MALTA

ATT Nru. XXX ta' l-2002

ATT mahruġ b'liġi mill-Parlament ta' Malta.

ATT biex jemenda l-Ordinanza dwar l-Assigurazzjoni ta' Vetturi tal-Mutur għar-Riskji ta' Terzi Persuni, Kap. 104.

ACT No. XXX of 2002

AN ACT enacted by the Parliament of Malta.

AN ACT to amend the Motor Vehicles Insurance (Third-Party Risks) Ordinance, Cap. 104.

I assent.

(L.S.)

GUIDO DE MARCO
President

27th December, 2002

ACT No. XXX of 2002

AN ACT to amend the Motor Vehicles Insurance (Third-Party Risks) Ordinance, Cap. 104

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled and by the authority of the same, as follows:-

Short title and commencement.

1. The title of this Act is the Motor Vehicles Insurance (Third-Party Risks) (Amendment) Act, 2002. This Act shall be read and construed as one with the Motor Vehicles Insurance (Third-Party Risks) Ordinance, hereinafter referred to as "the principal law", and shall come into force on such date as the Minister responsible for transport may, by notice in the Gazette, appoint, and different dates may be so appointed for different provisions and different purposes thereof.

Amendment of article 2 of the principal law.

2. Article 2 of the principal law shall be amended as follows:

(a) the definition of "authorized insurer" shall be substituted by the following definition:

" "authorized insurer" means an undertaking which has received its official authorisation in Malta for the taking-up of business of direct insurance and which conducts the business of compulsory third party liability insurance in respect of the use of motor vehicles;";

(b) after the definition of "authorized insurer" the following new definition shall be inserted:

" "designated State" means a State listed as such by regulations made by the Minister responsible for transport;";

(c) after the definition of "driver" the following new definition shall be inserted:

" "establishment" in relation to an insurance undertaking means the head office, an agency or branch and includes any permanent presence of an undertaking in the territory of Malta or a designated State, even if that presence does not take the form of a branch or agency, but consists of an office managed by the undertaking's own staff or by an independent person who has authority to act for and on behalf of the undertaking;";

(d) in the definition of "foreign bureau" the words "when entering countries where insurance against such risks is compulsory" shall be deleted;

(e) after the definition of "foreign bureau" the following new definition shall be inserted:

" "green card system" means the international third party motor insurance system based on the Uniform Agreement between bureaux and the Multilateral Guarantee Agreement and such other agreement which may come into force from time to time;";

(f) after the new definition of "green card system" the following new definition shall be inserted:

" "injured party" means any person entitled to compensation in respect of any loss or injury caused by a motor vehicle;";

(g) after the new definition of "injured party" the following new definition shall be inserted:

" "insurance undertaking" means an undertaking which has received its official authorisation for the taking-up of business of direct insurance in Malta or in the territory of a designated State and which conducts the business of compulsory third party liability insurance in respect of the use of motor vehicles;";

(h) in the definition of "international certificate of insurance" for the words "to a visiting motorist under the authority of" there shall be substituted the words "on behalf of"; and in the Maltese text of the principal law, for the word "sigurta'" wherever it occurs there shall be substituted the word "assigurazzjoni";

(i) in the definition of "local bureau" the words "when entering countries where insurance against such risks is compulsory" shall be deleted;

(j) after the definition of "local bureau" the following new definition shall be inserted:

" "Malta" has the same meaning as is assigned to it in Article 124 of the Constitution;

(k) after the new definition of "Malta" the following new definition shall be inserted:

" "Malta's international commitments" means Malta's commitments, responsibilities and obligations arising out of membership of or affiliation to or relationship with any international global or regional organisation or grouping of countries or out of any treaty, convention or other international agreement however called, whether bilateral or multilateral, to which Malta is party;

(l) the definition of "motor cycle" shall be deleted;

(m) the definition of "motor vehicle" shall be substituted by the following definition:

