

# ORDER IN COUNCIL

**XVIII**

**1989**

ratifying a *Projet de Loi*

ENTITLED

## **The Road Traffic (Compulsory Third-Party Insurance) (Amendment) (Guernsey) Law, 1989**

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(Registered on the Records of the Island of Guernsey  
on the 2nd October, 1989.)

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1989

# ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 2nd day of October, 1989 before Graham Martyn Dorey, Esquire, Deputy Bailiff; present:— Brian Ernest Herbert Joy, Harry Wilson Bisson, Herbert Nicolle Machon, James de Sausmarez Carey, Geoffrey Ernest Le Page, Stanley Walter John Jehan and Raymond Arthur Heaume, Esquires, Mrs. Dorothy Winifred Le Pelley, Leonard Arthur Moss, John Edward Morris, Charles Anthony Spensley and Kenneth John Rowe, Esquires, Jurats.*

The Deputy Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 2nd day of August, 1989 approving and ratifying a *Projet de Loi* of the States of Guernsey entitled "The Road Traffic (Compulsory Third Party Insurance) (Amendment) (Guernsey) Law, 1989", THE COURT, after the reading of the said Order in Council and after having heard Her Majesty's Procureur thereon, ordered that the said Order in Council be registered on the records of this Island, of which Order in Council the tenor followeth:—

## At the Court at Buckingham Palace

The 2nd day of August 1989

PRESENT,

### The Queen's Most Excellent Majesty in Council

WHEREAS there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for the Affairs of Guernsey and Jersey dated the 25th day of July 1989 in the words following, viz.:—

“YOUR MAJESTY having been pleased, by Your General Order of Reference of the 22nd day of February 1952, to refer unto this Committee the humble Petition of the States of the Island of Guernsey setting forth:—

1. That, in pursuance of their Resolution of the 22nd day of February, 1989, the States of Deliberation at a meeting held on the 26th day of April, 1989, approved a Bill or “Projet de Loi” entitled “The Road Traffic (Compulsory Third Party Insurance) (Amendment) (Guernsey) Law, 1989”, and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 2. That the said Bill or “Projet de Loi” is in the words and figures set forth in the Schedule hereunto annexed. And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Bill or “Projet de Loi” of the States

of Guernsey entitled "The Road Traffic (Compulsory Third-Party Insurance) (Amendment) (Guernsey) Law, 1989", and to order that the same shall have force of law in the Island of Guernsey.

"THE LORDS OF THE COMMITTEE, in obedience to Your Majesty's said Order of Reference, have taken the said Petition and the said Projet de Loi into consideration and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said Projet de Loi."

HER MAJESTY having taken the said Report into consideration is pleased, by and with the advice of Her Privy Council, to approve of and ratify the said Projet de Loi, and to order, and it is hereby ordered, that the same shall have the force of Law within the Island of Guernsey.

AND HER MAJESTY doth hereby further direct that this Order, and the said Projet de Loi (a copy whereof is hereunto annexed), be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant Governor and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other Her Majesty's Officers for the time being in the said Island, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

*G. I. de Deney.*



# PROJET DE LOI

ENTITLED

## **The Road Traffic (Compulsory Third-Party Insurance) (Amendment) (Guernsey) Law, 1989**

THE STATES, in pursuance of their Resolution of the 22nd day of February 1989, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Island of Guernsey.

1. Immediately after subsection (1) of section 1 of the Road Traffic (Compulsory Third-Party Insurance) (Guernsey) Law, 1936(a), (Definitions) there is inserted—

Meaning of accident.

“ (1A) Any reference in this Law to an accident includes a reference to two or more causally related accidents.”.

2. Section 3 of the Road Traffic (Compulsory Third-Party Insurance) (Guernsey) Law, 1936 (Requirements in respect of policies) is amended as follows:

Extension of cover to be provided by policy.

(a) for paragraph (b) of subsection (1) there is substituted—

“(b) insures such person, persons or classes of persons as may be specified in the policy

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(a) Ordres en Conseil Vol. X, p. 388; Vol. XII, p. 380; Vol. XV, p. 43; Vol. XVIII, pp. 35 and 257; Vol. XX, p. 246; Vol. XXIII, p. 227; Vol. XXIV, p. 250; Vol. XXVII, pp. 76 and 415; No. XVII of 1983; No. XIII of 1986; No. XIX of 1987.

in respect of any liability which may be incurred by him or them in respect of the death of, or bodily injury to, any person, or damage to property, caused by, or arising out of, the use of the vehicle on a road in the Island of Guernsey; and”;

(b) for the proviso to subsection (1) there is substituted—

“Provided that the policy shall not be required—

- (i) to cover liability in respect of the death, arising out of and in the course of his employment, of a person in the employment of a person insured by the policy or of bodily injury or damage to property sustained by such a person arising out of and in the course of his employment; or
- (ii) to provide insurance for more than £250,000 in respect of all such liabilities as may be incurred in respect of damage to property caused by, or arising out of, any one accident involving the vehicle; or
- (iii) to cover liability in respect of damage to the vehicle; or
- (iv) to cover liability in respect of damage to goods carried for hire or reward in or on the vehicle or in or on any trailer (whether or not coupled) drawn by the vehicle; or

- (v) to cover any liability of a person in respect of damage to property in his custody or under his control; or
- (vi) to cover any contractual liability.”.

