

GUERNSEY STATUTORY INSTRUMENT

2017 No. **97**

## **The Road Traffic (Compulsory Third-Party Insurance) (Recovery of Expenses) (Guernsey) Regulations, 2017**

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# The Road Traffic (Compulsory Third-Party Insurance) (Recovery of Expenses) (Guernsey) Regulations, 2017

<i>Made</i>	25 <sup>th</sup> October, 2017
<i>Coming into operation</i>	1 <sup>st</sup> November, 2017
<i>Laid before the States</i>	, 2017

THE COMMITTEE FOR THE ENVIRONMENT & INFRASTRUCTURE AND THE COMMITTEE FOR HEALTH & SOCIAL CARE, in exercise of the powers conferred on them by sections 3(2B), 13C and 14A of the Road Traffic (Compulsory Third-Party Insurance) (Guernsey) Law, 1936<sup>a</sup> and section 12 of the Road Traffic (Compulsory Third-Party Insurance) (Amendment) (Guernsey) Law, 2012<sup>b</sup>, and all other powers enabling them in that behalf, hereby make the following Regulations:-

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<sup>a</sup> 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, No. II of 2009 and No. VII of 2013; Recueil d'Ordonnances Tome XXVI, p. 90; Tome XXIX, p. 406; Ordinance No. IX of 2016. 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. As to amendments and modifications coming into force in the Island of Alderney, see Ordinance No. VI of 2014.

<sup>b</sup> Order in Council No. VII of 2013; amended by Ordinance No. IX of 2016.

PART I  
PRELIMINARY

**Commencement of Law of 2012 and these Regulations.**

1. The Law of 2012 and these Regulations shall come into force on the 1<sup>st</sup> November, 2017.

**Application.**

2. These regulations apply where –
- (a) a person has received treatment at a hospital in this Island, whether as an in-patient or an out-patient, in respect of bodily injury arising out of the use of a motor vehicle on a road (whether or not that bodily injury results in that person's death), and
  - (b) a claim for a compensation payment in respect of that bodily injury or (as the case may be) death is made by or on behalf of that person against an insurer.

PART II  
DUTIES OF INSURERS, AGENTS AND OTHERS

**Insurer to notify claims.**

3. (1) Where these regulations apply, the insurer against whom the claim for compensation payment is made and anyone acting on the insurer's behalf, whether or not proceedings have been commenced, must provide to the Committee in accordance with paragraph (2) –

- (a) the information specified in Part I of Schedule 1, and
- (b) the information specified in Part II of Schedule 1,

to the extent that any of that information is known to that insurer or (as the case may be) the person acting on its behalf.

(2) The information must be sent to the Committee no later than 14 days after the date on which the claim for compensation payment is made.

**Duty to provide information on request.**

4. (1) If the Committee makes a written request to any person specified in paragraph (2) for any information specified in Schedule 1, the person must, within 14 days of the date of the request, send to the Committee any of that information which is known to that person.

(2) Paragraph (1) refers to the following persons –

- (a) the injured person or, if that person has died, his personal representative,
- (b) any person, other than a person required to provide information under regulation 3(1), who is, or is alleged to be, liable to any extent in respect of that death or bodily injury,
- (c) if the claim is not made by the injured person, the person by whom it is made,

- (d) any person acting on behalf of a person within any of subparagraphs (a) to (c),
- (e) the person in charge of each hospital at which the injured person has received treatment as a result of his injury, and
- (f) the person in charge of any ambulance service which provided ambulance services to the injured person.

**Application for certificate of expenses.**

5. An insurer may at any time, in relation to any compensation payment (regardless whether or not it has been made), apply to the Committee for –

- (a) a certificate of expenses in respect of the compensation payment, or
- (b) a fresh certificate of expenses in respect of the compensation payment, if a certificate of expenses has previously been issued in respect of that compensation payment.

**Duty to apply for certificate after compensation payment made.**

6. (1) This regulation applies where an insurer has made a compensation payment and, as at the settlement date –

- (a) no certificate of expenses has been issued to the insurer in respect of the injured person, or

(b) if such a certificate has been issued to the insurer, the certificate is no longer in force.

