L.N. 366 of 2004

MOTOR VEHICLES INSURANCE (THIRD-PARTY RISKS) ORDINANCE (CAP. 104)

Motor Vehicles (Insurance Information Centre) Regulations, 2004

IN exercise of the powers conferred by article 18A of the Motor Vehicles Insurance (Third-Party Risks) Ordinance, the Minister for Urban Development and Roads, has made the following regulations:-

Part I

PRELIMINARY

Title and commencement.

1. (1) The title of these regulations shall be the Motor Vehicles (Insurance Information Centre) Regulations, 2004.

(2) These regulations shall come into force on 30th July, 2004.

Interpretation.

2. In these regulations, unless the context otherwise requires:-

"the Authority" means the Malta Transport Authority;

"EEA State" means a State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on the 2nd May, 1992 and the Protocol adjusting the Agreement signed at Brussels on the 17th March, 1993, and at all times shall include the State of Malta;

"European insurance policy" means an insurance policy issued in an EEA State fulfilling the requirements of Article 3 of the first motor insurance directive where the territory in which the vehicle the use of which is insured, is normally based is an EEA State other than Malta;

"first motor insurance directive" means Council Directive 72/166/EEC of the 24th April, 1972 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles, and to the enforcement of the obligation to insure against such liability;

"fourth motor insurance directive" means the Directive of the European Parliament and the Council of the 16th May, 2000 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles and amending Council Directives 73/239/EEC and 88/357/EEC (No. 2000/26/EC);

"foreign information centre" means a person or body established or approved as an information centre in an EEA State other than Malta by virtue of Article 5(1) of the fourth motor insurance directive;

"information centre" means the Motor Insurance Information Centre;

"Malta insurance policy" means a policy of insurance (including a covering note) covering the use of a vehicle on a road or other public place in Malta which fulfils the requirements prescribed in the Ordinance;

"the Motor Insurance Information Centre" means the Motor Insurance Information Centre established within the Malta Transport Authority;

"the Ordinance" means The Motor Vehicles Insurance (Third-Party Risks) Ordinance; Cap. 104.

"registered owner" in relation to a vehicle means the person, whether as an individual or in representation of a company, partnership or cooperative society, in whose name a motor vehicle is registered;

"subscribing State" means a State other than an EEA State whose national insurer's bureau as defined in Article 1(3) of the first motor insurance directive has joined the Green Card System;

"vehicle" means any motor vehicle intended for travel on land and propelled by mechanical power, but not running on rails, and any trailer, whether or not coupled.

Part II

THE MOTOR INSURANCE INFORMATION CENTRE

Scope and applicability.

3. (1) The Motor Insurance Information Centre shall be responsible to perform all the functions set out in article 18A of the Ordinance.

(2) The information centre shall establish a means of access to the information specified in sub-article (2) of article 18A of the Ordinance and in regulations 5, 6 and 7 of these regulations in a manner whereby it can co-ordinate and disseminate that information for the purposes of these regulations.

Duration to keep information.

4. (1) The information centre shall retain access to the information held by it for a period not being less than that established in sub-article (2) of article 18A of the Ordinance, which period is to commence on the day immediately following the date of expiry of the policy of insurance to which that information relates.

(2) Where the information necessary to enable the information centre to respond to a request from a person under regulation 9 of these regulations does not form part of the information held by it, the information centre shall obtain from the foreign information centre of the territory in which the vehicle is normally based such information as may from time to time be required so as to enable it to comply with regulation 9.

(3) Where the information centre is satisfied that a valid request for the name and address of the registered owner of a vehicle has been made to it pursuant to regulation 9, and such information is not available to it, it shall immediately obtain and respond to any such request from such other source as is available to it.

(4) The information centre shall co-operate with every foreign information centre to the extent necessary to enable those centres to discharge their functions under their international commitments.

Information to be held by the information centre.

