

# THIRD SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5041 GIBRALTAR Thursday 23rd March 2023

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B. 05/23

## BILL

FOR

AN ACT to amend retained EU law relating to compulsory insurance for the use of motor vehicles; and for connected purposes.

**ENACTED** by the Legislature of Gibraltar.

### Title.

1. This Act may be cited as the Insurance (Motor Vehicles) (Third Party Risks) (Amendment) Act 2023.

### Commencement.

2. This Act comes into operation on the day of publication.

### Amendments to the Insurance (Motor Vehicles) (Third Party Risks) Act, 1986.

3.(1) The Insurance (Motor Vehicles) (Third Party Risks) Act, 1986 is amended in accordance with the provisions of this section.

(2) After section 8, insert-

#### **“Retained EU law relating to compulsory insurance.**

8A.(1) To the extent that Article 3 of the 2009 Motor Insurance Directive or any English common law decision in relation to Article 3 of the 2009 Motor Insurance Directive (as they had effect at any time) is relevant to any question as to the interpretation or effect of any provision of this or any other Act, references in that Article to liability in respect of the use of vehicles are to be read as not including liability in respect of the use in Gibraltar of vehicles-

- (a) other than motor vehicles, or
- (b) otherwise than on a road or other public place.

- (2) Relevant section 7 rights cease to be recognised and available insofar as they relate to compensation in connection with the use in Gibraltar of vehicles—
- (a) other than motor vehicles, or
  - (b) otherwise than on a road or other public place.
- (3) Accordingly, to the extent that it is inconsistent with subsection (1) or (2), retained case law ceases to have effect.

- (4) In this section-

“the 2009 Motor Insurance Directive” means Directive 2009/103/EC of the European Parliament and of the Council of 16 September 2009 relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability;

“relevant section 7 rights” means section 7 rights which—

- (a) are recognised and available in the law of Gibraltar, and
- (b) derive from the obligation imposed on Gibraltar by Article 10 of the 2009 Motor Insurance Directive as it had effect immediately before IP completion day (which relates to compensation in connection with the use of vehicles in cases where drivers are uninsured or untraced);

“retained case law” has the same meaning as in the European Union (Withdrawal) Act 2019;

“section 7 rights” means rights, powers, liabilities, obligations, restrictions, remedies and procedures which continue to be recognised and available in domestic law by virtue of section 7 of the European Union (Withdrawal) Act 2019 (saving for rights etc. under section 3(1) of the ECA), including those rights, powers, liabilities, obligations, restrictions, remedies and procedures-

- (a) as modified by domestic law from time to time, and
  - (b) as they apply to the Crown in right of Gibraltar.
- (5) Nothing in this section applies in relation to the use of a vehicle before the day on which the Insurance (Motor Vehicles) (Third Party Risks) (Amendment) Act 2023 came into force.”.

## **EXPLANATORY MEMORANDUM**

The purpose of this Bill is to end the effect of the decision of the Court of Justice of the European Union in the case of ‘Vnuk’ (Case C-162/13 ECLI:EU:C:2014:2146)) in retained EU law, and that of related retained case law, and to end any associated liability for insurance claims against the Motor Insurers’ Bureau (MIB) in respect of accidents on private land and for vehicles not constructed for road use. The Vnuk decision extended the requirement for compulsory third-party motor insurance under Directive 2009/103/EC in the law of Gibraltar.

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