



Statutory Document No. 312/04

THE EMPLOYERS' LIABILITY (COMPULSORY INSURANCE) ACT 1976

**THE EMPLOYERS' LIABILITY (COMPULSORY INSURANCE)
REGULATIONS 2004**

Approved by Tynwald

18th May 2004

Coming into operation

1st June 2004

In exercise of the powers conferred on the Department of Trade and Industry by sections 1 to 4 and 6 of the Employers' Liability (Compulsory Insurance) Act 1976¹ (including those provisions as applied with any relevant modifications and extensions by the Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995², as they have effect in the Island³) and of all other enabling powers, the following Regulations are hereby made:—

1. Citation, commencement and interpretation

(1) These Regulations may be cited as the Employers' Liability (Compulsory Insurance) Regulations 2004 and, subject to section 6(1) of the Act, shall come into operation on the 1st June 2004.

(2) In these Regulations —

"the Act" means the Employers' Liability (Compulsory Insurance) Act 1976;

"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" and "subsidiary" have the same meanings as in section 1 of the Companies Act 1974⁴;

"inspector" means an inspector duly authorised by the Department of Trade and Industry under section 4(2)(b) of the Act;

¹ 1976 c.28

² SI 1995/738

³ SD 277/95

⁴ 1974 c.30

Price £1.00

"offshore installation" has the same meaning as in the Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995, as they have effect in the Island;

"relevant employee" means an employee –

- (a) who is ordinarily resident in the Island; or
- (b) who, though not ordinarily resident in the Island, 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 the Island, is present in the Island in the course of employment for a continuous period of not less than 14 days,

2. Prohibition of certain conditions in policies of insurance

(1) For the purposes of the Act, 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 this 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) do not prohibit for the purposes of the 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 such claim.

3. Limit of amount of compulsory insurance

(1) Subject to paragraph (2), the amount for which an employer is required by the 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 anyone 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.

4. Issues of certificates of insurance

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

(2) The certificate shall be issued by the insurer not later than 30 days after the date on which the insurance commences or is renewed.

(3) Where a contract of insurance for the purposes of the 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) In any case where it is intended that a contract of insurance for the purposes of the Act is to be effective, not only in the Island, but also in Great Britain, Northern Ireland, the Island of Guernsey, the Island of Jersey or the Island of Alderney, 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.

5. Display and production of copies of certificates of insurance

(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 10 days from such request, a copy of the certificate which relates to that employee.

6. Production of certificates of insurance to an inspector

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).

7. Inspection of Policies of insurance

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.

8. Production by inspectors of evidence of authority

Any inspector shall, if so required when visiting any premises for the purposes of the Act, produce to an employer or his agent some duly authenticated document showing that he is authorised by the Department of Trade and Industry under section 4(2)(b) of the Act.

9. Revocation

The following instruments are revoked —

- (a) the Employers' Liability (Compulsory Insurance) General Regulations 1977⁵;
- (b) the Employers' Liability (Compulsory Insurance) (Amendment) Regulations 1995⁶.

⁵ GC 23/78

⁶ SD 196/95

Regulation 4

SCHEDULE

CERTIFICATE OF EMPLOYERS' LIABILITY INSURANCE(a)

(Where required by regulation 5 of the Employers' Liability (Compulsory Insurance) Regulations 2004 (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 this 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 the [Isle of Man](b); and
2. (a) the minimum amount of cover provided by this policy is not less than £5million(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.

MADE 15th April

2004



Minister for Trade and Industry

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations consolidate with amendments the Employers' Liability (Compulsory Insurance) General Regulations 1977 as amended, and supplement the provisions of the Employers' Liability (Compulsory Insurance) Act 1976. The principal changes made by the Regulations are as follows:—

- the sum to be insured is raised from not less than £2 million to not less than £5 million;
- the prescribed wording on the certificates gives more information about the cover provided;
- a new provision that certificates are required to be kept for 40 years;
- a new power for authorised inspectors to require the production of past certificates as well as the current certificate.

