

ORDER IN COUNCIL

VII
2013

ratifying a Projet de Loi

ENTITLED

The Road Traffic (Compulsory Third-Party Insurance) (Amendment) (Guernsey) Law, 2012

(Registered on the Records of the Island of Guernsey
on the 18th March, 2013.)



2013

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

18th day of March, 2013 before Richard John Collas, Esquire, Bailiff; present:- Stephen Edward Francis Le Poidevin, Esquire, Susan Mowbray, Barbara Jean Bartie, John Ferguson, Esquire, Claire Helen Le Pelley, Peter Sean Trueman Girard, Esquire, Constance Helyar-Wilkinson, Terry George Snell, David Percy Langley Hodgetts LVO, Niall David McCathie, Esquires, Margaret Ann Spaargaren, Terry John Ferbrache, David Allan Grut, Jonathan Grenfell Hooley, Esquires, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated 12th February, 2013 approving and ratifying a Projet de Loi entitled “The Road Traffic (Compulsory Third-Party Insurance) (Amendment) (Guernsey) Law, 2012”, 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 be registered on the records of this Island.



At the Court at Buckingham Palace

THE 12th DAY OF FEBRUARY 2013

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 January 2010, the States of Deliberation at a meeting on 31st October 2012 approved a *Projet de Loi* entitled the Road Traffic (Compulsory Third-Party Insurance) (Amendment) (Guernsey) Law, 2012 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, 2012, and to order that it shall have force of law in the Island of Guernsey.

“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 Island of Guernsey 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.

Richard Tilbrook

PROJET DE LOI

ENTITLED

The Road Traffic (Compulsory Third-Party Insurance) (Amendment) (Guernsey) Law, 2012

THE STATES, in pursuance of their Resolution of the 27th day of January, 2010^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 Island of Guernsey^b.

Amendment of the 1936 Law.

1. The principal Law is amended as follows.

2. In section 1(1) of the principal Law, immediately after the definition of "**assurance company**", insert the following definitions -

"**compensation payment**" means any payment made (whether or not with an admission of liability) by an insurer under or in consequence of a policy of insurance under this Law, in respect of the death or bodily injury of any person arising out of the use of a motor vehicle on a road, and

^a Article XVI of Billet d'État I of 2010.

^b This Amendment Law is given effect in Alderney, subject to modifications, by section (1) of Ordres en Conseil Vol. XIV, p. 209.

"insurer", for the avoidance of doubt, includes any authorised insurer and any assurance company, whether or not located in this Island."

3. Immediately after section 1(1A) of the principal Law, insert the following subsection -

"(1B) For the avoidance of doubt, any reference in this Law to a policy of insurance under this Law or a policy of insurance under section 3 of this Law -

- (a) means a policy of insurance of the kind required by section 3(1) of this Law, and
- (b) includes any policy of insurance, insurance card or other document which, by virtue of any other enactment, has effect as a policy of insurance for the purposes of this Law or any provision of this Law."

4. For section 3(2) of the principal Law, substitute the following subsections -

"(2) Where any payment is made (whether or not with an admission of liability) by an insurer under or in consequence of a policy of insurance under this Law, in respect of the death or bodily injury of any person arising out of the use of a motor vehicle on a road, and the person who has so died or been bodily injured has to the knowledge of the insurer received treatment at a hospital in this Island, whether as an in-patient or as

an out-patient in respect of the injury so arising, that insurer shall pay to the hospital in this Island the expenses described in subsection (2A) -

- (a) as determined in accordance with regulations made under section 13C of this Law,
- (b) within the time specified by or under those regulations, and
- (c) otherwise in accordance with those regulations.

