

1999 No. 448

**EMPLOYER'S LIABILITY**

**Employer's Liability (Compulsory Insurance)  
Regulations (Northern Ireland) 1999**

*Made* . . . . . 9th November 1999

*Coming into operation* . . . . . 1st January 2000

The Department of Economic Development(a), in exercise of the powers conferred by Articles 5(2) and (3), 6(b), 7(c), 8(1) and (2) and 10 of the Employer's Liability (Defective Equipment and Compulsory Insurance) (Northern Ireland) Order 1972(b) (including those provisions as applied with any relevant modifications and extensions by the Offshore Installations and Pipeline Works (Management and Administration) Regulations (Northern Ireland) 1995(c)), and now vested in it(d) and of every other power enabling it in that behalf, hereby makes the following Regulations:

*Citation, commencement and interpretation*

1.—(1) These Regulations may be cited as the Employer's Liability (Compulsory Insurance) Regulations (Northern Ireland) 1999 and shall come into operation on 1st January 2000.

(2) In these Regulations—

“the 1972 Order” means the Employer's Liability (Defective Equipment and Compulsory Insurance) (Northern Ireland) Order 1972;

“associated structure” means, in relation to an offshore installation, a vessel, aircraft or hovercraft attendant on the installation or any floating structure used in connection with the installation;

“company” has the same meaning as in Article 3 of the Companies (Northern Ireland) Order 1986(e);

“the Executive” means the Health and Safety Executive for Northern Ireland;

“inspector” means an inspector duly authorised by the Executive under Article 8(2)(b) of the 1972 Order(f);

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(a) Formerly the Department of Manpower Services; see S.I. 1982/846 (N.I. 11), Article 3  
(b) S.I. 1972/963 (N.I. 6)  
(c) S.R. 1995 No. 340. This applies the 1972 Order to certain employees employed for work on or from offshore installations or associated structures, in the course of activities undertaken on or in connection with such installations, with modifications and extensions, in particular, to Articles 5, 6(b) and 8(2)  
(d) By S.R. & O. (N.I.) 1973 No. 504, Article 6 and Schedule 3  
(e) S.I. 1986/1032 (N.I. 6)  
(f) Article 8(2)(b) of the 1972 Order was amended by S.I. 1998/2795 (N.I. 18), Article 6(1) and Schedule 1

“offshore installation” has the same meaning as in the Offshore Installations and Pipeline Works (Management and Administration) Regulations (Northern Ireland) 1995;

“relevant employee” means an employee—

- (a) who is ordinarily resident in the United Kingdom; or
- (b) who, though not ordinarily resident in the United Kingdom, has been employed on or from an offshore installation or associated structure for a continuous period of not less than 7 days; or
- (c) who, though not ordinarily resident in Northern Ireland, is present in Northern Ireland in the course of employment for a continuous period of not less than 14 days; and

“subsidiary” has the same meaning as in Article 4(a) of the Companies (Northern Ireland) Order 1986.

*Prohibition of certain conditions in policies of insurance*

**2.**—(1) For the purposes of the 1972 Order(b), there is prohibited in any contract of insurance any condition which provides (in whatever terms) that no liability (either generally or in respect of a particular claim) shall arise under the policy, or that any such liability so arising shall cease, if—

- (a) some specific thing is done or omitted to be done after the happening of the event giving rise to a claim under the policy;
- (b) the policy holder does not take reasonable care to protect his employees against the risk of bodily injury or disease in the course of their employment;
- (c) the policy holder fails to comply with the requirements of any statutory provision for the protection of employees against the risk of bodily injury or disease in the course of their employment; or
- (d) the policy holder does not keep specified records or fails to provide the insurer with or make available to him information from such records.

(2) For the purposes of the 1972 Order there is also prohibited in a policy of insurance any condition which requires—

- (a) a relevant employee to pay; or
- (b) an insured employer to pay the relevant employee,

the first amount of any claim or any aggregation of claims.

(3) Paragraphs (1) and (2) do not prohibit for the purposes of the 1972 Order a condition in a policy of insurance which requires the employer to pay or contribute any sum to the insurer in respect of the satisfaction of any claim made under the contract of insurance by a relevant employee or any costs and expenses incurred in relation to any such claim.