" "motor vehicle" means any vehicle intended for travel on land and propelled by mechanical power, but not running on rails, and any trailer, whether or not coupled;"; and in the Maltese text of the principal law, for the words "vettura tal-mutur" and "vetturi tal-mutur" wherever they occur there shall be substituted the words "vettura bil-mutur" and "vetturi bil-mutur" respectively;

(n) after the definition of "motor vehicle" the following new definition shall be inserted:

" "Multilateral Guarantee Agreement" means the Multilateral Guarantee Agreement between national insurers' bureaux of 15 March 1991, as from time to time amended, supplemented or replaced;";

(o) in the definition of "policy of insurance" the words "issued to a visiting motorist and valid for Malta" shall be deleted;

(p) after the definition of "prescribed" the following new definition shall be inserted:

" "Protection and Compensation Fund" means the Protection and Compensation Fund established under article 49 of the Insurance Business Act;"; and

(q) after the definition of "road" the following new definition shall be inserted:

" "territory in which the motor vehicle is normally based" means -

(i) the territory of the State of which the motor vehicle bears the registration plate; or

(ii) in cases where no registration is required for a type of motor vehicle but the vehicle bears an insurance plate, or a distinguishing sign analogous to the registration plate, the territory of the State in which the insurance plate or the sign is issued; or

(iii) in cases where neither registration plate nor insurance plate nor distinguishing sign is required for certain types of motor vehicle, the territory of the State in which the person who has custody of the vehicle is permanently resident;

and "motor vehicle which is normally based in Malta" shall be interpreted accordingly;

(r) after the new definition of "territory in which the motor vehicle is normally based" the following new definition shall be inserted:

" "third country" means a State other than Malta and which is not a designated State;".

3. Article 3 of the principal law shall be amended as follows: Amendment of article 3 of the principal law.

(a) immediately after subarticle (1) thereof the following new subarticle (1A) and 1(B) shall be inserted:

"(1A) It shall be presumed that there was not a policy of insurance in force in terms of subarticle (1) of this article, unless the person charged with an offence under subarticle (1) shall show the contrary through the production of a certificate of insurance issued under subarticle (4) of article 4 of this Ordinance.";

"(1B) It shall be a valid defence, in prosecution for an offence under subarticle (1) of this article, for the defendant to prove that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of the offence."; and

(b) in paragraph (b) of subarticle (4) immediately after the words "to any specified class of motor vehicles to which" the words "or to certain natural or legal persons, whether public or private, to whom" shall be inserted, and immediately at the end thereof there shall be inserted the following proviso

"Provided that any loss or injury caused in the territory of a designated State by a motor vehicle belonging to a natural or legal person, whether public or private, in respect of whom a derogation is provided under this Ordinance from the application of subarticle (1) of this article, shall be compensated according to criteria and procedures to be prescribed by regulations by the Minister responsible for Transport made under this article."; and

(c) sub-article (2) shall be amended as follows:

(i) in paragraph (a) thereof the words "two hundred and fifty maltese liri (Lm250)" shall be substituted by the words "one thousand maltese liri (Lm1,000)" and the words "five hundred maltese liri (Lm500)" shall be substituted by the words "two thousand maltese liri (Lm2,000)";

(ii) in paragraph (b) thereof the words "five hundred maltese liri (Lm500)" shall be substituted by the words "two thousand maltese liri (Lm2,000)" and the words "seven hundred and fifty maltese liri (Lm750)" shall be substituted by the words "two thousand five hundred maltese liri (Lm2,500)"; and

(iii) in paragraph (c) thereof the words "seven hundred and fifty maltese liri (Lm750)" shall be substituted by the words "one thousand maltese liri (Lm2,500)" and the words "one thousand maltese liri (Lm1,000)" shall be substituted by the words "three thousand maltese liri (Lm3,000)".

