

**THIRD SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 3,717 of 4th June, 2009

B. 19/09

BILL

FOR

AN ACT to amend the Insurance (Motor Vehicles) (Third Party Risks) Act.

ENACTED by the Legislature of Gibraltar.

Title and commencement.

1.(1) This Act may be cited as the Insurance (Motor Vehicles) (Third Party Risks) (Amendment) Act 2009.

(2) The provisions of this Act shall commence at such date as is prescribed by the Minister with responsibility for transport by Legal Notice in the Gazette, and he may prescribe different commencement dates in respect of different provisions.

Amendments to the Insurance (Motor Vehicles) (Third Party Risks) Act.

2.(1) The Insurance (Motor Vehicles) (Third Party Risks) Act shall be amended according to the provisions of this section.

(2) Section 2(2) shall be amended as follows—

- (a) at the end of paragraph (a) after the words “a registration plate” insert “irrespective of whether the plate is permanent or temporary”;
- (b) at the end of paragraph (c), for “.” substitute “; or”; and

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(c) after paragraph (c), insert–

“(d) in cases where the vehicle does not bear any registration plate or bears a registration plate which does not correspond or no longer corresponds to the vehicle and has been involved in an accident, the territory of the State in which the accident took place, for the purpose of settling the claim under an agreement between national insurers’ bureaux or under Article 1.4 of the Second Council Directive 84/5/EEC.”.

(3) Subsection (5) of section 3 shall be replaced by the following–

“(5) No person may use a vehicle to which subsection (4) of this section applies in Gibraltar or in a territory of a member state unless there is in force a valid policy of insurance which has been issued by an approved motor vehicle insurer and which insures the use of the vehicle in respect of any liability which may be incurred by him in respect of the use of the vehicle in Gibraltar or in the territory of a member state, in the latter case in accordance with the law on compulsory insurance against civil liability in respect of the use of vehicles of the state where the liability may be incurred.”.

(4) After section 3(6) insert–

“(7) The Minister with responsibility for transport shall communicate to the European Commission the list of vehicles referred to in subsection (4) and the valid policies of insurance referred to in subsection (5).”.

(5) Section 4 shall be amended as follows–

(a) after subsection (2) insert–

(2A) The sum referred to in paragraph (b) of subsection (2) shall be increased to at least £500,000 by 11 December 2009 and to £1,000,000 by 11 June 2012.”,
and

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(b) after subsection (3) insert—

“(4) All contracts of insurance, insofar as they provide for compulsory insurance against third party liability, shall be on the basis of a single premium payable for the term of the contract and shall cover the entire territory of the Community including for any period in which the vehicle remains in part of Community territory other than Gibraltar during the term of the contract.”.

(6) In section 12(1), paragraph (a) shall be replaced by the following—

“(a) which is normally based in a territory of a state (other than a relevant foreign state) which is not a member state; or”.

(7) After section 12(1), insert—

“(1A) The appointed person may seek the evidence referred to in subsection (1) from persons having custody of a vehicle which is normally based in the territory of a member state and in respect of vehicles normally based in the territory of a state which is not a member state entering Gibraltar directly from Spain, but such checks may be carried out only if they are non-systematic and provided that they are not discriminatory and are carried out as part of a control which is not aimed exclusively at insurance verification.”.

(8) After section 13(1A), insert—

“(1AA) The insurer may not rely on excess clauses as against a claim by an injured third party.

(1AAZ) The references in subsection (1A) to £250,000 shall be increased to at least £500, 000 by 11 December 2009 and to £1,000,000 by 11 June 2012.”.

(9) After section 13, insert—

“Direct right of action.

13A. Where and insofar as an insurer would be liable to satisfy judgments against persons insured against third party risks, the injured party or parties shall enjoy a direct right of action against the insurer.”.

(10) After paragraph (a) of section 18(1), insert–

“(aa) a passenger making a claim knew or should have done that the driver was under the influence of alcohol or of any other intoxicating agent at the time of the accident; or”.

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EXPLANATORY MEMORANDUM

This Act amends the Insurance (Motor Vehicles) (Third Party Risks) Act for the purpose of giving effect to changes introduced by Directive 2005/14/EC of the European Parliament and Council of 11 May 2005 amending various EC Directives relating to insurance against civil liability in respect of the use of motor vehicles.

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