(2) Where this regulation applies, and the insurer has not made an application for a certificate in respect of the injured person during the period of 28 days ending immediately before the settlement date, that insurer must, within 14 days following the settlement date, apply to the Committee for a certificate.

**Particulars to be contained in an application.**

7. An application under regulation 5 or 6(2) must include the particulars specified in Schedule 2.

PART III

CERTIFICATE OF EXPENSES AND TIME FOR PAYMENT

**Issue of certificate of expenses upon application.**

8. (1) Upon receipt of an application made under regulation 5 or 6(2), the Committee must, as soon as practicable, issue a certificate of expenses in accordance with regulation 10.

(2) Paragraph (1) does not require the Committee to issue a fresh certificate upon receipt of an application under regulation 5(b) if, when the application is received, a certificate issued to the applicant in respect of the injured person is still in force, but the Committee may issue a fresh certificate so as to have effect upon the expiry of the current certificate.

(3) If a certificate expires, the Committee may issue a fresh

certificate without an application having to be made.

**Issue of certificate in default.**

9. (1) If an insurer is required to apply to the Committee for a certificate under regulation 6(2), but has not done so, the Committee may issue a certificate to the insurer in accordance with regulation 10.

(2) A certificate issued under paragraph (1) may require the payment of certified expenses –

(a) immediately, or

(b) within any other specified period of time.

**Certificate to specify expenses and include particulars.**

10. (1) A certificate issued under these Regulations must specify –

(a) the insurer to which it is issued, and

(b) the amount which that insurer is required to pay under section 3(2) of the Law, determined in accordance with Schedule 3.

(2) A certificate may provide that it is to expire on a specified date or on the occurrence of a specified event, but if neither is provided, the certificate remains in force indefinitely.

(3) On request by an insurer, the Committee must provide the

following particulars in, or in respect of, a certificate –

- (a) in respect of ambulance services counted for the purposes of determining any amount in the certificate –
  - (i) the name of the provider of the services,
  - (ii) the date on which the services were provided, and
  - (iii) the name and address of any hospital to which the injured person was taken, and
- (b) in respect of treatment counted for the purposes of determining any amount in the certificate –
  - (i) the name and address of the hospital at which that treatment took place, and
  - (ii) whether the injured person was admitted to any hospital and if so, the number of days of admission counted at each hospital.

**Time by which expenses must be paid.**

11. An insurer to whom a certificate is issued must pay the certified expenses to the Committee –

- (a) in the case of a certificate issued before the settlement date, within 14 days following the settlement date,

- (b) in the case of a certificate issued under regulation 8 on or after the settlement date, within 14 days beginning with the day on which the certificate is issued, and
- (c) in the case of a certificate issued under regulation 9(1), within the time specified in that certificate for payment of the certified expenses.

PART IV  
REVIEWS AND APPEALS

**Review of certificate.**

12. (1) The Committee may at any time review a certificate on its own initiative or on application by the insurer.

(2) Without limiting the generality of paragraph (1), the Committee must as soon as practicable review a certificate where –

- (a) any of paragraphs 5, 6, 7 or 8 of Schedule 3 apply, and
- (b) the Committee is of the opinion that the application of that paragraph was not taken into account, or not sufficiently taken into account, when the certificate was issued.

(3) On the conclusion of a review under this regulation, the Committee may –

- (a) confirm the certificate,
- (b) revoke the certificate, or
- (c) revoke the certificate and issue a fresh certificate containing such variations as the Committee considers appropriate.

(4) The Committee must not, under paragraph (3)(c), vary a certificate so as to increase the amount, or the aggregate amount, specified unless it appears to the Committee that the variation is required as a result of the Committee having been supplied with incorrect or insufficient information by the insurer to whom the certificate was issued.

**Right to appeal a reviewed certificate.**

13. (1) An insurer to whom a reviewed certificate is issued may at any time appeal against the certificate to the Royal Court in accordance with this regulation and regulation 14.

