

## **ESSENTIAL BUSINESS LEGAL POLICY**

### **What is Essential Business Legal**

Essential Business Legal is a product that provides legal services and insurance. It will cover the legal costs if your company, including any subsidiary and/or associated companies are involved in certain legal disputes. The policy is administered by ARAG plc and underwritten by Brit Insurance Ltd.

**Essential Business Legal also provides to 24 hour, 365 day legal helpline, and a document service for the downloading of legal documents relating to your business activities.**

### **If a claim needs to be made, what happens?**

The true value of your policy with ARAG lies with the service we provide you. If you are unfortunate enough to have a legal or tax problem we will be ready and waiting to help you in any way we can as quickly as possible.

### **Legal & Tax Advice**

In the event of a legal or tax problem we would strongly recommend that you initially take advantage of our confidential 24 hour legal and tax advice service which we provide to you as part of this policy; the only cost to you is a standard rate call. The advice covers any business legal or tax matter and you can use this service as often as you like. Your query will be dealt with by a suitably qualified specialist experienced in handling a range of legal and tax related matters.

**You can get advice by telephoning 0870 787 6859.**

Use of this service does not constitute reporting of a claim.

### **Businessmax**

The Businessmax online resource provides you with all the essential tools and services required to prepare vital legal paperwork in connection with your business. Complex legal documents and policies are prepared at the touch of a button using highly acclaimed document preparation technology. A further function of the website is the extensive resource of jargon-free law guides enabling you to check your business's legal rights 24 hours a day, 365 days a year.

### **How to make a claim**

In the event that you then need to make a claim you should notify us as soon as possible. Under no circumstances should you instruct your own lawyer or accountant as we will not pay the costs incurred and it could invalidate your cover.

**You can report your claim by telephoning 0117 917 1698 or on line at [www.arag.co.uk/newclaims](http://www.arag.co.uk/newclaims). Please state you are a Beech Underwriting policyholder.**

### **What happens next?**

We will issue you with a written acknowledgement within one working day of receiving the claim. Within 5 working days of receiving the information needed to assess the availability of cover under the policy, we will write to you either:

- appointing a suitably qualified representative who will promptly progress the claim for you; or
- if the claim is not covered, explaining in full why and whether we can assist in another way

## **What happens if the Insurer cannot meet its liabilities**

The **Insurer** is covered by the Financial Services Compensation Scheme ("FSCS"). **You** may be entitled to compensation from the scheme if the **Insurer** cannot meet its obligations. This depends on the type of business and the circumstances of the claim. Further information about compensation scheme arrangements is available from the FSCS.

## **ESSENTIAL BUSINESS LEGAL POLICY**

This policy is evidence of the contract between **you** and the **Insurer**. It is based on the information given to **us** by or for **you** when **you** applied for this insurance. The policy, Schedule and any endorsement that may attach to this policy shall be read together as one document.

## **WHAT IS INSURED**

For those Insured Events shown in the Schedule the **Insurer** will pay the **Insured's Legal Costs & Expenses** (and Compensation Awards under Insured Event 2) up to the **Limit of Indemnity**, including the cost of appeals provided that:

- 1) **You** have paid the insurance premium,
- 2) the Insured Event arises in connection with the business shown in the Schedule and occurs within the **Territorial Limit**
- 3) the claim
  - always has **Reasonable Prospects of Success**
  - is reported to **us**
    - during the **Period of Insurance**
    - immediately after the **Insured** first becomes aware of circumstances which could give rise to a claim under this policy
- 4) the **Insured** always agrees to use the **Appointed Advisor** nominated by **us** in any claim
  - falling under the jurisdiction of an Employment Tribunal or the **Small Claims Court**, and/or
  - prior to the issue of legal proceedings,
- 5) any proceedings or hearing are dealt with by a Court, tribunal or other body that **we** agree to, in the **Territorial Limit**

## **INSURED EVENTS COVERED**

### **AUTOMATIC COVER**

#### **1 EMPLOYMENT**

Defending **you** in an employment dispute with an employee, ex-employee, prospective employee or trade union acting on their behalf, arising from a breach or an alleged breach of their

- a) contract of service with **you** and/or
- b) statutory rights under employment legislation

An employment dispute is deemed to have occurred once all internal dismissal, disciplinary and grievance procedures as set out under the Employment Act 2002 (Dispute Resolution) Regulations 2004 have been or ought to have been concluded

