

Know More about Taking out Employees' Compensation Insurance



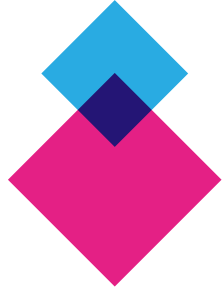
Why should an employer take out employees' compensation insurance (ECI)?



According to section 40 of the Employees' Compensation Ordinance, Chapter 282 of the Laws of Hong Kong, no employer shall employ any employee in any employment unless there is in force a policy of insurance to cover his/ her liabilities under the laws (including the common law), irrespective of the length of employment contract or working hours, full-time or part-time, permanent or temporary employment.

An employer who fails to comply with the Ordinance to secure an ECI cover:

- ◇ commits an offence and is liable on conviction to a maximum fine of \$100,000 and imprisonment for two years;
- ◇ is liable to pay a surcharge to the Employees Compensation Assistance Fund Board according to section 36A of the Employees Compensation Assistance Ordinance, Chapter 365 of the Laws of Hong Kong; and
- ◇ is still liable to pay the compensation under the Employees' Compensation Ordinance and at common law, if his/ her employee sustains an injury or dies from an accident arising out of and in the course of employment or suffers from a prescribed occupational disease.



The consequence of failing to comply with the law is severe. In recent years, a demolition works contractor and a proprietor of a transportation company were convicted at the Magistrates' Courts for failure to comply with the requirement of taking out insurance policies under the Employees' Compensation Ordinance. The former was ordered to perform 120 hours' community service with a fine of \$2,000 while the latter was sentenced to six months' imprisonment.



How to take out ECI?



An employer may take out an ECI policy directly from an insurance company authorised to carry on ECI business in Hong Kong, or approach an insurance intermediary (insurance agent or insurance broker) for arrangement.

What should an employer note when taking out an ECI policy?



ECI policy is an insurance contract made between the employer and the insurance company. The main purpose of taking out an ECI policy is to cover the employer's liability to pay the employees' compensation. When taking out or renewing an insurance contract, an employer must disclose all material facts required and shall:

- ◇ Provide accurate information on the number and the actual earnings of his/ her employees and **ensure all employees are covered**, irrespective of the length of employment contract or working hours, full-time or part-time, permanent or temporary employment, work location, occupation or post when taking out an ECI policy. **Any discrepancy between the declared information and the actual situation may invalidate the insurance contract;**
- ◇ Check whether the information provided is accurately stated in the insurance policy and pay attention to the additional clauses stipulated in the insurance policy. Consult insurance companies (or insurance intermediaries) as soon as possible in case of doubt;
- ◇ Pay attention to the expiry date of the insurance policy and take action to renew the policy in advance to avoid loss of protection and contravention of the Ordinance after expiry of the insurance policy;
- ◇ Give a detailed declaration to the insurance company within a stipulated period of time as required during the validity period of or after expiry or termination of the insurance policy, where such declaration should include the employment condition and all updates during the period of insurance (e.g. number of employees, actual earnings, occupations, etc.), and provide relevant documents (e.g. Mandatory Provident Fund (MPF) contribution statements) **to facilitate the risk assessment and determination of premium by the insurance company and to ensure having proper insurance protection to meet the potential liability;**
- ◇ **Be aware that under-reporting or mis-stating of material information may lead to repudiation of claims or reduction in the compensation to the employer and thus the employer will have to pay any compensation himself/ herself;** and
- ◇ Inform the insurance company if there is uncertainty as to whether or not to disclose a particular piece of information to the company in order to avert any future dispute or repudiation of claims.

How to determine ECI premium?



ECI premium is determined by risk assessment. Insurance companies in general will calculate the insurance premium by taking into account the underwriting risks of different industries/ occupations, the total earnings of employees and the following factors:

- ❖ Claims history of the employer concerned;
- ❖ Occupational safety and health as well as risk prevention measures taken by the employer concerned;
- ❖ Accident rate and risks to be undertaken in respect of the industry or occupation concerned;
- ❖ Market condition (e.g. market trend, economic environment, social factors, etc.); and
- ❖ Underwriting guidelines, operational costs, risk management of the insurance company, etc.

The age of employees is not a major determining factor of ECI premium.

How can individual employers obtain premium discounts/ special offers?

An employer may consider strengthening the provision of necessary information, instruction, training and supervision, etc. to ensure that both sides duly implement occupational safety and health measures, improving the working environment and promoting safety management, rehabilitation and return-to-work programmes, etc. with a view to reducing risks at work. Based on improvement in occupational safety and health performance, the insurance company may consider providing special premium offers. Possible improvement measures include:



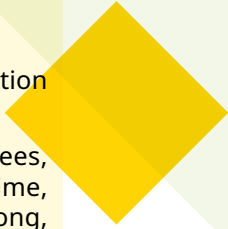
- ❖ Acquiring devices and facilities that meet safety standards and ensuring their proper maintenance;
- ❖ Providing training on occupational safety and health to employees;
- ❖ Arranging employees to complete specified occupational safety and health courses and obtain the related certification;
- ❖ Enhancing employees' knowledge on first aid;
- ❖ Conducting regular inspections of workplaces with a view to improving the occupational safety and health conditions; and
- ❖ Implementing improvement measures in respect of the causes of accidents at work to prevent recurrence.

When taking out an ECI policy, what information has to be given to the insurance company (or insurance intermediary) by an employer for processing his/ her insurance/ renewal proposal?



An employer is responsible for providing the following information and/ or documents:

- ◇ Company information (e.g. type of business, business registration information, etc.);
- ◇ Employees' information (e.g. occupations, number of employees, actual earnings, usual work locations, full-time/ part-time, requirement to work or take business trips outside Hong Kong, etc.);
- ◇ Past claims records;
- ◇ Recent MPF contribution records; and
- ◇ Relevant tax returns/ accounting records.



What to do if encountering difficulties in taking out ECI?

The insurance industry in Hong Kong has put in place the Employees' Compensation Insurance Residual Scheme as a market of last resort to assist employers who have difficulties in obtaining ECI cover, with a view to ensuring that employers are able to acquire ECI. If an employer has difficulties in taking out ECI, he/ she may contact the Employees' Compensation Insurance Residual Scheme Bureau.

Please consult your insurance companies (or insurance intermediaries) directly for any enquiries about taking out ECI policies or the policy terms. For enquiries about the contents of this leaflet, you may contact the department/ organisation(s) listed below for more information.



Enquiries



◆ Labour Department

🖥 www.labour.gov.hk
☎ 2717 1771 (handled by “1823”)

◆ Insurance Authority

🖥 www.ia.org.hk
☎ 3899 9983

◆ The Hong Kong Federation of Insurers

🖥 www.hkfi.org.hk
☎ 2520 1868

◆ The Employees' Compensation Insurance Residual Scheme Bureau

🖥 www.ecirsb.com.hk
☎ 2591 9316