

Section 3E

Public and Product Liability - General

Definitions

Business

The business stated in the specification to this section and includes:

- a) the provision and management of canteen, sports, social, educational and welfare organisations for the benefit of the Insured's **employees** and first aid, fire, security and ambulance services
- b) private work undertaken by an **employee**, with the consent of the Insured, for any director, partner or senior official of the Insured
- c) the participation by the Insured in trade shows or exhibitions.

Costs

- a) all legal costs recoverable from the Insured by any claimant which have been incurred before **NFU Mutual** has paid or offered to pay either the full amount of the claim or the indemnity limit applicable
- b) the legal costs of defending, in any court of summary jurisdiction, any proceedings brought against the Insured or an **employee** in respect of a breach, or alleged breach, of any statutory duty, resulting in **injury** or **damage to property** that may be the subject of a claim under this section, provided that the payment of such costs in respect of the defence of any **employee** will be made only if so requested by the Insured
- c) all other costs and expenses incurred by the Insured with **NFU Mutual's** written consent.

Damage

Loss destruction or damage.

Employee

Any of the persons described below while working for the Insured in connection with the **business**:

- a) a person under a contract of service or apprenticeship with the Insured
- b) a labour master a labour-only sub-contractor or a person supplied by either of them
- c) a person working for the Insured under a recognised work experience training scheme or youth training scheme
- d) a self-employed person
- e) a person borrowed by or hired to the Insured or deemed by contract conditions to be an employee of the Insured
- f) voluntary helpers.

Geographical limits

- a) anywhere in The European Union, the Isle of Man or the Channel Islands

- b) anywhere in the world in respect of
 - i) **products** supplied from within the territories mentioned in (a) above
 - ii) commercial visits by the Insured or a director or **employee** of the Insured normally resident in Great Britain, Northern Ireland, the Isle of Man or the Channel Islands, not involving the supervision or performance of manual work.

Injury

Bodily injury, disease or illness.

Pollution or Contamination

- a) all pollution or contamination of buildings or other structures or of water or land or the atmosphere; and
- b) all **damage** or **injury** directly or indirectly caused by such pollution or contamination.

Premises

The premises stated in the specification to this section.

Products

Goods (including their containers and labels) manufactured, sold, supplied, installed, erected, repaired, altered or treated by or on behalf of the Insured in the course of the **business**.

Property

Material property.

Sub-Section 1 - Public Liability

(Operative only if so stated in the specification to this section)

Cover

NFU Mutual will indemnify the Insured against all sums which the Insured is legally liable to pay as compensation in respect of accidental

- a) **injury** to any person
- b) **damage to property**
- c) obstruction, loss of amenities, trespass or nuisance
- d) wrongful arrest, detention or false imprisonment of any person

happening in connection with the **business**, within the **geographical limits**, during the **period of insurance**.

Provided that the liability of **NFU Mutual** under this sub-section (including any cover extensions) for all claims arising out of one occurrence, or number of occurrences arising directly or indirectly from one source or original cause, will not exceed the indemnity limit as stated in the specification to this section.

In addition, **NFU Mutual** will pay **costs** in respect of any claim to which the indemnity expressed in this sub-section applies.

Exclusions applying to Sub-Section 1

(In addition to the General Exclusions to Sub-Sections 1 and 2)

NFU Mutual will not indemnify the Insured in respect of:

- 1) Liability arising out of the ownership, possession or use, by or on behalf of the Insured, of
 - a) any railway, or craft designed to travel in, through or on water (other than hand-propelled boats), air or space
 - b) any crane while elsewhere than at the premises
- 2) Liability arising out of the ownership, possession or use, by or on behalf of the Insured of any mechanically propelled vehicle (including any trailer or plant attached):
 - a) licensed for road use
 - b) outside Great Britain, Northern Ireland, the Isle of Man or the Channel Islands
 - c) being used as a tool of trade or in any motor sport
 - d) being used in circumstances requiring the existence of a certificate of insurance or security under any legislation governing the use or driving of any mechanically propelled vehicle

Provided that, if there is no indemnity afforded by any other insurance, this exclusion will not apply to the loading or unloading of, or the bringing to or taking away of the load from, any mechanically propelled vehicle (including any trailer or plant attached)

3) Liability arising from or in connection with **products** (except while remaining in the custody or control of the Insured) other than food or beverages sold or supplied to visitors for consumption at the **premises**

4) Liability for **damage to property**

- a) owned by the Insured
- b) held in trust by or in the custody or control of the Insured or which is leased or rented to the Insured, other than
 - i) **employees'** personal effects (including motor vehicles) and personal effects of other persons while visiting the **premises**
 - ii) premises (including land and contents) leased, let, rented or hired to the Insured, in connection with the business.

NFU Mutual will not indemnify the Insured for

a) liability assumed under agreement except as imposed by the Model Clauses of the Agricultural Holdings Act 1986

b) the first £100 of any **damage**.