#### **What is not insured**

Any claim

- 1) for redundancy or alleged redundancy or unfair selection for redundancy, occurring during the first 180 days of this policy, except where **you** have had equivalent cover in force up until the start of this policy
- 2) arising from or relating to any transfer of business which falls under the scope of the Transfer of Undertakings (Protection of Employment) Regulations 2006
- 3) for **Legal Costs & Expenses** relating to an internal disciplinary hearing or grievance

## 2 EMPLOYMENT COMPENSATION AWARDS

Following a claim **we** have accepted under Insured Event 1 any

- a) basic and compensatory award made against **you** by a tribunal
- b) amount agreed by **us** in settlement of a dispute

Provided that

- (i) **Reasonable Prospects of Success** exist for a wholly successful defence throughout
- (ii) in respect of any compensation payable for redundancy, alleged redundancy or unfair selection for redundancy **you** have sought and followed advice from **us** or **our** agent throughout including prior to serving any notice of a redundancy
- (iii) the compensation is awarded by a tribunal or through the ACAS Arbitration Scheme, under a judgment made after full argument other than by consent or default, or is payable under a settlement approved in writing by **us**

### What is not insured under Insured Event 2

Any Compensation Awards relating to

- 1) trade union activities, membership or non membership, industrial or labour arbitration, collective bargaining agreements, trade union recognition or matters concerning European Works Council
- 2) money due to an employee under a contract of employment or a statutory provision relating thereto
- 3) **your** failure to comply with a reinstatement or re-engagement order
- 4) a breach of an employee's statutory rights under the National Minimum Wage Act 1998
- 5) civil claims or statutory rights relating to trustees of occupational pension schemes

## 3 TAX PROTECTION

- a) a formal aspect or full enquiry into **your** business tax affairs
- b) any appeal proceeding following an assessment by HM Revenue & Customs relating to Value Added Tax
- c) a dispute about **your** compliance with regulations relating to:
  - Pay As You Earn, or
  - Social Security, or
  - National Insurance Contributionsfollowing a review by HM Revenue and Customs
- d) a formal aspect or full enquiry into the personal tax affairs of **your** directors and/or partners

Provided that

1. all returns are completed and have been submitted within the statutory timescales permitted
2. in respect of aspect enquiries the **Insured** is responsible for the **Excess** as shown in the schedule

### What is not insured under Insured Event 3

Any claim arising from or relating to

1. an investigation by the Special Civil Investigation Office or the Special Compliance Office of HM Revenue and Customs
2. an investigation under the Civil Investigation of Fraud procedure
3. a tax avoidance scheme
4. the submission of returns or accounts where the HM Revenue & Customs levy a penalty or claim for interest or which contain negligent misstatements or where the **Insured** falls below the standard of a reasonably prudent businessman in keeping books and records.
5. **your** failure to register for VAT

#### 4 PROPERTY

A dispute relating to material property which **you** own or is **your** responsibility

- a) following an event which causes or could cause physical damage to **your** material property
- b) following a public or private nuisance or trespass
- c) and which **you** wish to recover or repossess from an employee or ex-employee

#### What is not insured under Insured Event 4

Any claim arising from or relating to

1. a contract between **you** and the third party except for claim under 4 c)
2. defending any claim brought against **you** unless defending a counter-claim
3. any claim relating to a motor vehicle whilst at your premises
4. goods in transit or goods lent or hired out
5. the compulsory purchase of, or restrictions or controls placed on **your** material property by any government, local or public authority

#### 5 COMPLIANCE & REGULATION

- a) defending the **Insured** when dealing with the police or Health & Safety Executive prior to the **Insured** being charged
- b) defending the **Insured** following an event leading to the **Insured** being prosecuted in a court of criminal jurisdiction except parking offences
- c) representing **you** following a notice by the relevant authority to alter, suspend, revoke or refuse to renew **your** statutory licence
- d) appealing against the terms of a Statutory Notice served against **you**
- e) representing the **Insured** at a formal investigation or disciplinary hearing by any trade association, professional or regulatory body
- f) defending **you** in a civil action alleging wrongful arrest arising from an allegation of theft
- g) defending the **Insured** in a civil action for compensation under section 13 of the Data Protection Act 1998 including compensation awarded against the **Insured** provided that **you** are registered with the Information Commissioner
- h) the **Insured's** loss of earnings incurred when the **Insured** is absent from work to attend any court, tribunal, arbitration, disciplinary hearing or regulatory proceedings at the request of the **Appointed Advisor** or whilst on Jury Service. The amount **we** pay shall not exceed £100 per day or part thereof less whatever is recoverable from the court or tribunal subject to a maximum limit of £1000.