3. Section 4 of the Road Traffic (Compulsory Third-Party Insurance) (Guernsey) Law, 1936 (Duty of insurers to satisfy judgments against persons insured in respect of third-party risks) is amended as follows—

(a) for subsection (1) there is substituted:

“ (1) This section applies where, after a certificate of insurance has been delivered under section 3(6) of this Law to the person by whom a policy has been effected, a judgment to which this subsection applies is obtained.

(1A) Subsection (1) of this section applies to judgments relating to a liability with respect to any matter liability with respect to which is required to be covered by a policy of insurance under section 3 of this Law if—

- (a) it is a liability covered by the terms of the policy to which the certificate relates, and the judgment is obtained against any person who is insured by the policy; or
- (b) it is a liability, other than an excluded liability, which would be so covered if the policy insured all persons and the judgment is obtained against any person other than one who is insured by the policy.

(1B) In deciding for the purposes of subsection (1A) of this section whether a liability is or would be covered by the terms of a policy, so much of the policy as purports to restrict the insurance of the persons insured by the policy by reference to the holding by the driver of the vehicle of a licence authorising him to drive it shall be treated as of no effect.

(1C) In subsection (1A)(b) of this section “excluded liability” means a liability in respect of the death of, or bodily injury to, or damage to the property of, any person who, at the time of the use which gave rise to the liability, was allowing himself to be carried in or upon the vehicle and knew or had reason to believe that the vehicle had been stolen or unlawfully taken, not being a person who did not know and had no reason to believe that the vehicle had been stolen or unlawfully taken until after the commencement of his journey and could not reasonably have been expected to have alighted from the vehicle; and in this subsection the reference to a person being carried in or upon a vehicle includes a reference to a person entering or getting on to, or alighting from, the vehicle.

(1D) Notwithstanding that the insurer may be entitled to avoid or cancel, or may have avoided or cancelled, the policy, he shall, subject to the provisions of this section, pay to the persons entitled to the benefit of the judgment—

(a) as regards liability in respect of death or bodily injury, any sum

which, by virtue of any enactment relating to interest on judgments, is payable in respect of interest on that sum;

- (b) as regards liability in respect of damage to property, any sum required to be paid under subsection (1E) of this section; and
- (c) any amount payable in respect of costs.

(1E) This subsection requires the payment—

- (a) where the total of any amounts paid, payable or likely to be payable under the policy in respect of damage to property caused by, or arising out of, the accident in question does not exceed £250,000, of any sum payable under the judgment in respect of the liability, together with any sum which, by virtue of any enactment relating to interest on judgments, is payable in respect of interest on that sum;
- (b) where that total exceeds £250,000, of either—
  - (i) such proportion of any sum payable under the judgment in respect of the liability as £250,000 bears to that total, together with the same proportion of any sum which, by virtue of any such enactment, is payable in respect of interest on that sum; or

- (ii) the difference between the total of any amounts already paid under the policy in respect of such damage and £250,000, together with such proportion of any sum which, by virtue of any such enactment, is payable in respect of interest on any sum payable under the judgment in respect of the liability as the difference bears to that sum;

whichever is less, unless not less than £250,000 has already been paid under the policy in respect of such damage (in which case nothing is payable).”;

- (b) in paragraph (c) of subsection (2),
- (i) immediately after “death or bodily injury” there is inserted “or damage to property”; and
- (ii) the words “Police Court” are repealed;
- (c) immediately after subsection (4) there is inserted—
- “ (4A) Where an insurer becomes liable under this section by virtue only of the operation of subsection (1B) to pay an amount in respect of a liability of a person who is insured by a policy, he shall be entitled to recover the amount from that person.
- (4B) Where an insurer becomes liable under this section to pay an amount in respect of a liability of a person who is not

insured by a policy, he shall be entitled to recover the amount from that person or from any person who—

- (a) is insured by the policy by the terms of which the liability would be covered if the policy insured all persons; and
- (b) caused or permitted the use of the vehicle which gave rise to the liability.”.

4. In section 1(2)(a)(i) of the Road Traffic (Compulsory Third-Party Insurance) (Amendment) (Guernsey) Law, 1979(b) for “in which the vehicle is registered” there is substituted “of which the vehicle bears a registration plate”.

Definition of “normally based”.

5. This Law may be cited as the Road Traffic (Compulsory Third-Party Insurance) (Amendment) (Guernsey) Law, 1989.

Citation.

6. This Law and the Road Traffic (Compulsory Third-Party Insurance) (Guernsey) Laws, 1936 to 1983 may be cited together as the Road Traffic (Compulsory Third-Party Insurance) (Guernsey) Laws, 1936 to 1989.

Collective title.

**K. H. TOUGH,**  
Her Majesty’s Greffier.