Special Condition applying to Sub-Section 1

Contractual Liability

Where the Insured has, by agreement, assumed liability which would not have attached in the absence of such agreement, this sub-section will apply only if the conduct and control of claims is vested solely in **NFU Mutual** and will not, in any event, apply to liability

- a) in respect of liquidated damages or any sums payable under any penalty clause
- b) for **damage to property** caused by any risk against which the Insured is required to effect insurance by the conditions of any contract.

Sub-Section 2 - Product Liability

(Operative only if so stated in the specification to this section)

Cover

NFU Mutual will indemnify the Insured against all sums which the Insured is legally liable to pay as compensation in respect of accidental

- a) **injury** to any person
- b) **damage to property**,
happening within the **geographical limits** during the **period of insurance**, in connection with **products**.

Provided that the liability of **NFU Mutual** under this sub-section (including any cover extensions) for all claims arising out of one occurrence, or number of occurrences arising directly or indirectly from one source or original cause, and in respect of all occurrences arising during any one **period of insurance**, will not exceed the indemnity limit as stated in the specification to this section.

In addition, **NFU Mutual** will pay costs in respect of any claim to which the indemnity expressed in this sub-section applies.

Exclusions applying to Sub-Section 2

(In addition to the General Exclusions to Sub-Sections 1 and 2)

NFU Mutual will not indemnify the Insured in respect of:

- 1) **Damage** to the **products** themselves, or any expenditure incurred in recalling, making good, repairing, reinstating or replacing any **products** or in making any refund on the price paid for such **products**
- 2) Liability assumed by the Insured under agreement (other than liability arising from any condition or warranty of goods implied by law) unless such liability would have attached in the absence of such agreement
- 3) **Damage to property** owned by the Insured or held in trust by or in the custody or control of the Insured or which is leased, let, rented or hired to the Insured
- 4) Liability caused by, through, or in connection with **products** while in the custody or control of the Insured.

General Exclusions applying to Sub-Sections 1 and 2

NFU Mutual will not indemnify the Insured in respect of:

- 1) Liability for **injury** to any **employee**
- 2) Additional damages resulting from the multiplication of compensatory damages and/or punitive damages and/or exemplary damages and/or aggravated damages
- 3) Any action for damages which is brought against the Insured in the courts of a country or state which is not a member of the European Union and in which the Insured has a commercial enterprise or is represented by any **employee** domiciled in the territory, or by a company, firm or individual holding the Insured's power of attorney
- 4) Liability consequent upon
 - a) giving of advice for a fee
 - b) medical or veterinary treatment (other than first aid)
 - c) the design, plan, formula or specification of products or work for a fee
- 5) Any liability in respect of pollution or contamination

other than pollution or contamination caused by a sudden identifiable unintended and unexpected incident which takes place in its entirety at a specific time and place during the **period of insurance**.

All pollution or contamination which arises out of one incident shall be deemed to have occurred at the time such incident takes place.

The liability of **NFU Mutual** in respect of all compensation payable in respect of all pollution or contamination which is deemed to have occurred during the **period of insurance** shall not exceed £5,000,000 in the aggregate.

Cover Extensions

1. Car Park Liability

NFU Mutual will indemnify the Insured for legal liability for accidental **damage** to vehicles held in trust by or in the custody or control of the Insured at the **premises**.

Provided that the vehicle

- a) does not belong to the Insured
- b) is not being stored for a fee or other consideration
- c) is not being held in trust by or in the custody or control of the Insured for the purpose of work being carried out on such vehicle.

2. Cloakroom Liability

NFU Mutual will indemnify the Insured for legal liability for accidental **damage** to **property** deposited in any cloakroom at the Insured's premises.

Provided that

- a) **NFU Mutual** will not indemnify the Insured for damage to property caused by or resulting from fire or explosion
- b) notices disclaiming liability will be clearly displayed in the cloakroom
- c) if any charge is made by the Insured an attendant will always be on duty when the cloakroom is in use
- d) **NFU Mutual** will not indemnify the Insured for the first £50 of each and every claim
- e) **NFU Mutual** will not pay more than
 - i) £200 for anyone article
 - ii) £ 1,000 for anyone occurrence or number of occurrences arising directly or indirectly from one source or original cause.

3. Consumer Protection and Food Safety Acts

NFU Mutual will indemnify the Insured for legal fees and expenses incurred with their written consent for the defence of any criminal proceedings, including an appeal against conviction as a result of proceedings following a breach of

- a) Part II of the Consumer Protection Act 1987
or

- b) Part II of the Food Safety Act 1990.

Provided that the proceedings relate to an offence alleged to have been committed during the **period of insurance**, and in the course of the **business**.

NFU Mutual will not indemnify the Insured

- i) where the prosecution is for any deliberate act or omission
- ii) for legal fees and expenses insured by any other policy.