#### 6 EMPLOYEES' EXTRA PROTECTION

At **your** request

- a) defending an employee in civil proceedings under legislation for unlawful discrimination on the grounds of sex, race, disability, sexual orientation, age, religious belief or political opinion
- b) defending an employee as a trustee of a pension fund set up for the benefit of **your** employees
- c) pursuing a claim following an event causing an employee bodily injury

provided that the employee is under a contract of service with **you**

#### WHAT IS NOT INSURED

You are not insured for any claim arising from or relating to:-

1. **Legal Costs & Expenses** or Compensation Awards incurred before **we** accept a claim
2. any actual or alleged act, omission or dispute occurring prior to, or existing at the inception of the policy, and which the **Insured** knew or ought reasonably to have known could give rise to a claim under this policy

3. an allegation against the **Insured** involving:
  - assault, violence or dishonesty;
  - malicious falsehood;
  - the manufacture, dealing in or use of alcohol, illegal drugs, indecent or obscene materials;
  - illegal immigration;
  - offences under Part 7 of the Proceeds of Crime Act 2002 (money laundering offences).
4. the defence of legal proceedings relating to
  - damages for personal injury (other than injury to feelings), or loss or damage to property owned by the **Insured**
  - a breach or alleged breach of professional duty
  - any tortious liability except where covered under Insured Event 4 Property
5. fines, penalties or compensation except as covered under Insured Events 2 or 5 (g)
6. costs awarded against the **Insured** by a court of criminal jurisdiction following a conviction
7. patents, copyright, trade marks, passing-off, trade or service marks, registered designs, secrecy and confidential information
8. a dispute with any subsidiary, parent, associated or sister company or between shareholders or partners
9. franchise rights, or agency rights where **you** have the legal capacity to alter the legal relations of another
10. a judicial review
11. a dispute with **us** or the **Insurer** not dealt with under Condition 6
12. defamation
13. a) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;  
 b) radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof  
 c) war, invasion, act of foreign enemy hostilities (whether was is declared or not), civil war, rebellion, revolution, insurrection or military or usurped power.  
 d) pressure waves from aircrafts or other aerial devices travelling at sonic or supersonic speed  
 e) any terrorist action (regardless of any other cause or event contributing concurrently or in any other sequence to the liability) or any action taken in controlling, preventing or suppressing terrorist action. If the **Insurer** alleges that by reason of this exclusion any liability or loss is not covered by this Policy, the burden of proving the contrary shall be upon the **Insured**;

### CONDITIONS WHICH APPLY TO THE WHOLE POLICY

Failure to keep to any of these conditions may lead the **Insurer** to cancel **your** policy, refuse a claim or withdraw from an ongoing claim. The **Insurer** also reserves the right to recover **Legal Costs & Expenses** from the **Insured** should this occur

1. The **Insured's** responsibilities

An **insured** must

- a) observe and keep to the terms of the policy
- b) not do anything that hinders **us** or the **Appointed Advisor**
- c) tell **us** immediately after **you** first become aware of any cause, event or circumstances which could to give rise to a claim under this policy
- d) tell **us** immediately of anything that may materially alter **our** assessment of the claim
- e) cooperate fully with the **Appointed Advisor** and **us**, give the **Appointed Advisor** any instructions **we** require, and keep them updated with progress of the claim
- f) provide **us** with everything **we** need to help **us** handle the claim
- g) take reasonable steps to recover **Legal Costs & Expenses** that the **Insurer** pays and pay to the **Insurer** all costs that are recovered should these be paid to **you**
- h) tell the **Appointed Advisor** to have the **Legal Costs & Expenses** assessed or audited if **we** require
- i) minimise any **Legal Costs & Expenses** and try to prevent anything happening that may cause a claim
- j) allow the **Insurer** at any time to take over and conduct in the **Insured's** name any claim, proceeding or investigation

2. The **Appointed Advisor**

- a) In certain circumstances as set out in 2 c) below the **Insured** may choose an **Appointed Advisor**. In all other cases no such right exists and **we** shall choose the **Appointed Advisor**.

