



STATUTORY INSTRUMENTS

S.I. No. 248 of 2008



EUROPEAN COMMUNITIES (MOTOR INSURANCE) REGULATIONS
2008

(Prn. A8/0982)

EUROPEAN COMMUNITIES (MOTOR INSURANCE) REGULATIONS
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I, NOEL DEMPSEY, Minister for Transport, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purposes of giving effect to Directive No. 2005/14/EC of the European Parliament and of the Council of 11 May 2005¹, hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Communities (Motor Insurance) Regulations 2008.

Compulsory Motor Insurance

2. Section 56 of the Road Traffic Act 1961 is amended—

- (a) in paragraph (a) of subsection (1), by deleting “(exclusive of the excepted persons)”,
- (b) in subsection (2) (inserted by Regulation 3(1) of the European Communities (Road Traffic) (Compulsory Insurance) (Amendment) Regulations 1995 (S.I. No. 353 of 1995)) by substituting for paragraph (a) the following:

“(a) it may, in so far as it relates to injury to property, be limited to the sum of €1,000,000 per claim, whatever the number of victims,” and

- (c) by substituting for subsection (7) (inserted by Regulation 3 of European Communities (Road Traffic) (Compulsory Insurance) (Amendment) Regulations 2001 (S.I. No. 463 of 2001)) subsection (8) (inserted by Regulation 4(2) of the European Communities (Road Traffic) (Compulsory Insurance) (Amendment) Regulations 1987 (S.I. No. 322 of 1987)) and subsections (9) and (10) (inserted by the European Communities (Road Traffic) (Compulsory Insurance) (Amendment) Regulations 1992 (S.I. No. 347 of 1992)) the following:

“(8) In this Part a reference to the territory in which a vehicle is normally based is a reference to—

- (a) the territory of the state of which the vehicle bears a registration plate, irrespective of whether the plate is permanent or temporary,

¹OJ No. L149, 11.6.2005, p.14

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 8th July, 2008.

- (b) in a case where no registration plate is required for a type of 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 plate or sign is issued, or
- (c) in a case where a registration or insurance plate or distinguishing sign is not required for a vehicle, the territory of the state in which the person who has custody of the vehicle is resident.

(9) In this Part—

‘designated territories’ means the territories of the Member States (other than the State) and Croatia, Iceland, Norway and Switzerland;

‘mechanically propelled vehicle’ includes a semi-trailer or trailer when used in a public place.”.

3. Section 62 of the Road Traffic Act 1961 is amended—

(a) in subsection (1) by—

(i) in paragraph (b) by deleting “(exclusive of the excepted person)”,

(ii) in paragraph (c) by deleting “and” after “insurance”,

(iii) by substituting for paragraph (ii) (inserted by Regulation 4(2) of the European Communities (Road Traffic) (Compulsory Insurance) (Amendment) Regulations 1992 (S.I. No. 347 of 1992)) the following:

“(cc) The liability of the insurer extends, in addition to the negligent use of the mechanically propelled vehicle in the State, to the negligent use of the vehicle in the designated territories according to the law relating to compulsory insurance against civil liability in respect of the use of mechanically propelled vehicles in force in those territories or to the extent required by this Part, whichever is the greater;”,

(iv) in paragraph (d) by substituting “insured; and” for “insured.”, and

(v) by inserting after paragraph (d) the following:

“(e) the liability of the insurer extends to any loss or injury suffered by the victim, due to the negligent use of a mechanically propelled vehicle, during a direct journey between two Member States, if there is no national insurers’ bureau responsible for the territory which is being crossed in accordance with the law relating to compulsory insurance against civil liability

in respect of the use of mechanically propelled vehicles in that territory.”,

- (b) by substituting for subsection (1A) (inserted by Regulation 5 of the European Communities (Road Traffic) (Compulsory Insurance) Regulations 1975 (S.I. No.178 of 1975)) the following:

“(1A) For the purpose of this Part a policy of insurance issued in accordance with the laws on compulsory insurance in force in any of the designated territories, other than the State, in respect of a mechanically propelled vehicle normally based in that territory is an approved policy of insurance.”,

- (c) by inserting after subsection (3) the following:

“(4) In this section ‘national insurers’ bureau’ means a professional organisation which is constituted in accordance with Recommendation No. 5 adopted on 25 January 1949 by the Road Transport Sub-committee of the Inland Transport Committee of the United Nations Economic Commission for Europe and which groups together insurance undertakings which, in a state, are authorised to conduct the business of motor vehicle insurance against civil liability.”.

4. Regulation 5(2) of the Road Traffic (Compulsory Insurance) Regulations 1962 (S.I. No. 14 of 1962) is amended by deleting “or an excepted person”.

Functions of Motor Insurers’ Bureau of Ireland

5. The European Communities (Fourth Motor Insurance Directive) Regulations 2003 (S.I. No. 651 of 2003) are amended—

- (a) in Regulation 3, by inserting after paragraph (6) the following:

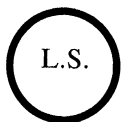
“(7) Paragraphs (5) and (6) of this Regulation, paragraphs (8) to (10) of Regulation 4 and Regulation 5 apply to all injured parties normally resident in an EEA State.”,

- (b) in Regulation 4, by substituting for paragraph (11) the following:

“(11) The appointment of a claims representative does not in itself constitute a head office, agency or branch of an insurance undertaking or does not constitute an establishment in any EEA State.

(12) Paragraphs (8) to (10) apply to the Motor Insurers’ Bureau of Ireland as they apply to insurance undertakings and claims representatives.”, and

- (c) in Regulation 5(3), by deleting subparagraph (c).



GIVEN under my Official Seal,
4 July 2008

NOEL DEMPSEY.
Minister for Transport.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

These Regulations give legal effect to the provisions of Directive 2005/14/EC of the 11th May 2005 amending Council Directives 72/166/EEC, 84/5/EEC, 88/357/EEC and 90/232/EEC and Directive 2000/26/EC of the European Parliament and of the Council relating to insurance against civil liability in respect of the use of motor vehicles.

The Regulations provide for:

- the definition of the territory in which the vehicle is normally based as being the state of which the vehicle bears a registration plate, another plate or the state of residence of the custodian of the vehicle
- the liability of the insurer to cover, in accordance with local law, the negligent use of a vehicle in transit between two EU States where the territory being crossed has no national insurers' bureau
- the limit per claim for property damage being €1,000,000.00 regardless of the number of victims
- the approval of the Motor Insurers' Bureau of Ireland (MIBI) as the Guarantee Fund for compensation in accidents where compulsory motor insurance is not in place and the requirement that the MIBI handle claims for compensation in the same manner as an insurance undertaking including the making of an offer of compensation within three months of a valid claim or providing a reasoned reply in the same period
- a policy of motor insurance issued under the laws of any of the designated territories as being an approved policy of insurance
- the reference to Green Card details is deleted in the information to be supplied by the Information Centre.

These Regulations also specify that:

- all persons, other than the driver, travelling in a mechanically propelled vehicle are passengers for the purposes of third party compulsory motor insurance
- the definition of mechanically propelled vehicle is extended to include semi-trailer or trailer when used in a public place.

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