

TRINIDAD AND TOBAGO.

[Published as a Supplement to the "Royal Gazette" issued on the 28th day of December, 1933.]

No. 39—1933.

I ASSENT,

[L.S.]

A. C. HOLLIS,
Governor.

27th December, 1933.

AN ORDINANCE to make provision for the protection of third parties against risks arising out of the use of motor vehicles.

[On Proclamation.]

BE it enacted by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof as follows:—

1.—(1) This Ordinance may be cited as the Motor Short title.
Vehicles Insurance (Third-party Risks) Ordinance, 1933.

(2) This Ordinance shall commence on such day as Commence-
ment and
application.
may be fixed by the Governor by proclamation and thereafter its provisions shall apply only in the island of Trinidad provided that the Governor in Executive Council may by proclamation extend its provisions to apply in the island of Tobago from a day to be specified in such proclamation.

2. In this Ordinance—

“Driver” where a separate person acts as steersman Interpre-
tation.
of a motor vehicle, includes that person as well as any other person engaged in the driving of the vehicle, and the expression “drive” shall be construed accordingly.

[Price 6d.]

“ Insurer ” means :—

- (a) An Assurance Company or Underwriter registered in the United Kingdom in whose case the requirements of the Assurance Companies Act, 1909 (9 Edw. 7 c. 49) and any Act amending or substituted for the same, with respect to deposits by Assurance Companies and deposits and guarantees by Underwriters are complied with, and approved by the Governor.
- (b) An Assurance Company or Underwriter registered elsewhere, which has deposited and keeps deposited with the Treasurer the sum of £10,000 or approved securities to the like amount in respect of that business, and approved by the Governor.
- (c) Any person or body of persons which carries on in the Colony the business of giving security of a like kind and which has deposited and keeps deposited with the Treasurer the sum of £10,000 or approved securities to the like amount in respect of that business, and approved by the Governor.

“ Owner ” in relation to a vehicle which is the subject of a hiring agreement or hire purchase agreement, means the person in possession of the vehicle under that agreement.

“ Motor Cab ” means any motor vehicle kept or used for hire or reward, or standing or plying for hire or reward, for the conveyance of not more than six passengers and their personal luggage, whether at separate fares or otherwise.

“ Motor Vehicle ” includes any vehicle operated or propelled by any form of engine, motor, or mechanical power.

“ Motor Omnibus ” means any motor vehicle kept or used for hire or reward, or standing or plying for hire or reward, for the conveyance of more than six passengers, whether at separate fares or otherwise, but does not include tram cars.

“ Motor Van ” “ Motor Lorry ” mean any motor vehicle transporting or intended for the transport of goods or materials or for hauling or intended for the haulage of any goods or materials or of any other vehicle so engaged.

“ Public road ” means any street or road to which the public has access, and includes bridges over which a public road passes.

“ Tram Car ” includes any car, whether mechanically propelled or not, which runs on rails affixed to the surface of the ground and mainly along the public roads.

“ Trolley vehicle ” means a mechanically propelled vehicle adapted for use upon roads without rails and moved by power transmitted thereto from some external source.

3.—(1) Subject to the provisions of this Ordinance, it shall not be lawful for any person to use, or to cause or permit any other person to use, a motor vehicle on a public road unless there is in force in relation to the user of the motor vehicle by that person or that other person, as the case may be, such a policy of insurance or such a security in respect of third-party risks as complies with the requirements of this Ordinance.

Obligation on owners of motor vehicles to hold insurance policies or other security against third-party risks.

(2) If a person acts in contravention of this section, he shall be liable to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment, and a person convicted of an offence under this section shall (unless the Court for special reasons thinks fit to order otherwise and without prejudice to the power of the Court to order a longer period of disqualification) be disqualified for holding or obtaining a licence under the Motor Vehicles Ordinance, 1931, for a period of twelve months from the date of the conviction.

A person disqualified by virtue of a conviction under this section or of an order made thereunder for holding or obtaining a licence shall, for the purposes of the Motor Vehicles Ordinance, 1931, be deemed to be disqualified under the provisions of that Ordinance.