4. Article 4 of the principal law shall be amended as follows: Amendment of article 4 of the principal law.

(a) subarticle (1) thereof shall be substituted by the following new subarticles (1) and (1A):

"(1) In order to comply with the requirements of this Ordinance, a policy of insurance in respect of the use of a motor vehicle which is normally based in Malta or in the territory of a designated State must, in addition to being a policy of insurance defined in article 2, cover:

(a) any civil liability up to such liability, if any, as the Minister responsible for transport with the concurrence of the Minister responsible for finance may from time to time prescribe by regulations under this article, which may be incurred in respect of the death of or bodily injury to any person, including all passengers (other than the driver), or damage to any property, caused by the motor vehicle in Malta; and

(b) any loss or injury up to such liability, if any, as the Minister responsible for transport with the concurrence of the Minister responsible for finance may from time to time prescribe by regulations under this article, caused by the motor vehicle in the territory of a designated State, according to the law in force in that designated State,; and

(c) any loss or injury up to such liability, if any, as the Minister responsible for transport with the concurrence of the Minister responsible for finance may from time to time prescribe by regulations under this article, caused by the motor vehicle which is suffered by a Maltese national or a national of a designated State during a direct journey between Malta and the territory of a designated State or between the territories of two designated States, if there is no foreign bureau responsible for the territory which is being crossed:

Provided that such a policy of insurance shall not be required to cover:

(i) liability for such damage to third party property as exceeds fifty thousand Maltese liri (Lm50,000) arising from any one claim or such higher sum as may be prescribed by regulation made

by the Minister responsible for Transport under this article; or

(ii) liability for 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

(iii) any liability for damage to third-party property on or in the insured motor vehicle or in the possession of the person insured; or

(iv) any contractual liability.";

"(1A) A policy of insurance in respect of the use of a motor vehicle which is normally based in Malta or in the territory of a designated State must cover, on the basis of a single premium, the entire territory of Malta and all designated States, and guarantee, on the basis of the same single premium:

(a) in Malta, the cover required under this Ordinance; and

(b) in each designated State, the cover required by the law of that State or the cover required by the law of the State in the territory of which the vehicle is normally based if that cover is higher."; and

(b) in subarticle (4) thereof the words "Except where a policy of insurance consists of an international certificate of insurance," shall be deleted and the words "a policy" shall be substituted by the words "A policy".

Addition of new article 5 to the principal law.

5. Immediately after article 4 of the principal law, the following new article 5 shall be inserted:

"Requirements in respect of policies regarding certain motor vehicles entering Malta.

5. (1) A motor vehicle which is normally based in the territory of a third country shall, before entering Malta, be provided with an international certificate of insurance or with such other certificate as may be prescribed by the Minister responsible for Transport under this article, establishing that the motor vehicle is insured in accordance with subarticles (1) and (1A) of article 4:

Provided that this subarticle shall not apply to such types of motor vehicles which are normally based in the territory of a third country to which the Minister responsible for Transport shall by regulation direct that this subarticle shall not apply.

(2) If a designated State has provided for a derogation in respect of a type of motor vehicles or certain motor vehicles having a special plate from the obligation of insurance cover against civil liability in respect of the use of motor vehicles which are normally based in the territory of that State, the person having custody of such a motor vehicle may be required to produce, at the time of entry into Malta of the motor vehicle, a valid international certificate of insurance or to conclude an insurance contract complying with the requirements of this Ordinance.".

Amendment of article 6 of the principal law.

6. In article 6 of the principal law for the words "article 4(1)(b)" there shall be substituted the words "subarticle (1) of article 4".

Addition of new article 7A to the principal law.

7. Immediately after article 7 of the principal law, the following new article 7A shall be inserted:

"Random checks.

7A. The Minister responsible for Transport may provide, by way of regulations under this article, for the making of random checks on the insured status of motor vehicles which are normally based in the territory of a designated State, or motor vehicles which are normally based in the territory of a third country entering Malta from the territory of a designated State.".

Addition of new articles 9A to 9E to the principal law.

8. Immediately after article 9 of the principal law, the following new article 9A shall be inserted:

"Direct right of action.

9A. (1) An injured party resident in Malta or a designated State and entitled to compensation in respect of any loss or injury resulting from an accident caused by the use of a motor vehicle which is insured by an authorized insurer and normally based in Malta or the territory of a designated State, shall have a direct right of action against the authorized insurer in Malta, if:

(a) the accident occurred in Malta or a designated State; or

(b) the accident occurred in a third country whose foreign bureau has joined the green card system.

