
First Session Fifth Parliament Republic of Trinidad
and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 38 of 1996

[L.S.]

AN ACT to amend the Motor Vehicles Insurance (Third
Party Risks) Act, Chap. 48:51

[Assented to 20th November, 1996]

ENACTED by the Parliament of Trinidad and Tobago as ^{Enactment}
follows:—

1. This Act may be cited as the Motor Vehicles ^{Short title and}
Insurance (Third Party Risks) (Amendment) Act, 1996, ^{commencement}
and shall come into operation on such day as the
President may by Proclamation appoint.

Interpretation
Chap. 48:51

2. In this Act the Motor Vehicles Insurance (Third Party Risks) Act is referred to as “the Act”.

Section 2 amended

3. Section 2 of the Act is amended as follows:

(a) insert after the definition of “insurer” the following:

“licensed trailer” means a trailer that is required to be registered by the Licensing Authority under the Motor Vehicles and Road Traffic Act;

(b) amend the definition of “motor vehicle” by inserting after the words “mechanical power” the words “together with any trailer that may be attached to it”;

(c) repeal the definition of “public road” and substitute the following:

“ “public road” means any street, road or open space to which the public has access and any bridge over which a road passes, and includes any privately owned street, road or open space to which the public has access either generally or conditionally;”;

(d) insert after the definition of “public road” the following:

“ “trailer” means any vehicle which has no independent motor power of its own and which is attached to a motor vehicle, but does not include a side-car attached to a motor cycle;”.

Amendment of
section 3

4. Section 3 of the Act is amended as follows:

(a) insert the words “or licensed trailer” after the words “motor vehicle” or “vehicle” wherever they appear in the Act;

- (b) substitute the words “five thousand dollars” for the words “five hundred dollars”, the words “two years” for the words “six months” and the words “three years” for the words “twelve months”.

5. Section 4 of the Act is amended as follows:

Section 4 amended

- (a) repeal subsection (1)(b) and substitute the following:

“(b) 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 any death of or bodily injury to including emergency treatment therefor performed by a duly registered medical practitioner or damage to the property of any person caused by or arising out of the use of the motor vehicle or trailer mentioned in the policy on a public road.”;

- (b) in subsection (2)—

- (i) delete paragraph (b) and (d) and renumber paragraphs (c), (e) and (f) as paragraphs (b), (c), and (d) respectively;
- (ii) in paragraph (c) as renumbered delete the words “two hundred thousand dollars” and substitute the words “one million dollars” and add after the word “person” the words “, which sum shall not be taken to include payment for emergency treatment not exceeding one thousand dollars in respect of each person.”;
- (iii) Delete the words one million dollars in paragraph (d) as renumbered and substitute the words “two million dollars.”;

(c) in subsection (3) repeal and replace paragraph (a) as follows:

“(a) property carried in or on a motor vehicle or licensed trailer for hire or reward;”;

(d) in subsection (4)—

(i) delete the words “fifty thousand dollars” occurring in paragraph (a) and substitute the words “five hundred thousand dollars”; and

(ii) delete the words “two hundred thousand dollars” occurring in paragraph (b) and substitute the words “one million dollars”;

(e) insert after subsection (4) the following new subsection:

“(4a) in the case of death, bodily injury or damage to property a policy of insurance shall not contain any provision that restricts liability in respect of any portion of a claim by any one person arising out of the use of a motor vehicle on a public road.”.

(f) subsection (5) is repealed and replaced as follows:

“(5) The Minister may by Order “subject to Affirmative Resolution of Parliament,” vary any of the amounts mentioned in subsections (2) and (4).”;

(g) in subsection (6) delete the words “one hundred and twenty dollars” and substitute the words “seven hundred and fifty dollars.”;

(h) delete subsection (7) and substitute the following:

“ (7) Notwithstanding anything in any written law, rule of law or the Common Law, a person issuing a policy of insurance under this section shall be liable to indemnify the person insured or persons driving or using the vehicle or licensed trailer with the consent of the person insured specified in the policy in respect of any liability which the policy purports to cover in the case of those persons.”;

(i) renumber subsection (9) as subsection (11) and insert the following new subsections:

“ (9) A policy of insurance together with a certified copy of the proposal form upon which the policy was issued shall be delivered by the insurer to the insured before the expiration of a period of one week from the date of issue of the certificate of insurance under subsection (8).

(10) For the purposes of this section a reference to “emergency treatment” means medical or surgical treatment or examination administered by a registered medical practitioner immediately after the accident to an injured person as a result of bodily injury (including fatal injury) caused by or arising out of the use of a motor vehicle on a public road.”.

