



Arboriculture and Forestry Insurance: Frequently Asked Questions

Obtaining insurance for arboricultural and forestry work has recently become difficult and costly, particularly for contractors. The answers in this FAQ fact-sheet are aimed at contractors but are relevant to consultants and other employers too.

1. Do I need insurance?

Almost certainly 'Yes'. The law says there are certain types of insurance that you *must* have if you trade, and there are other types of insurance that may protect you, your business and possibly your family.

2. What type of insurance should I have

Let's start with the law. You *must* hold Employers' Liability (EL) insurance if you employ people. And that's not just people 'on the books' as employees, it also includes people under your direction, such as contract labour and sometimes even firms you sub-contract to (see definition at end). This is the insurance that covers compensation to employees and associated costs if they are injured as a result of your negligence whilst working for you. A solicitor or your insurance broker is best placed to advise you of your particular requirements for EL insurance.

You *must* also insure your vehicles for Third Party liability if used on a public highway (in case whilst driving you damage property or injure or kill someone). You may choose to insure vehicles and other equipment against fire, theft and other damage too.

You probably need insurance for Public Liability (PL) – that's in case you damage property or injure or kill someone not connected with your business whilst you or your employees are working. Most authorities recommend a minimum of £5 million PL is currently appropriate for contract work.

Consultants and most contractors also hold Professional Indemnity (PI) insurance. This is to pay for things that go wrong after people have acted on your negligent advice (for example, if you declare a tree safe that obviously wasn't and it subsequently fails and causes damage, injury or death).

If you operate without EL insurance or Third Party vehicle insurance you are breaking the law. If you operate without PL or PI insurance and have an accident you will become personally liable for any compensation and associated costs due. This could cost you your business, your savings, your house and

any other 'asset' you have that the courts could convert in to money.

3. Why have premiums risen so steeply?

There are several reasons – some relate to accidents that happen in our industry and other factors that are beyond our control.

In terms of accidents, insurers have paid out several times more in claims than they have collected in premiums over the past few years. We are also a high risk industry with large mobile machines, working at height, dealing with large loads and often on highways or other built up areas.

Other factors include changes in the stock market, September 11th 2001, and the no-win-no-fee, 'blame-claim' culture that has evolved in recent years.

4. There doesn't seem to be many schemes for arborists to choose between?

This is correct. At the time of writing it is our understanding that there is a very small handful of brokers with schemes offering insurance for arboriculture and forestry contractors. It is our understanding that this is unlikely to change in the short term.

5. Isn't this a monopoly, and isn't that why prices have risen?

It's not that simple. The fact is that most insurance companies no longer want to offer insurance for our industry. Most of the schemes that were available in the past few years have closed.

Insurance company AXA gave notice in February this year that they were withdrawing from this market sector but so far we have managed to convince them to stay. We understand they will review their position at the end of the year but it is clear that they will only continue if they can collect enough in premiums to pay the claims and make a financial return.

6. Why aren't there more insurers offering insurance for arboriculture and forestry?

An insurance company doesn't have to offer insurance to our industry, and many have decided not to because of the high risk nature of our industry and a poor claims experience (they pay out more in claims than they collect in premiums). They have opted for more predictable (or profitable?) risks.

7. Why am I being asked lots of questions before I am quoted for insurance?

Insurance brokers and insurance companies are trying to find out about your approach to health and safety. A safer company is likely to have fewer accidents, and hence fewer claims than a company paying less attention to health and safety. In the past your approach to health and safety may have affected your premiums. In the future your approach to health and safety may determine whether you can obtain insurance at all.

8. I haven't made any claims so why is my insurance premium going up?

The whole principle of insurance is that of spreading risk. Picture this: a heavy burden (in our case a large claim by one person) spread across a lot of people is a bearable load for each one. Sadly, when the burden increases everyone has to carry a bit more. Even if you didn't create the burden (make the claim) your premiums are helping to support the burden (claims) of others.

9. I've obtained insurance for this year, will I be able to get it next year?

It is impossible for us to predict what may happen in 12 months time but be assured we are doing everything possible to secure insurance for the future.

