



Ministry of
JUSTICE

Regulation of Claims Management Services

*Compensation (Claims Management Services) (Amendment)
Regulations 2008*

Who needs to obtain Professional Indemnity Insurance

Guidance Note

6 June 2008

Professional Indemnity Insurance Requirement Guidance

From 1 July 2008, a requirement to hold professional indemnity insurance comes into force for certain claims management businesses. This is set out in the Compensation (Claims Management Services) (Amendment) Regulations 2008. You can obtain a copy of the regulations from http://www.opsi.gov.uk/si/si2008/pdf/uksi_20081441_en.pdf. A copy is also available on our website.

This information will help you decide if you need this insurance and how to go about obtaining a policy.

What is professional indemnity insurance (PII)?

Professional indemnity insurance, or PII, is a type of insurance to cover businesses in the event that a client claims to have suffered a loss as a result of your professional negligence. If a client makes a claim of valid professional negligence, the legal costs and, if payable, compensation, may be paid, wholly or in part, by your insurer.

Which businesses will have to have PII?

Only businesses in the personal injury sector that represent clients will need to have PII. This will apply to all authorised businesses as well as any new businesses applying for authorisation.

Representing clients means acting on the client's behalf to settle the claim for compensation. This includes agreeing a settlement in writing or in person. If this is the case, you need PII. If you always refer claims to another claims management business or a solicitor, you do not represent clients and do not need PII.

This only applies to businesses representing clients in the personal injury sector. If you represent clients in other sectors and not in personal injury claims, you do not need PII.

Example 1: A claims management business deals with claims for personal injury only. Most of the time it passes on claims to a local solicitor. Sometimes, it deals directly with the insurance company of the person the client was claiming from and agrees a settlement. PII is needed in this situation.

Example 2: A claims management business deals with claims for personal injury. It always refers claims to another authorised business. PII will not be needed.

Example 3: A claims management business deals with claims for personal injury and criminal injury. It regularly deals with the Criminal Injuries Compensation Authority to settle criminal injury claims, but always passes on personal injury claims to a local solicitor. PII will not be needed.

Example 4: A claims management business deals with claims for personal injury, criminal injury and Industrial Injury Disablement Benefits. Although it has not done so in the past, it plans to represent clients in all three sectors and not refer them on. PII will be needed to cover the business from the first day of representing personal injury clients only.

I already have a PII policy. Do I have to get another one?

Some businesses may already have a PII policy. This may be because they act as an insurance intermediary, selling insurance products such as after the event (ATE) insurance, or because they wanted protection in case of a claim for negligence.

If you have a PII policy already in place, check it with your insurer. If the policy covers your claims management activities, you may not have to get a new policy to meet the new requirement. If the policy does not cover the claims management activities, you will need to either extend your existing policy or obtain a new policy.

What will the PII policy need to cover?

The Regulations set out the minimum terms that the policy must meet:

- the minimum level of indemnity must be £250,000 for one claim and £500,000 in aggregate;
- if there is an excess on the policy, it must be a maximum of £10,000 per claim;
- the policy should have cover for legal defence costs; and
- there must be continuous cover for all claims made during the lifetime of the policy, as well as claims you are told about during the period of the policy that may be made after the policy has ended.

There are no other terms that must be in the policy, so you can choose whichever policy best suits you and your business.

Which insurers provide PII? How can I contact them?

The Regulations state that you may obtain your PII from an insurer based in the United Kingdom, the Channel Islands, Gibraltar, Bermuda or the Isle of Man. You can also get a policy from an insurer in a Zone A country.

A Zone A country has minimum financial standards. Zone A is made up of all countries in the European Economic Area (EEA), the Organisation for Economic Co-operation and Development (OECD) and members of the International Monetary Fund (IMF) that have concluded special lending arrangements. The only exception is if any of these countries have changed their repayments on government loans: they will be excluded from Zone A for a period of 5 years. The links to the OECD and the IMF websites are at the end of this document. For the countries specifically excluded from Zone A, the Regulator will be publishing a separate list on its website.

Most insurers providing PII to businesses in the UK will have offices in the UK; if so, you will not need to check if it is from a Zone A country. We will not publish a list of insurers who provide PII in the UK and you should be aware that not all insurers offer PII. We do not recommend any particular insurer or insurance broker: it is up to you to find an insurer.

What will insurers look at before offering me PII?

When insurers decide whether to offer cover for PII, they consider your relevant business income, the minimum terms in the Regulations, the type of business you carry out and your risk profile. Every insurer will look at businesses differently. The insurer might ask you to put a particular process in place as a condition of your policy, but it is up to you to decide whether to agree to the terms of a particular policy or ask another insurer for a quote.

I don't need PII under these Regulations, but would like similar protection. Can I obtain PII?

Some businesses may already have PII because they want the protection of insurance. If you think it would be useful to have PII in case someone claims against you for professional negligence, you can look for an insurer to provide PII.

Will the PII requirement be extended to other businesses in the future?

We expect to review how PII is working in summer 2009, when the requirement has been in force for one year.

Where can I get further help?

The Monitoring and Compliance Unit will be able to assist you with general queries about which businesses require PII. They will not be able to recommend insurers or brokers to you.

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W www.claimsregulation.gov.uk

Useful links about insurance

Business Link (Practical advice for businesses)	www.businesslink.gov.uk
Financial Standards Authority (FSA)	www.fsa.gov.uk
Association of British Insurers (ABI)	www.abi.org.uk
British Insurance Brokers Association (BIBA)	www.biba.org
Institute of Insurance Brokers (IIB)	www.iib-uk.com

Useful links about Zone A countries (where an insurer can be based)

Border and Immigration Authority (tells you which countries are in the European Economic Area (EEA))	http://www.bia.homeoffice.gov.uk/glossary?letter=E
International Monetary Fund (IMF)	http://www.imf.org/external/np/exr/facts/gabnab.htm
Organisation for Economic Co-operation and Development (OECD)	www.oecd.org

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