

ORDER IN COUNCIL

II
2009

ratifying a Projet de Loi

ENTITLED

The Road Traffic (Compulsory Third-Party Insurance) (Amendment) (Guernsey) Law, 2008

(Registered on the Records of the Island of Guernsey
on the 5th January, 2009.)



2009

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

5th day of January, 2009 before Geoffrey Robert Rowland, Esquire, Bailiff;
present:- Derek Martin Le Page, Stephen Edward Francis Le Poidevin, Alan
Cecil Bisson, The Rev Peter Gerald Lane, Michael Henry De La Mare, Michael
John Tanguy, Esquires, Susan Mowbray, Barbara Jean Bartie, David Osmond
Le Conte, John Ferguson, Stephen Murray Jones Esquires, and Claire Helen Le
Pelley, Jurats.

The Bailiff having this day placed before the Court an Order of
Her Majesty in Council dated 10th December 2008 approving and ratifying a Projet de Loi
entitled "The Road Traffic (Compulsory Third Party Insurance) (Amendment) (Guernsey) Law,
2008", THE COURT, after the reading of the said Order in Council and after having heard Her
Majesty's Comptroller thereon, ORDERED that the said Order in Council be registered on the
records of this Island.



At the Court at Buckingham Palace

THE 10th DAY OF DECEMBER 2008

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY
IN COUNCIL

The following report from the Committee of Council for the Affairs of Jersey and Guernsey was today read at the Board:

"In accordance with Your Majesty's General Order of Reference of 22nd February 1952 the Committee have considered a Petition of the States of Guernsey:

"That, in pursuance of their Resolution of 27th September 2007, the States of Deliberation at a meeting on 30th July 2008 approved a *Projet de Loi* entitled *The Road Traffic (Compulsory Third-Party Insurance) (Amendment) (Guernsey) Law, 2008* and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction to it. That the *Projet de Loi* is as set forth in the attached Schedule. The Petition most humbly prays that Your Majesty might be graciously pleased to sanction *The Road Traffic (Compulsory Third-Party Insurance) (Amendment) (Guernsey) Law, 2008* and to order that it shall have force of law in the Islands of Guernsey, Herm and Jethou.

"The Committee have considered the *Projet de Loi* and have agreed to report that it may be advisable for Your Majesty to approve and ratify it".

Her Majesty, having taken the report into consideration, was pleased, by and with the advice of Her Privy Council, to approve and ratify the *Projet de Loi* (a copy of which is annexed to this Order) and to order that it, together with this Order, shall have the force of law in the Islands of Guernsey, Herm and Jethou and shall be entered on the Register of the Island of Guernsey and observed accordingly.

Her Majesty's Officers in the Bailiwick of Guernsey, and all others whom it may concern, are therefore to take notice of Her Majesty's Order and to proceed accordingly.

Judith Simpson

PROJET DE LOI

ENTITLED

The Road Traffic (Compulsory Third-Party Insurance) (Amendment) (Guernsey) Law, 2008

THE STATES, in pursuance of their Resolution of the 27th day of September 2007^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey, Herm and Jethou.

Amendment of the 1936 Law.

1. (1) The Road Traffic (Compulsory Third-Party Insurance) (Guernsey) Law, 1936, as amended^b, is further amended as follows.

(2) In section 1(1), immediately after the definition of "assurance company" insert the following definition –

"**Magistrate**" means a Judge of the Magistrate's Court or a Deputy Judge of the Magistrate's Court."

(3) Immediately after section 3 ("Requirements in respect of

^a Article XIII on Billet D'État XX of 2007

^b Ordres en Conseil Vol. X, p. 388; Vol XV, p. 43; Vol. XVIII, pp. 35 and 257; Vol. XX, p. 247; Vol. XXIII, p. 227; Vol. XXIV, p. 250; Vol XXVII, p. 76; Vol. XXVIII, p. 303; Vol XXIX, p. 214; Vol XXX, p. 243; No. 1 of 1991; No. XX1 of 2002.

Policies") insert the following section –

"Insurance discs to be delivered to insured persons and display of insurance discs.

