



States of Guernsey
Health and Safety Executive

The Employer's Liability (Compulsory Insurance) (Guernsey) Law, 1993

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(Compulsory Insurance)
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A SHORT GUIDE

This leaflet gives general guidance only, and is not a legal interpretation of the Law. Enquiries should be made to The Health and Safety Executive, Burnt Lane House, Longue Rue, St Martin's, GY4 6LD Tel: 220010

This law, which came into force on the 1st March 1994, places a duty on employers (unless they are exempt) to take out and maintain approved insurance policies with authorised insurers against liability for bodily injury or disease sustained by their employees in the course of their employment in Guernsey, Herm or Jethou.

A contract of insurance is based on information given by employers when negotiating a policy. If the information is not accurate, or the questions have not been properly answered, the policy may not cover all the employer's business activities, or it may be treated as void. In such circumstances employers may be liable for prosecution under the law so they are advised to ensure that the policy covers all aspects of their business and to give prior notice to the insurers of all changes of circumstances which may affect the policy.

Insurers should be requested to 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. An employer must be insured for at least £2 million in respect of claims arising out of any one occurrence.

WHAT IS A BUSINESS?

For the purposes of the law, the term includes a trade or profession, in 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.

ARE ANY EMPLOYERS EXEMPT?

An employer which satisfies the following conditions is exempted from the provisions of the law:

- a) The employer is a company;
- b) The company has only one employee, and
- c) The employee owns more than half in value of the company's equity share capital.

The States may also prescribe by ordinance other employers who shall be exempt from the provisions of the law.

WHAT IS AN APPROVED POLICY?

A policy that is not subject to prohibited conditions. These are certain conditions, specified by ordinance, which would, if not complied with by the insured employer, allow the insurer to repudiate a claim under the policy. There is, however, no objection to conditions that enable the insurer, in specified circumstances, to reclaim from the insured employer the amount of any compensation (including incidental costs and expenses) paid by the insurer to the injured employee.

WHO IS AN AUTHORISED INSURER?

A person or body of persons lawfully carrying on an insurance business in the Island and either registered under Section II of the Insurance Business (Guernsey) Law, 1966 or exempt from registration and issuing the policy of employers' liability insurance in the course of that business. A list of authorised insurers can be obtained from the Insurance Division of the Guernsey Financial Services Commission, PO Box 128, Gategny Court, Gategny Esplanade, St Peter Port, GY1 3HQ.

WHO IS AN EMPLOYEE?

Defined in the law as "an individual who has entered into or works under a contract 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 time or part time.

WHICH EMPLOYEES ARE EXEMPT?

- People who are not “employees” as defined in the law (e.g. independent contractors who are not the employees of the people engaging them).
- People employed in any activity that is not as defined in the law, 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 the Island.
- No insurance is required against liability for injury or disease suffered or contracted outside Guernsey, Herm or Jethou.

WHAT IS A CERTIFICATE OF INSURANCE?

The insurer must be asked to issue, in addition to the policy document, a certificate to indicate that the policy satisfies the requirements of the law. The dates of commencement and expiry of the policy should be shown on the certificate. The certificate should 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 employees. The certificate must be removed from display by the employer at the end of the 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. Employers must also produce the current certificate, or copy, on demand to an authorised inspector. The inspector may also 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 normally be given.

PENALTIES

Where an employer is not insured in accordance with the law, he / she will be liable on summary conviction to a fine not exceeding £2,000. Where the offence has been committed with the consent or connivance or facilitated by the neglect, of any official of the company, that person is liable for prosecution as well as the company,

An employer will also be liable on summary conviction to a fine not exceeding £2,000 if he / she:

- (a) fails to display the certificate or a copy;
- (b) fails to send the certificate or a copy to an authorised inspector when required to do so;
- (c) fails to produce the certificate or a copy on demand to an authorised inspector;
- (d) makes a false statement to an inspector conducting enquiries under the law, or obstructs such an inspector acting in the course of his duties;
- (e) displays or furnishes a false document.

INSURANCE CLAIMS

The law does not grant an employee an automatic right to compensation. The purpose of the law is to ensure that, when an employee succeeds in a claim, the employer is insured and can pay the compensation that is due.

Health and Safety Executive, Burnt Lane House,
Longue Rue, St Martins, Guernsey, GY4 6LD
Telephone: 01481 220010
E-mail: hse@gov.gg Web page: www.hse.gg