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(a) Article 4 of S.I. 1986/1032 (N.I. 6) was substituted by Article 62 of S.I. 1990/1504 (N.I. 10)

(b) See the definition of “approved policy” in Article 5(3)(a) of the 1972 Order

*Limit of amount of compulsory insurance*

**3.**—(1) Subject to paragraph (2), the amount for which an employer is required by the 1972 Order to insure and maintain insurance in respect of relevant employees under one or more policies of insurance shall be, or shall in aggregate be not less than £5 million in respect of—

- (a) a claim relating to any one or more of those employees arising out of any one occurrence; and
- (b) any costs and expenses incurred in relation to any such claim.

(2) Where an employer is a company with one or more subsidiaries, the requirements of paragraph (1) shall be taken to apply to that company with any subsidiaries together, as if they were a single employer.

*Issue of certificates of insurance*

**4.**—(1) Every authorised insurer who enters into a contract of insurance with an employer in accordance with the 1972 Order shall issue the employer with a certificate of insurance in the form, and containing the particulars, set out in Schedule 1.

(2) The certificate shall be issued by the insurer not later than thirty days after the date on which the insurance commences or is renewed.

(3) Where a contract of insurance for the purposes of the 1972 Order is entered into together with one or more other contracts of insurance which jointly provide insurance cover of no less than £5 million, the certificate shall specify both—

- (a) the amount in excess of which insurance cover is provided by the policy; and
- (b) the maximum amount of that cover.

(4) An employer shall retain each certificate issued to him under this regulation, or a copy of each such certificate, for a period of 40 years beginning on the date on which the insurance to which it relates commences or is renewed.

(5) Where the employer is a company, retaining in any eye readable form a copy of a certificate in any one of the ways authorised by Articles 671 and 672 of the Companies (Northern Ireland) Order 1986 shall count as keeping a copy of it for the purposes of paragraph (4).

(6) In any case where it is intended that a contract of insurance for the purposes of the 1972 Order is to be effective, not only in Northern Ireland, but also—

- (a) in Great Britain, the Isle of Man, the Island of Guernsey, the Island of Jersey or the Island of Alderney;
- (b) in any waters outside the United Kingdom to which the 1972 Order may have been applied by any statutory provision,

the form set out in Schedule 1 may be modified by a reference to the relevant law which is applicable and a statement that the policy to which it relates satisfies the requirements of that law.

*Display and production of copies of certificates of insurance*

**5.**—(1) Subject to paragraph (4), an employer who has been issued with a certificate in accordance with regulation 4 shall display one or more copies of it, in accordance with paragraphs (2) and (3), at each place of business at which he employs any relevant employee of the class or description to which such certificate relates.

(2) Any relevant certificate which is required to be displayed in accordance with paragraph (1), shall be displayed in such number and in such positions and be of such size and legibility that they may be easily seen and read by any relevant employees, and shall be reasonably protected from being defaced or damaged.

(3) Copies of a certificate which are required to be displayed in accordance with paragraph (1) shall be kept on display until the date of expiry or earlier termination of the approved policy mentioned in the certificate.

(4) The requirements of paragraphs (1), (2) and (3) do not apply where an employer employs a relevant employee on or from an offshore installation or associated structure, but in such a case the employer shall produce, at the request of that employee and within the period of ten days from such request, a copy of the certificate which relates to that employee.

*Production of certificates of insurance*

**6.** An employer who is required by a written notice issued by an inspector to do so shall produce or send to any person specified in the notice, at the address and within the time specified in the notice—

- (a) either the original or a copy of every certificate issued to him under regulation 4 which relates to a period of insurance current at the date of issue of the notice;
- (b) either the original or a copy of every certificate issued to him under regulation 4 and retained by him in accordance with regulation 4(4).

*Inspection of policies of insurance*

**7.** Where a certificate is required to be issued to an employer in accordance with regulation 4, the employer shall during the currency of the insurance permit the policy of insurance or a copy of it to be inspected by an inspector—

- (a) at such reasonable time as the inspector may require;
- (b) at such place of business of the employer (which, in the case of an employer who is a company, may include its registered office) as the inspector may require.

*Production by inspectors of evidence of authority*

**8.** Any inspector shall, if so required when visiting any premises for the purposes of the 1972 Order, produce to an employer or his agent some duly authenticated document showing that he is authorised by the Executive under Article 8(2)(b) of the 1972 Order.

*Employers exempted from insurance*

**9.**—(1) The employers specified in Schedule 2 are exempted from the requirement of the 1972 Order to insure and maintain insurance.

(2) The exemption applies to all cases to which that requirement would otherwise apply, except that for the employers specified in paragraph 2 of Schedule 2 it applies only so far as is mentioned in that paragraph.

