

# Employers' Liability Section

## Definitions

### 1. Injury

Bodily injury, death, disease, illness, mental injury, mental anguish or nervous shock

### 2. Employee

**A.** Any person under a contract of service or apprenticeship with **the Insured**

**B.** any of the following persons whilst working for **the Insured** in connection with the **Business**

**i.** any labour master or labour only subcontractor or person supplied by him

**ii.** any self-employed person providing labour only

**iii.** any home worker or outworker

**iv.** any trainee or person undergoing work experience

**v.** any voluntary helper

**vi.** any person who is borrowed by or hired to **the Insured**

**vii.** any person working under the Community Offenders Act 1978, the Community Service by Offenders (Scotland) Act 1978 or similar legislation

**viii.** any prospective employee being assessed by **the Insured** as to their suitability for employment

**ix.** any person a court of law in the **United Kingdom** deems to be an employee

### 3. Business

The **Business** specified in the **Schedule** conducted solely from the **United Kingdom** and including

**A.** the ownership, maintenance and repair of **Premises** used in connection therewith

**B.** the provision and management of

**i.** canteen, social, sports or welfare organisations for the benefit of **Employees**

**ii.** fire and security services of **the Insured**

**iii.** ambulance, first aid and medical services

**C.** the execution of private duties by **Employees** for any partner, director or senior official of **the Insured**

**D.** the repair and/or servicing of **the Insured's** motor vehicles

**E.** the training or retraining of any **Employee** at Government or other training centres

**F.** participation at trade shows, exhibitions or conferences

**G.** the organisation of or participation by **the Insured** in fund raising or other charitable events

**H.** the provision of nursery crèche or child care facilities where incidental to the **Business**

**I.** the provision of car parking for the benefit of **Employees**, customers and visitors

### 4. Territorial Limits

**A.** Great Britain, Northern Ireland, the Isle of Man and the Channel Islands

**B.** elsewhere in the world in respect of **Injury** sustained by any **Employee** resident within the territories specified in Definition **4. A.** above and caused whilst such **Employee** is temporarily employed outside these territories provided that any action for compensation in respect of such **Injury** is brought in a court of law within the said territories or any other member country of the European Union

## **5. Offshore Installations**

- A.** Any installation in the sea or tidal waters which is intended for underwater exploitation of mineral resources or exploration with a view to such exploitation
- B.** any installation in the sea or tidal waters which is intended for the storage or recovery of gas
- C.** any pipe or system of pipes in the sea or tidal waters
- D.** any installation which is intended to provide accommodation for persons who work on or from the locations specified in Definition **5.A.**, **5.B.** or **5.C.** above

## **6. An Act of Terrorism**

An act including but not limited to the use of force or violence and/or threat thereof of any person or group(s) of persons whether acting alone or on behalf of or in connection with any organisation(s) or government(s) committed for political religious ideological or similar purposes including the intention to influence any government and/or to put the public or any section of the public in fear.

## Cover

**The Insurer** will indemnify **the Insured** against legal liability to pay compensation and claimants' costs and expenses in respect of **Injury** sustained by any **Employee** arising out of and in the course of the employment or engagement of such person by **the Insured** in connection with the **Business** and caused within the **Territorial Limits** during the **Period of Insurance**.

In addition **the Insurer** will pay costs and expenses incurred by **the Insurer** or with the written consent of **the Insurer**

- a. in connection with the defence of any claim
- b. for representation of **the Insured**
  - i. at any coroners inquest or fatal accident inquiry in respect of death
  - ii. at proceedings in any court of summary jurisdiction or on indictment in any higher court in respect of any alleged breach of statutory duty resulting in Injurywhich may be the subject of indemnity under this **Section**.

## Limit of Indemnity

**The Insurer's** liability for all compensation, costs and expenses payable (including interest thereon and the costs of defending a Health and Safety legislation prosecution) in respect of any one claim or series of claims arising out of one occurrence shall not exceed the Limit of Indemnity stated in the **Schedule**.

Provided that

- A. in respect of an **Act of Terrorism** the Limit of Indemnity shall not exceed £5,000,000 and not as otherwise stated in the **Schedule**.