(2) An injured party resident in Malta and entitled to compensation in respect of any loss or injury resulting from an accident caused by the use of a motor vehicle which is insured and normally based in the territory of a designated State, shall have a direct right of action against the insurance undertaking issuing the policy of insurance and shall be entitled to exercise his direct right of action against the insurance undertaking's claims representative in Malta, if:

(a) the accident occurred in a designated State; or

(b) the accident occurred in a third country whose foreign bureau has joined the green card system.

Provisions as to claims representatives.

9B. (1) An authorized insurer shall appoint a claims representative in every designated State, which claims representative shall handle and settle claims arising from an accident in the cases referred to in subarticle (1) of article 9A of this Ordinance:

Provided that the accident from which the claim arises is caused by the use of a motor vehicle which is insured through an establishment in Malta or a designated State and is normally based in Malta or the territory of a designated State, and that the injured party is not resident in Malta or in the establishment's State or in the State where the vehicle is normally based.

(2) An authorized insurer shall choose its claims representative at its own discretion:

Provided that the claims representative shall:

(i) be resident or established in the designated State where he is appointed; and

(ii) be capable of dealing with cases in the official language or languages of the designated State of residence of the injured party.

(3) The claims representative shall, in relation to the claims referred to in subarticle (1), collect all information

necessary in connection with the settlement of the claims and shall take the measures necessary to negotiate a settlement of claims.

(4) The authorized insurer shall take all necessary measures to vest the claims representative with sufficient powers to represent the authorized insurer in relation to injured parties in the cases referred to in subarticle (1) and to meet their claims in full.

(5) The requirement of appointing a claims representative shall not preclude the right of the injured party or his insurance undertaking to institute proceedings directly against the person who caused the accident or the authorized insurer.

(6) When the injured party presents his claim for compensation either directly to the authorized insurer of the person who caused the accident or to its claims representative:

(a) in cases where liability is not contested and the damages have been quantified, the authorized insurer of the person who caused the accident or his claims representative is required to make a reasoned offer of compensation; or

(b) in cases where liability is denied or has not been clearly determined or the damages have not been fully quantified, the authorized insurer to whom the claim for compensation has been addressed or his claims representative is required to provide a reasoned reply to the points made in the claim,

in either case within three months of the date when the injured party presented his claim.

(7) If no offer or reply such as referred to in subarticle (6) is made within the three-month time limit, the authorized insurer of the person who caused the accident shall be liable to a penalty not exceeding five thousand liri, payable to the Protection and Compensation Fund, as may be prescribed, such penalty to be receivable as a civil debt by the said fund. If an offer such as is referred to in paragraph (a) of subarticle (6) is not made within the three-month time limit, interest shall be payable by the authorized insurer on the amount of compensation offered or awarded by the Court

to the injured party: provided that, if interest is due it shall commence to run from the date that the claim is presented by the injured party, until the date compensation is received by the injured party concerned, and in any case the insurer shall be liable to pay interest on the difference in the amount between the offer of compensation made under subarticle (6) of this article and the amount actually received by the injured party.

(8) The aforementioned provisions are not intended to, or do not restrict any rights which the injured party, or its authorized insurer or insurance undertaking as the case may be, may have or which would enable such persons to begin legal proceedings against the person causing the accident or that person's authorized insurer or insurance undertaking as the case may be.

(9) The appointment of a claims representative shall not in itself constitute the opening of a branch within the meaning of the Insurance Business Act and the claims representative shall not be considered an establishment within the meaning of the Insurance Business Act or for the purposes of any law relating to jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

Provisions as to the compensation body.

9C. (1) There shall be established or approved by the Minister responsible for Transport, a compensation body which shall compensate injured parties resident in Malta in accordance with this article, in the cases referred to in subarticle (2) of article 9A of this Ordinance, if the accident from which the claim arises is caused by the use of a motor vehicle which is insured through an establishment in a designated State, and is normally based in the territory of a designated State.