10. What can I do to keep my premium as low as possible?

The best way to keep your premiums as low as possible (or even obtain insurance at all) is to maintain a good claims record. This means taking every possible care not to have an accident, and not to damage your equipment or have it stolen. If any of these do happen and you can manage without making a claim this *may* improve your chance of obtaining a favourable quote or of obtaining insurance at all in the future

11. My application for insurance has been turned down. What can I do?

A difficult question. As far as we are aware there are only two insurance companies offering 'scheme' facilities to companies whose main business is arboriculture and forestry: AXA and NIG. These can be accessed direct via insurance brokers Algarve (01483 489291) and Bryant Kesek (01483 274792) or indirectly via other brokers. The only alternative is a direct approach to other insurance companies or Lloyds underwriters but this is unlikely to be successful unless it is a large business.

Landscapers may be able to access insurance from a variety of other sources but contractors and employers alike must take care to look for any exclusion that may apply to the size of tree that can be felled and to persons climbing trees.

12. If I can't obtain insurance what can I do?

There are only two viable options: cease trading, or work for someone who has managed to obtain insurance (though make sure your activities are covered by their insurance policy).

We regret that there will always be some who opt for the illegal and irresponsible option of trading without insurance, the consequences of which could include becoming personally liable for claims, fines, imprisonment, damaging the viability of insured contractors and so on.

13. What is the Arboricultural Association doing for its members and the industry?

Firstly we should stress that contractors who trade without insurance are not usually those with the best interests of trees at heart. Consequently we are doing everything we can to ensure that bona fide contractors can continue to obtain insurance and trade legitimately. So far we have:

- Coordinated our approach to the issue with the insurance industry, particularly with its major broker Algarve Insurance Brokers Ltd.
- Broadened our approach to the insurance industry by requesting assistance from the Association of British Insurers
- For many years we have set or helped shape the standards to which the arboricultural industry works (health and safety, laws and regulations, tree work practice etc.). We are now assisting the insurance industry to identify a standard of health and safety relevant to the industry. This *may* include pre-insurance or pre-renewal health and safety audits by questionnaire and/or visit

and an NVQ level 3 'Management of Health and Safety' competency unit from the National Proficiency Test Council

- Liaised with other industry bodies (see list at end) to provide added weight to our case
- Drafted a leaflet 'Employing Tree Work Contractors' in conjunction with the International Society of Arboriculture, the Tree Care Industry Association and funding from the Health and Safety Executive which will be distributed nationwide and will include specific reference to the need for employers to check contractors' insurance
- Drafted a letter which we hope you will copy to your headed paper and send to your MP and MEP – available for you to download as a word document from our website on <http://www.trees.org.uk/insurance.htm>
- Drafted a letter which you may copy to your headed paper and send to your employers explaining insurance premium increases, the importance of checking contractors' insurance and perhaps why your price might be going up – available for you to download as a word document from our website on <http://www.trees.org.uk/insurance.htm>

14. What next?

We have set up a special page on our website to update members and the wider industry on the issue. This can be accessed by anyone on <http://www.trees.org.uk/insurance.htm> We will update this page every time new information becomes available to us and hope that this will become the primary source of useful information to the industry on this issue.

If you have not already done so you need to prepare yourself and your business for a comprehensive pre-insurance or pre-renewal health and safety questionnaire remembering that this may be backed up by an inspector to verify your responses. Key personnel (usually the owner or manager) may need to obtain an NVQ level 3 competency in the management of health and safety.

If you have not already experienced a significant increase in your insurance premiums you need to prepare yourself and your business for this.

Ensure you operate in a safe manner and keep claims to an absolute minimum.

For updates on the current position please see the Arboricultural Association's website

<http://www.trees.org.uk/insurance.htm> If you register with our 'Hot off the Press' we will email you a notification of the website being updated: simply email your email address to admin@trees.org.uk and include 'HOTP Insurance' in the title (we may send you other information relevant to the arboricultural industry by email from time to time).

Example of a definition of an employee for the purposes of Employers' Liability insurance: an extract from an AXA EL policy courtesy of Algarve Insurance Brokers Ltd.

Disclaimer: this is not a 'legal' definition and you are advised to seek your own legal advice.

1. any person under a contract of service or apprenticeship with the Insured
2. any person who is hired to or borrowed by the Insured
3. any person engaged in connection with a work experience or training scheme
4. any labour master of person supplied by him
5. any person engaged by labour only sub-contractors
6. any self-employed person working on a labour only basis under the control or supervision of the insured
7. any voluntary helper.

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