



Health & Safety

# MATTERS

Health & Safety Information for GMB Safety Reps

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## Changes To Employers Liability (Compulsory Insurance) Act

### Introduction

Since 1969, most employers are required by law to insure against liability for injury or disease to their employees arising out of their employment. The purpose of the Act is to ensure that the employer will have a minimum level of insurance for claims both during current and past employment. This in effect is the insurance workers claim, any compensation from when they contract a disease which affects their health, or an injury at work.

### What happens if an employer does not have this insurance?

The Health and Safety Executive enforces the law on employers liability insurance and inspectors can check this when they visit a workplace. This must be with an approved insurer and for a minimum cover of £5 million. A fine of £2,500 for every day without possible insurance has meant that the majority of employers comply with this act.

### What changes have been introduced?

Regulation 4, which required employers to keep records of previous, out of date, policies for forty years, has been dropped. This was only introduced eight years ago as employers were failing to keep records which could then affect claims on long term conditions such as those arising from asbestos exposure. The interesting advice now from HSE is that *"employers are strongly advised to keep, as far as possible, a complete record of their liability insurance"*. This reflects the potential consequences for workers suffering from both known long term conditions, and possible new diseases in the future.

Regulation 5 related to the duty to display the certificate publicly and from 1 October, this has been downgraded to just having to be displayed electronically. GMB can see that this could cause considerable difficulties particularly in smaller businesses. Having the poster displayed in the past was very reassuring to GMB members and it might be harder to ascertain if your employer is insured in future.

### Why have these changes been introduced?

All government departments have been reviewing their administrative burdens with the aim at reducing costs. This in itself is reasonable in light of the fact that it is tax payers' money which is having to fund them. The Department of Work and Pensions was looking to reduce its administrative costs by 25% as a matter of principle, not just removing unnecessary burdens or improving the effect any regulations may have. The estimates

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on the cost of implementing these two regulations (that is storing old certificates and pinning a notice on a wall) was a staggering £71 million! The TUC and trade unions were against these changes. Indeed GMB even wrote to the Prime Minister expressing this viewpoint but to no avail as the current message concentrates on removing administrative burdens, no matter how bizarre the outcome is.

### **What should GMB reps do now?**

GMB reps need to do two main things to ensure that their employer still insures them and their work colleagues, and they are covered well into the future.

- Firstly, they should check, on an annual basis, that the insurance has been renewed. Find out when the insurance is due for renewal and make a note of the date. As safety reps, you have a right under the Safety Representatives and Safety Committee Regulations, Regulation 7, Inspection of documents and the provision of information, to look at documents relating to your members health and safety, and to take copies of any document relevant to the workplace. Obviously, for those with intranet access this will be easier.
- Secondly, negotiate with your employer on keeping the records for as long as possible, in an accessible area or format. Previously some information had to be kept for forty years. This is particularly important if you work with carcinogenic substances, such as asbestos, or if you work in areas with emerging technology, such as nano-particles, where the long term consequences are still unknown. Alternatively, if you take copies of the certificate, keep your own records on behalf of yourself and your members. Let your branch secretary and your members know this in case they will need to make a compensation claim in the future.

### **What are the plans for the future?**

GMB obviously finds this method of reducing burdens to be confusing. To remove a regulation which makes it easier for workers to claim against an insurer is strange enough. But for the HSE to then “strongly” advise those same employers, to keep a complete record of their liability insurance makes no sense what ever. Furthermore, it undermines confidence in the governments’ ability to actually conduct a review on what is relevant to remove from legislation which is both expensive and unnecessary. Neither of these have been proven in this case. For more information on this either read the Guide for employers on Employers Liability (Compulsory Insurance) Act 1969 on the HSE website or contact [tristan.chard@gmb.org.uk](mailto:tristan.chard@gmb.org.uk)

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