(3) Notwithstanding any enactment prescribing a time within which proceedings may be brought before a court of summary jurisdiction, proceedings for an offence under this section may be brought—

- (a) within a period of six months from the date of the commission of the alleged offence ; or
- (b) within a period which exceeds neither three months from the date on which it came to the knowledge of the prosecutor that the offence had been committed nor one year from the date of the commission of the offence, whichever period is the longer.

(4) This section shall not apply to any person in the service of His Majesty keeping or allowing to be kept any vehicle used and employed exclusively in His Majesty's Service, or to the Municipal Authorities of Port-of-Spain, San Fernando, and Arima keeping or allowing to be kept any vehicle used and employed exclusively in the service of such Authority.

(5) This Ordinance shall not extend to tram cars or trolley vehicles the use of which is authorised or regulated by Ordinance.

Requirements
in respect of
policies.

4.—(1) In order to comply with the requirements of this Ordinance, a policy of insurance must be a policy which—

- (a) is issued by a person who is an insurer, and
- (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 the death of or bodily injury to any person caused by or arising out of the use of the motor vehicle on a public road ;

Provided that such a policy shall not be required to cover—

- (i) 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 sustained by such a person arising out of and in the course of his employment ; or

- (ii) except in the case of a motor vehicle in which passengers are being carried for hire or reward or by reason of or in pursuance of a contract of employment, liability in respect of the death of or bodily injury to persons being carried in or upon or entering or getting on to or alighting from the motor vehicle at the time of the occurrence of the event out of which the claims arise.
- (iii) Any contractual liability.
- (iv) Liability in respect of the first £5 of any claim by any one person.
- (v) Liability in respect of any sum in excess of £1,000 arising out of any one claim by any one person.
- (vi) Liability in respect of any sum in excess of £10,000 arising out of the total claims for any one accident for each vehicle concerned.

(2) Where any payment is made by an insurer under a policy issued under this Ordinance or by the owner of a motor vehicle in relation to the user of which a security under this Ordinance is in force or who has made a deposit under this Ordinance in respect of the death of or bodily injury to any person arising out of the use of a motor vehicle on a public road and the person who has so died or been bodily injured has to the knowledge of the insurer or such owner received treatment in a hospital in respect of the fatal or other bodily injury so arising, there shall also be paid by the insurer or such owner to such hospital the expenses reasonably incurred by the hospital in affording such treatment to an amount not exceeding twenty-five pounds for each person so treated.

For the purposes of this sub-section the expression "hospital" means an institution which provides medical or surgical treatment for in-patients, and the expression "expenses reasonably incurred" means, in relation to a person who receives treatment in a hospital, an amount for each day such person is maintained in such hospital representing the average daily cost per patient of the maintenance of the hospital and the staff thereof and the maintenance and treatment of the patients therein.

(3) Notwithstanding anything in any enactment, rule of law or the common law, a person issuing a policy of insurance under this section shall be liable to indemnify the persons or classes of persons specified in the policy in respect of any liability which the policy purports to cover in the case of those persons or classes of persons.

(4) A policy shall be of no effect for the purposes of this Ordinance unless and until there is issued by the insurer in favour of the person by whom the policy is effected a certificate (in this Ordinance referred to as a "certificate of insurance") in duplicate in the prescribed form and containing such particulars of any conditions subject to which the policy is issued and of any other matters as may be prescribed, and different forms and different particulars may be prescribed in relation to different cases or circumstances.

(5) In this Ordinance the expression "policy of insurance" includes a covering note.

Requirements
in respect of
securities.

5.—(1) In order to comply with the requirements of this Ordinance a security must—

- (a) be given either by an insurer or by a person or body of persons approved by the Governor carrying on in the Colony the business of giving securities of a like kind; and
- (b) consist of an undertaking by the giver of the security to make good, subject to any conditions specified therein, and up to the amount, in the case of an undertaking relating to the use of any motor vehicle, of not less than £10,000 in respect of each such vehicle any failure by the owner of the vehicle or such other persons or classes of persons as may be specified in the security duly to discharge any such liability as is required to be covered by a policy of insurance under the last preceding section which may be incurred by him or them.