(2A) Subject to subsections (2B) and (2C), the expenses to be paid by the insurer to the hospital are -

- (a) the expenses reasonably incurred by the hospital ("**Hospital A**") in the treatment of the person for bodily injury arising out of the use of the motor vehicle on the road, whether the treatment is administered by Hospital A or by another hospital ("**referred hospital**") to which Hospital A has referred that person for treatment, and
- (b) the expenses (if any) reasonably incurred by Hospital A in relation to the transportation of the person by ambulance to Hospital A and (if applicable) to any referred hospital,

after deducting from such expenses any moneys actually received by Hospital A in payment of a specific charge for such treatment or

transportation, not being moneys received by Hospital A under any contributory scheme.

(2B) The States Health and Social Services Department and the States Environment Department may jointly make regulations to prescribe limits on the amounts of expenses to be paid in respect of a person who dies or is bodily injured, being -

- (a) a maximum amount of expenses for each day, or part of a day, that the person is an in-patient,
- (b) a maximum amount of expenses for treatment of the person as an out-patient,
- (c) a maximum amount of expenses for transportation of the person, by ambulance, to a hospital, and
- (d) a maximum amount for the aggregate of the expenses referred to in paragraphs (a) to (c).

(2C) Until regulations are first made under subsection (2B)-

- (a) the maximum amount to be paid for each person treated as an in-patient shall be £50, and
- (b) the maximum amount to be paid for each person treated as an out-patient shall be £5.

(2D) A sum payable under subsection (2) shall be recoverable as if it were a simple contract debt from the insurer to the hospital concerned.

(2E) A payment made under subsection (2) to a hospital shall operate as a discharge to the extent of the amount paid, of any liability of the insurer, or of any other person, to pay any sum in respect of the expenses described in subsection (2A).

(2F) For the purposes of subsection (2A) and for the avoidance of doubt, the hospital that first provides treatment to a person for bodily injury arising out of the use of a motor vehicle on the road may refer that person to another hospital for treatment, whether or not the latter hospital is located in this Island.

(2G) For the purposes of subsections (2) to (2F) -

"ambulance", for the avoidance of doubt, includes road, air or marine ambulance, whether or not located in or operating on this Island,

"expenses reasonably incurred" means -

- (a) in relation to a person who receives treatment at a hospital as an in-patient, or who is referred by the hospital to another hospital for further treatment, an amount for each day such person is maintained in any such hospital representing the average daily cost for

each in-patient of the maintenance of that hospital and the staff thereof and the maintenance and treatment of the in-patients therein, and

- (b) in relation to a person who receives treatment at a hospital as an out-patient, reasonable expenses actually incurred, and

"**hospital**" means an institution, whether owned or controlled by the States of Guernsey or otherwise, which provides medical or surgical treatment for in-patients."

5. Repeal sections 3(3B), 10 and 11 of the principal Law.

6. Immediately after section 13B of the principal Law, insert the following section -

"Power to make regulations concerning payment of expenses by insurers and related matters."

13C. (1) The States Health and Social Services Department and the States Environment Department may jointly make regulations -

- (a) to require or authorise an insurer or any other person to notify, make an application to, or provide information to any person, in relation to or in connection with -

- (i) a compensation payment, or

- (ii) a claim for a compensation payment,
- (b) to prescribe the circumstances in which a payment made by an insurer is, or is not, to be regarded as a compensation payment,
- (c) to establish procedures for the recovery of expenses payable to a hospital under section 3(2) of this Law, including procedures for –
 - (i) determining, documenting and issuing or providing any other information in relation to those expenses,
 - (ii) reviewing or appealing any documentation or information issued or provided in relation to those expenses, and
 - (iii) specifying the time by which those expenses must be paid,
- (d) to specify treatment, services, expenses or other matters that are to be disregarded in determining an amount payable to a hospital under section 3(2) of this Law,
- (e) to provide for the amount payable to a hospital under section 3(2) of this Law to be reduced

where the death or bodily injury concerned is attributable to the negligence of more than one person,

- (f) to provide for repayment of monies paid by an insurer to a hospital in specified circumstances, and make provision for underpayment or overpayment by the insurer,
- (g) subject to subsection (2), to make provision in relation to the creation, trial (summarily or on indictment) and punishment of offences, and
- (h) in relation to any other matters necessary or expedient for giving full effect to regulations made under this section and for their due administration.

