

## HEALTH & SAFETY INFORMATION SHEET 3

### **Employers' Liability Insurance**

This leaflet gives general guidance only, and is not a legal interpretation of the Act.

Enquiries may be made to your local Health and Safety Executive Area Office. Tel 0161 952 8200.

The Act places a duty on employers (unless they are exempt) to take out and maintain approved insurance policies with authorised insurers against liability bodily injury or disease sustained by their employees in the course of their employment.

Insurers must issue a Certificate of Insurance to employers who take out or renew insurance policies and employers are required to display the certificate, or a copy, at each place of business, for the information of the employees.

Employers must be insured for at least £5 million in respect of claims arising out of any occurrence.

#### **What Is A Business?**

For the purposes of the Act, the term includes a trade or profession, or any activity carried on by a body of people, whether or not they are incorporated. Many activities that might not normally be considered as business, but where staff are employed, e.g. in sports or social clubs, will come within this definition.

#### **Which Employers Are Exempt?**

- Any local authority (other than a parish council).
- Any joint board or committee whose members include representatives of any such local authority.
- Any police authority.
- Any nationalised industry and its subsidiaries.
- Certain bodies financed out of public funds (these are defined in the exemption regulations).
- Employers of crews on offshore installations, ships and hovercraft if they are covered instead with a mutual insurance association of shipowners or shipowners and others.
- A health service body and a National Health Service trust (defined or established under the National Health Service and Community Care Act 1990 or the National Health Service (Scotland) Act 1978).

#### **Who Is An Employee?**

Defined in the Act as 'an individual who has entered into works under a contract of service or apprenticeship with an employer, whether by way of service or apprenticeship with an employer, whether by way of manual labour, clerical work, or otherwise, whether such contract is expressed or

implied, oral or in writing,' and they may be full or part time.

### **Which Employees Are Exempt?**

- People who are not 'employees' as defined in the Act (e.g. independent contractors who are not the employees of the people engaging them).
- People employed in any activity that is not a business as defined in the Act, e.g. a domestic servant.
- People whose employer is related to them as their husband, wife, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother or half-sister.
- People who are not ordinarily resident in Great Britain and who are working here for fewer than 14 consecutive days.

### **What Is A Certificate Of Insurance?**

The dates of commencement and expire of the policy are shown on the certificate. The certificate must be issued to the employer within 30 days of a contract of insurance being entered into, and similarly at each renewal. The employer must display the current certificate of insurance at each place of business for the information of the employees. The certificate must be removed from display by the employer at the end of period of insurance cover or when the policy is cancelled.

### **Inspections**

An authorised inspector can require an employer to: send the current certificate, or a copy, to him/her for inspection; produce the current certificate, or a copy, on demand to an authorised inspector; require the employer to allow him/her to inspect the current policy, or a copy. Reasonable notice of this requirement for inspection, either at the place of business or at the registered office of the company, will be given.

### **Penalties**

For every day on which an employer is not insured in accordance with the Act, he/she will be liable on summary conviction to a fine not exceeding £2500. Where the offence has been committed with the consent or connivance, or facilitated by the neglect, of any official of the company. An employer will be liable on summary conviction to a fine not exceeding £1000 if he/she fails to comply with the following requirements:

- (a) to display the certificate or a copy.
- (b) to send the certificate or a copy to an authorised inspector when required to do so;
- (c) to produce the certificate or a copy on demand to an authorised inspector.
- (d) to allow the policy to be inspected by an authorised inspector.

### **Insurance Claims**

- The Act does not grant an employee an automatic right to compensation. The purpose of the ACT is to ensure that, when an employee succeeds in a claim, the employer is insured and can pay the compensation that is due.
- You must retain for at least 40 years copies of certificates of insurance which have expired. This is because claims for diseases can be made many year after the disease is caused.