

**FIRST SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No.2,465 of 8th December, 1988.

I ASSENT,

PETER TERRY,

GOVERNOR.

8th December, 1988.



GIBRALTAR

No. 27 of 1988.

AN ORDINANCE to amend the Insurance (Motor Vehicles) (Third Party Risks) Ordinance, 1986.

1.(1) This Ordinance may be cited as the Insurance (Motor Vehicles) (Third Party Risks) (Amendment) Ordinance, 1988.

Title, commencement and interpretation.

(2) This Ordinance shall come into operation on 31 December 1988.

(3) In this Ordinance "the principal Ordinance" means the Insurance (Motor Vehicles) (Third Party Risks) Ordinance 1986.

Amendment of section 2 of principal Ordinance (interpretation).

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2.(1) In subsection (2) of section 2 of the principal Ordinance the following paragraph is substituted for paragraph (a)-

"(a) the territory of the State of which the vehicle bears a registration plate; or".

(2) After the said subsection (2) there is inserted the following new subsection-

"(3) In sections 4 and 13 of this Ordinance any reference to an accident includes a reference to two or more causally related accidents."

Amendment of section 4 of principal Ordinance (requirements in respect of Insurance policies).

3.(1) Subsection (1) of section 4 of the principal Ordinance is amended as follows-

(a) in paragraph (a)-

(i) the words "or which is not required to be so registered but the keeper of which is permanently resident in Gibraltar" are inserted after the words "Traffic Ordinance";

(ii) in subparagraph (ii)(aa) the words "or damage to property" are inserted after the word "person";

(b) the following paragraph is substituted for paragraph (b)-

"(b) in the case of a vehicle which is normally based in a territory (other than Gibraltar) of a member state or of a relevant foreign state insures such person, persons or classes of persons as may be specified in the policy 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 Gibraltar; and"; and

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(c) the following paragraph is substituted for paragraph (c)-

"(c) in the case of a vehicle not mentioned in paragraph (a) or paragraph (b), insures the use of the vehicle in accordance with paragraph (a)(ii) of this subsection."

(2) The following subsection is substituted for subsection (2) of section 4 of the principal Ordinance-

"(2) The policy shall not, by virtue of subsection (1), be required, in respect of the use of the vehicle on a road in Gibraltar-

(a) 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

(b) 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

(c) to cover liability in respect of damage to the vehicle; or

(d) 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

(e) to cover any liability of a person in respect of damage to property in his custody or under his control; or

(f) to cover any contractual liability."

Amendment of section 13 of principal Ordinance (duty of insurers to satisfy judgments).

4.(1) Section 13 of the principal Ordinance is amended as follows-

(a) The following subsection is substituted for subsection (1)-

"(1) If, after a certificate of insurance has been delivered in accordance with the provisions of section 5, a judgment is obtained in respect of any such liability as is required to be covered by a policy of insurance under section 4 and either-

(i) the liability is 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

(ii) the liability is one, 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;

then, notwithstanding that the insurer may be entitled to avoid or cancel, or may have avoided or cancelled, the policy, the insurer 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 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) as regards liability in respect of damage to property, any sum required to be paid under subsection (IA); and

(c) any amount payable in respect of costs."

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(b) After subsection (1), the following subsections are inserted-

"(1A) For the purposes of subsection (1)(b) 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 the 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).

(1B) In subsection (1)(ii) "excluded liability" means a liability in respect of the death of, or bodily injury to, or damage to the

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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.

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."

- (c) In subsection (2)(c) the words "or damage to property" are inserted after the words "bodily injury".
- (d) After subsection (4), the following subsection is inserted-

"(4A) 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."

Amendment of section 16 of principal Ordinance.

5. In section 16(a) of the principal Ordinance the word "use" is substituted for the word "user" wherever it appears.

Amendment of section 18 of principal Ordinance.

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6. In subsection (1)(i) of section 18 of the principal Ordinance the words "driving licence" are substituted for the words "certificate of competency".

Passed by the Gibraltar House of Assembly on the 29th day of November, 1988.

C. M. COOM,
Clerk to the Assembly.