- b) Where the **Insured** wishes to exercise their right to choose, they should write to **us** with their nominated representative's name and address. The **Insured's** chosen **Appointed Advisor** must agree to act under **our** standard terms of business and cooperate with **us** at all times. **We** may refuse to accept the **Insured's** nomination in exceptional circumstances. If we disagree over the appointment of an **Appointed Advisor** then **we** will agree for another suitably qualified person to decide the matter
- c) If **we** agree to start legal proceedings and the court or tribunal requires any representative to be legally qualified, or there is a conflict of interest, the **Insured** may choose a suitably qualified **Appointed Advisor**. The right of the **Insured** to choose never applies to Employment Tribunal, Tax or **Small Claims Court** claims unless there is a conflict of interest.
- d) If the **Appointed Advisor** refuses to continue acting for the **Insured** with good reason, the **Insured** dismisses the **Appointed Advisor** without good reason, or the **Insured** withdraws from the claim without **our** agreement, cover will end immediately unless **we** agree to appoint another **Appointed Advisor**.

### 3. **Our** consent

**We** must give **our** written consent to the **Insured** to incur any **Legal Costs & Expenses** or Compensation Awards. The **Insurer** does not accept any liability for **Legal Costs & Expenses** or Compensation Awards incurred without **our** written consent.

### 4. Settlement

- a) The **Insurer** has the right to settle the claim by paying the value of **your** claim
- b) The **Insured** must not negotiate, settle the claim or agree to pay any **Legal Costs & Expenses** incurred without **our** written agreement
- c) If the **insured** refuses to settle the claim following
  - (i) a reasonable offer, or
  - (ii) advice to do so from the **Appointed Advisor**the **Insurer** may refuse to pay further **Legal Costs & Expenses**

### 5. Counsel's Opinion

**We** may require the **Insured** to obtain and pay for an opinion from counsel regarding the merits or value of the claim. If the opinion supports the **Insured** then the **Insurer** will pay for the opinion.

### 6. Arbitration

If there is a dispute between the **Insured** and **us** about the handling of a claim or the choice of an **Appointed Advisor**, the matter will be referred to a suitably qualified person agreed upon by both parties. The loser of the dispute shall be liable to pay the costs incurred. If we fail to agree on a suitable person **we** will ask the president of the relevant Law Society to nominate.

### 7. Dual Insurance

The **Insurer** will not pay for any claim covered by another policy, or any claim that would have been covered by any other policy if this policy did not exist

### 8. Fraudulent Claims

If the **Insured** makes any claim under the policy which is fraudulent or false, the policy shall become void and all benefits under this policy will be forfeited including the premium.

### 9. Cancellation

**You** may cancel the policy at any time by giving at least 21 days' written notice to **us**. The **Insurer** will refund part of the premium for the unexpired period unless the **Insured** has notified a claim which has been or is subsequently accepted under this Policy in which case no return of premium shall be allowed.

The **Insurer** may cancel the policy at any time by giving at least 21 days' written notice to **you**. The **Insurer** will refund part of the premium for the unexpired period.

#### 10. Acts of Parliament & Jurisdiction

All Acts of Parliament referred to within the policy shall include equivalent legislation in Scotland, Northern Ireland, the Isle of Man and the Channel Islands and any subsequent amendment or replacement legislation.

This policy will be governed by English Law

#### 11. Data Protection Act 1998

It is agreed by the **Insured** that any information provided to **us** &/or the **Insurer** regarding the **Insured** will be processed by **us** &/or the **Insurer**, in compliance with the provisions of the Data Protection Act 1998, for the purpose of providing insurance and handling claims, if any, which may necessitate providing such information to third parties.

#### 12. Contracts (Rights of Third Parties) Act 1999

A person who is not party to this contract has no right to enforce the terms and conditions of this policy under the Contracts (Rights of Third Parties) Act 1999.

### MEANING OF WORDS & TERMS

Certain words and terms contained in this policy have been defined as they have the same meaning wherever they appear.

#### **Appointed Advisor**

The solicitor, accountant, or other advisor appointed by **us** to act on behalf of the **Insured** under the terms of the policy.