(2) An appeal against a certificate may be made on one or more of the following grounds –

- (a) that an amount specified in the certificate is incorrect,
- (b) that an amount specified in the certificate takes into account –
  - (i) treatment which is not treatment received at a hospital by the injured person as a result of his

injury, or

(ii) ambulance services which are not ambulance services provided for the injured person as a result of his injury, or

(c) that the payment on the basis of which the certificate was issued was not a compensation payment.

(3) An appeal against a certificate may not be made until –

(a) the claim which gives rise to the compensation payment has been finally disposed of, and

(b) payment of the certified expenses has been made to the Committee.

(4) Unless the Royal Court grants leave for an appeal out of time, an appeal must be made within the period of 3 months beginning with the first day on which the requirements of paragraph (3)(a) and (b) are satisfied.

(5) In this regulation, "**reviewed certificate**" means –

(a) a certificate confirmed by the Committee under regulation 12(3)(a), or

(b) a fresh certificate issued by the Committee under regulation 12(3)(c).

**Procedure for appeals.**

14. (1) An appeal under regulation 13 must be made to the Royal Court by summons served on the Committee stating the grounds and material facts on which the appellant relies.

(2) On an appeal, the Committee may apply to the Royal Court, by summons served on the appellant, for an order that the appeal be dismissed for want of prosecution; and on hearing the application the Court may –

(a) dismiss the appeal or the application (in either case on such terms and conditions as the Court may direct), or

(b) make such other order as the Court considers just.

(3) In determining an appeal, the Royal Court must take into account any decision of a court (whether a court of this Island or any other country or territory), brought to its attention by the appellant or the respondent, relating to the same, or any similar, issue arising in connection with the injury in question.

(4) On an appeal, the Royal Court may –

(a) confirm the amount specified in the certificate,

(b) declare the certificate is to be revoked, or

(c) declare that the certificate is to be revoked and a fresh certificate is to be issued, specifying any variations which are to be made on the issue of a fresh certificate.

(5) When the Committee receives the decision of the Royal Court on an appeal, the Committee must, in accordance with that decision –

- (a) confirm the certificate,
- (b) revoke the certificate, or
- (c) revoke the certificate and issue a fresh certificate with the variations specified by the court.

(6) An appeal from a decision of the Royal Court under this regulation lies to the Court of Appeal on a question of law.

(7) Paragraph (2) is without prejudice to the inherent powers of the Royal Court or to the provisions of rule 52 of the Royal Court Civil Rules, 2007<sup>c</sup>.

## PART V

### MISCELLANEOUS AND SUPPLEMENTARY

#### **Offences and penalties.**

15. A person who contravenes or fails to comply with regulation 3(1), 4(1) or 6(2) is guilty of an offence and liable on summary conviction or conviction on indictment to a fine not exceeding level 3 on the uniform scale, to imprisonment for a term not exceeding two months, or both.

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<sup>c</sup> Order No. IV of 2007.

**Compensation payments in the case of structured settlements.**

16. (1) This regulation applies where –
- (a) an agreement is entered into in final settlement of a claim made by or on behalf of an injured person for –
    - (i) the making of periodical compensation payments (whether of an income or capital nature), or
    - (ii) the making of such payments and lump sum payments, or
  - (b) an order is made by a court which –
    - (i) awards damages to an injured person in respect of injury or death arising out of an incident, and
    - (ii) orders that the damages are wholly or partly to take the form of periodical payments,

and the payments due under the agreement or court order concerned would fall to be treated for the purposes of these Regulations as compensation payments.

- (2) Where this regulation applies –
- (a) the person liable to make the payment under the agreement or order is regarded as having made a single compensation payment on the day of the agreement or

the date of the court order, and

- (b) payments made under the agreement or order, and any other payment made to the injured person after the day of the agreement or the date of the court order in respect of the same incident, are not to be regarded as compensation payments.

