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STATUTORY INSTRUMENTS

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**1998 No. 2573**

**INSURANCE**

**The Employers' Liability (Compulsory Insurance) Regulations 1998**

<i>Made</i>	- - - -	<i>13th October 1998</i>
<i>Laid before Parliament</i>		<i>27th October 1998</i>
<i>Coming into force</i>	- -	<i>1st January 1999</i>

The Secretary of State, in exercise of his powers under sections 1(2), 1(3)(a), 2(2), 3(1)(c), 4(1), (2) and 6 of the Employers' Liability (Compulsory Insurance) Act 1969(1) (including those provisions as applied with any relevant modifications and extensions by the Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995(2)), and of all other powers enabling him in that behalf, hereby makes the following Regulations:-

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Employers' Liability (Compulsory Insurance) Regulations 1998 and shall come into force on 1st January 1999.

(2) In these Regulations—

“the 1969 Act” means the Employers' Liability (Compulsory Insurance) Act 1969;

“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 section 735 of the Companies Act 1985(3);

“inspector” means an inspector duly authorised by the Secretary of State under section 4(2)(b) of the 1969 Act;

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

“relevant employee” means an employee—

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(1) 1969 c. 57 (as amended).

(2) S.I. 1995/738. This applies the 1969 Act 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 sections 1, 2(2)(b) and 4(2)(a).

(3) 1985 c. 6.

- (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 Great Britain, is present in Great Britain in the course of employment for a continuous period of not less than 14 days; and
- “subsidiary” has the same meaning as in section 736 of the Companies Act 1985.

### **Prohibition of certain conditions in policies of insurance**

2.—(1) For the purposes of the 1969 Act<sup>(4)</sup>, 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 specified 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 enactment 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 1969 Act 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) above do not prohibit for the purposes of the 1969 Act 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.

### **Limit of amount of compulsory insurance**

3.—(1) Subject to paragraph (2) below, the amount for which an employer is required by the 1969 Act 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) above shall be taken to apply to that company with any subsidiaries together, as if they were a single employer.

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(4) See the definition of “approved policy” in section 1(3)(a).

### **Issue of certificates of insurance**

4.—(1) Every authorised insurer who enters into a contract of insurance with an employer in accordance with the 1969 Act shall issue the employer with a certificate of insurance in the form, and containing the particulars, set out in Schedule 1 to these Regulations.

(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 1969 Act 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 sections 722 and 723 of the Companies Act 1985 shall count as keeping a copy of it for the purposes of paragraph (4) above.

(6) In any case where it is intended that a contract of insurance for the purposes of the 1969 Act is to be effective, not only in Great Britain, but also—

- (a) in Northern Ireland, 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 1969 Act may have been applied by any enactment,

the form set out in Schedule 1 to these Regulations 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) below, an employer who has been issued with a certificate in accordance with regulation 4 above shall display one or more copies of it, in accordance with paragraphs (2) and (3) below, 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) above, 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) above 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) above 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 to an Inspector**

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 above 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 above and retained by him in accordance with regulation 4(4) above.

### **Inspection of policies of insurance**

7. Where a certificate is required to be issued to an employer in accordance with regulation 4 above, 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 1969 Act, produce to an employer or his agent some duly authenticated document showing that he is authorised by the Secretary of State under section 4(2)(b) of the 1969 Act.

### **Employers exempted from insurance**

9.—(1) The employers specified in Schedule 2 to these Regulations are exempted from the requirement of the 1969 Act 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 paragraphs 1, 12, 13 and 14 it applies only so far as is mentioned in those paragraphs.

### **Revocations and transitional**

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

(2) Subject to paragraphs (4) and (5) below, in the case of an insurance policy commenced before, and current at, 1st January 1999, regulations 2 to 6 of, and the Schedule to, the 1971 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 2000, whichever is the earlier.

