

PEACE OF MIND

A Guide to Contractor Insurance and Financial Protection





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Introduction

As a contractor, you will no doubt have a financial risk in running your business. There are a range of business insurance policies on the market, some of which have been specifically designed for the contracting workforce.

It is important to ensure you have the relevant cover in place for your business, whether to fulfil your contractual obligations or to protect your income.

This guide has been written by

Odor Contracto

Contractor insurance and IR35 specialists.





Top tips when taking out contractor insurance





Check your contract for any insurances contractually required, as well as any stipulated levels of cover



Assess what's important to you and your business to cover



Ensure you understand the terms and conditions of your policy by checking the policy wording



Review your policy documents to ensure they are accurate



Take note of your policy renewal date



Contractor Insurance Quick Reference Guide

It can be difficult to navigate the range of contractor insurance policies on the market and what exactly they all mean. Here is a quick reference of the policies on offer for contractors in today's market, with a basic summary of each.

Most commonly stipulated in a contract:

Professional Indemnity Insurance – covers you against allegations made against you of professional negligence.

Public Liability Insurance – covers you against allegations of causing third party property damage, or death/injury to a third party.

Employers Liability Insurance – covers you against allegations of causing death/injury to an employee of your limited company (this policy is a legal requirement unless you are the sole employee of your business and hold at least 50% of the shares, regardless of whether your employee is a spouse doing the books or not).

Policies for tax and legal proceedings:

Tax Enquiry Insurance – covers you in the event of a range of enquiries from HMRC, usually including IR35.

IR35 Insurance (Tax Liability Cover) – covers you for representation in a large number of HMRC enquiries and for the tax, interest and penalties if found caught by the IR35 legislation.

Legal Expenses Insurance – provides professional representation in the event of a range of legal disputes, such as contract disputes and debt recovery (individual policy elements can vary with providers). Qdos policies also include cover for income lost through jury service.



Contractor Insurance Quick Reference Guide

Continued

Policies for being unable to work:

Contractor Sickness Insurance – covers you for the income lost through being incapacitated for an extended period of time, whether through illness or injury. Odos policies also include a lump sum death benefit. Note that some policies will only include illness – always check policy wordings.

Personal Accident Insurance – covers you for the income lost through being incapacitated for an extended period of time for injury whilst at/in transit to work, usually including a death benefit. Some of these policies can be added to a sickness policy to provide a complete Contractor Sickness Insurance.

Relevant Life Insurance – covers you like a death-inservice benefit, often offered in addition to critical illness covers. This is a relatively new policy for contractors which promotes a tax-efficient policy as it is paid for by the company to protect its employees (and directors).

Additional policies on the market:

Business Travel Insurance – covers you for a range of risks whilst travelling abroad for work. Qdos policies also include travel for leisure, and can include family members and highrisk activities.

Director's and Officer's Liability Insurance (D&O) – covers a director for claims made against them as an individual for alleged errors, acts or omissions committed solely in their performance or capacity as a director of the company. In discussing this product with various providers Qdos has never been satisfied that a contractor is sufficiently exposed to the incidents insured by D&O, nor have any relevant example claims been provided.

Cyber Insurance – covers you in the event of a cyber security breach, usually including some form of disaster recovery.

Business Premises and Content Insurance – covers you for damage to your business premises and/or contents.



Contractor Insurance and IR35

It is often said that business insurance is an IR35 indicator, so what do we mean by this?

As a basic definition, IR35 is the common name for a piece of tax legislation which aims to determine employment status for tax purposes based on the working relationship between contractor and end client. See our IR35 guide for more information.

One of the status tests widely used to determine your IR35 status is the existence of a financial risk. Most employees do not take a financial risk with their employment, in that equipment is provided for them, and they wouldn't have to reimburse the company for damages or errors made. A contractor however, is not protected by the business they work for, in that they own their company and so have to put their own protections in place.

Business insurances such as Professional Indemnity and Public & Employers Liability policies, are evidence to HMRC that you accept, as a business, that you have a

financial risk, in that you do not expect the end client to accept a financial loss for your error or negligence, or use their own insurance to cover damages you made whilst working as your company, as your company is liable.