3A. (1) In addition to the certificate of insurance referred to in section 3(6), there shall be issued and delivered by the authorised insurer to the person by whom the policy of insurance is effected –

- (a) except where that person is a fleet registered keeper or the holder of a motor cycle rider policy, an insurance disc in respect of each motor vehicle the use of which is covered by the policy,
- (b) where that person is a fleet registered keeper, that number of insurance discs which corresponds with the number of motor vehicles the use of which at any one time is covered by the policy,
- (c) where that person is the holder of a motor cycle rider policy, an insurance disc,

and each insurance disc so issued shall refer to the policy of insurance and the period of cover provided under the policy.

(2) Except as provided in subsection (5), at all times when a motor vehicle is being used or kept on a road, there shall be displayed on the vehicle in the prescribed manner an insurance disc which shall –

- (a) be in the prescribed form,

(b) bear the prescribed particulars which shall refer to a policy of third-party risks for the time being in force covering the use of the vehicle, and

(c) unless the person by whom the insurance policy is effected is a fleet registered keeper or the holder of a motor cycle rider policy, bear the registration mark of the vehicle.

(3) In respect of insurance discs, different forms, different particulars and different manners of display may be prescribed by regulations in relation to different cases or circumstances.

(4) In this section –

"fleet registered keeper" means a person by whom a single policy of insurance in respect of third-party risks is effected in relation to the use of not fewer than a prescribed number of motor vehicles which are –

(a) owned by the person, and

(b) operated for trade or business purposes;

"motor cycle rider policy" means a policy of insurance in respect of third party risks in relation to the use of motor cycles or mopeds under which the cover relates to the policy holder and not to a particular motor cycle or moped;

"motor cycle" means any two-wheeled vehicle, with or without a side-car, with a maximum design speed of over 50

kilometres per hour, or if powered by an internal combustion engine, with a cubic capacity exceeding 50 cubic centimetres; and

"moped" means any two-wheeled or three-wheeled vehicle which is powered by –

- (a) an internal combustion engine having a cylinder capacity not exceeding 50 cubic centimetres, or
- (b) an electrical engine having a maximum continuous rated power not exceeding 4 kilowatts.

(5) Nothing in this section shall operate to require the display of an insurance disc on a motor vehicle –

- (a) to which the provisions of section 2(3) apply,
- (b) which is being used under trade plates in accordance with article 3(2) of the Ordinance of the Royal Court of 1932 relating to Licences de Commerçant of 1932, as amended^c, or
- (c) which is prescribed as a vehicle on which an insurance disc is not required to be displayed."

(4) Substitute for section 8 (Duty to surrender certificate on cancellation of policy) the following section –

^c Recueil d'Ordonnances, Tome VIII, p. 229; amended by Ordinances of 1933 and 1937 (Tome VIII, p. 233), and Ordinance No. XII of 2007.

"Duty to surrender certificate and disc.

8. (1) Where a policy of insurance has been effected and an insurance disc bearing the registration mark of the motor vehicle has been delivered under section 3A(1) by the insurer to the person by whom the policy was effected, and that vehicle is subsequently transferred by that person to another, that person shall, within seven days from the taking effect of the transfer, surrender the insurance disc to the insurer, and if the person fails to do so or, where the disc has been lost or destroyed, if he fails to comply with the provisions of subsection (3), the person shall be guilty of an offence.

(2) Where a policy of insurance has been effected and the policy is cancelled by mutual consent or by virtue of any provision in the policy, the person by whom the policy was effected shall, within seven days from the taking effect of the cancellation, surrender to the insurer the certificate of insurance and insurance disc delivered (under section 3(6) and 3A(1) respectively) by the insurer to the person in respect of that policy, and if the person fails to do so or, where the certificate or disc has been lost or destroyed, if he fails to comply with the provisions of subsection (3), the person shall be guilty of an offence.

(3) Where a person is under an obligation under subsection (1) or (2) to surrender a certificate of insurance or insurance disc, and by reason of its loss or destruction is unable to do so, he shall make a declaration before a Jurat of the Royal Court, the Magistrate or a Notary Public, and within a period of seven days from the taking effect of the transfer or cancellation (as the case may be) he shall deliver the declaration to the insurer."