(3) In this regulation, "the day of the agreement" means –

- (a) if the agreement referred to in paragraph (2)(a) is approved by the court, the day on which that approval is given, and
- (b) in any other case, the day on which the agreement is entered into.

**Circumstances in which payment into court is regarded as compensation payment.**

17. (1) A payment into court made in respect of an injured person is to be regarded as the making of a compensation payment only if it is –

- (a) accepted by or on behalf of the injured person within the initial period,
- (b) accepted, after the initial period, in satisfaction of the claim relating to the injured person by consent between the parties, or
- (c) made, after the initial period, in accordance with a

court order and in satisfaction of the claim.

(2) In paragraph (1), "the initial period" means the period of 21 days after the receipt by the claimant of notice of the payment into court having been made.

(3) In the circumstances referred to in paragraph (1)(a), the compensation payment is to be regarded as having been made on the date on which the payment into court was made.

(4) In the circumstances referred to in paragraph (1)(b), the compensation payment is to be regarded as having been made on the date on which the application to the court for payment out was made.

(5) In the circumstances referred to in paragraph (1)(c), the compensation payment is to be regarded as having been made on the date of the court order.

**Interim payments repaid under court order.**

18. (1) This regulation applies where –
- (a) an insurer has paid to the Committee an amount of expenses certified in accordance with these Regulations,
  - (b) that payment relates to a compensation payment which was an interim payment of damages in respect of the death or bodily injury of the injured person, the whole amount of which a court has ordered to be repaid, and

(c) no other compensation payment has been made by the insurer in respect of the same death or bodily injury.

(2) Where this regulation applies, the Committee must pay to the insurer the amount of the payment referred to in paragraph (1)(a) within 14 days of receiving a copy of the court order to which paragraph (1)(b) refers.

**Overpayment or underpayment.**

19. (1) This regulation applies where, as a result of a review under regulation 12 or an appeal under regulation 13 a fresh certificate has been issued or a certificate has been revoked.

(2) Where, in consequence of the review or appeal, it appears that the amount of any expenses paid by an insurer is more than the amount that the insurer ought to have paid, the Committee must pay to the insurer who paid the expenses the difference between the amount that has been paid and the amount that ought to have been paid.

(3) Where, in consequence of the review or appeal, it appears that the amount of any expenses paid by an insurer is less than the amount that the insurer ought to have paid, the insurer must pay to the Committee the difference between the amount that has been paid and the amount that ought to have been paid.

(4) The payment required by paragraph (2) or (3) must be made within 14 days following the date on which any fresh certificate is issued.

(5) Where the Committee repays an overpayment under

paragraph (2) or requires a payment under paragraph (3), the Committee must send a statement to the insurer who paid the expenses showing –

- (a) the name and address of the injured person to whom the statement relates,
- (b) the total amount already paid to the Committee,
- (c) the amount that ought to have been paid to the Committee, and
- (d) the amount of the difference between the amount already paid and the amount that ought to have been paid, and whether a repayment by the Committee to the insurer, or a further payment by the insurer to the Committee, is required.

**Delegation of functions.**

20. (1) The Committee may arrange for any of its functions under these Regulations to be performed in its name by any person, whether or not the person is located in this Island.

(2) A function performed by a person pursuant to an arrangement made under paragraph (1) is for all purposes performed by the Committee; and every decision taken or other thing done by a person pursuant to such an arrangement has the same effect as if taken or done at a quorate meeting of the Committee.

(3) An arrangement under paragraph (1) –

- (a) may be varied or terminated at any time by the Committee, but without prejudice to anything done pursuant to the arrangement or to the making of a new arrangement,
- (b) does not prevent the performance of the function by the Committee whilst the arrangement subsists.

(4) This regulation has effect for the removal of any doubt and is not to be construed as impliedly invalidating anything done in conformity with any other enactment or rule of law, either before or after this regulation comes into force.

**Evidence.**

21. (1) This regulation applies to a certificate -

- (a) issued to an insurer,
- (b) purporting to be signed on behalf of the Committee or by or on behalf of a person acting pursuant to an arrangement made by the Committee under regulation 20, and
- (c) specifying the amount payable under section 3(2) of the Law by the insurer to whom the certificate is issued.