In addition to demonstrating that you have financial risk and are operating as a genuine business, not holding insurance which is stipulated in your contract can have a detrimental effect during an IR35 enquiry.

Qdos Contractor experienced a case where the status inspector determined the entire contract invalidated based on the fact insurance was not held by the contractor whilst it was stipulated in the contract. This meant, to the status inspector, that if one clause of the written contract was not true in reality, the rest of the contract's terms could not be relied upon, encouraging the status inspector to look further into their working practices and lengthening the enquiry.



Insurance in Detail: Professional Indemnity Insurance

Most contractors will be familiar with the requirement for them to hold Professional Indemnity Insurance, and it is sometimes the discovery of a clause in a contract stating PI insurance must be held that prompts the contractor to purchase the policy.

Professional Indemnity or PI insurance reacts in circumstances where a client claims to have suffered a financial loss as a result of a professional error made, or alleged to have been made, through the services you have provided. The policy covers both defence costs and any liability found owing in the event of a claim, up to the limit of indemnity.

Contractors provide professional advice and services which are relied on by their clients. Even where care and skill is exercised, there is still the potential to make a mistake that causes financial loss to a client or for a client to allege that you have made a mistake even if you have not. Whilst such disputes are rare, when they occur they can be costly.

How long should you hold cover for?

It is becoming more and more frequent for contract clauses to include a requirement that Professional Indemnity Insurance must be in place for a period of six years following the completion of the contract. In the absence of such a requirement it is not uncommon for some, when their contract comes to an end, to cancel their policy or allow it to expire at renewal.

The decision to lapse Professional Indemnity Insurance may often be done as a way to keep costs down whilst not working, however it is important that contractors fully appreciate how PI Insurance operates, as the consequences of cancelling could be significantly more costly than the premium.

Professional Indemnity Insurance operates on a 'claims made' basis, this is set out in the cover Qdos provide by stating that the policy will cover 'claims first made against the Insured during the Period of insurance'. The effect of this is that should the policy be cancelled, or should the Professional Indemnity Insurance not be renewed and a claim follows, the company would be uninsured for the incident. This is still the case if the claim relates to services provided at a time when the policyholder had Professional Indemnity insurance in place.

When deciding not to renew or to cancel PI Insurance, or any other policy held, it is important contractors understand as far as possible their ongoing exposure to claims, and the potential consequences if the policy is no longer in place.



Insurance in Detail: Public and Employers Liability Insurance

Much like Professional Indemnity Insurance, a clause in the written contract stating the requirement of Public Liability, and sometimes Employers Liability Insurance, tends to prompt a contractor to purchase this policy.

Public Liability Insurance will react in circumstances where a third party, whether an individual or a corporation, brings legal action against your company for the physical injury, or damage to property, caused by you in the course of your business' operations. It is designed to both defend you and pay the damages where necessary.

Employers Liability Insurance will react in circumstances where an employee of your company brings a claim against you for personal injury or accidental death sustained as a result of their employment with your business. It is designed to both defend the claim and pay damages owed.

Whilst most other contractor insurance policies operate on a 'claims-made' basis, i.e. you must have the policy in place at the time of making the claim, Public and Employers Liability insurance policies operate on a 'claims-occurring' basis, i.e. you can claim on the policy after it has expired, but it must be in place at the time of the cause of the claim.

