

# **FIRST SUPPLEMENT TO THE GIBRALTAR GAZETTE**

**No. 2,958 of 16th January 1997**

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I ASSENT,

HUGO WHITE,

GOVERNOR.

16th January, 1997.



**GIBRALTAR**

**No. 7 of 1997**

**AN ORDINANCE** to transpose into the law of Gibraltar Council Directive 90/232 EEC on the approximation of laws of the member States relating to insurance against civil liability in respect of the use of motor vehicles.

**ENACTED** by the Legislature of Gibraltar.

**Title and commencement.**

1. This Ordinance may be cited as the Insurance (Motor Vehicles) (Third Party Risks) Ordinance 1986 (Amendment) Ordinance 1997 and shall come into effect on such day as the Governor may appoint by notice in the Gazette.

**Amendment to the Insurance (Motor Vehicles) (Third Party Risks) Ordinance 1986.**

2. The Insurance (Motor Vehicles) (Third Party Risks) Ordinance 1986 is amended as follows -

- (a) in section 2(1) -
  - (i) by substituting for the definition of “motor vehicle” the following definition -

“ “motor vehicle” means any vehicle propelled by mechanical power whether constructed for use on roads or otherwise and any trailer whether or not coupled thereto; but shall exclude any mechanically propelled vehicle intended for use on rails or specially prepared ways;”
  - (ii) by deleting from the definition of “relevant foreign state” the words, “Austria”, “Finland”, “the German Democratic Republic” and “Sweden”;
- (b) by substituting for section 4(1)(a) sub-paragraph (ii) the following sub-paragraph -

“(ii) insures such person or classes of person as may be referred to in the policy in respect of the liabilities mentioned in sub-section (1A) .”;
- (c) in section 4(1) in paragraph (b) by inserting after the words “the use of the vehicle on a road in Gibraltar” the words-

“if -

  - (i) according to the law of that territory him or them would be required to be insured in respect of a civil liability which would arise under that law as a result of that event if the place where the vehicle was used when the event occurred was in that territory, and

- (ii) the cover required by that law would be higher than that required by sub-paragraph (a),”;
- (d) in section 4 by inserting after sub-section (1) the following sub-section –

“(1A) The insurer shall insure such person or classes of person in respect of any liability which was to be incurred by him or them in respect of –

  - (a) any civil 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 by, or arising out of, the use of the vehicle in Gibraltar; and
  - (b) in the case of a vehicle normally based in Gibraltar any civil liability which may be incurred by him or them in respect of the use of the vehicle in a territory (other than Gibraltar) of each of the member States according to -
    - (i) the law on compulsory insurance against civil liability in respect of the use of vehicles in the State in whose territory the event giving rise to the liability occurred, or
    - (ii) if it would give higher cover, the law which would be applicable under this Ordinance if the place where the vehicle was used when that event occurred were in Gibraltar;”;
- (e) in section 4(2) in paragraph (a) by inserting after the words “to cover liability” the words -

“other than passenger liability”;
- (f) in section 4 by inserting after sub-section (2) the following sub-section -

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“(3) The reference in sub-section (2)(a) above to passenger liability is a reference to the liability of a person insured by the policy in respect of persons -

(a) carried in or upon a vehicle; or

(b) entering or getting on to, or alighting from, a vehicle.”;

- (g) in section 15 sub-section (1) by -
  - (i) deleting, in paragraph (a), the word “and”,
  - (ii) substituting, in paragraph (b), for the reference “5.” the following reference and word -  
  
“5, and”, and
  - (iii) inserting after paragraph (b) the following paragraph -  
  
“(c) where no such certificate was delivered give the following particulars, namely, the registration mark or other identifying particulars of the vehicle concerned, the number or other identifying particulars of the insurance policy issued in respect of the vehicle, the name of the insurer and the period of the insurance cover.”,
- (h) in section 15 by inserting at the end of sub-section (2) the following words -  
  
“and liable on summary conviction to a fine not exceeding level 3 on the standard scale.”
- (i) by substituting for section 8 the following section -  
  
**“Power of police officers to obtain names and addresses of drivers and others, and to require production of evidence of insurance.**  
  
8.(1) Any of the following persons -
  - (a) a person driving a motor vehicle (other than an invalid carriage) on a road, or
  - (b) a person whom a police officer has reasonable cause to believe to have been the driver of a motor vehicle (other than

an invalid carriage) at a time when an accident occurred owing to its presence on a road, or

(c) a person whom a police officer has reasonable cause to believe to have committed an offence in relation to the use on a road of a motor vehicle (other than an invalid carriage),

shall on being so required by a police officer, give his name and address and the name and address of the owner of the vehicle and produce the relevant certificate of insurance for examination.

(2) Subject to subsection (3) below, a person who fails to comply with subsection (1) above shall be guilty of an offence.

(3) A person shall not be convicted of an offence under subsection (2) above by reason only of failure to produce any certificate or other evidence to a police officer if in proceedings against him for the offence he shows that -

- (a) within five days after the date on which the production of the certificate or other evidence was required it was produced at a police station that was specified by him, or
- (b) it was produced there as soon as was reasonably practicable, or
- (c) it was not reasonably practicable for it to be produced there before the day on which the proceedings were commenced.

(4) In this section “owner”, in relation to a vehicle which is the subject of a hiring agreement, includes each party to the agreement.”;

- (j) in section 9 sub-section (1) shall be amended by inserting after the words “an accident occurs involving personal injury to another person” the words -

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“or damage is caused to a vehicle other than that motor vehicle or trailer drawn by it, or to an animal other than an animal in or on that motor vehicle or trailer drawn by it, or to any other property constructed on, fixed to, growing in or otherwise forming part of the land on which the road in question is situated or land adjacent to such land.”.

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Passed by the Gibraltar House of Assembly on the 7th day of January, 1997.

D. J. REYES,

Clerk to the Assembly.

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