

PCG: supporting and protecting freelancers, contractors and consultants

Insurance can provide financial compensation and peace of mind when things go wrong, but even some seasoned freelance contractors are unsure as to which types of insurance they need. Very few types of insurance are compulsory for small businesses, but it can be a false economy to neglect those which really should be viewed as essential.

Motor Insurance ■

Third-party liability insurance is compulsory for all vehicles used on the road.

Comprehensive insurance includes this but also provides cover for fire, theft and accidental damage. Personal accident cover, for certain bodily injuries sustained by the driver, is usually offered as an extra option. You should ensure that business use is specifically covered.

Employers' liability insurance ■

The Employers' Liability (Compulsory Insurance) Act 1969 requires all employers, unless they are exempt, to have at least £5 million of employers' liability insurance with an approved insurer to protect them against claims from employees for accidents or sickness caused through work. In practice, most insurers offer at least £10 million cover.

The law was amended with effect from 28 February 2005 to exempt very small companies that employ only their owner (see the Employers' Liability (Compulsory Insurance) (Amendment) Regulations 2004, SI 2004/2882). In a letter to PCG, the Department of Work and Pensions confirmed that if a limited company employs only the owner, and that owner owns more than 50 per cent of the issued share capital, then the company is exempt.

As a freelance consultant or contractor operating outside IR35, however, you are likely to have a substitution clause in your contracts. Without employers' liability insurance, you cannot fulfil this clause without breaking the law, so in practice you ought to have cover.

There are no hard and fast rules about who counts as your employee

for the purposes of employers' liability insurance. People who you may think of as self-employed may be considered as your employees for the purposes of employers' liability insurance; what matters is the real relationship with the people who work for you and the degree of control you have over the work they do for you. Even part-time and casual staff may count as your employees.

The law is enforced by the Health and Safety Executive (HSE); its inspectors can ask to see your certificate of insurance at any time. These must be retained for at least 40 years after the insurance has expired. You can be fined up to £2,500 for any day which you are without suitable insurance. If you do not display the certificate of insurance or refuse to show it to HSE inspectors when they ask, you can be fined £1,000. The Financial Services Authority keeps a register of authorised insurers, which is available on its website www.fsa.gov.uk.

Legal liability insurance ■

Legal liability insurance is voluntary for most businesses, but could save you a lot of money in the long term. Note that it covers you only if you are legally liable for the injury or damage. Public liability and product liability are two types that may be relevant.

Public liability insurance ■

Public liability insurance covers you against accidents to members of the public or damage to property that occurs as a result of your business activities. It also covers any related legal costs.

Even if you work from home, you may need public liability cover. If clients visit you there, the policy will cover you if they injure themselves while they are on your premises –

Key to insurances

- Compulsory for most
- Essential or advisable for most businesses
- Recommended for most freelance service businesses
- Recommended for product
- Worth serious consideration

it could be something as silly as tripping over a computer cable. If you regularly work off-site, your policy should cover this too.

Product liability insurance ■

Product liability insurance covers you against injury or damage caused by faulty goods. This can be important if you manufacture, repair, install or even retail goods; a small defect could open you up to massive claims. Your policy should guard you against safety claims, manufacturing quality, spoilage and indemnity costs (medical bills and so on).

Professional indemnity insurance ■

Professional indemnity insurance protects you against your legal liability for losses suffered by your customers as a result of your negligent advice. It is legally required in certain professions, such as law, accountancy and financial services. It is common in other areas, such as management and computer consultancy, publishing, engineering and design. If you give any advice which could make you liable, or if you are working in a collaborative arrangement, you should have a suitable policy.

Your policy should include retroactive cover, so that you insured for any claims arising in the next 12 months, but also for your work or decisions back to the date you commenced trading. When you

complete your proposal form, you will need to disclose any likelihood of a future claim, as the underwriters will want to protect themselves from taking on any current or known claim exposure.