#### **Insured**

- (a) **You, your** directors, partners, managers, officers and employees of **your** business
- (b) The estates, heirs, legal representatives or assigns of any persons mentioned in (a) in the event of such person dying
- (c) A person declared to **us**, who is contracted to perform work for **you**, who is in all other respects insured by **you** on the same basis as **your** other employees and who performs work under **your** supervision

#### **Insurer**

Brit Insurance Limited

#### **Legal Costs & Expenses**

- a) Reasonable legal costs, fees and disbursements reasonably and proportionately incurred by the **Appointed Advisor** on the Standard Basis and agreed in advance by **us**
- b) Reasonable accountancy fees, disbursements and other costs reasonably incurred by the **Appointed Advisor** and agreed in advance by **us**
- c) Other side's costs incurred in civil claims where the **Insured** has been ordered to pay them or pays them with **our** agreement
- d) the **Insured's** loss of earnings incurred under Insured Event 5 h)

#### **Limit of Indemnity**

The maximum **Legal Costs & Expenses** and Compensation Awards payable by the **Insurer** in respect of all claims related by time or original cause, as shown in the Schedule. In respect of Compensation Awards the maximum amount payable by the **Insurer** in respect of all claims aggregated in any one **Period of Insurance** as shown in the Schedule

**Period of Insurance**

The period as shown in your Schedule

**Reasonable Prospects of Success**

In civil proceedings and criminal prosecution claims (except where the **Insured** pleads guilty), where the **Insured** has a greater than 50% chance of successfully pursuing or defending their claim. If the **Insured** is seeking damages or compensation, there must also be a greater than 50% chance of enforcing any Judgment that might be obtained.

In criminal prosecution claims where the **Insured** pleads guilty, there is a greater than 50% chance of successfully mitigating the **Insured's** sentence or fine

In tax claims, any dispute or appeal where the **Insured** has a greater than 50% chance of being successful

In all claims involving an appeal, where the **Insured** has a greater than 50% chance of being successful

**Small Claims Court**

A court in England & Wales that hears a claim falling under the small claims track in the County Court as defined by Section 26.6 (1) of the Civil Procedure Rules 1999

**Territorial Limit**

For Insured Event 5 the United Kingdom, Channel Islands, Isle of Man and countries in the European Union

For all other Insured Events the United Kingdom, Channel Islands and the Isle of Man

**We/Us/Our**

ARAG plc who are authorised under a binding authority agreement to administer this insurance on behalf of the **Insurer**, Brit Insurance Ltd

**You/Your**

The Company named in the Schedule, including any subsidiary &/or associated companies declared to **us**

**COMPLAINTS**

We are committed to providing a first class service at all times. If, however, a complaint arises, then this should be addressed in the first instance to:

The Customer Relations Officer  
Beech Underwriting Agencies Ltd  
12 Starnes Court  
Union Street,  
Maidstone Kent ME14 1EB

who will investigate your case and if the complaint cannot be resolved you can then refer the matter to:-

The Managing Director:  
ARAG plc, Froomsgate House, Rupert Street, Bristol BS1 2QJ who will arrange to have **your** case reviewed at the appropriate level.

If the complaint is not resolved to **your** satisfaction, then the matter may be referred to:

Customer Relations Officer  
Brit Insurance Limited  
55 Bishopsgate  
London  
EC2N 3AS

Telephone: 020 7984 8800

If a complaint remains unresolved, **you** may request that the Financial Ombudsman Service review the case provided that the complaint falls within its jurisdiction. The Financial Ombudsman Service can normally deal with complaints from private individuals and small businesses with an annual turnover of less than £1 million (for a group of companies, this means a group annual turnover of less than £1 million). The Financial Ombudsman Service can also help with complaints from charities with an annual income of less than £1 million, and from trusts with a net asset value of less than £1 million.

The address is:

Financial Ombudsman Service  
South Quay Plaza  
183 Marsh Wall  
London  
E14 9SR

Telephone: 0845 080 1800

[www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk)

The Financial Ombudsman's Service decision is binding upon the **Insurer**, but **you** are free to reject it without affecting **your** legal rights.

Save as provided above, in the event that any dispute as to the terms and effect of this Policy remains unresolved then such dispute shall be referred for arbitration to an independent solicitor to be agreed jointly by the parties. In the event that an independent solicitor cannot be agreed upon, then an arbitrator will be appointed by the President for the time being of The Law Society of England & Wales. The arbitration shall be subject to the Arbitration Acts and the arbitrator's decision shall be binding on the parties.

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