5. The information centre shall keep the following information:–

(a) a list of all vehicles normally based in Malta, the names and addresses of their registered owners and the registration and system numbers assigned to them by the Authority;

(b) a list of all vehicles normally based in Malta which take advantage of the derogation provided in article 5 of the Ordinance, and the registration numbers assigned to each of these vehicles;

(c) in the case of a vehicle mentioned in paragraph (b) above, the name and address of the person or body designated as responsible for compensating an injured party if an accident is caused by or arises out of the use of such a vehicle;

(d) the information which is specified in regulation 6 of these regulations.

Information requested.

6. In addition to the information to be tendered pursuant to sub-articles (3) and (4) of article 18A of the Ordinance, each authorized insurer or insurance undertaking shall in relation to every Malta insurance policy which covers a vehicle which is normally based in Malta, provide the information centre with the following information:

(a) the number of the insurance policy,

(b) the name of the policyholder,

(c) the registration number of the vehicle the use of which is covered by the policy,

(d) the commencement date of such policy,

(e) the expiry date of such policy,

(f) the name of the insurance agent, if any, wherever such policy is issued through the intervention of an insurance agency.

Information in cases of certain derogations.

7. (1) Every person who takes advantage of the derogation provided in article 4(a) of the first motor insurance directive in respect of any vehicle normally based in Malta shall maintain a record of the following information for the period of time stipulated in regulation 4:

(a) the registration mark of the vehicle, and

(b) the period during which the use of the vehicle is or was authorised by virtue of that derogation.

(2) Every such person shall supply immediately to the information centre the information set out in sub-regulation (1) of this regulation, in respect of any vehicle for which that person is or was the user for more than 14 days.

(3) Where the information centre so requests, every such person shall supply to it immediately so much of the information set out in sub-regulation (1) of this regulation as may be specified in that request in respect of any vehicle which that person is or was the user.

Form and frequency in supplying information.

8. The information specified in regulations 5, 6 and 7 of these regulations is to be supplied to the information centre in such form and within such time as may be established from time to time by the information centre.

Disclosure of information.

9. (1) Where this regulation applies, an injured party or the Commissioner of Police or the Warden Agency may request the information centre to provide to him the information described in sub-regulation (4) of this regulation in respect of every vehicle involved in the accident which is normally based in an EEA State.

(2) This regulation applies where -

(a) an accident, caused by or arising out of the use of a vehicle which is normally based in an EEA State, occurs in Malta;

(b) an accident, caused by or arising out of the use of a vehicle, occurs on the territory of –

(i) an EEA State other than Malta, or

(ii) a subscribing State, and that vehicle is normally based in Malta;

(c) an accident, caused by or arising out of the use of a vehicle which is normally based in an EEA State, occurs on the territory of –

(i) an EEA State other than Malta, or

(ii) a subscribing State, and an injured party resides in Malta.

(3) The information centre shall provide the information requested if the request is –

(a) made in writing,

(b) contains sufficient evidence to show it is connected with an accident as is mentioned in sub-regulation (2) of this regulation, and

(c) contains sufficient information to identify the vehicle in respect of which the information is being sought.

(4) The information which may be requested in respect of a vehicle is –

(a) the name and address of any insurer who has issued a Malta insurance policy or European insurance policy covering the use of that vehicle at the time the accident occurred;

(b) the number of that policy;

(c) the name and address of that insurer's claims representative in the State of residence of the injured party; and

(d) where the information centre is satisfied that the injured party has a legitimate interest in obtaining that information, the name and address of the registered owner of the vehicle or, where the territory in which the vehicle is normally based is an EEA State other than Malta, the person having custody of the vehicle.

(5) Where an injured party, or the Commissioner of Police or the Warden Agency has requested information in respect of a vehicle which may lawfully be used on a road or other public place in Malta without there being in force a Malta insurance policy, the information centre shall provide the injured party, or the Commissioner of Police or the Warden Agency, with the name and address of the person or body designated as responsible for compensating injured parties and referred to in paragraph (d) of sub-regulation (4) of this regulation.

(6) The information centre shall provide information pursuant to this regulation in writing immediately after it receives the request.