If **the Insurer** alleges that by reason of this limitation any loss damage cost or expense is not covered the burden of proving the contrary shall be upon **the Insured**.
- B. in respect of the indemnity provided under this **Section** for the Corporate Manslaughter and Corporate Homicide Act 2007:
  - a. the liability of **the Insurer** shall not exceed £5,000,000 in any one **Period of Insurance**
  - b. all amounts payable will form part of and not be in addition to the Limit of Indemnity stated in the **Schedule**
  - c. where **the Insurer** has already indemnified **the Insured** in respect of legal costs or expenses incurred in connection with the defence of any criminal proceedings (including appeals against conviction arising from such proceedings) arising out of the same occurrence which gave rise to said proceedings under another **Section** of the **Policy** the amount paid under that **Section** shall contribute to the maximum amount payable under this **Section**.

## Extensions

(Subject to the terms limits conditions and exclusions of this Section and the Policy)

### A. Indemnity to Other Parties

The indemnity provided by this **Section** will also apply:

- a. in the event of the death of **the Insured**, to any personal representative of **the Insured** in respect of liability incurred by **the Insured**.

and if **the Insured** so request **the Insurer** will indemnify the following parties

- b. any officer or committee member or other member of **the Insured's** canteen, social, sports, welfare organisations, fire and security services or ambulance, first aid and medical services against liability incurred in such capacity
- c. any partner, director or **Employee** of **the Insured** against liability incurred in such capacity and in respect of which **the Insured** would have been entitled to indemnity under this **Section** if the claim had been made against **the Insured**

as though each party was individually named as **the Insured** in this **Section**

- d. any principal for whom **the Insured** have agreed to execute work under contract or agreement against liability arising out of the performance of such work by **the Insured** and in respect of which **the Insured** are legally liable and would have been entitled to indemnity under this **Section** if the claim had been made against **the Insured**

Provided that

- i. each such party shall observe fulfil and be subject to the terms and conditions of this **Section** in so far as they can apply
- ii. **the Insurer's** liability to **the Insured** and all parties indemnified shall not exceed in total the Limit of Indemnity specified in the **Schedule**.

### B. Health and Safety at Work – Legal Defence Costs

**The Insurer** will indemnify **the Insured** and if **the Insured** so request any partner, director or **Employee** of **the Insured** in the terms of this **Section** in respect of

- a. costs and expenses incurred with **the Insurer's** written consent
- b. costs and expenses of the prosecution awarded against any such party in connection with criminal proceedings or an appeal against conviction arising from such proceedings brought in respect of any offence under the Health and Safety at Work etc. Act 1974 or the Health and Safety at Work (Northern Ireland) Order 1978 committed or alleged to have been committed during the **Period of Insurance** in connection with the **Business**

Provided that

- i. the proceedings relate to the health, safety or welfare of any **Employee**
- ii. **the Insurer** shall have the conduct and control of all the said proceedings and appeals.

**The Insurer** will not pay for

- a. fines or penalties of any kind
- b. proceedings or appeals in respect of any deliberate or intentional criminal act or omission
- c. costs or expenses insured by any other policy.

### C. Unsatisfied Court Judgements

If a judgement for compensation or costs in respect of **Injury** sustained by any **Employee** arising out of and in the course of employment or engagement by **the Insured** in connection with the **Business** and caused within the **Territorial Limits** during the **Period of Insurance**

- a. is obtained by such **Employee** in any court situate within the **United Kingdom** against any person or corporate body domiciled or operating from premises within the **United Kingdom** and
- b. remains wholly or partly unsatisfied six months after the date of such judgement **the Insurer** will if **the Insured** so request pay to the said **Employee** the amount of any such compensation and costs to the extent that they remain unsatisfied

Provided that

- i. there is no appeal outstanding
- ii. the **Employee** shall have assigned the judgement to **the Insurer**
- iii. this **Section** was shown in the **Schedule** at the time of the **Injury**

### D. Court Attendance Compensation

If during the **Period of Insurance** any partner, director or **Employee of the Insured** is required to attend court as a witness at the request of **the Insurer** in connection with a claim which is the subject of indemnity under this **Section** **the Insurer** will pay compensation to **the Insured** on the following scale for each day that attendance is required:

- i. any director or partner                      £750
- ii. any **Employee**                                      £250

### E. Corporate Manslaughter and Corporate Homicide Act 2007 – Legal Defence Costs

**The Insurer** will indemnify **the Insured** in respect of

- a. legal costs and expenses incurred with the prior written consent of **the Insurer** and
- b. costs of the prosecution awarded against **the Insured**

in connection with the defence of any criminal proceedings (including any appeal against conviction arising from such proceedings) brought under The Corporate Manslaughter and Corporate Homicide Act 2007 or any equivalent legislation in the Channel Islands or the Isle of Man in respect of any fatal injury sustained and caused during the **Period of Insurance** in the course of the **Business** and which may be subject to indemnity under this **Section**