(2) An injured party resident in Malta may present a claim to the compensation body:

(a) if, within three months of the date when the injured party presented his claim for compensation to the insurance undertaking issuing the policy of insurance in respect of the use of the motor vehicle which caused the accident or its claims representative, the insurance undertaking or its claims representative has not provided a reasoned reply to the points made in the claim; or

(b) if the insurance undertaking issuing the policy of insurance in respect of the use of the motor vehicle which caused the accident has failed to appoint a claims representative in Malta. Provided that, an injured party may not present a claim to the compensation body if he has presented a claim for compensation directly to the insurance undertaking and if he has received a reasoned reply within three months of presenting the claim:

Provided that an injured party may not present a claim to the compensation body if he has taken legal action directly against the insurance undertaking.

(3) The compensation body shall take such action as may be prescribed by regulations made by the Minister responsible for Transport under this article, within two months of the date when the injured party presents a claim for compensation to it but shall terminate its action if the insurance undertaking, or its claims representative, subsequently makes a reasoned reply to the claim.

(4) The compensation body shall immediately inform:

(a) the insurance undertaking of the motor vehicle the use of which caused the accident or its claims representative;

(b) the compensation body in the designated State of the insurance undertaking's establishment which issued the policy;

(c) if known, the person who caused the accident,

that it has received a claim from the injured party and that it will respond to that claim within two months of the presentation of that claim.

(5) The payment of compensation shall be subject to such limitations and restrictions as may be prescribed by regulation made under subarticle (3). The compensation body shall not make the payment of compensation conditional on the injured party's establishing in any way that the person liable is unable or refuses to pay.

(6) If the compensation body compensates the injured party and has claimed reimbursement of the sum paid by way of compensation from the compensation body in the designated State of the insurance undertaking's establishment which issued the policy of insurance, the latter body shall be subrogated to the injured party in his rights against the person who caused the accident or his insurance undertaking in so far as the compensation body in Malta has provided compensation for the loss or injury suffered.

(7) If an authorized insurer in Malta issued the policy of insurance in respect of the use of the motor vehicle which caused the accident in the cases referred to in subarticle (1) of article 9B, the compensation body in the injured party's designated State of residence which has compensated such injured party shall be entitled to claim reimbursement of the sum paid by way of compensation from the compensation body in Malta, in which case the latter body shall be subrogated to the injured party in his rights against the person who caused the accident or his authorized insurer in so far as the compensation body in the injured party's designated State of residence has provided compensation for the loss or injury suffered.

Damage or injury caused by unidentified or uninsured motor vehicles.

9D. (1) If the death of or bodily injury to any person or the damage to any property, is caused by an unidentified motor vehicle or a motor vehicle for which the insurance obligation provided for in subarticle (1) of article 4 has not been satisfied, the injured party shall have the right to apply directly to the Protection and Compensation Fund. The Protection and Compensation Fund shall give the injured party a reasoned reply regarding the payment of compensation, on the basis of information provided by the injured party at the Protection and Compensation Fund's request.

(2) The payment of compensation shall be subject to such conditions, limitations and restrictions as may be prescribed by regulations made under paragraph (b) of article 49 of the Insurance Business Act. The Protection and Compensation fund shall not make the payment of compensation conditional on the injured party's establishing in any way that the person liable is unable or refuses to pay.

(3) In the event of a dispute between the Protection and Compensation Fund and the authorized insurer or insurance undertaking which issued the policy of insurance,

as to who of them is ultimately liable to pay compensation, the latter shall be responsible in the first instance for paying compensation to the injured party without delay. If it is ultimately decided that the other party should have paid all or part of the compensation, that other party shall reimburse accordingly the party which has paid.

Compensation from the compensation body where the motor vehicle or the insurance undertaking is unidentified.