(3) The certificate required to be issued by regulation 4(1) of these Regulations in respect of insurance commenced or renewed on or after 1st January 1999 but before 1st April 1999 may, instead of being in the prescribed form, be in the form and contain the particulars specified in the Schedule to the 1971 Regulations.

(4) Every authorised insurer who has issued a certificate in the form, and containing the particulars, specified in the Schedule to the 1971 Regulations in respect of insurance current at 1st April 2000 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 of these Regulations.

(5) The certificates to which regulation 4(4) of these Regulations applies include any certificate of which a copy is required to be displayed or maintained by regulation 6(1) of the 1971 Regulations

immediately before 1st January 1999, and any such certificate shall be treated for the purposes of regulation 6 of these Regulations as having been issued under regulation 4 of these Regulations.

(6) Regulation 7 of these Regulations applies where a certificate is required, in accordance with paragraph (2) above, to be issued in accordance with the 1971 Regulations as it applies where a certificate is required to be issued in accordance with regulation 4 of these Regulations.

(7) In this regulation—

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

“the 1971 Regulations” means the Employers' Liability (Compulsory Insurance) General Regulations 1971<sup>(5)</sup> as in force on 31st December 1998, including those Regulations as applied by the Employers' Liability (Compulsory Insurance) (Offshore Installations) Regulations 1975<sup>(6)</sup>.

Signed by authority of the Secretary of State

*Alan Meale*  
Parliamentary Under Secretary of State,  
Department of the Environment, Transport and  
the Regions

13th October 1998

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<sup>(5)</sup> S.I. 1971; the relevant amending instrument is S.I. 1974/208.

<sup>(6)</sup> S.I. 1975/1443.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE 1

Regulation 4

“CERTIFICATE OF EMPLOYERS’ LIABILITY INSURANCE(a)

(Where required by regulation 5 of the Employers’ Liability (Compulsory Insurance) Regulations 1998 (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 [Great Britain](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.”

SCHEDULE 2

Regulation 9

EMPLOYERS EXEMPTED FROM INSURANCE

- 1. A person who for the time being holds a current certificate issued by a government department stating that claims established against that person in respect of any liability to such employees of the kind mentioned in section 1(1) of the 1969 Act as are mentioned in the certificate will, to any extent to which they are incapable of being satisfied by that person, be satisfied out of money provided by Parliament; but only in respect of employees covered by the certificate.
- 2. The Government of any foreign state or Commonwealth country.
- 3. Any inter-governmental organisation which by virtue of any enactment is to be treated as a body corporate.
- 4. Any subsidiary of any such body as is mentioned in section 3(1)(b) of the 1969 Act (which exempts any body corporate established by or under any enactment for the carrying on of any industry or part of an industry, or of any undertaking, under national ownership or control) and any company of which two or more such bodies are members and which would, if those bodies were a single corporate body, be a subsidiary of that body corporate.

5. Any Passenger Transport Executive(7) and any subsidiary thereof.
6. London Regional Transport(8), and any of its subsidiaries or joint subsidiaries within the meaning of section 51(5) of the Transport Act 1968(9).
7. The Commission for the New Towns(10).
8. The Qualifications and Curriculum Authority(11).
9. Any voluntary management committee of an approved bail or approved probation hostel within the meaning of the Probation Service Act 1993(12).
10. Any magistrates' courts committee established under the Justices of the Peace Act 1997(13).
11. Any probation committee established under the Probation Service Act 1993.
12. Any employer who is a member of a mutual insurance association of shipowners or of shipowners and others, in respect of any liability to an employee of the kind mentioned in section 1(1) of the 1969 Act against which the employer is insured for the time being with that association for an amount not less than that required by the 1969 Act and regulations under it, being an employer who holds a certificate issued by that association to the effect that he is so insured in relation to that employee.
13. Any licensee within the meaning of the Nuclear Installations Act 1965(14), in respect of any liability to pay compensation under that Act to any of his employees in respect of a breach of duty imposed on him by virtue of section 7 of that Act(15).
14. Any employer to the extent he is required to insure and maintain insurance by subsection (1) of section 1 of the 1969 Act against liability for bodily injury sustained by his employee when the employee is—
  - (i) carried in or upon a vehicle; or
  - (ii) entering or getting on to, or alighting from, a vehicle,in the circumstances specified in that subsection and where that bodily injury is caused by or, arises out of, the use by the employer of a vehicle on a road; and the expression “road”, “use” and “vehicle” have the same meanings as in Part VI of the Road Traffic Act 1988(16).