(2) A security shall be of no effect for the purposes of this Ordinance unless and until there is issued by the person giving the security in favour of the person to whom it is given a certificate in duplicate (in this Ordinance referred to as a "certificate of security") in the prescribed form and containing such particulars of any conditions subject to which the security is issued and of any other matters as may be prescribed, and different forms and different particulars may be prescribed in relation to different cases or circumstances.

(3) In lieu of the security mentioned in this section a deposit may be made by the owner of the motor vehicle or by the person who stands security for him of the sum of £10,000 or approved securities to the like amount in the hands of the Treasurer to make good any liability as is specified in this Ordinance.

6. Any condition in a policy or security issued or given for the purposes of this Ordinance, providing that no liability shall arise under the policy or security, or that any liability so arising shall cease, in the event of some specified thing being done or omitted to be done after the happening of the event giving rise to a claim under the policy or security, shall be of no effect in connection with such claims as are mentioned in paragraph (b) of sub-section (1) of section 4 of this Ordinance:

Certain conditions to policies or securities to be of no effect.

Provided that nothing in this section shall be taken to render void any provision in a policy or security requiring the person insured or secured to repay to the insurer or the giver of the security any sums which the latter may have become liable to pay under the policy or security and which have been applied to the satisfaction of the claims of third parties.

7. Provision may be made by regulations under the Licensing of Vehicles Ordinance, 1931, for requiring a person making a requisition for a licence in respect of a motor vehicle under section 9 of that Ordinance, to append thereto a certificate of insurance or a certificate of security

Production of certificate of insurance or certificate of security on application for motor vehicle licence.

or to produce such evidence as may be prescribed that either—

- (a) on the date when the licence comes into operation there will be in force the necessary policy of insurance or the necessary security or deposit in relation to the user of the motor vehicle by the applicant or by other persons on his order or with his permission ; or
- (b) the motor vehicle is a vehicle to which section 3 of this Ordinance does not apply at any time when it is being driven by the owner thereof, or by a servant of his in the course of his employment, or is otherwise subject to the control of the owner.

Requirements
as to
production of
certificate of
insurance or of
security.

8.—(1) Any person driving a motor vehicle on a public road shall, on being so required by any member of the Constabulary Force, give his name and address and the name and address of the owner of the motor vehicle and produce his certificate, and if he fails so to do he shall be guilty of an offence :

Provided that, if the driver of a motor vehicle within five days after the date on which the production of his certificate was so required, produces the certificate in person at such Constabulary station as may have been specified by him at the time its production was required, he shall not be convicted under this sub-section of the offence of failing to produce his certificate.

(2) It shall be the duty of the owner of a motor vehicle to give such information as he may be required by or on behalf of an officer of the Constabulary Force not below the rank of Sub-Inspector to give as to the identity of the driver of the motor vehicle on any occasion when the driver was required under sub-section (1) of this section to produce the certificate, and if the owner fails to do so, he shall be guilty of an offence.

(3) If in any case where, owing to the presence of a motor vehicle on a road, an accident occurs involving personal injury to another person, the driver of the motor vehicle does not at the time produce his certificate to a member of the Constabulary Force, or to some person

who, having reasonable grounds for so doing, has required its production, the driver shall report the accident at a Constabulary station as soon as possible, and in any case within twenty-four hours of the occurrence of the accident, and there produce his certificate, and if he fails so to do, he shall be guilty of an offence.

Provided that a person shall not be convicted under this sub-section of the offence of failing to produce his certificate if within five days after the occurrence of the accident, he produces the certificate in person at such Constabulary station as may be specified by him at the time the accident was reported.

(4) In this section the expression "produce his certificate" means produce for examination the relevant certificate of insurance or certificate of security or such other evidence that the motor vehicle is not or was not being driven in contravention of section 3 of this Ordinance as may be prescribed.

9. The rights of any person in respect of any liability incurred by an insured shall, in the event of the death of the insured, and notwithstanding any enactment, rule of law or the common law to the contrary, be preserved to and be enforceable by such person against the personal representatives of the insured in the same manner and to the same extent as such rights would have been enforceable against the insured if he had survived and the provisions of sub-section (3) of section 4 of this Ordinance shall apply accordingly.

