

BASI Legality, Insurance and Qualifications Remit.

This annexe works together with the BASI Code of Ethics and published BASI Policies to ensure protection for the public at large and for individual BASI licenced members.

It is each individual instructor's responsibility to:

- a) Make sure the activity they are engaged in is legally allowed in the area they are operating in,
- b) make sure that they are insured,
- c) they are fully aware of the level at which their BASI qualifications, personal experience and skill levels allow them to teach at,
- d) that they are aware of the contents of the BASI Code of Ethics and of BASI policies that may be in force from time to time.

The above is NOT the responsibility of an employer or booking agent, it is personal to the BASI Licenced Instructor themselves, therefore it is *imperative* that:

Each individual BASI Licensed Member exercise their own individual judgement as to whether or not they are working within the remit of this annexe. This means that it is up to an individual to refuse work or to undertake particular activities if it brings them outside the remit of this annexe.

Legal Remit:

BASI Code of Ethics states:

3.4 - All Members shall be personally liable for compliance with any local criteria for instruction and tuition in their discipline. This shall include, but is not limited to, any license, training, and insurance requirement.

3.5 All Members shall adhere to all local regulations and laws applicable to their discipline in the location in which they instruct, or provide tuition from time to time.

What is allowed in one area (even in the same country) may not be allowed in the next. It is required that BASI Licensed members are aware of the regulations where they are operating, otherwise this is a breach of the code of ethics. ***It is imperative that each individual licensed member obtains the correct permissions and paperwork to teach.***

The remit of an individual BASI qualification in no way guarantees that permission to work, or right of establishment in other countries will be granted, that is entirely up to the country concerned.

It is *strongly* recommended that licensed members who plan to go abroad to work – even for a short period (e.g. school holidays etc.) obtain full paperwork **before** they travel – it is too easy to be caught out.

Insurance Remit:

BASI Code of Ethics states: *3.3 - All Members shall be personally responsible for their own professional insurance.*

This means that to be insured through the BASI system, *BASI members must hold a valid BASI licence to instruct.* Membership alone is NOT enough. Not having valid insurance is a breach of the Code of Ethics.

BASI Instructors are insured to work at the following levels

Level 1	To work in a controlled environment, except in exceptional circumstances where local regulations permit. (For a fuller explanation see the qualification remit for level 1 below)
Level 2	To work in a mountain environment where legally allowed by the host nation and under local laws (For a fuller explanation see the qualification remit Level 2 below)
Level 3	Recognised as having achieved ISIA stamp or card minimum standards and can work in the mountain environment where legally allowed by the host nation and under local laws (For a fuller explanation see the qualification remit Level 3 below)
Level 4 (Particularly those falling under, EU- MoU, or previous international agreements ¹)	To work as a fully qualified instructor where legally allowed by the host nation and under local laws recognised as being fully qualified around the world (For a fuller explanation see the qualification remit Level 4 below) (¹ including European regulated countries)

Regulated countries = those countries where snowsports regulations are written in law

BASI members are insured where they are *legally liable* that is where the actions/roles they are performing are a) legal (not forbidden by law) and they are liable, in law, for any damages they may have caused.

In certain cases, insurance cover may be wider than the remit of the qualification. BASI Licensed Instructors are NOT allowed to exceed their qualification remit:

BASI Code of Ethics Section states: 3.2 All Members shall always instruct and provide tuition within the scope of their qualification.

NOTE: Normally, strictly contractual disputes are not covered by insurance, such as time and place of lesson etc.

Legality: The easiest way of explaining this is; You have an accident whilst driving your car and are speeding, you are legally liable and insured (even though you may be prosecuted for speeding) but if you are driving a type of vehicle you do not have a license for, this is completely against the law and you are not covered. The insurance policy itself is invalid.

This moves easily into snowsports – for example if you do not have the up-to-date paperwork to teach in France, you are working illegally - you are not covered.

Liability: The BASI insurance does cover negligence – where *you* are the cause of an accident – when you are teaching or skiing/riding recreationally.

It is important to be aware of the relationship between you and your client. In the first place, you need to know who *is* your client:

If you take the booking and the money for a lesson then the relationship (contract) is directly with you and you are directly liable to your client (the person paying the money) for your actions.

