



**TURKS AND CAICOS ISLANDS**

**CHAPTER 13.03**

**MOTOR VEHICLES (THIRD PARTY  
INSURANCE) ORDINANCE**

**Revised Edition**

showing the law as at 31 December 2014

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Ordinance 1997.

This edition contains a consolidation of the following laws—

**MOTOR VEHICLES (THIRD PARTY INSURANCE) ORDINANCE**

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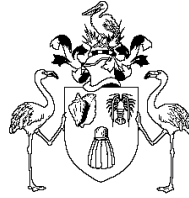
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No Subsidiary Legislation has been made under this Ordinance





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**CHAPTER 13.03**  
**MOTOR VEHICLES (THIRD PARTY**  
**INSURANCE) ORDINANCE**

ARRANGEMENT OF SECTIONS

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**CHAPTER 13.03**  
**MOTOR VEHICLES (THIRD PARTY**  
**INSURANCE) ORDINANCE**

*(Ordinances 4 of 1991, 9 of 1994 and Legal Notice 17/1992)*

AN ORDINANCE TO REPEAL AND REPLACE THE MOTOR VEHICLES (THIRD PARTY INSURANCE) ORDINANCE 1980, TO PROVIDE FOR COMPULSORY INSURANCE AGAINST RISKS ARISING OUT OF THE USE OF MOTOR VEHICLES AND FOR CONNECTED PURPOSES.

**Commencement**

*[1 April 1992]*

**Short title**

1. This Ordinance may be cited as the Motor Vehicles (Third Party Insurance) Ordinance.

**Interpretation**

2. In this Ordinance, unless the context otherwise requires—

“authorised insurer” means any assurance company or underwriter licensed under the Insurance Ordinance and carrying on motor vehicle insurance business in the Islands, which is approved by the Minister to undertake insurance business for the purposes of this Ordinance;

“certificate” means a certificate of insurance issued under section 4 of this Ordinance;

“Director” means the person appointed under the Road Traffic Ordinance as Director of Road Safety and Transportation;

“driving licence” means a licence or permit issued or deemed valid under the Motor Vehicles (Driving Licences) Ordinance;

“the insured” or “insured person” means a person who is insured under a contract of insurance issued in accordance with this Ordinance;

“insurer” means an authorised insurer;

“Minister” means the Member of Cabinet to whom the Governor has assigned responsibility for road traffic matters;

“motor vehicle” has the meaning assigned thereto by the Road Traffic Ordinance;

“policy of insurance” includes a covering note issued for a period not exceeding ninety days pending the issue or renewal of a policy of insurance; and

“public place” means any place, including a road, to which the public has access, whether or not the land where such place is situated is private land and whether or not such access is limited, restricted or controlled in any way.  
(Amended by Ord.9 of 1994)

### **Motor vehicles not to be used without required insurance**

3. (1) Subject to this Ordinance, no person shall use, or cause or permit another person to use, a motor vehicle in a public place unless there is in force in relation to the use of that vehicle by that person or by that other person a policy of insurance which complies with the requirements of this Ordinance.

(2) Any person who contravenes subsection (1) commits an offence and is liable upon summary conviction to a fine of \$1,000 or to a term of imprisonment of three months, or to both.

(3) The court, in addition to any penalty it may impose under subsection (2), may order that the person convicted be disqualified from holding or obtaining any driving licence for a period of up to twelve months from the date of conviction. (Substituted by Ord.9 of 1994)

(4) Any person so convicted and in relation to whom such an order for disqualification has been made under subsection (3) shall produce any driving licence which is held by him to the court by which he was convicted within such time as the court may direct.

(5) The court by which an order for disqualification is made under this section shall forthwith inform the Director and shall send to him the licence to which the order relates.

(6) Where on appeal to the Supreme Court against any such order the appeal is allowed, or where on appeal such conviction is quashed, the Supreme Court shall forthwith inform the Director that the appeal has been allowed or the conviction quashed, as the case may be, and the Director shall forthwith return the licence to the person to whom it was issued.

(7) Notwithstanding section 19(2) of the Magistrate’s Court Ordinance, 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 not exceeding either three months from the date upon which the facts alleged to constitute the alleged offence came to the knowledge of the prosecutor or one year from the date of the commission of the alleged offence.