(2) In any proceedings, a certificate to which this regulation applies -

- (a) is admissible in evidence, and
- (b) is to be regarded as conclusive proof of the amount for which the insurer is liable under section 3(2) of the Law, unless the contrary is shown.

(3) A certificate purporting to be signed as mentioned in paragraph (1)(b) is deemed to have been duly signed, unless the contrary is shown.

**Interpretation.**

22. (1) In these Regulations, unless the context requires otherwise -

"**ambulance service**" includes any ambulance service, whether or not located in this Island,

"**certificate**" or "**certificate of expenses**" means a certificate of expenses issued under regulation 8(1), 9(1), 12(3)(c) or 14(5)(c),

"**certified expenses**", in relation to any certificate, is the amount of expenses specified in the certificate under regulation 10(1)(b),

"**claim**" means a claim against an insurer for a compensation payment,

"**compensation payment**", subject to regulation 17, means a payment made by an insurer under or in consequence of a policy of insurance, in respect of the death or bodily injury of any person arising out of the use of a motor vehicle on a road,

"**Committee**" means the States Committee *for* Health & Social Care,

"**enactment**" means any Act of Parliament, Law, Ordinance or subordinate legislation,

"**expenses**" means expenses payable by an insurer under section 3(2) of the Law,

"**function**" includes power or duty,

"**hospital**" means –

(a) any hospital located in this Island, or

(b) any hospital located elsewhere to which a hospital located in this Island has referred an injured person for treatment,

"**injured person**", in relation to any claim, means the person who has suffered the death or bodily injury (arising out of use of a motor vehicle on a road) in respect of which the claim is made,

"**insurer**" has the meaning given by section 1(1) of the Law,

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

"**Law of 2012**" means the Road Traffic (Compulsory Third-Party Insurance) (Amendment) (Guernsey) Law, 2012,

"**person**" has the meaning given by section 1(1) of the Law,

"**Royal Court**" means the Royal Court sitting as an Ordinary Court, constituted by the Bailiff sitting unaccompanied by the Jurats, and for the purposes of an appeal under these Regulations the Court may appoint one or more assessors to assist it in the determination of any matter before it,

"**settlement date**", in relation to any compensation payment, means the date on which the compensation payment is made, subject to regulations 16(2) and 17(3) to (5),

"**subordinate legislation**" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any enactment and having legislative effect,

"**uniform scale**" means the uniform scale of fines for the time being in force under the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989<sup>d</sup>,

and other expressions have the same meanings as in the Law.

- (2) Any reference in these Regulations to a policy of insurance –
  - (a) means a policy of insurance of the kind required by section 3(1) of the Law, and
  - (b) includes any policy of insurance, insurance card or

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<sup>d</sup> Ordres en Conseil Vol. XXXI, p. 278; see Recueil d'Ordonnances Tome XXXI, p. 542.

other document which, by virtue of any other enactment, has effect as a policy of insurance for the purposes of the Law or any provision of the Law.

(3) The Interpretation (Guernsey) Law, 1948<sup>e</sup> applies to the interpretation of these Regulations.

(4) Any reference in these Regulations to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

**Transitional and savings.**

23. (1) Nothing in these Regulations 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 (which resulted in the death or bodily injury) occurred before the date specified in regulation 1 for the commencement of these Regulations.

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

**Citation.**

24. These Regulations may be cited as the Road Traffic (Compulsory Third-Party Insurance) (Recovery of Expenses) (Guernsey) Regulations, 2017.

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<sup>e</sup> Ordres en Conseil Vol. XIII, p. 355.

