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HEALTH AND SAFETY COMMISSION

CONSTRUCTION INDUSTRY ADVISORY COMMITTEE (CONIAC)

Employers' Liability Compulsory Insurance

Issue

1 To update members on current issues relating to Employers' Liability Compulsory Insurance (ELCI).

Background

2 There have been extensive reports in the press about the difficulties faced by Industry generally, including the Construction Industry, in obtaining the compulsory insurance for their employees while at work required by law.

3 ELCI is established under the Employer's Liability (Compulsory Insurance Act 1969 and the Employer's Liability (Compulsory Insurance) Regulations 1998. The Act requires employers to insure against their liability for personal injury to their employees. The regulations provide that the amount of cover should be not less than £5m for each employee involved in any one accident. All employers are required to display a certificate of EL insurance. Failure to insure carries a penalty of up to £2,500 per day and failure to display a valid certificate carries a penalty of up to £1,000. These requirements are enforced by the HSE.

4 Cover under ELCI indemnifies the employer against their liability for compensation and legal costs arising from accidental death, injury, illness and disease. To be paid the injured person must establish negligence by suing for damages. The employer may reject liability or claim contributory negligence on the part of the employee. Compensation is intended to cover loss of earnings and healthcare costs in full, as well as an element for pain and suffering.

5 There is no statutory requirement on the insurance industry to provide ELCI. The majority of cover (54%) is underwritten by 5 of the larger insurance companies. The non-Marine Association at Lloyds has around 32% of the market. ELCI costs have in the past amounted to about 0.23% of an employer's wage bill. There are reports that ELCI costs have doubled in the past year as % of an employer's wage bill.

6 The Department of Work and Pensions (DWP) has the lead on workers' compensation issues including ELCI and Industrial Injuries Disablement Benefit. DWP and Treasury have met with representatives from the insurance industry, employer's organisations, trade unions and other stakeholders to get an understanding of the problems concerning ELCI, including availability and price. Cross-Government discussions are currently taking place, in which HSE is participating, to scope the issues surrounding workers' compensation including ELCI and to formulate options for the way forward.

6 Neal Stone of HSE Strategy and Analytical Support Directorate (SASD) will provide an oral update to members.

Action

7 CONIAC members are invited to:

- Note the opportunity to be informed on the current position with regard to employee liability insurance.

Contact

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