Saving as to preservation of rights in case of death of an insured

In this section the word "insured" means a person who is insured under a contract of insurance against liabilities to third parties or in respect of whom security or a deposit in lieu thereof is given in accordance with the provisions of this Ordinance.

10.—(1) Where under any contract of insurance a person (hereinafter referred to as the insured) is insured against liabilities to third parties which he may incur, then—

Rights of third parties against insurers on bankruptcy, &c., of the insured.

(a) in the event of the insured becoming bankrupt or making a composition or arrangement with his creditors; or

(b) in the case of the insured being a company, in the event of a winding-up order being made, or a resolution for a voluntary winding-up being passed, with respect to the company, or of a receiver or manager of the company's business or undertaking being duly appointed, or of possession being taken, by or on behalf of the holders of any debentures secured by a floating charge, of any property comprised in or subject to the charge ;

if, either before or after that event, any such liability as aforesaid is incurred by the insured, his rights against the insurer under the contract in respect of the liability shall, notwithstanding anything in any Ordinance or rule of law to the contrary, be transferred to and vest in the third party to whom the liability was so incurred.

(2) Where an order is made under section 116 of the Bankruptcy Ordinance, Cap. 52, for the administration of the estate of a deceased debtor according to the law of bankruptcy, then, if any debt provable in bankruptcy is owing by the deceased in respect of a liability against which he was insured under a contract of insurance as being a liability to a third party, the deceased debtor's rights against the insurer under the contract in respect of that liability shall, notwithstanding anything in the said Ordinance, be transferred to and vest in the person to whom the debt is owing.

(3) In so far as any contract of insurance made after the commencement of this Ordinance in respect of any liability of the insured to third parties purports, whether directly or indirectly, to avoid the contract or to alter the rights of the parties thereunder upon the happening to the insured of any of the events specified in paragraph (a) or paragraph (b) of sub-section (1) of this section or upon the making of an order under section 116 of the Bankruptcy Ordinance, Cap. 52, in respect of his estate, the contract shall be of no effect.

(4) Upon a transfer under sub-section (1) or sub-section (2) of this section, the insurer shall, subject to

the provisions of section 12 of this Ordinance, be under the same liability to the third party as he would have been under to the insured, but—

- (a) if the liability of the insurer to the insured exceeds the liability of the insured to the third party, nothing in this Ordinance shall affect the rights of the insured against the insurer in respect of the excess ; and
- (b) if the liability of the insurer to the insured is less than the liability of the insured to the third party, nothing in this Ordinance shall affect the rights of the third party against the insured in respect of the balance.

(5) For the purposes of this Ordinance the expression “ liabilities to third parties,” in relation to a person insured under any contract of insurance, shall not include any liability of that person in the capacity of insurer under some other contract of insurance.

(6) This Ordinance shall not apply—

- (a) where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company ; or
- (b) to any case to which sub-sections (1) and (2) of section 14 of the Workmen’s Compensation Ordinance, 1926, applies.

11.—(1) In the event of any person becoming bankrupt or making a composition or arrangement with his creditors or in the event of an order being made under section 116 of the Bankruptcy Ordinance, Cap. 52, in respect of the estate of any person, or in the event of a winding-up order being made, or a resolution for a voluntary winding-up being passed, with respect to any company or of a receiver or manager of the company’s business or undertaking being duly appointed or of possession being taken by or on behalf of the holders of any debentures secured by a floating charge of any property comprised in or subject to the charge it shall be the duty of the bankrupt, debtor, personal representative of the deceased debtor or company, and, as the case may be, of the trustee in bankruptcy, trustee, liquidator,

Duty to give necessary information to third parties.

receiver, or manager, or person in possession of the property to give at the request of any person claiming that the bankrupt, debtor, deceased debtor, or company is under a liability to him, such information as may reasonably be required by him for the purpose of ascertaining whether any rights have been transferred to and vested in him by this Ordinance and for the purpose of enforcing such rights, if any, and any contract of insurance, in so far as it purports, whether directly or indirectly, to avoid the contract or to alter the rights of the parties thereunder upon the giving of any such information in the events aforesaid or otherwise to prohibit or prevent the giving thereof in the said events, shall be of no effect.