Insertion of new
section

6. The following new section is inserted after section 4 of the Act:

“Owner of
motor vehicle
deemed to be
employer of
driver

4A. Notwithstanding any other law, the owner of a motor vehicle licensed to ply for hire and insured under this Act is deemed to be the employer of any person driving the motor vehicle at the time of an accident as a result of which a person has suffered death, bodily injury or damage to property unless it is shown that at the time of the accident that the vehicle was the subject of larceny.”

Section amended

7. Section 7 of the Act is amended—

(a) by repealing subsection (1)(b) and substituting the following:

“(b) consist of an undertaking by the giver of the security to make good, subject to any condition specified therein, and up to the amount, in the case of any motor vehicle or licensed trailer, of not less than three hundred thousand dollars in respect of each such motor vehicle or licensed trailer any failure by the insured or any person driving or using the motor vehicle or licensed trailer with the consent of the insured or the consent of the person authorised by the insured duly to discharge any such liability as is required to be covered by a policy of insurance under section 4 which may be incurred by any of the persons aforesaid.”;

(b) by deleting the words “two hundred thousand dollars” and substituting the words “three hundred thousand dollars”.

8. Section 8(1) of the Act is amended by deleting the words “such claims as are” and substituting the words “such liability as is”.

Section 8 amended

9. Section 10 of the Act is amended—

Section 10 amended

- (a) in subsection (1) by deleting the words “including any amount” and substituting the words “in addition to any amount”;
- (b) in subsection (2)(c) by inserting after the words “bodily injury” the words “or damage to property”.

10. The Act is amended by inserting after section 10 the following section:

Section 10A inserted

“Joinder of
insurer as co-
defendant

10A. (1) Where a plaintiff brings an action under section 10 against any person by whom a policy has been effected and who has had issued to him a certificate of insurance under section 4(8) in respect of such liability as is required to be covered by a policy under section 4(1)(b) then, even though—

- (a) liability as between the plaintiff and the insured has not yet been determined; or
- (b) the insurer may be entitled to avoid or cancel or may have avoided or cancelled the policy,

the plaintiff may, subject to the provisions of this section, join the insurer as a co-defendant in the action.

(2) Where an insurer is joined as a co-defendant under subsection (1), the insurer may, raise any defence that he may be entitled to under the policy of insurance or otherwise.

(3) Where the insurer is joined as a co-defendant under this section, or is required to pay to any person entitled to the benefit of a judgment under section 10, he shall be liable to satisfy the judgment that may be obtained against the insured in addition to all costs and interest payable in respect of such judgment and any other costs for which the insured may be made liable.

(4) A plaintiff who desires to institute proceedings under this section may require the insured to provide within fourteen days the name and address of the insurer, the date of the policy, and such other particulars as may be required to enable him to institute such proceedings.

(5) Upon receipt of the particulars referred to in subsection (4), or where the plaintiff has obtained those particulars in any other manner, whichever is earlier, the plaintiff shall give to the insurer twenty-eight days' notice of his intention to institute proceedings under this section.

(6) Where the insured refuses or neglects to provide the particulars required under subsection (4), he is liable on summary conviction to a fine of five thousand dollars.

(7) Proceedings for an offence under subsection (6) shall not be instituted without the leave of the Court.

(8) Notwithstanding any other law, where the Court is of the opinion that interest is payable on any amount awarded in a judgment obtained in

proceedings under this Act, such interest shall be the mean between lending and borrowing rates then prevailing in lending institutions in Trinidad and Tobago, or at such higher rate as the Court may fix.”.

11. The Act is amended by inserting after section 12 Act amended the following new section:

“Avoidance of
certain
restrictions

12A. Where a certificate of insurance has been delivered under section 4(8) to the person by whom a policy has been effected, so much of the policy as purports to restrict the insurance of the persons insured by the policy as regards liability in respect of the death of or bodily injury to persons being carried in or upon the motor vehicle at the time of the occurrence of the event out of which the claims arise by reference to whether or not those persons are carried gratuitously or belong to any particular class of persons shall, as respects such liabilities as are required to be covered by a policy under section 4(1)(b), be of no effect.”.

12. Section 25(1) of the Act is amended by deleting Section 25 amended the words “one thousand dollars” and substituting the words “seven thousand five hundred dollars.”.

Passed in the House of Representatives this 18th day of October, 1996.

J. SAMPSON
Clerk of the House

Passed in the Senate this 5th day of November, 1996.

N. COX
Clerk of the Senate

Senate amendments agreed to by the House of
Representatives this 8th day of November, 1996.

J. SAMPSON
Clerk of the House