

Insurance

Manual and checklist

Working together also means taking risks together; whether it concerns a non-profit with staff, or a group of independent artists setting up a project together. It's nice to talk about what ideal collaboration looks like, but it's also important to look at a number of risks and how you can prepare for these. With this checklist we examine the possible insurance policies and who is responsible for what: the employer, the employee or the self-employed person.

Some types of insurance are mandatory, others are recommended or supplementary in special cases. There are 3 important categories of insurance: people, property (buildings and equipment), vehicles. We briefly review the mandatory insurance for non-profits at the bottom of the checklist. Most policies differ from insurer to insurer. You therefore are advised to read your policy carefully and contact your insurance agent with any questions.

1 People

1.1 Work-related accident insurance

Employees/employers

Employers are **legally required** to insure their employees while at work with a "work-related accidents" policy. This content of this policy is government mandated and is therefore the same for all companies.

The **definition** of an accident is: "a sudden and unexpected event with an external cause". Because of this definition, many (not all!) back and muscle problems are not covered by work-related accident insurance. If the accident is not classified as a work-related accident, the employee will fall back on the health insurance fund.

What is covered?

- ✓ The route to and from work, along **the most direct and safest way**;
- ✓ The period in between in which you are working.

A work-related accident policy covers the following costs:

- ✓ All medical costs according to the scales of the National Institute for Health and Disability Insurance (RIZIV);

- ✓ Temporary work disability at 90% of wages (taking into account the wage ceiling);
- ✓ Any permanent disability;
- ✓ Compensation for the legal beneficiaries in the event of death.

For **freelancers** the question is under which status the freelancer is working:

- ✓ If you work through a **temporary employment agency or social bureau for artists** (such as Smart, Amplo, ...), you are covered by the work-related accident insurance of that temporary employment agency. If you are **self-employed**, you can take out insurance for physical accidents or a guaranteed income (against illness and accidents).
- ✓ If you work via the **standard expense deduction scheme for artists or a volunteer contract**, the employer may take out physical accident insurance. This is not required by law (see 1.2).

1.2 Physical accident insurance

Many non-profit organisations/associations work with **volunteers or artists via the standard expense deduction scheme for artists and other professionals (KVR)**. These people are not covered by work-related accident insurance, but can be included separately in an “accident insurance” policy if the non-profit/association wishes to provide compensation for such volunteers in the event of an accident.

1.3 Third-party liability and legal assistance

Those who make a **mistake** and thereby cause damage to “**third parties**”, must pay for that damage. This is the principle of third-party liability. An important point is that a mistake must have been committed. The **burden of proof** for this lies with party incurring the damage.

- ✓ A third-party liability policy covers the following persons:
- ✓ Registered personnel;
- ✓ Volunteers (required by law since 2007!);
- ✓ Interns (insurance by the organisation where internship takes place required);
- ✓ Artists who are reimbursed according to standard expense scheme (KVR);
- ✓ People who work through a social bureau for artists or temporary employment agency;
- ✓ Any self-employed person with whom we collaborate on a regular basis and only for activities commissioned by the non-profit/association.

A “**legal assistance**” policy provides coverage if the non-profit **itself suffers damage** by “third parties”.

1.4 Third-party liability for association directors

The *de jure* directors (specified in the charter of the non-profit or association) and the *de facto* directors (who handle the day-to-day management) are responsible for the proper management of the non-profit/association. If “third parties” incur damage as a result of a mistake on the part of the directors, these directors can be held liable. Here, too, the burden of proof lies with the injured parties.

The non-profit insures its directors for these types of management errors. The director cannot do this on his or her own.

2 Property (buildings and equipment)

2.1 Objective insurance against fire and explosion

Venues accessible to the public such as theatres and cultural centres must take out no-fault insurance against fire and explosions. This insurance covers the operator’s liability, even if it makes no mistakes.

2.2 Fire insurance

Fire insurance insures the **building** (owner or tenant, offices as well as storage areas) and **personal belongings**. This insurance usually covers fire and related hazards (including the effects of electrical damage due a lightning strike), storm damage, water damage, glass breakage, earthquake and floods. The fire insurance can be supplemented with **theft** coverage for the belongings.