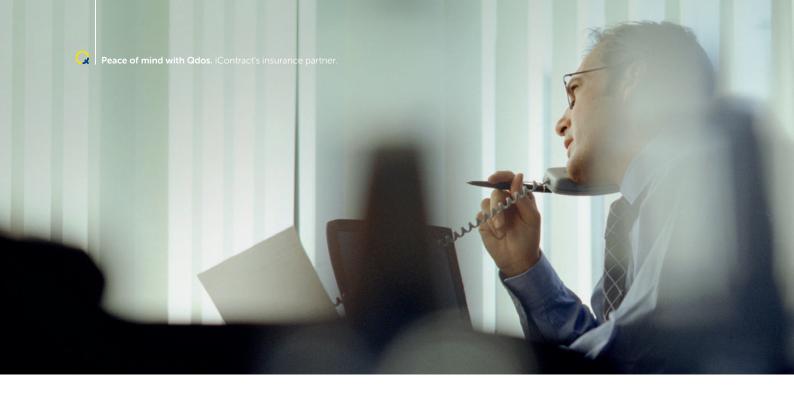
More commonly required for manual trades such as electricians and offshore oil and gas workers, even office

workers such as IT contractors can cause accidental damage or injury to a third party, and so Liability Insurance is a basic policy for any self-employed business. For office-based trades, premiums tend to reflect the lower risk of claims.

Do you really need Employers Liability Insurance?

Whilst other contractor insurance policies are not legally required for you to run your business, Employers Liability might be. If you have any employees, whether they are permanent, part time, or temporary, and whether they are a spouse completing admin or a full time professional, Employers Liability will be a compulsory insurance for all limited company contractors under the Employers' Liability (Compulsory Insurance) Act 1969.

If you are the sole director/employee of your business and you own at least 50% of the share capital of your company, then it is not a legal requirement, however, if stipulated in your contract, you may find that you are contractually obligated. If you don't feel that you need the insurance, it may be worth a conversation with your agency to remove it from your contract, but for one person, the small outlay is often not worth fighting over.



Insurance in Detail: Tax Enquiry and IR35 Insurance

As a self-employed professional, you are responsible for ensuring that you are paying the relevant taxes (unless inside IR35 in the public sector – more information on this in our IR35 guide). With a complicated tax system, this can be hard to navigate, especially with the likes of the IR35 legislation applicable to limited companies, which is open to interpretation and costly ramifications.

Tax Enquiry Insurance is designed to provide cover in the event of a HMRC enquiry. The types of enquiry covered can vary between providers but the majority of contractors take out this policy to defend against IR35. Some policies don't include the representation, but where they do, it is worth checking who that would be, as you would want an IR35 expert defending your case against HMRC's status inspectors to achieve a suitable outcome and minimise a stressful experience.

Innovated by Qdos Contractor, Tax Liability Insurance is a step up from Tax Enquiry Insurance, usually encompassing the latter, but also specifically designed for IR35 - covering the liabilities if eventually caught by the IR35 legislation. This policy is often referred to as IR35 insurance for this reason, but some providers use the term 'IR35 insurance' interchangeably for either type of policy.

Which policy is best for me?

Only you can determine the best policy for your needs. You may however wish to consider:

1. How long you have been contracting

The longer you have been contracting, the larger your potential financial liability under IR35 may be and so if it is only your first year for example, enquiry insurance is usually sufficient.

2. Are you contracted in the public sector.

New off-payroll in the public sector rules which were implemented in April 2017, passed the liability of IR35 to the fee-payer of your company (usually the agency), and therefore if all of your contracts are in the public sector, there is no liability to insure (although you may wish to insure income from prior to April 2017).





Qdos Contractor

Qdos Contractor are one of iContract's chosen insurance partners, specialising in the contractor market and renowned IR35 experts.

Qdos Contractor offer the following policies listed in this guide at competitive premiums:

- Professional Indemnity Insurance
- Public and Employers Liability Insurance
- Tax Enquiry Insurance
- Tax Liability Cover/IR35 Insurance
- Legal Expenses Insurance (Jury Service and Legal Protection)
- Contractor Sickness Cover
- Business Travel Insurance

As well as their renowned expertise in the market and affordable premiums, benefits to cover with Qdos include:

- A free IR35 contract assessment with most policies
- A personal service with every customer assigned an account manager
- UK customer support
- Access to IR35 experts for advice and guidance
- An online portal for 24/7 access to documentation
- Instant online quotes and documentation issued immediately
- Gold Trusted Service

Visit www.qdoscontractor.com or call 0116 269 0999 and quote 'iContract'.