If *someone else* takes the booking and the money, then they pay you to do the lesson, the contract is with them and the pupil, not with you and the pupil. Your contract is with whoever took the booking, *they* are your client (not the pupil). You are too remote from the agreement with the pupil and you cannot

normally be sued by the pupil direct. You are not liable *directly* to the pupil for the damage.

If though, the person taking the booking decides to sue you (to make you a party to the action) and you are fault, you *may* be liable to the person who took the booking (not the pupil) for the damages. So in this case you *are* liable. *You are most at risk of this if you are self-employed.*

This is why it is so important to be sure that a) what you are doing is legal and b) you have a clear idea who you are contracted to. It is wise to make sure who should carry the insurance in case of any claim by the pupil. *If you are not contracted direct to the client, it recommended that you make sure the person who is, is insured.*

That's the important bit, particularly if you are self-employed.

Being employed:

In most countries there is an obligation on an employer to carry sufficient employers' liability insurance. In this way an employee is covered for negligence to 3rd parties because they are acting on behalf of their employer. Particularly at levels 1 and 2 it is in most instructor's interests to be employed, if only for the reason that your employer will be the one claimed against. It is very rare under British law that an employee is considered legally liable on their own.

There is a boundary between being employed and self-employed and normally employed people are covered by their employer's insurance. It is important that each instructor is sure that they are employed. (Usually tax and social insurance payments are taken at source in Britain. Abroad, often just social insurance). Particularly when working outside the UK, try and obtain in writing, the fact that you are employed and if possible get a letter stating that you are adequately insured.)

In practice most ski instructors at all levels are employees. In addition, if you are employed and your snowsports school gives a task and directs that task, you are less likely to be breaking your BASI remit according to your qualification level. This may be different in European Alpine countries, Japan and China, so find out in advance.

Your BASI insurance only covers you under British law, if you teach abroad and have local clients, you are very strongly advised to take out snowsports teaching specific insurance abroad too.

Those who take bookings and money on behalf of themselves but pass on the work to others, should make sure they have liability cover for that scenario since the other instructor is not liable direct to the pupil.

Year 2016/7 - if you are a licensed BASI member taking clients bookings and payment and then passing them over to another licensed BASI member you are insured to do so. Providing the activity is both legal and within the remit of the instructor's qualification.

The remit of the license:

Let's go back to the car analogy.

Having caused an accident through speeding, your insurance company has paid out any 3rd parties and perhaps paid for any damages to your car, but of course society says you must not speed, so you get a fine and say 3 points on your license.

It is just the same with snowsports, there may be insurance cover but it does not mean that each instructor

is working within the remit of their license and if there is a complaint made (just like the speeding case) BASI may have to take disciplinary action. BASI members are NOT allowed to work outside the remit of their individual licence, it is neither in the interests of the individual instructor or the public at large. There are, quite obviously, safety issues.

Members at all times should be aware of the BASI Code of Ethics and be sure to comply with it.

BASI Licensed Instructors are NOT allowed to exceed their qualification remit:

BASI Code of Ethics Section 3.2 All Members shall always instruct and provide tuition within the scope of their qualification.

Breach of Remit:

Because of the potential for serious accident, exceeding the qualification remit is treated as serious misconduct:

BASI Code of Ethics states:

Section 5.8 "Serious Misconduct" includes (but shall not be limited to): (iv) *Instructing or providing tuition beyond or out-with the Member's level of qualification, ability or competence.*

However, a simple complaint by a client, or by another instructor etc. that the instructor concerned is working beyond their remit will be normally treated as minor misconduct, unless the behaviour is repeated.

A complaint following a serious accident (or following a relevant criminal conviction) will be treated as serious misconduct but in all cases, all of the circumstances will be taken into consideration.

Where the qualification is linked to coaching qualifications, in terms of a breach of remit, both sets of qualifications will be looked at as a whole.

In all cases BASI Disciplinary Procedure will be followed.

Level 1:

Essentially this only covers teaching in a controlled environment, and only where the law allows. This could include a children/beginners garden on snow outdoors (depending on local regulations) but only within those boundaries. A level 1 qualification may also be linked to various BASI coaching qualifications.