Provided that **the Insurer** agrees details of the specific solicitor or counsel who are to act on behalf of **the Insured** prior to their appointment

**The Insurer** will not pay for

- a. any fines or penalties imposed on **the Insured** or the cost of implementing any remedial order or publicity order
- b. legal costs and expenses in connection with an appeal unless a solicitor or counsel advise that there are strong prospects of succeeding in the appeal or recovering costs awarded against **the Insured** at all times throughout the appeals process. Any change to such prospect of success during the appeals process may result in cover being removed
- c. costs and expenses provided by another source or any other insurance or where but for the existence of this Extension would have been provided by such source or insurance
- d. costs and expenses in connection with the defence of any criminal proceedings brought in any country other than the **United Kingdom**
- e. costs and expenses in connection with the defence of any criminal proceedings resulting from any deliberate or intentional criminal act or omission by **the Insured** or any partner or director of **the Insured** or any **Employee**.

## Exclusions

This **Section** does not cover

1. liability in respect of **Injury** to any **Employee** arising out of the ownership, possession or use by or on behalf of **the Insured** of any mechanically propelled vehicle or trailer attached thereto if such liability is required by any road traffic legislation to be the subject of compulsory insurance or other security.
2. liability in respect of **Injury** to any **Employee** who is working on, visiting or travelling to or from **Offshore Installations**.

## Section Conditions

### 1. Compulsory Insurance Legislation

The indemnity granted by this **Section** is deemed to be in accordance with the provisions of any law relating to compulsory insurance of liability to **Employees** in the **United Kingdom** but **the Insured** shall repay to **the Insurer** all sums paid by **the Insurer** which **the Insurer** would not have been liable to pay but for the provisions of such law.

### 2. Certificate of Employers' Liability

If this **Policy** or **Section** is cancelled any certificate of Employers' Liability insurance issued hereunder is similarly cancelled from the same date.

### 3. Other Insurances

**The Insurer** will not indemnify **the Insured** in respect of liability which is insured by or would but for the existence of this **Section** be insured by any other policy or section except in respect of any excess beyond the amount payable under such other policy or section or which would have been payable under such other policy or section had this **Section** not been effected.

### 4. Alteration in Risk

**The Insured** must notify **the Insurer** as soon as possible if during the **Period of Insurance** there is any alteration:

- a. in or to the **Business**
- b. in the ownership of **the Insured**
- c. to the facts or matters set out in the **Schedule** or otherwise comprising the risk presentation made by **the Insured** to **the Insurer** at inception, renewal or variation of the **Policy** which materially increases the risk of legal liability to pay costs and expenses as insured by this **Section**.

Upon being notified of any such alteration, **the Insurer** may, at its absolute discretion

- a. continue to provide cover under this **Section** on the same terms
- b. restrict the cover provided under this **Section**
- c. impose additional terms
- d. alter the premium
- e. cancel this **Section** and the **Policy**.

If **the Insured** fails to notify **the Insurer** of any such alteration, **the Insurer** may

- a. treat this **Section** and the **Policy** as if it had come to an end as at the date of the alteration of the risk, returning a proportionate amount of the premium for the unexpired **Period of Insurance**, if **the Insurer** would have cancelled this **Section** and the **Policy** had it known of the increase in risk
- b. treat this **Section** and the **Policy** as if it had contained such terms (other than relating to premium) or other restrictions (if any) from the date of the alteration in risk as **the Insurer** would have applied had it known of the increase in risk

- c. reduce proportionately the amount paid or payable on any claim, the proportion for which **the Insurer** is liable being calculated by comparing the premium actually charged as a percentage of the premium which **the Insurer** would have charged had it known of the increase in risk.

#### 5. Declaration Condition

If the premium or part of any premium is calculated on estimates supplied to **the Insurer** by or on behalf of **the Insured, the Insured** shall keep a record of all such relevant particulars and shall allow **the Insurer** to inspect such records at any reasonable time.

**The Insured** shall furnish **the Insurer** with such information as **the Insurer** may require at the expiry of each **Period of Insurance**, within the period specified by **the Insurer**. The premium shall be adjusted annually and any difference shall be paid by or returned to **the Insured** subject to any agreed minimum or deposit premium specified in the **Schedule**.