0535 which mandates the carrier to serve as substitution for the employer as a liable party; (2) provision that insolvency or bankruptcy of the employer, or discharge therein, or both, does not relieve the carrier from payment of compensation for disability or death sustained by an employee during the life of such policy or contract.

Requirements for Policy Cancellation.

No contract or policy of insurance issued by a carrier may be canceled prior to the date specified in such contract or policy for its expiration until at least 30-days have elapsed after a notice of cancellation has been sent to the Commissioner and to the employer.

Substitution of Carrier for Employer as Liable Party.

By regulation, the liability for compensation will be effectively discharged and administered by the carrier for an employer who is not self-insurer. All obligations and duties of the employer regarding such compensation liability as required by law shall also be imposed upon the carrier. For such purpose, (1) the notice to or knowledge of an employer's occurrence of the injury shall be notice to or knowledge of the carrier; (2) jurisdiction over the employer by the Commissioner, the Commission, or any Court shall be jurisdiction over the carrier; and (3) any requirement by the Commissioner, the Commission, or any court under any compensation order, finding, or decision shall be binding upon the carrier in the same manner and to the same extent as upon the employer.

Claim Facilities.

The carrier is required by law to provide claim facilities through its own staffed adjusting facilities located within the Territory or by independent, licensed, resident adjusters with power to effect settlement within the Territory.