There are exceptions, for example where local regulations recognise Level 1 as a mountain qualification and either local laws (such as Switzerland) or internal snowsports school regulations (such as Canada) allow level 1s to work but under very strict conditions. In addition, BASI recognised ski schools in Britain have permission to use level 1s within their own internal systems. In those cases a BASI level 1 would not be breaking the BASI level 1 remit, providing they stay strictly within the local regulations.

Warning: The 5 day level 1 course does not normally include teaching the use of ski lifts such as chairlifts, therefore if you *are* working with them it is a very good idea to make sure you are adequately trained.

Off-Piste: Not allowed. A 5 day, introductory course to snowsports teaching, even with a 6 day BASI Off-

Piste and Mountain Safety course, can in no way be considered adequate to safely conduct clients in an off piste situation. Therefore, BASI Off-Piste and Mountain Safety Courses are only available after level 2.

Each individual BASI Licensed Member must exercise their own individual judgement as to whether or not they are working within the remit of this annexe. This means that it is up to an individual to refuse work or to undertake particular activities if it brings them outside the remit of this annexe.

It is strongly recommended that level 1 instructors work as employees.

Level 2:

Level 2 is the first level at which BASI instructors are trained and assessed to teach in an open mountain environment. A level 2 qualification may also be linked to BASI coaching qualifications.

Starting with level 2 there is a sliding scale of what is allowed within the remit at each qualification level that depends, in particular, on the individual instructor.

Level 2 is assessed on blue terrain or its equivalent and instructors are expected to be competent in beginning to develop a skier's skills in an open environment.

It is acknowledged that different instructors of different backgrounds may have different skills. For example, a level 2 of 20 years' experience, may have developed teaching skills way in advance of the basic pass level, or a level 2 with a very high level of snowsports performance and experience before they joined BASI, may have very strong all round skills.

Therefore for a level 2 to be considered to be working beyond their remit, 3 things have to be considered.

Terrain: If the terrain is suitable for the client and the instructor is comfortable and has the skills to work on that terrain, then there is no immediate problem.

Activity: If the activity is suitable for the client and the Instructor has developed skills to work at that level, then there is no immediate problem.

Context: Most level 2s are *employed* by snowsports schools and/or ski clubs, therefore there may be local regulations that allow level 2's to work at a level that the snowsports school considers to be appropriate but that which would normally be considered to be the remit of a level 3, or specialist coach for example. (This situation could be for example found in snowsports schools in the USA).

Therefore, if the context that the level 2 is working in fits in with local regulations, then there is no immediate problem.

So to be working outside their remit a level 2 must be:

- a) working in terrain that is unsuitable for either their client or themselves, or
- b) working with activities that are either unsuitable for their clients, or that the level 2 instructor does not have the knowledge or physical ability to conduct, or
- c) working in a context where they fall outside a) or b) (above) or are working outside the remit of local regulations, or working in an area (particularly autonomously) where it is normally the remit of a level 3 or higher, or a specialist coach out-with the experience of the individual concerned.

Each individual BASI Licensed Member must exercise their own individual judgement as to whether or not they are working within the remit of this annexe. This means that it is up to an individual to refuse work or to undertake particular activities if it brings them outside the remit of this annexe.

In most cases it is strongly recommended that level 2 instructors work as employees.

Off-Piste: In most cases not allowed. This depends on context. A license to *teach* off-piste comes with having passed *all* the modules at level 3, *not* before.

In the case that:

- a) A level 2 has *passed* the BASI Mountain Safety Course,
- b) the level 2 is working for a snowsports school that authorises them to work off-piste (in the case that they are an employee) and
- c) that leading off-piste is legal where they are operating;

Then the level 2 instructor is within the remit of their qualification, up to the limit of *leading* parties on descents off-piste within the ski area boundary.

In the case that a level 2 has *passed* the BASI EMS qualification then, (subject to the restrictions above) the level 2 is qualified to *lead* according to the remit of the BASI EMS qualification.

NOTE: Leading does not mean *teaching*. A BASI level 2 is not qualified *teach* off-piste, the BASI Mountain Safety qualifications are NOT teaching qualifications.