(5) In section 13(3), for "section 15(2)" substitute "section 14(2)", and immediately after section 13, insert the following sections –

"Requirements as to display of insurance disc.

13A. (1) A person who uses or keeps on a road a motor vehicle on which an insurance disc required to be displayed under section 3A(2) is not so displayed shall be guilty of an offence.

(2) The owner of a motor vehicle –

(a) which is used or kept on a road; and

(b) on which an insurance disc required to be displayed under section 3A(2) is not so displayed,

shall be guilty of an offence, provided that the owner shall not be convicted of an offence under this subsection if he proves that at the relevant times the vehicle was being used or kept without his consent by another person.

Power to make Ordinances providing for the seizure and retention of uninsured vehicles.

13B. (1) The States may by Ordinance make such provision as they think fit regarding the seizure by officers of police, removal, retention, and release or disposal of vehicles driven in contravention of section 2(1).

(2) Where an Ordinance made under subsection (1) provides for the seizure of vehicles, it must provide for such seizure only where –

(a) an officer of police who has reasonable grounds for believing that a vehicle is or was being driven in contravention of section 2(1) has requested a person to produce evidence that it

is not or was not being so driven, and the person has failed to produce such evidence, and

- (b) the officer of police has warned the person in paragraph (a) that he will seize the vehicle if the person does not provide him immediately with evidence that the vehicle is or was not being driven in contravention of that section, unless the circumstances make it impracticable for the officer of police to issue that warning.

(3) An Ordinance made under subsection (1) may provide that if an officer of police is unable to seize a vehicle immediately because the person driving the vehicle has driven off, he may seize it at any time within the following 24 hours, and may enter any premises (other than a private dwelling house) on which he has reasonable grounds for believing the vehicle to be, in exercise of that power.

(4) An Ordinance made under subsection (1) may, in particular, also make provision –

- (a) for an officer of police to use reasonable force, if necessary, in the exercise of any power conferred on him under it,
- (b) for the giving of notice of the seizure of a motor vehicle under an Ordinance made under subsection (1) to a person who is the registered keeper, the owner or the driver of that vehicle,
- (c) for the procedure by which a person who claims to be the registered keeper or the owner

of a motor vehicle seized under an Ordinance made under subsection (1) may seek to have it released,

- (d) for requiring payment by the registered keeper, owner or driver of the vehicle of fees, charges or costs in relation to the removal and retention of such a motor vehicle and to any application for its release,
- (e) as to the circumstances in which a motor vehicle seized under an Ordinance made under subsection (1) may be disposed of, and
- (f) as to rights of appeal."

(6) In section 14 (Regulations for the purposes of this Law), for "." at the end of paragraph (e) substitute ";", and immediately after insert a new paragraph -

- "(f) as to the form and manufacture of insurance discs, the particulars to be contained on insurance discs, the issue, delivery, replacement and surrender of insurance discs, the manner of display of insurance discs, and motor vehicles on which an insurance disc is not required to be displayed."

(7) In section 15 -

- (a) for the marginal note "Forgery of licences and certificates" substitute "Forgery of licences, certificates and insurance discs",
- (b) in paragraph (a) of subsection (1), immediately after "certificate of insurance" insert "or insurance disc",
- (c) in paragraph (b) of subsection (1), immediately after "a certificate" insert "or disc",
- (d) in subsections (2) and (3), immediately after "certificate of insurance" in each subsection insert "or an insurance disc", and
- (e) in subsection (4) –
 - (i) immediately after "certificate of insurance" insert "or insurance disc",
 - (ii) for "Section 15(2) of the Criminal Justice (Bailiwick of Guernsey) Law, 1990" substitute "section 14(2) of the Administration of Justice (Bailiwick of Guernsey) Law, 1991", and
 - (iii) delete "Police Court".

Citation and commencement.

2. This Law may be cited as the Road Traffic (Compulsory Third-Party Insurance) (Amendment) (Guernsey) Law, 2008 and shall come into force on the first day of April, 2009.

M.A. TOSTEVIN,
Her Majesty's Deputy Greffier.

Copies may be purchased from
Her Majesty's Greffier, Royal Court House, Guernsey

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