9E. (1) An injured party resident in Malta may apply for compensation from the compensation body referred to in subarticle (1) of article 9C if it is impossible to identify the motor vehicle which caused the accident or if, within two months following the accident, it is impossible to identify the insurance undertaking:

Provided that the accident:

(i) occurred in a designated State by the use of a motor vehicle insured and normally based in Malta or a designated State; or

(ii) occurred in a third country whose foreign bureau has joined the green card system by the use of a motor vehicle insured and normally based in Malta or a designated State; or

(iii) was caused by a motor vehicle covered by article 5.

(2) The compensation body shall provide the compensation in accordance with the provisions of subarticle (1) of article 4 and article 9D.

(3) A body in a designated State equivalent to the compensation body in Malta as referred to in subarticle (1) of article 9C, which has compensated an injured party resident in that State, under conditions equivalent to those in subarticle (7) of article 9C, shall be entitled to claim reimbursement against the Protection and Compensation Fund:

(a) where the insurance undertaking cannot be identified and the motor vehicle is normally based in Malta;

(b) where the motor vehicle cannot be identified and the accident took place in Malta;

(c) where the motor vehicle is normally based in the territory of a third country and the accident took place in Malta.".

Amendment of article 10 of the principal law.

9. (a) Immediately after the words "interest on that sum" in subarticle (1) of article 10 of the principal law, there shall be added the words "and that sentence shall two days after it is notified on the insurer by judicial act constitute an executive act against the insured for all purposes of the Code of Organisation and Civil Procedure, and may be enforced against him".

(b) paragraph (iii) of subarticle (2)(c) of article 10 of the principal law shall be substituted by the following new paragraphs:

"(iii) before the happening of the said event, the authorized insurer has filed a judicial letter against the person to whom the certificate was issued, made or delivered, in respect of the failure to surrender such certificate, and such letter was notified in writing to such person at least two working days before the happening of such event; or

(iv) after the happening of the said event, but before the expiration of a period of fourteen days from the taking effect of the cancellation of the policy, the authorized insurer has commenced proceedings under this Ordinance in respect of the failure to surrender such certificate.".

Amendment of article 12 of the principal law.

10. Article 12 of the principal law shall be amended as follows:

(a) in the marginal note thereof there shall be deleted the words "in respect of passengers carried for hire or reward";

(b) in subarticle (1) the words "article 4(1)(b)" shall be substituted by "subarticle (1) of article 4";

(c) after subarticle (2) there shall be inserted the following new subarticle (3) and (4):

"(3) Any clause contained in the policy of insurance issued in accordance with subarticle (1) of article 4 which excludes from insurance cover under the policy the use or driving of motor vehicles by:

(a) persons who do not have express or implied authorisation thereto; or

(b) persons who do not hold a licence permitting them to drive the motor vehicle concerned; or

(c) persons who are in breach of the prescribed technical requirements concerning the condition and safety of the motor vehicle concerned,

shall be void in respect of claims by third parties:

Provided that the clause referred to in paragraph (a) of this subarticle may be invoked against persons who voluntarily entered the motor vehicle the use of which caused the damage or injury, if the authorized insurer can prove that such persons knew the motor vehicle was stolen or was used without authorisation

(4) Any clause contained in the policy of insurance which excludes the members of the family of the insured person, driver or any other person who incurs civil liability, and whose liability is covered by the policy of insurance as referred to in subarticle (1) of article 4, from insurance in respect of their personal injuries by virtue of that relationship shall be void.".

11. Immediately after article 14 of the principal law, there shall be inserted the following new article:

Addition of new article 15 to the principal law.

"Duty to give notice to the insurer.

15. (1) Where an event occurs in relation to a motor vehicle in consequence of which an authorized insurer may become liable to indemnify an injured party, the insured person shall as soon as practicable after the occurrence of the event and in any case within two weeks, or where the event did not occur in his presence, within two weeks after the occurrence of the event first came to his knowledge, give to the authorized insurer by whom the policy was issued, notice in writing of the occurrence of the event together with such particulars of the event as are in his knowledge or may be procured by him, and are reasonably required by the insurer.