4. Court Attendance Costs

In the event of the Insured or any director or **employee** attending Court as a witness at the request of **NFU Mutual** in connection with any claim to which this cover applies, **NFU Mutual** will pay the undernoted daily rates for each day on which attendance is required.

- a) the Insured or any director of the Insured £ 150
- b) any **employee** £150

5. Cross liabilities

In the event of there being more than one Insured named

in the schedule, this section will apply separately to each of the Insureds in the same manner and to the same extent as if separate sections had been issued to each, provided that nothing in this extension will increase the total liability of **NFU Mutual** beyond any indemnity limit applicable.

6. Defective Premises Act

NFU Mutual will indemnify the Insured against all sums which the Insured is legally liable to pay, by virtue of Section 3 of the Defective Premises Act 1972 or Article 5 of the Defective Premises (Northern Ireland) Order 1975, and arising

- a) during the **period of insurance**, or
- b) within a period of seven years from expiry or cancellation of this section

in connection with any premises disposed of by the Insured and not remaining in the ownership of the Insured and which, prior to such disposal, were occupied by the Insured in connection with the **business**.

Provided that **NFU Mutual** will not provide an indemnity

- a) for any **damage** to or the cost of rectifying any defect in the said premises
- b) if the Insured is entitled to indemnity from any other source.

7. Indemnity to other persons

NFU Mutual will

- a) in the event of the death of the Insured, indemnify the Insured's legal personal representatives
- b) on the request of the Insured, indemnify
 - i) any principal for whom the Insured, in the course of the **business**, is, or has been, carrying out a contract for the performance of work, but only in relation to liability arising in connection with that work
 - ii) any director or **employee** of the Insured in respect of liability arising in connection with the **business**
 - iii) any officer, committee member or other member of the Insured's canteen, sports, social, educational or welfare organisations, or first aid, fire, security or ambulance services, in his or her respective capacity
 - iv) the owner of plant hired in by the Insured, but only to the extent required by the terms of the Contract
 - v) in the event of the death of any person listed above, the legal personal representatives of the deceased person.

Provided that

- a) the Insured would have been entitled to indemnity if the claim had been made against the Insured
- b) the total liability of **NFU Mutual** will not exceed the amount which would have been payable if the claim had been made against the Insured
- c) every person, company or firm to whom or to which indemnity is afforded will, as though the Insured, be subject to the terms, conditions and limitations of the section in so far as they apply
- d) claims control will be vested solely in **NFU Mutual**.

8. Motor Contingent Liability

Notwithstanding exclusions 2a) and 2d) of sub-section 1 and General Exclusion 1, **NFU Mutual** will indemnify the Insured against all sums which the Insured is legally liable to pay as compensation for **injury** to persons or **damage** to **property** in respect of the use of any motor vehicle (not the property of or provided by or the responsibility of the Insured) being used in Great Britain, Northern Ireland, Isle of Man or the Channel Islands in connection with the **business**.

Provided that **NFU Mutual** will not indemnify the Insured in respect of

- a) **damage** to the motor vehicle or its contents
- b) liability arising
 - i) where the Insured is entitled to indemnity under any other insurance
 - ii) while the motor vehicle is being driven by the Insured, or by any person who, to the knowledge of the Insured, does not hold a licence for such a vehicle or is disqualified from holding or obtaining such a licence
 - iii) while the vehicle is involved in any form of motor sport
- c) **injury** to any person arising out of or in course of their employment by any person insured under this policy except so far as is necessary to meet the requirements of any compulsory Road Traffic Act legislation.

9. Movement of Obstructing Vehicles

NFU Mutual will indemnify the Insured for legal liability arising from the movement of any vehicle (not owned, hired by or lent to the Insured) by the Insured or an **employee**, where such vehicle is causing an obstruction and interfering with the performance of the **business**.

Provided that

- a) movements are limited to vehicles parked on or obstructing the **premises** or at any site at which the Insured is working
- b) the vehicle causing obstruction will be driven by a person who is competent and holds or is not disqualified from obtaining a licence to drive the vehicle
- c) the vehicle causing the obstruction is driven by use of the owner's ignition key
- d) **NFU Mutual** will not be liable
 - i) for **damage** to such vehicle
 - ii) where compulsory insurance or security is required by legislation
 - iii) where insurance is provided by another policy.

10. Overseas Personal Liability

NFU Mutual will indemnify the Insured and at the Insured's request any **employee** or director, against legal liability incurred in a personal capacity while temporarily outside Great Britain, Northern Ireland, the Isle of Man or the Channel Islands in connection with the **business**.

Provided that this indemnity will not apply

- a) to liability arising out of the ownership or occupation of land or buildings
- b) to liability arising out of the ownership, possession or use of any motor vehicle, aircraft or watercraft
- c) where indemnity is provided by any other Insurance.