If you are leasing a location, check whether there is a “**waiver of recourse**” clause with respect to the tenant in the owner’s policy. In this case, the tenant does not have to insure the building. In which case this must also be stated in the lease! In this case it is possible to insure only your own belongings. If one is looking to do **improvement works** oneself (for example, plasterboard walls, partitions, ...) to the building, these must also be included in your own fire insurance policy. After all, claims concerning this part of the “building” must be paid out to the tenant in the event of damage.

2.3 All risks

Some equipment requires a different guarantee, for example electronic equipment, a decor on tour,... If desired, this equipment can be insured by an “all-risks” policy. This can cover your own equipment, but also rented equipment. This type of policy insures all damage due to an external cause. Theft (with or without signs of burglary or acts of violence), vandalism and clumsiness are the most important. It is the latter two that cannot be covered in a fire policy.

Specialised 'all-risk' insurance policies can be taken out for **musical instruments**.

2.4 Who insures what?

- ✓ For **employers/employees**, the employer is responsible for the equipment used that belongs to the employer. The employee cannot be held liable for damage to or theft of the employer's property. The employer may insure its equipment if necessary. The same applies to rented or leased equipment. It is up to the employer to insure this.
- ✓ The **self-employed** in principle are themselves responsible for insuring the equipment they use. They can only recover any damage from a "liable party". This means that "someone" must have made a mistake that caused the damage. In the case of theft: theft is (usually) not a mistake, but is a situation of force majeure. The self-employed therefore will not be able to reclaim their damage in case of theft if no mistake was made.

Self-employed persons can state in their contract that the venue/producer ... is liable for any damage (including theft) to their equipment. If the other party agrees, they must take out the necessary insurance if they do not want to compensate possible damage themselves.

3 Vehicles

3.1 Third-party liability and legal assistance

Vehicles in circulation in Belgium are legally **obliged** to have "third-party liability" insurance. These contracts are also government mandated and are therefore the same everywhere.

It is important that employees who drive their own vehicle on behalf of their employer report this to their third-party liability insurer.

3.2 Comprehensive insurance

Optionally, a new or relatively new vehicle can be insured in a **comprehensive or partially comprehensive** policy.

3.3 Comprehensive insurance for travel in the context of work

A staff member's vehicle may be "**comprehensively**" insured for the period of a travel in the context of work.

4 Compulsory insurance

A non-profit must take out the following insurance policies:

- ✓ Work-related accident insurance for staff. This also covers accidents to and from work. Accident insurance for volunteers is not mandatory, but recommended.
- ✓ Third-party liability insurance for volunteers.
- ✓ An auto policy (third-party liability) for vehicles owned by the non-profit.
- ✓ Venues accessible to the public such as theatres and cultural centres must take out no-fault insurance against fire and explosions. This insurance covers the operator's liability, even if it makes no mistakes.
- ✓ As provided for in Article 17 of the Performing Arts and Music CLA (Joint Committee 304), the employer must take out an 'all-risks' policy against burglary, fire and accidents for equipment that it makes available to the employee for professional purposes.

5 Non-compulsory insurance

Not required, but definitely recommended:

- ✓ Third-party liability insurance. This insures the liability of the non-profit, its employees and directors with respect to third parties.
Please note! Personnel employed through a temporary employment agency are insured for work-related accidents (via the temporary employment agency), but not for third-party liability. Although not mandatory, it is also advisable to include personnel in the non-profit's third-party liability insurance.
- ✓ Third-party liability insurance for directors of the non-profit should they be prosecuted for an infringement of social, fiscal, administrative or environmental legislation.
- ✓ Fire insurance for building, inventory and equipment, possibly supplemented with theft insurance. Storage locations for decor and equipment must certainly also be considered!

To be considered depending on the risk and the conditions:

- ✓ An all-risk policy for electronics for PCs, laptops, copiers, etc.;
- ✓ Supplementary personal damage insurance for vehicles (comprehensive insurance);
- ✓ Insurance for the organisation of temporary events, exhibitions, performances and productions.

Supplemental insurance as an additional benefit to employees:

- ✓ Personal accident insurance 24/24;
- ✓ Hospitalisation insurance;
- ✓ A supplement (including guaranteed income and death cover) to the sector's group insurance.