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HEALTH AND SAFETY COMMISSION

Survey of compliance with Employers' Liability Compulsory Insurance Act : A report of a survey by Greenstreet Berman carried out on behalf of HSE

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Issue

1. To inform the Commission of the main findings of the recent survey of compliance with Employers' Liability Compulsory Insurance (ELCI). The survey results, which are due for publication on 8 December 2003, found compliance running at just over 99%.

Timing

2. Routine.

Recommendation

3. To note the content of this paper and the attached Report (appended below).

Background

4 Against a background of rising liability insurance premiums there has been concern that a number of firms, particularly small firms, were operating without ELCI cover because they could not afford it or because they were unable to get ELCI cover. A number of studies and reports came out during 2002 and the early part of 2003 indicating that non-compliance was high (8% cited by the Federation of Small Businesses). Axa, one of the five major ELCI insurers, also carried out a survey in December 2002, which suggested "over 16,000 small businesses (13%) in the UK are operating without insurance". This attracted considerable press interest and concerns were raised with Ministers by business and other stakeholders.

5 Although HSE has the lead for enforcing the ELCI Act it has no meaningful way of accurately gauging compliance levels across the 1.2 million employers required to have ELCI cover. Our own contacts with duty holders suggested that there was a very low level of non-compliance. While we had strong doubts over the levels of non-compliance found by the FSB and Axa surveys we were keen to commission our own study to get a more accurate picture. We agreed the scope of the research with DWP and undertook to complete the survey in time to inform the Second Stage of the ELCI Review.

Argument

6 The research was carried out during September and October 2003 and involved two main approaches:

- An anonymous and confidential postal questionnaire sent to 18,000 micro, small, medium, and large firms across all sectors and regions of Great Britain.
- A check of the number of ELCI policies that insurers report they had in early 2002 and in Autumn 2003.

Main findings of the postal survey

7 An analysis of the 2,437 respondents (a 13.5% response rate) found the following level of self-reported non-compliance:

- 0.92% of micro firms (1 to 10);
- 0.37% of small firms (11 to 49 employees);
- 0% of medium sized firms (50 to 249);
- 0.6% of large sized firms (250+ employees) (1.01% of firms with 250 to 1,000 employees, and 0% of very large firms, over 1,000 employees).

The survey reported 0.53% non-compliance across all firms.

8 This equates to :

- 34,821 employees in micro firms (0.9% of 3,869,000 employees);
- 12,602 employees in small firms (0.37% of 3,406,000 employees in organisations with 11 to 50 employees);
- 65,136 employees in Large sized firms (0.6% of 10,856,000 employees)¹ .

9 Based on the survey findings some 112,559 employees are employed in organisations that do not have ELCI. This is 0.53% of the 21,018,000 employed workforce, excluding 3,677,000 central and local government employees and 2,937,000 people in organisations with no employees (i.e. sole proprietorships and partnerships comprising only self-employed owner managers).

10 Expressed as the number of organisations this equates to about 10,000 organisations lacking ELCI out of about 1.2million enterprises with employees in the UK (1.01m micro, 175,660 small, 29,470 medium enterprises and 8,210 large organisations). A number of large firms reported they lacked ELCI due to being exempt, namely central government organisations.

11 Almost 2.5% of respondents indicated that they were either unsure whether they held ELCI or did not hold ELCI, but that they did have a combined policy which in fact included ELCI cover. About 85% of respondents hold combined policies that include ELCI as well as other liabilities.

¹ DTI Table1 from News release Ref 02/92, 28 August 2003

Main findings of the check on ELCI policyholders

12 The second stage of the study involved getting ELCI insurers to report how many ELCI policies they had in place in March 2002 and in Autumn 2003. The survey took account of the fact the number of businesses in the UK increased over this period, (the number of VAT registered firms increased 0.4%). Consequently if compliance was indeed high the number of ELCI policies should not have varied greatly between March 2002 and autumn 2003. Additionally information from Personal Injury lawyers and trade unions showed little evidence of significant non-compliance.

13 At the time of reporting, data from insurers representing about 80% of the ELCI market indicates the following:

ELCI policies in force (from insurers representing 80% of the market)	
2002	2003
930,085	1,078,788

Conclusions

14 The postal survey found a very low level of non-compliance with ELCI, 0.53%, which is supported by information supplied by the insurance industry and APIL. This is a far lower level than was suggested by recent surveys by Axa (13%) and the Federation of Small Business (8%) but is in line with compliance survey findings from Aon, the OFT and the TUC.

15 HSE has now completed its work on gathering evidence on the current level of ELCI compliance.

16 The study found evidence that many firms continue to experience great difficulty in securing ELCI, on grounds of affordability, which has caused them to take cost cutting measures. The most commonly cited response to the increased cost of ELCI has been to "Try and improve health and safety performance" (50% of respondents), followed by "Try to avoid recruiting people prone to injury or ill-health" (35%) and "Switch insurers" (30%).

17 The data provided by insurers indicates that there has not been a fall in the number of insured organisations, in fact there has been an increase in ELCI business over the survey period – an estimated increase in ELCI policies from 930,100 in early 2002 to 1,079,000 in Autumn 2003.

Consultation

18 There has been consultation with DWP and HSE colleagues in FOD on the emerging findings.

Presentation

19 The research report will be released on the HSE website on 8 December together with a press release promoting a positive message on ELCI compliance (copy attached). HSE will be discussing the survey findings with the DWP, the insurance industry and other

stakeholders in the New Year to examine ways where liability insurance might be used as an effective lever in securing better health and safety performance in the workplace. This reflects our new strategy approach.

COSTS

20 The total cost to HSE for the research was £38,000, plus VAT.

Action

21 The Commission is asked to note progress.