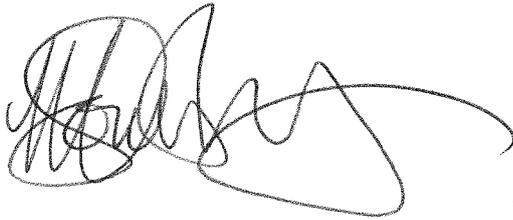
Dated this 20<sup>th</sup> day of October, 2017



Deputy Barry Brehaut

President of the Committee for the Environment & Infrastructure

For and on behalf of the Committee



Deputy Heidi Soulsby

President of the Committee for Health & Social Care

For and on behalf of the Committee

SCHEDULE 1  
INFORMATION TO BE PROVIDED TO THE COMMITTEE

Regulations 3(1) and 4(1)

PART I

1. The full name and address of the injured person.
2. The full name and address of –
  - (a) the insurer against whom the claim is made, and
  - (b) anyone acting on behalf of that insurer.

PART II

3. The date of birth or Guernsey social security number of the injured person.
4. The date on which the injury occurred.
5. The nature of the injury.
6. In respect of treatment received at any hospital in respect of the injury –
  - (a) the name and address of the hospital,
  - (b) whether the injured person was admitted to hospital and, if so, the date of admission and discharge,

- (c) in respect of ambulance services provided to the injured person as a result of his injury –
  - (i) the name and address of the body or organisation which provided the ambulance services,
  - (ii) the date on which the services were provided, and
  - (iii) the name and address of any hospital to which the injured person was taken.

SCHEDULE 2  
PARTICULARS TO BE INCLUDED IN AN APPLICATION FOR A CERTIFICATE  
OF EXPENSES

Regulation 7

1. The full name and address of the injured person.
2. The date of birth and, where known, the Guernsey social security number of the injured person.
3. The date on which the injury occurred.
4. The nature of the injury.
5. The name and address of any hospital at which the injured person received treatment in respect of his injury.
6. Where the insurer applying for the certificate has made a compensation payment in respect of the injury, the date on which the payment was made.
7. Where the certificate applied for relates to a claim to which any of the circumstances specified in paragraph 5 of Schedule 3 applies –
  - (a) a statement of the proportion by which the damages payable in respect of the claim are to be reduced to reflect the injured person's share in the responsibility for the injury in question, and

- (b) a copy of the order, judgment, minute or document which provides for that reduction.
8. Where a request for reduction of certified expenses is made under paragraph 6 of Schedule 3, the report referred to in that paragraph.

SCHEDULE 3  
DETERMINATION OF EXPENSES

Regulation 10(1)  
section 3(2B) of the Law

PART I  
CALCULATION OF EXPENSES

1. **Amount of expenses.**

- (1) Subject to the provisions of this Schedule, a certificate must specify –
- (a) in respect of any treatment received at a hospital by the injured person in respect of his injury –
- (i) where the person received treatment as an in-patient, an amount per day not exceeding the maximum amount prescribed in Schedule 4 for in-patient treatment, for each day or part day of treatment as an in-patient, and
- (ii) where the person received treatment as an out-patient, an amount not exceeding the maximum amount prescribed in Schedule 4 for out-patient treatment, and
- (b) in respect of ambulance services, an amount not exceeding the maximum amount prescribed in Schedule 4 for ambulance services, for each occasion on which, as a result of his injury, the injured person was provided with ambulance services for the purpose of taking him to a hospital for treatment.

- (2) The aggregate of the amounts specified under subparagraph (1) must not exceed the maximum amount prescribed in Schedule 4 for the total expenses.
- (3) Where the injured person was admitted to hospital on one day and discharged on another day, the day of discharge must be disregarded for the purposes of subparagraph (1)(a)(i).
- (4) For the purposes of subparagraph (1)(b), the reference to taking a person to a hospital includes taking him from one hospital to another (whether located in this Island or a referred hospital).
- (5) Where –
  - (a) amounts fall to be specified under both subparagraph (1)(a) and subparagraph (1)(b), and
  - (b) the aggregate of those amounts would, apart from subparagraph (2), exceed the maximum total amount prescribed in Schedule 4,

the amount to be specified under subparagraph (1)(a) is to be reduced by the difference between the aggregate of those amounts and the total maximum amount prescribed in Schedule 4.

