

## 1987 No. 2171

### ROAD TRAFFIC

#### The Motor Vehicles (Compulsory Insurance) Regulations 1987

*Made* - - - - 16th December 1987

*Coming into force* - 31st December 1988

The Secretary of State for Transport, being a Minister designated(a) for the purpose of section 2(2) of the European Communities Act 1972(b) in relation to compulsory insurance in respect of, and other means of providing for, civil liability in relation to motor vehicles and trailers, in exercise of the powers conferred by that section, hereby makes the following Regulations, a draft of which has been laid before and approved by resolution of each House of Parliament pursuant to paragraph 2(2) of Schedule 2 to that Act.

#### Citation and commencement

1. These Regulations may be cited as the Motor Vehicles (Compulsory Insurance) Regulations 1987 and shall come into force on 31st December 1988.

#### Cover to be provided by the policy

2.—(1) Section 145 of the Road Traffic Act 1972(c) (requirements in respect of policies of insurance) shall be amended as follows.

(2) In subsection (3) (cover to be provided by the policy), for paragraph (a) there shall be substituted—

“(a) must insure 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 Great Britain;”.

(3) For subsection (4) (liabilities not required to be covered by the policy) there shall be substituted—

“(4) The policy shall not, by virtue of subsection (3)(a) above, be required—

- (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

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(a) S.I. 1972/1811.

(b) 1972 c.68.

(c) 1972 c.20.

- (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.”.

#### **Duty of insurers etc. to satisfy judgments**

3.—(1) Section 149 of that Act (duty of insurers or persons giving security to satisfy certain judgments) shall be amended as follows.

(2) For subsection (1) there shall be substituted—

“(1) This section applies where, after a certificate of insurance or certificate of security has been delivered under section 147 of this Act to the person by whom a policy has been effected or to whom a security has been given, a judgment to which this subsection applies is obtained.

(1A) Subsection (1) above applies to judgments relating to a liability with respect to any matter liability with respect to which is required to be covered by a policy of insurance under section 145 of this Act if—

- (a) it is a liability covered by the terms of the policy or security to which the certificate relates, and the judgment is obtained against any person who is insured by the policy or whose liability is covered by the security, as the case may be; or
- (b) it is a liability, other than an excluded liability, which would be so covered if the policy insured all persons or, as the case may be, the security covered the liability of all persons, and the judgment is obtained against any person other than one who is insured by the policy or, as the case may be, whose liability is covered by the security.

(1B) In deciding for the purposes of subsection (1A) above whether a liability is or would be covered by the terms of a policy or security, so much of the policy or security as purports to restrict, as the case may be, the insurance of the persons insured by the policy or the operation of the security by reference to the holding by the driver of the vehicle of a licence authorising him to drive it shall be treated as of no effect.

(1C) In subsection (1A)(b) above “excluded liability” means a liability in respect of the death of, or bodily injury to, or damage to the 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.

(1D) Notwithstanding that the insurer may be entitled to avoid or cancel, or may have avoided or cancelled, the policy or security, he 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 (1E) below; and
- (c) any amount payable in respect of costs.

(1E) This subsection requires the payment—

- (a) where the total of any amounts paid, payable or likely to be payable under the policy or security 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 or security 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 less, unless not less than £250,000 has already been paid under the policy or security in respect of such damage (in which case nothing is payable).”.

(3) In subsection (2)(c) (exceptions), after the words “death or bodily injury” there shall be inserted “or damage to property”.

(4) After subsection (4) there shall be inserted—

“(4A) Where an insurer becomes liable under this section by virtue only of the operation of subsection (1B) above to pay an amount in respect of a liability of a person who is insured by a policy or whose liability is covered by a security, he shall be entitled to recover the amount from that person.

(4B) 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 or whose liability is not covered by a security, he shall be entitled to recover the amount from that person or from any person who—

- (a) is insured by the policy, or whose liability is covered by the security, by the terms of which the liability would be covered if the policy insured all persons or, as the case may be, the security covered the liability of all persons; and
- (b) caused or permitted the use of the vehicle which gave rise to the liability.”.

(5) In subsection (6) (application to Scotland), for the words “in subsection (1)” there shall be substituted “and ‘by virtue of any such enactment’”.

#### **Meaning of “accident”**

4. After section 158(2) of that Act (interpretation of Part VI) there shall be added—

“(3) In this Part of this Act any reference to an accident includes a reference to two or more causally related accidents.”.

#### **Nuclear risks: consequential amendment**

5. In section 21(5) of the Nuclear Installations Act 1965 (a) (compulsory motor insurance etc. not required to cover injury for which there is a liability under certain provisions of that Act) after the words “injury to any person” there shall be inserted “, or damage to the property of any person,”.

#### **Definition of “normally based”**

6. In Regulation 2(2)(a) of the Motor Vehicles (Compulsory Insurance) (No.2) Regulations 1973(b) for the words “in which the vehicle is registered” there shall be substituted “of which the vehicle bears a registration plate”.

16th December 1987

*Paul Channon*  
Secretary of State for Transport

(a) 1965 c.57.

(b) S.I. 1973/2143, to which there are amendments not relevant to these Regulations.

**EXPLANATORY NOTE**

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

These Regulations implement the Second Council Directive 84/5/EEC of 30th December 1983(a) on the approximation of the laws of Member States relating to insurance against civil liability in respect of the use of motor vehicles ("the Council Directive").

Regulations 2 to 4 make amendments to Part VI of the Road Traffic Act 1972 ("the 1972 Act").

Regulation 2 amends section 145 of the 1972 Act (requirements for policies of insurance) so that, to comply with Part VI of the 1972 Act, a policy must provide insurance against damage to property caused by or arising out of the use of the vehicle as well as insurance against liability in respect of death or bodily injury. Certain exemptions from insurance against liability for property damage are given; in particular a policy is not required to provide insurance for more than £250,000 in respect of damage to property arising out of any one accident. Regulation 4, by amendment of section 158 of the 1972 Act, provides that an accident includes two or more causally related accidents.

Regulation 3 makes amendments to section 149 of the 1972 Act (which makes provision for insurers to satisfy judgments). The principal new provisions are as follows:

(1) An insurer is bound to satisfy a judgment which relates to a liability required to be covered by a policy under section 145 of the 1972 Act even if the judgment is obtained against a person not insured by the policy, subject to certain exceptions in the case of vehicles stolen or unlawfully taken (the new subsections (1A)(b) and (1C)). In these circumstances the insurer issuing the policy has rights of recovery against the user or an insured person who caused or permitted the use of the vehicle (the new subsection (4B)).

(2) For the purpose of the requirement of an insurer to satisfy a judgment, any provision in the policy which restricts the insurance by reference to the holding of a licence to drive a vehicle is to be disregarded (the new subsection (1B)). In these circumstances the insurer has a right of recovery against the insured person (the new subsection (4A)).

(3) In the case of damage to property, if the amount of the judgment is more than £250,000 provision is made that the insurer need only satisfy a proportion of the judgment (the new subsection (1E)).

Regulation 6 amends the definition of "normally based" in Regulation 2 of the Motor Vehicles (Compulsory Insurance) (No.2) Regulations 1973 in accordance with Article 4 of the Council Directive.