Local laws and regulations (BASI Code of Ethics Sections 3.4 and 3.5) must still be followed. Only then, does the BASI Mountain Safety course become stand-alone. To be working within the remit, Terrain, Activity and Context would still be considered.

Level 3:

Depending on the individual, a BASI level 3 complies with the minimum standards of either ISIA Stamp or Card holder. A level 3 qualification will also be linked to BASI coaching qualifications.

Level 3 is assessed on Red terrain or its equivalent and instructors are expected to be competent in to developing a skiers skills in an open environment.

It is acknowledged that different instructors of different backgrounds may have different skills. Therefore, as with level 2, for a level 3 to be considered to be working beyond their remit, 3 things have to be considered.

Terrain: As for level 2.

Activity: As for level 2.

Context: Level 3 may be employees or self-employed, they may be affiliated to snowsports schools and/or ski clubs, or they may be autonomous (independent) instructors, therefore there may be local regulations that allow a level 3 to work within a ski school but an independent level 3 would not be allowed work at all. Therefore, if the context that the level 3 is working in fits in with local regulations, then there is no immediate problem.

Each individual BASI Licensed Member must exercise their own individual judgement as to whether or not they are working within the remit of this annexe. This means that it is up to an individual to refuse work or to undertake particular activities if it brings them outside the remit of this annexe.

So to be working outside their remit a level 3 must be:

- a) working in terrain that is unsuitable for either their client or themselves, or
- b) working with activities that are either unsuitable for their clients, or that the level 3 instructor does not have the knowledge or physical ability to conduct, or
- c) working in a context where they fall outside a) or b) (above) or are working outside the remit of local regulations, or are the remit of a specialist coach, out-with the experience of the individual concerned.

Off-Piste: A BASI level 3 is qualified to work off-piste.

There are 2 qualifications they may ordinarily hold;

BASI Mountain Safety Course: - Following Mountain Safety course regulations.

BASI European Mountain Security: (Once completed and passed) - following BASI EMS regulations

Local laws and regulations, (BASI Code of Ethics Sections 3.4 and 3.5) must still be followed. To be considered to be working within the remit of the qualification, Terrain, Activity and Context would still be taken into consideration.

Level 4.

ISIA card holder stands as the *minimum* remit of level 4.

Level 4 is the highest award BASI offer and this applies to only Alpine and Snowboard, the qualification exists to comply with European standards for autonomous instructors and as such is considered to be fully qualified throughout the world.

Level 4 is assessed on Black terrain or its equivalent and instructors are expected to be competent in to developing a skier's skills in an open environment up to and including their own performance level. A level 4 qualification will also be linked to BASI coaching qualifications and the individual may have considerable expertise across various fields of performance.

As with levels 2 and 3, for a level 4 to be considered to be working beyond their remit, 3 things have to be considered.

Terrain: As for levels 2 and 3.

Activity: As for levels 2 and 3.

Context: Level 4s may be employees or self-employed, they may be affiliated to snowsports schools and/or ski clubs, or they may be autonomous (independent) instructors, however there may be local regulations that allow level 4's to work within a ski school but a level 4 working as an independent would not be allowed to work. Therefore, if the context that the level 4 is working in fits in with local regulations, then there is no immediate problem.

So to be working outside their remit a level 4 must be:

- a) working in terrain that is unsuitable for either their client or themselves or
- b) working with activities that are either unsuitable for their clients, or that the level 4 instructor does not have the knowledge or physical ability to conduct, or
- c) working in a context they fall outside a) or b) (above) or are working outside the remit of local regulations, or are the remit of a specialist coach, falling well outside the level 4's experience.

Each individual BASI Licensed Member must exercise their own individual judgement as to whether or not they are working within the remit of this annexe. This means that it is up to an individual to refuse work or to undertake particular activities if it brings them outside the remit of this annexe.

Off-Piste: A BASI level 4 is qualified to work off-piste.

BASI EMS regulations must be followed. *This includes all those who passed the BASI Off-piste and Mountain Safety Course before EMS was introduced.*

In all cases local laws and regulations (BASI Code of Ethics Sections 3.4 and 3.5) must be followed. To be considered working within the remit of the qualification, Terrain, Activity and Context would still be considered.