(2) If the information given to any person in pursuance of sub-section (1) of this section discloses reasonable ground for supposing that there have or may have been transferred to him under this Ordinance rights against any particular insurer, that insurer shall be subject to the same duty as is imposed by the said sub-section on the persons therein mentioned.

(3) The duty to give information imposed by this section shall include a duty to allow all contracts of insurance, receipts for premiums, and other relevant documents in the possession or power of the person on whom the duty is so imposed to be inspected and copies thereof to be taken.

Settlement
between
insurers and
insured
persons.

12. Where the insured has become bankrupt or where, in the case of the insured being a company a winding-up order has been made or a resolution for a voluntary winding-up has been passed, with respect to the company, no agreement made between the insurer and the insured after liability has been incurred to a third party and after the commencement of the bankruptcy or winding-up, as the case may be, nor any waiver, assignment, or other disposition made by, or payment made to the insured after the commencement aforesaid shall be effective to defeat or affect the rights transferred to the third party under this Ordinance, but those rights shall be the same as if no such agreement, waiver, assignment, disposition or payment had been made.

13.—(1) If, with intent to deceive, any person—

(a) forges within the meaning of the Forgery Ordinance, Cap. 13, or alters or uses or lends to or allows to be used by any other person a certificate of insurance or certificate of security within the meaning of this Ordinance; or

(b) makes or has in his possession any document so closely resembling such a certificate as to be calculated to deceive,

Forgery, &c.,
of certificates.

he shall be guilty of a misdemeanor and shall be liable on conviction on indictment to imprisonment with or without hard labour for a term not exceeding two years.

(2) If any person for the purpose of obtaining the issue of a certificate of insurance or of a certificate of security under this Ordinance makes any false statement or withholds any material information, he shall be liable to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding six months, or to both such imprisonment and fine.

(3) If any person issues a certificate of insurance or certificate of security which is to his knowledge false in any material particular, he shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred pounds, or to both such imprisonment and fine.

(4) If any member of the Constabulary Force has reasonable cause to believe that any certificate of insurance or certificate of security produced to him in pursuance of the provisions of this Ordinance by the driver of a motor car is a document in relation to which an offence under this section has been committed he may seize the document, and when any document is seized under this section, the person from whom it was taken shall, unless previously charged with an offence under this section, be summoned before a court of summary jurisdiction to account for his possession of the said document, and the court shall make such order respecting the disposal of the said document and award such costs as the justice of the case may require.

(5) In this section the expressions "certificate of insurance" and "certificate of security" include any document issued under regulations made under the Licensing of Vehicles Ordinance, 1931, in pursuance of the provisions of section 7 of this Ordinance to prescribe evidence which may be produced in lieu of a certificate of insurance or a certificate of security.

Recovery of penalties.

14. Save as otherwise expressly provided, all penalties imposed under this Ordinance or any regulation made thereunder, shall be recoverable on summary conviction before a Magistrate.

Regulations.

15.—(1) The Governor in Executive Council may make regulations for prescribing anything which may be prescribed under this Ordinance, and generally for the purpose of carrying this Ordinance into effect, and in particular, but without prejudice to the generality of the foregoing provisions, may make regulations—

- (a) as to the forms to be used for the purposes of this Ordinance ;
- (b) as to applications for and the issue of certificates of insurance and certificates of security and any other documents which may be prescribed and as to the keeping of records of documents and the furnishing of particulars thereof or the giving of information with respect thereto to the Inspector-General ;
- (c) as to the issue of copies of any such certificates or other documents which are lost or destroyed ;
- (d) as to the custody, production, cancellation and surrender of any such certificates or other documents ;
- (e) for providing that any provisions of this Ordinance shall, in relation to motor vehicles brought into the Colony by persons making only a temporary stay therein, have effect subject to such modifications and adaptations as may be prescribed,

(2) Regulations made under this section shall not have any force or effect until they have been approved by the Legislative Council, and when so approved by resolution shall, as from the date of such approval, have the same force and effect as if they were contained in and formed part of this Ordinance.

(3) All such regulations shall, after approval, be published in the *Royal Gazette*.

Passed in Council this fifteenth day of December, in the year of Our Lord one thousand nine hundred and thirty-three.

J. O'CONNOR,
Clerk of the Council.