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(7) See the [Transport Act 1968 \(c. 73\)](#).

(8) See the [London Regional Transport Act 1984 \(c. 32\)](#).

(9) 1968 c. 73.

(10) See the [New Towns Act 1981 \(c. 64\)](#).

(11) See the [Education Act 1997 \(c. 44\)](#).

(12) 1993 c. 47.

(13) 1997 c. 25.

(14) 1965 c. 57.

(15) Section 7 of the Nuclear Installations Act was amended by the Nuclear Installations Act 1965 (Repeal and Modifications) Regulations 1990 (S.I. 1990/1918).

(16) 1965 c. 57.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

## SCHEDULE 3

Regulation 10

## REVOCATIONS OF INSTRUMENTS

1 <i>Reference</i>	2 <i>Title</i>	3 <i>Extent of revocation</i>
S.I. 1971/1117	The Employers' Liability (Compulsory Insurance) General Regulations 1971	The whole Regulations
S.I. 1971/1933	The Employers' Liability (Compulsory Insurance) Exemption Regulations 1971	The whole Regulations
S.I. 1974/208	The Employers' Liability (Compulsory Insurance) (Amendment) Regulations 1974	The whole Regulations
S.I. 1975/194	The Employers' Liability (Compulsory Insurance) (Amendment) Regulations 1975	The whole Regulations
S.I. 1975/1443	The Employers' Liability (Compulsory Insurance) (Offshore Installations) Regulations 1975	The whole Regulations
S.I. 1981/1489	The Employers' Liability (Compulsory Insurance) (Amendment) Regulations 1981	The whole Regulations
S.I. 1992/3172	The Employers' Liability (Compulsory Insurance) Exemption (Amendment) Regulations 1992	The whole Regulations
S.I. 1994/520	The Employers' Liability (Compulsory Insurance) Exemption (Amendment) Regulations 1994	The whole Regulations
S.I. 1994/3301	The Employers' Liability (Compulsory Insurance) General (Amendment) Regulations 1994	The whole Regulations



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## EXPLANATORY NOTE

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

These Regulations consolidate with amendments the Employers' Liability (Compulsory Insurance) General Regulations 1971 (the 1971 Regulations) and subsequent amending regulations made under the Employers' Liability (Compulsory Insurance) Act 1969 (the 1969 Act).

The Regulations supplement the provisions of the 1969 Act 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 1969 Act 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 certain classes of employer from the requirements of the 1969 Act. They are principally bodies issued with certificates of exemption by government departments, foreign and Commonwealth governments and certain public bodies. It also exempts employers to the extent that they are required to insure under a compulsory motor insurance scheme by virtue of the fact that their employees are carried on, or are alighting from or are entering into, a vehicle. Regulation 10 and Schedule 3 set out revocations and transitional arrangements. These include arrangements for provisions of the 1971 Regulations to continue to apply to pre-1st January 1999 policies until 1st January 2000 or earlier expiry or renewal; and for enabling the form of certificate under the 1971 Regulations to be used for pre-1st April 1999 policies until 1st April 2000 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 employees are required to produce a copy of the relevant certificate of insurance on request from the employee within ten days.

A regulatory impact assessment (“RIA”) of the impact of these Regulations on business and other organisations has been prepared and is available from Health and Safety Sponsorship Division, DETR, Zone 1/C3, Eland House, Bressenden Place, London SW1E 5DU.