(2) A regulation under this section must not -

- (a) provide for offences to be triable only on indictment, or
- (b) authorise the imposition of a fine exceeding level 3 on the uniform scale or a term of imprisonment exceeding two months.

(3) For the avoidance of doubt, regulations made under this section may -

- (a) require the notification, application or information referred to in subsection (1)(a) to be given, made or provided by or to any person whether or not that person is located in this Island,
- (b) involve any person, whether or not that person is located in this Island, in the recovery of expenses payable to a hospital under section 3(2) of this Law, including authorising that person -
 - (i) to determine those expenses, or
 - (ii) to issue, provide or review any certificate or other documentation or information, and
- (c) provide for any person to whom functions are conferred under the regulations to arrange for his functions to be performed in his name by any other person, whether or not either person is located in this Island.

7. In section 14 of the principal Law, immediately after the words "prescribed under this Law", insert the words "(other than matters to be prescribed by regulations of any Department of the States of Guernsey)".

8. Immediately after section 14 of the principal Law, insert the following section -

"Departmental regulations.

14A. (1) Regulations made by any Department of the States of Guernsey under any provision of this Law -

- (a) may be amended or repealed by subsequent regulations made under the same provision,
- (b) may contain such consequential, incidental, supplemental and transitional provision as may appear to the Department to be necessary or expedient, and
- (c) shall be laid before a meeting of the States as soon as possible and shall, if at that or the next meeting the States resolve to annul them, cease to have effect, but without prejudice to anything done under them or to the making of new regulations.

(2) Any power conferred on any Department to make regulations may be exercised -

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,
- (b) so as to make, as respects the cases in relation to which it is exercised -

- (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),
- (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes,
- (iii) any such provision either unconditionally or subject to any conditions specified in the regulations."

Transitional and savings.

9. (1) Nothing in this Law applies in respect of the treatment or transportation of any person who suffers death or bodily injury as a result of the use of a motor vehicle on a road, to the extent that the use of the motor vehicle concerned occurred before the commencement date.

(2) For the avoidance of doubt, any question as to liability for expenses in relation to treatment or transportation referred to in subsection (1) must be determined as if this Law had not been made.

Interpretation.

10. In this Law, unless the context requires otherwise -

"**commencement date**" means the date appointed by regulations under section 11 for this Law to come into force, and

"**principal Law**" means the Road Traffic (Compulsory Third-Party Insurance) (Guernsey) Law, 1936^c.

Citation.

11. This Law may be cited as the Road Traffic (Compulsory Third-Party Insurance) (Amendment) (Guernsey) Law, 2012.

Commencement.

12. This Law shall come into force on a date appointed by regulations made jointly by the States Health and Social Services Department and the States Environment Department.

J. TORODE,
Her Majesty's Greffier.

^c Ordres en Conseil Vol. X, p. 388; Vol. XII, p. 380; Vol. XVIII, pp. 35 and 257; Vol. XX, p. 246; Vol. XXII, p. 560; Vol. XXIII, pp. 188 and 227; Vol. XXIV, p. 250; Vol. XXVII, pp. 76 and 415; Vol. XXVIII, p. 303; Vol. XXIX, p. 214; Vol. XXX, p. 243; Vol. XXXI, pp. 278 and 423; Vol. XXXIII, pp. 49 and 127; Vol. XLII(2), p. 766; Orders in Council No. XIX of 2007 and No. II of 2009; Recueil d'Ordonnances Tome XXVI, p. 90; Tome XXIX, p. 406. Modified by Recueil d'Ordonnances Tome XIX, p. 318; applied with modifications to the Island of Alderney by Ordres en Conseil Vol. XIV, p. 209.

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Printed by Image Group, Caslon Court, Pitronnerie Road, St Peter Port, Guernsey GY1 3NE