Professional indemnity insurance works on a "claim made" basis, and so when you cease trading, retire, or take a permanent job, it is wise to purchase run-off cover for at least 12 months after that in case a claim is made against you, after your policy has expired, for work done previously.

Property & contents insurance

You will need to insure your business property, including premises, fixtures and fittings, stock, computers and equipment. If you work from home, you need to check that equipment used for business purposes is still covered by your home contents insurance, or purchase specific business insurance. In response to a growing trend in homeworking, an increasing number of insurers now offer buildings and contents policies that specifically include cover for business stock and equipment.

Permanent health insurance

As a freelancer, you do not have the safety net of a permanent employer to pay for sick leave. It is worth investigating permanent health insurance to cover your personal outgoings should you ever be unable to work for long periods. Private medical insurance can make a lot of sense. Quicker treatment times through private care can help you avoid lengthy layoffs. Some policies pay a lump sum in the event of a critical illness. It is advisable to apply for medical insurance before you experience symptoms of a serious nature.

Income protection insurance

Income protection insurance schemes can be used to cover employees in the event of long-term sickness, paying their salaries during the period of incapacity. Executive income protection provides cover for both salary and dividends.

Other types of insurance

- Business interruption (or

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"consequential loss") insurance compensates you for extra costs incurred and trading profits lost if your business suffers serious disruption after, say, a fire.

- Tax loss insurance reimburses the tax, penalty and interest losses arising from an HMRC ruling against you which results in additional tax to be paid, especially in relation to IR35.

- Legal expenses insurance covers legal costs such as solicitors' fees and court costs. Many policies offer legal guidance via a telephone helpline.

- Key man insurance can make your business less vulnerable to the illness or death of key employees.

Insurance tips

- It can be more cost-effective to buy employers' liability, public liability and equipment insurance as single package.
- Premiums will depend on the type of business, your turnover and the number of employees. Don't underestimate the level of protection you think you need and don't underinsure your property.
- Read the small print in any policy documents. Question any clauses that you don't understand.
- Be scrupulously honest with your insurance company about information relating to your business and any previous claims

Cover for PCG members

Professional Expenses Insurance

PCG's professional expenses insurance (PEI) policy covers all members and pays up to £75,000 per member per membership year, to cover professional fees relating to tax investigations covering:

- Income tax self-assessment full and aspect enquiries
- Corporation tax self-assessment full and aspect enquiries
- Employer compliance disputes in respect of PAYE, P11D and NIC
- VAT and IR35 disputes, S660A enquiries

PAYE Audit Cover

PCGPlus members only

A PAYE audit is a routine check from HMRC to ensure that your company is keeping appropriate records and operating PAYE correctly. It can trigger an investigation if a non-compliance is found.

PAYE Audit Cover provides additional insurance to PCGPlus members. Designed for any business that runs a payroll, the scheme guarantees expert advice and support throughout the whole process of an IR35 investigation, up to and including a hearing at the Special Commissioners, and includes expert professional support during the PAYE compliance visit itself. Under the PEI policy, the trigger point for an IR35 investigation is when HMRC declares you "caught" and you disagree. With PAYE Audit Cover, you tell the insurers and get professional help as soon as you receive a letter from HMRC notifying you of a PAYE audit.

Jury service expenses insurance

PCGPlus and PCG Solo members only

Under PCG's jury service expenses policy, insured members can claim a jury service allowance of up to £300 per day, less any amount recovered from the relevant court, for up to ten days. The daily rate payable takes into account the current engagement.

Agency failure and default insurance

PCGPlus members only

PCG has arranged an insurance policy which will allow PCGPlus members working through agencies to claim for loss of earnings in the event of business failure of the agency, or failure of the agency to honour contractual arrangements.

Disclaimer: *this document is provided for general guidance only and does not constitute professional advice. PCG accepts no liability for losses arising from any action taken on the basis of this guidance. It is highly recommended that you contact an insurance specialist for detailed advice specific to your particular circumstances.*

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