## **2. Treatment to be disregarded.**

Any treatment of an injured person in a hospital that is neither owned nor controlled by the States of Guernsey, where neither the Committee nor the States of Guernsey is liable for the cost of the treatment, must be disregarded for the purposes of determining the amount payable to a hospital under section 3(2) of the Law.

3. **Allowance for earlier payment.**

- (1) This paragraph applies where an insurer –
- (a) makes a compensation payment in the form of a lump sum (an "earlier payment"), and
  - (b) subsequently makes another compensation payment in respect of the same injury (a "later payment").
- (2) Where this paragraph applies, the amount to be specified in the certificate for the purposes of section 3(2) of the Law in respect of the later payment shall be the amount determined in accordance with this Schedule, reduced by the amount paid in satisfaction of any liability to pay expenses in connection with the earlier payment.

4. **Treatment to be taken into account.**

- (1) A certificate must take into account only treatment received, and ambulance services provided, before the date on which the certificate is issued.
- (2) A certificate issued on an application by an insurer made after a compensation payment has been made must take into account only treatment received, or ambulance services provided, before the settlement date.

PART II

REDUCTION OF EXPENSES

5. **Reduction of damages for contributory negligence, etc.**

- (1) This paragraph applies where written notification of any order, judgment or document of a kind specified in subparagraph (2) is given to the Committee.
- (2) Subparagraph (1) refers to the following, in respect of the claim to which the certificate relates –
- (a) an order by a court reducing damages in accordance with section 1 of the Law Reform (Tort) (Guernsey) Law 1979<sup>f</sup>,
  - (b) an order by a court in a country or territory other than this Island reducing damages under any provision of the law of that country or territory which appears to the Committee to correspond to section 1 of the Law Reform (Tort) (Guernsey) Law 1979,
  - (c) an agreed judgment or order entered or sealed by an officer of a court of this Island which specifies –
    - (i) that the damages are to be reduced to reflect the injured person's share in the responsibility for the injury in question, and
    - (ii) the amount or proportion by which they are to be so reduced, and

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<sup>f</sup> Ordres en Conseil Vol. XXVII, p. 50; as amended by Order in Council No. VIII of 2006. This Law is prospectively applied, in part, to the Islands of Alderney and Sark by Order in Council No. XXVIII of 2008. See also Ordres en Conseil Vol. XXXIII, p. 133; Vol. XLI, p. 343; and Vol. XLI, p. 452.

- (d) a document made under any provision of the law of a country or territory other than this Island –
  - (i) which appears to the Committee to correspond to an agreed judgment or order entered or sealed by an officer of a court of this Island, and
  - (ii) which specifies the matters mentioned in item (c)(i) and (ii).
- (3) Where this paragraph applies, the certified expenses must be reduced by the same proportion as the reduction of damages specified in the order, judgment or document concerned.

6. **Settlement agreeing reduction in damages.**

- (1) This paragraph applies where the insurer sends to the Committee a request for reduction of certified expenses, together with a report which contains the information specified in subparagraph (2) signed by the parties to the agreement referred to in subparagraph (2)(a).
- (2) The report must include the following information –
  - (a) a statement that it was agreed by or on behalf of the injured person and the insurer that the damages payable under the settlement were to be reduced to reflect the injured person's share in the responsibility for the injury in question,
  - (b) a statement as to how that agreement was reached,

- (c) the amount of damages payable under the settlement had there been no such agreement,
  - (d) the amount or proportion by which it was agreed that the damages were to be reduced, and
  - (e) the names of all those involved in the settlement process.
- (3) Where this paragraph applies and it appears to the Committee from the report that the agreement was reached in a fair manner, the certified expenses must be reduced by the same proportion as the reduction of damages in the claim.