*Revocations and transitional*

**10.**—(1) Subject to paragraphs (2) and (3), the Regulations specified in column 1 of Schedule 3 are hereby revoked to the extent specified in column 3 of that Schedule.

(2) Subject to paragraphs (4) and (5), in the case of an insurance policy commenced before, and current at, 1st January 2000, regulations 2 to 6 of, and the Schedule to, the 1975 Regulations shall continue to apply, instead of regulations 2 to 6 of, and Schedule 1 to, these Regulations, until the expiry or renewal of the policy or until 1st January 2001, whichever is the earlier.

(3) The certificate required to be issued by regulation 4(1) in respect of insurance commenced or renewed on or after 1st January 2000 but before 1st April 2000 may, instead of being in the prescribed form, be in the form and contain the particulars specified in the Schedule to the 1975 Regulations.

(4) Every authorised insurer who has issued a certificate in the form, and containing the particulars, specified in the Schedule to the 1975 Regulations in respect of insurance current at 1st April 2001 shall replace it by that date with a certificate in the prescribed form and the replacement shall then be the relevant certificate for the purposes of regulation 5.

(5) The certificates to which regulation 4(4) applies include any certificate of which a copy is required to be displayed or maintained by regulation 6(1) of the 1975 Regulations immediately before 1st January 2000, and any such certificate shall be treated for the purposes of regulation 6 as having been issued under regulation 4.

(6) Regulation 7 applies where a certificate is required, in accordance with paragraph (2), to be issued in accordance with the 1975 Regulations as it applies where a certificate is required to be issued in accordance with regulation 4.

(7) In this Regulation—

“in the prescribed form” means in the form, and containing the particulars, required by regulation 4(1) and (3) and Schedule 1;

“the 1975 Regulations” means the Employer’s Liability (Compulsory Insurance) General Regulations (Northern Ireland) 1975(a) as in operation on 31st December 1999.

Sealed with the Official Seal of the Department of Economic Development on 9th November 1999.

(L.S.)

*Adrianne L. Brown*

Assistant Secretary

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(a) S.R. 1975 No. 231 as amended by S.R. 1995 No. 50

**Form of, and particulars to be contained in, a certificate of insurance**

**“CERTIFICATE OF EMPLOYER’S LIABILITY INSURANCE(a)**

*(Where required by regulation 5 of the Employer’s Liability (Compulsory Insurance) Regulations (Northern Ireland) 1999 (“the Regulations”), one or more copies of this certificate must be displayed at each place of business at which the policy holder employs persons covered by the policy.)*

Policy No. ....

- 1. Name of policy holder.
- 2. Date of commencement of insurance policy.
- 3. Date of expiry of insurance policy.

We hereby certify that subject to paragraph 2—

- 1. the policy to which this certificate relates satisfies the requirements of the relevant law applicable [in Northern Ireland](b); and
- 2. (a) the minimum amount of cover provided by this policy is no less than £5 million(c); or  
       (b) the cover provided under this policy relates to claims in excess of [£           ] but not exceeding [£           ].

Signed on behalf of ..... (Authorised Insurer)

..... Signature

*Notes*

- (a) *Where the employer is a company to which regulation 3(2) of the Regulations applies, the certificate shall state in a prominent place, either that the policy covers the holding company and all its subsidiaries, or that the policy covers the holding company and all its subsidiaries except any specifically excluded by name, or that the policy covers the holding company and only the named subsidiaries.*
- (b) *Specify applicable law as provided for in regulation 4(6) of the Regulations.*
- (c) *See regulation 3(1) of the Regulations and delete whichever of paragraphs 2(a) or 2(b) does not apply. Where 2(b) is applicable, specify the amount of cover provided by the relevant policy.”*

**Employers exempted from insurance**

1. Any subsidiary of any such body as is mentioned in Article 7(b) of the 1972 Order (which exempts any body corporate established by or under any statutory provision for the carrying on of any industry or part of an industry, or of any undertaking, under public ownership or control) and any company of which two or more such bodies are members and which would, if these bodies were a single body corporate, be a subsidiary of that body corporate.

2. Any employer to the extent that he is required by paragraph (1) of Article 5 of the 1972 Order to insure and maintain insurance against liability for personal injury suffered by his employee when the employee is—

(i) carried in or upon a motor vehicle; or

(ii) entering or getting on to, or alighting from, a motor vehicle,

in the circumstances specified in that paragraph and where that personal injury is caused by, or arises out of, the use by the employer of a motor vehicle on a road; and the expressions “road” and “motor vehicle” have the same meanings as in Part I of the Road Traffic (Northern Ireland) Order 1995(a).