(2) Where an event occurs in relation to a motor vehicle in consequence of which an authorized insurer may become liable to indemnify an injured party, the person who was actually using the motor vehicle when the aforementioned event occurred shall:

(a) unless he is himself the insured under the policy, give to such insured person as soon as practicable after the occurrence of the event, and in any case within two weeks, notice of the occurrence of the event together with full particulars of the event; and

(b) give to the authorised insurer by whom the policy was issued, as soon as practicable after the occurrence of the event, and in any case within two weeks, notice in writing of the occurrence of the event together with such particulars of the event as are in his knowledge or may be procured by him, and are reasonably required by the insurer.

(3) Where an authorized insurer has reasonable grounds to believe that an event has occurred in relation to a motor vehicle in consequence of which the insurer may become liable to indemnify an injured party, then, notwithstanding that the person who is required to give notice to him of such event under subarticles (1) or (2) fails to do so, he shall handle such event as a claim made by the insured under the policy of insurance.

(4) Where a claim is made against an authorized insurer in respect of any liability as is required to be covered by a policy of insurance in respect of the use of a motor vehicle under this Ordinance, it shall be presumed that the insured has agreed to the payment of the claim, if:

(a) the authorized insurer has given written notice, by registered mail or judicial letter, to the insured or the person acting on his behalf of his intention to pay the claim to the injured party, and the amount of such payment; and

(b) the insured has not, within ten days of receipt of such notice, given written notice to the authorized insurer of his objection to such payment.

(5) The authorized insurer shall be entitled to recover the legal and judicial costs and interest from the insured person, if:

(a) the insurer has provided the insured person with written information in an intelligible form about the consequences of his objection; and

(b) the insured person objected to the claim; and

(c) the insured person is found liable in a final judgment:

Provided that the authorized insurer shall only be entitled to recover the said costs and interest incurred in the proceedings leading to the final judgment and in proportion to the insured person's liability as established by the final judgment.".

12. Article 18 of the principal law shall be amended as follows: Amendment of article 18 of the principal law.

(a) the present provision shall be renumbered as subarticle (1) thereof ; and

(b) after subarticle (1) thereof as renumbered there shall be inserted the following new subarticle (2) and (3):

"(2) the person having custody of the vehicle shall without delay, if so requested by the persons involved in a road traffic accident, inform such persons of the identity of the insurer covering the liability arising out of the use of any motor vehicle involved in the accident.

(3) If an accident is caused in Malta by a motor vehicle which is normally based in the territory of a designated State, the local bureau shall obtain information as to the territory in which the motor vehicle is normally based, and as to its registration mark, if any; and in so far as is possible, as to the details of the insurance of the motor vehicle, as they normally appear on the international certificate of insurance, which are in possession of the person having custody of the vehicle, to the extent that these details are required by the designated State in whose territory the vehicle is normally based. The local bureau shall communicate the said information to the foreign bureau of the designated State in whose territory the vehicle is normally based.".

13. Immediately after article 18 of the principal law, there shall be inserted the following new article: Addition of new article 18A to the principal law.

"Provisions relating to the information centre.

18A. (1) There shall be approved by the Minister responsible for transport an information centre for the purposes of facilitating certain injured parties resident in Malta or a designated State to seek compensation.

(2) The information centre shall be responsible for:

(a) keeping a register containing the following information:

(i) the registration numbers of motor vehicles which are normally based in Malta;

(ii) the numbers of the policies of insurance covering the use of motor vehicles which are normally based in Malta for the risks other than carrier's liability, classified in class 10 of Part I of the Third Schedule to the Insurance Business Act, and where the period of validity of the policy of insurance has expired, also the date of termination of the insurance cover;

- the number of the international certificate of insurance or such other certificate as may be prescribed by the Minister responsible for transport under this article, if the motor vehicle is covered by such a document in case the motor vehicle benefits from the derogation as is referred to in subarticle (2) of article 5;

(iii) authorized insurers and insurance undertakings covering the use of motor vehicles for the risks other than carrier's liability, classified in class 10 of Part I of the Third Schedule to the Insurance Business Act, and claims representatives appointed by such authorized insurers and insurance undertakings;