7. **Apportionment of liability to pay expenses.**

- (1) This paragraph applies where Condition A and Condition B applies.
- (2) Condition A applies if each of two or more persons (at least one of whom is an insurer) ("**the compensators**") –
  - (a) has made a payment in respect of the death or bodily injury of any person arising out of the use of a motor vehicle on a road, or
  - (b) is, or is alleged to be, liable to any extent in respect of the death or bodily injury of the injured person.
- (3) Condition B applies if –
  - (a) an insurer (being a compensator) requests the Committee to apportion between the compensators liability (either nominal or actual) to pay

the expenses payable under section 3(2) of the Law, and

- (b) the Committee receives sufficient evidence to enable it to determine how that liability is to be so apportioned.
- (4) Where this paragraph applies –
- (a) the Committee must apportion, between the compensators, the amount of expenses that would be payable under section 3(2) of the Law if there were only one compensator and the compensator were an insurer,
  - (b) in accordance with the apportionment under subparagraph (a), the Committee must determine the respective liability of each compensator who is an insurer to pay the expenses payable under section 3(2) of the Law, and
  - (c) each certificate issued to a compensator who is an insurer must specify the share of liability so apportioned to the insurer and the amount of expenses payable under section 3(2) that reflects that insurer's share of liability.
- (5) In this paragraph, "**insurer**" means an insurer that is liable to pay the expenses payable under section 3(2) of the Law in respect of the death or bodily injury of the person concerned arising out of the use of a motor vehicle on a road.

8. **Limitation of liability of insurers.**

- (1) This paragraph applies where –

- (a) an insurer makes, or proposes to make, a compensation payment under or in consequence of a policy of insurance,
  - (b) under that policy the amount of cover in respect of the death or bodily injury is limited to, or by reference to –
    - (i) a maximum sum, or
    - (ii) a proportion of the compensation payment which the insured person is liable to pay in respect of the death or bodily injury,
  - (c) in consequence of that limitation, a proportion of the compensation payment which the insurer would otherwise be liable to pay in respect of the death or bodily injury would not be covered by the policy, but for section 4 of the Law, and
  - (d) the insurer notifies the Committee of the matters specified in items (b) and (c) above.
- (2) Where this paragraph applies –
- (a) the liability imposed on the insurer by section 3(2) of the Law must be reduced by the same proportion (if any) as that insurer's liability for the compensation payment is reduced by virtue of section 4(1E)(b) of the Law, and
  - (b) the certified expenses must be reduced accordingly.

SCHEDULE 4

MAXIMUM AMOUNTS PRESCRIBED FOR EXPENSES

paragraph 1 of Schedule 3;  
section 3(2B) of the Law

<b>Provision of Law</b>	<b>Description</b>	<b>Maximum amount</b>
Section 3(2B)(a)	In-patient treatment	£833.
Section 3(2B)(b)	Out-patient treatment	£678.
Section 3(2B)(c)	Ambulance services	£205.
Section 3(2B)(d)	Total expenses	£49,824.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations set out the procedure for recovering the expenses of treatment and ambulance services from insurers under the Road Traffic (Compulsory Third-Party Insurance) (Guernsey) Law, 1936, as amended by the Road Traffic (Compulsory Third-Party Insurance) (Amendment) (Guernsey) Law, 2012 ("**the 2012 Law**").

Part I brings the 2012 Law and these Regulations into force on the 1<sup>st</sup> November, 2017. This Part also sets out the circumstances in which these Regulations apply.

Part II imposes duties on insurers and their agents, in relation to notifying claims for compensation, providing information and applying for a certificate of expenses.

Part III provides for the Committee *for* Health & Social Care to issue certificates of expenses (essentially an invoice) to insurers, provides for the determination and calculation of these expenses and specifies the procedure for payment. These expenses are subject to the limits specified in Schedule 4.

Part IV deals with reviews and appeals.

Part V sets out provisions concerning offences and penalties and deals with specific circumstances such as structured settlements, payment into court, interim payments, overpayments and underpayments. It also authorises the Committee to delegate its functions and contains provisions dealing with evidence. Finally, this Part contains the interpretation and transitional and savings provisions.

These Regulations come into force on the 1<sup>st</sup> November, 2017.