3. The Northern Ireland Local Government Officers’ Superannuation Committee.

4. The Local Government Staff Commission for Northern Ireland.

5. The Northern Ireland Council for the Curriculum, Examinations and Assessment.

6. The Staffs Council for Health and Personal Social Services.

7. The Northern Ireland Council for Postgraduate Medical and Dental Education.

8. Any district council.

9. Planning Appeals Commission.

10. Any Education and Library Board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1986(b).

11. Any Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972(c).

12. The Guardian Ad Litem Special Agency.

13. The Regional Medical Physics Agency.

14. The Northern Ireland Blood Transfusion Service Special Agency.

15. The Northern Ireland Central Services Agency.

16. The National Board for Nursing, Midwifery and Health Visiting for Northern Ireland.

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(a) S.I. 1995/2994 (N.I. 18)

(b) S.I. 1986/594 (N.I. 3)

(c) S.I. 1972/1265 (N.I. 14)

**Revocations of Regulations**

| 1                 | 2   | 3                           |
|-------------------|---|-----------------------------|
| <i>Reference</i>  | <i>Title</i>  | <i>Extent of revocation</i> |
| S.R. 1975 No. 231 | Employer's Liability (Compulsory Insurance) General Regulations (Northern Ireland) 1975             | The whole Regulations       |
| S.R. 1995 No. 50  | Employer's Liability (Compulsory Insurance) General (Amendment) Regulations (Northern Ireland) 1995 | The whole Regulations       |
| S.R. 1998 No. 78  | Employer's Liability (Compulsory Insurance) Exemption Regulations (Northern Ireland) 1998           | The whole Regulations       |

## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These Regulations consolidate with amendments the Employer's Liability (Compulsory Insurance) General Regulations (Northern Ireland) 1975 ("the 1975 Regulations") and subsequent amending Regulations made under the Employer's Liability (Defective Equipment and Compulsory Insurance) (Northern Ireland) Order 1972 ("the 1972 Order").

The Regulations supplement the provisions of the 1972 Order relating to the compulsory insurance of risks relating to employees. Regulation 1 contains certain definitions and regulation 2 sets out the conditions which are prohibited for the purposes of the 1972 Order in any policy of insurance relating to employees. Regulation 3 sets the limit of the sum to be insured as not less than five million pounds. Regulation 4 and Schedule 1 place obligations on authorised insurers as to the issue of certificates including the form of certificates. Regulation 4 also imposes obligations on employers in relation to keeping certificates. Regulations 5 and 6 deal with the display and production of certificates of insurance. Regulation 7 deals with the production and inspection of policies of insurance. Regulation 8 imposes a condition on authorised inspectors to produce evidence of their authority if so required when visiting employers' premises. Regulation 9 and Schedule 2 exempt specified employers and classes of employer from the requirements of the 1972 Order. The specified employers are certain public bodies; the specified classes of employer include any employer to the extent that he is required to insure under a compulsory motor insurance scheme by virtue of the fact that his employees are carried on, or are alighting from or are entering into, a motor vehicle. Regulation 10 and Schedule 3 set out revocations and transitional arrangements. These include arrangements for provisions of the 1975 Regulations to continue to apply to pre-1st January 2000 policies until 1st January 2001 or earlier expiry or renewal; and for enabling the form of certificate under the 1975 Regulations to be used for pre-1st April 2000 policies until 1st April 2001 at the latest.

The principal changes made by the Regulations are—

- that the sum to be insured is raised from not less than two million pounds to not less than five million pounds;
- the prescribed wording on the certificates gives more information about the cover provided;
- a new provision that certificates are required to be kept for forty years;
- a new power is given to authorised inspectors to require not just the production of the current certificate but also the production of past certificates; and
- employers of offshore installations are required to produce a copy of the relevant certificate of insurance on request from the employee within ten days.

In Great Britain the corresponding Regulations are the Employers' Liability (Compulsory Insurance) Regulations 1998 (S.I. 1998/2573). The Department of the Environment, Transport and the Regions has prepared a regulatory impact assessment in relation to those Regulations and a copy of that assessment, together with a Northern Ireland Supplement prepared by the Department of Economic Development, is held at the offices of the Health and Safety Executive for Northern Ireland at 83 Ladas Drive, Belfast BT6 9FR, from where copies may be obtained on request.

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