(iv) the list of motor vehicles which, in Malta and in each designated State, benefit from the derogation from the requirement for civil liability insurance cover;

(v) regarding the motor vehicles referred to in subparagraph (iv):

- the name of the authority or the body designated as responsible for compensating injured parties in cases where a State has not signed the Multilateral Guarantee Agreement, if the motor

vehicle benefits from the derogation in respect of certain natural or legal persons as referred to in paragraph (b) subarticle (4) of article 3;

- the name of the body covering the motor vehicle in Malta or in the designated State where it is normally based if the motor vehicle benefits from the derogation in respect of such types of vehicle having a special plate as are referred to in subarticle (2) of article 5;

(b) for co-ordinating the compilation and dissemination of that information; and

(c) for assisting entitled persons to be apprised of the information mentioned in subparagraphs (i), (ii), (iii), (iv) and (v) of paragraph (a) of this subarticle.

The information under subparagraphs (i), (ii) and (iii) of paragraph (a) of this subarticle must be preserved for a period of seven years after the termination of the registration of the motor vehicle or the termination of the insurance contract whichever is the earlier.

(3) Authorized insurers and insurance undertakings referred to in subparagraph (iii) of paragraph (a) of subarticle (2) shall notify to the Maltese information centre and to the information centres of all designated States the name and address of the claims representative which they have appointed in Malta and in each of the designated States.

(4) An injured party shall be entitled, for a period of seven years after the accident, to obtain without delay from the information centre the following information:

(a) the name and address of the relevant authorized insurer or insurance undertaking;

(b) the number of the relevant policy of insurance; and

(c) the name and address of the relevant authorized insurer's or insurance undertaking's claims representative in the State of residence of the injured party:

Provided that the injured party is resident in Malta or the motor vehicle involved is normally based in Malta or the accident occurred in Malta.

(5) The information centre shall provide the injured party with the name and address of the owner or usual driver or the registered keeper of the motor vehicle if the injured party has a legitimate interest in obtaining this information. For the purposes of this subarticle, the information centre shall address itself in particular:

(a) to the authorized insurer; or

(b) to the relevant vehicle registration agency.

(6) If the motor vehicle benefits from the derogation in respect of such natural or legal persons as are referred to in paragraph (b) of subarticle (4) of article 3, the information centre shall inform the injured party of the name of the authority or body designated in accordance with the proviso of paragraph (b) of subarticle (4) of article 3 as responsible for compensating injured parties in cases where a State has not signed the Multilateral Guarantee Agreement.

(7) If the vehicle benefits from the derogation as is referred to in subarticle (2) of article 5, the information centre shall inform the injured party of the name of the body covering the vehicle in the country where it is normally based.

(8) The processing of personal data resulting from this article shall be carried out in accordance with the Data Protection Act.".

Amendment of article 23 of the principal law.

14. Immediately after paragraph (1) thereof, there shall be inserted the following new paragraph:

" (f) as to require that a policy of insurance, insure such person, persons or classes of persons, as may be specified in the policy, against any liability for moral damages arising under any other law"

(b) Subarticle (2) thereof, shall be renumbered as subarticle (3) thereof: and

(c) Immediately after subarticle (1) thereof, there shall be inserted the following new subarticle (2)

(2) The exercise of the powers conferred by this article shall be subject to any obligations or restrictions arising from Malta's international commitments"

15. Immediately after article 23 of the principal law, there shall be inserted the following new article: Addition of new article 24 of the principal law.

"Application of certain provisions if reciprocity is required by a third country.

24. If an injured party's right to apply for the payment of compensation to a body with the task to provide compensation for loss or injury caused by an unidentified or uninsured motor vehicle in a third country is on the condition of reciprocity, the provisions of article 9D shall take effect in respect of such third country, its nationals or residents from a date to be appointed by the Minister responsible for Transport.".

16. Article 15 of the Motor Vehicles Registration Tax Act shall be repealed. Amendment of the Motor Vehicles Registration Tax Act, Cap. 368.

Passed by the House of Representatives at Sitting No. 841 of the 17th December, 2002.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives

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