(8) If the Governor is satisfied that in respect of any person or class of persons, or any vehicle or class of vehicles, any liability which would otherwise be required by this Ordinance to be the subject of an insurance policy would be satisfied, he may in his discretion make an order exempting such person, vehicle or class of persons or vehicles from the application of this Ordinance and such order shall be valid with effect from the date of its publication in the *Gazette*.



(9) An order made under subsection (8) may be made subject to such conditions or limitations of time or otherwise as the Governor may consider appropriate.

### **Requirements in respect of policies**

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

- (a) is issued by an authorised insurer; and
- (b) subject to this section, insures the person or classes of persons specified in it against any liability incurred by him or them in respect of—
  - (i) the death of, or bodily injury to, any other person; and
  - (ii) any damage to the property of another person,

arising out of the use in a public place of the motor vehicle specified in the policy. (*Substituted by Ord. 9 of 1994*)

(2) The policy shall be required to cover—

- (a) in respect of death or bodily injury claims, a total liability of not less than \$500,000 in relation to all such claims arising from any one accident;
- (b) in respect of property damage claims, a total liability of not less than \$100,000 in relation to all such claims arising from any one accident.

(*Substituted by Ord. 9 of 1994*)

(3) Notwithstanding any other law, or rule of law to the contrary, an insurer issuing a policy of insurance to which this Ordinance applies shall be liable to indemnify the persons or class 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 insurance is effected, a certificate (in this Ordinance referred to as a certificate of insurance), in the form set out in the Schedule, and containing such particulars of any conditions subject to which the policy is issued and of any other matters as may be prescribed.

### **Approval of authorised insurers**

5. (1) The approval of an authorised insurer shall be given in writing by the Minister and published in the *Gazette*.

(2) A person who seeks to be approved under this section shall—

- (a) apply in writing to the Minister; and

- (b) attach to the application proof of having been licensed as an insurer under the Insurance Ordinance:

Provided that, for the purpose of this section, the Permanent Secretary, Finance, may license a person as an insurer conditionally upon that person becoming an authorised insurer.

*(Substituted by Ord. 9 of 1994)*

(3) The Minister may require a person who applies under subsection (2) to provide information or evidence in support of the application and any permission or releases necessary to allow third parties to disclose information or evidence in connection with the application.

(4) The Minister may refuse to grant approval or may grant it subject to such conditions as he deems appropriate, including the payment of a fee.

(5) The Minister may refuse to grant approval or grant approval subject to any conditions imposed under subsection (4) without giving reasons for his decision and his decision and any reasons he may give for it shall not be the subject of appeal to or review or enquiry by any court.

#### **Certain conditions in policies to be of no effect**

6. Any condition in any policy of insurance issued or given for the purposes of this Ordinance which provides that no liability shall arise under the policy, or that any liability which has arisen shall cease, in the event of any specified thing being done or omitted to be done after the happening of the event giving rise to a claim under the policy, shall be of no effect in connection with such liabilities as are mentioned in section 4(1).

#### **Avoidance of restrictions on scope of policies covering third party risks**

7. Where a certificate of insurance has been issued to the insured, so much of the policy as may purport to restrict the insurance of persons thereby insured by reference to any of the following matters—

- (a) the age or physical or mental condition of the person driving the motor vehicle;
- (b) the condition of the motor vehicle;
- (c) the number of persons that the motor vehicle carries;
- (d) the weight or physical characteristics of the goods that the motor vehicle carries;
- (e) the times at which or the area in which the motor vehicle is used;
- (f) the specifications, the capacity of the engine or the value of the vehicle;
- (g) the carrying on the motor vehicle of any particular equipment or apparatus; or

- (h) the carrying on the motor vehicle of any particular means of identification required to be carried under any law for the time being in force,

shall, as respects such liabilities as are required to be covered by a policy under section 4(1), be of no effect:

Provided that nothing in this section shall require an insurer to pay any sum in respect of the liability of any person otherwise than in or towards the discharge of that liability.

### **Insurer's liability to third parties**

8. (1) If, after a certificate of insurance has been issued to the person by whom a policy has been effected, judgement in respect of any such liability as is required to be covered by a policy under section 4(1) (being a liability covered by the terms of the policy) is obtained against any person insured by the policy, then, subject to subsection (2), the insurer shall pay to the persons entitled to the benefit of the judgement any sum payable thereunder in respect of the liability, including any amount payable in respect of costs and any sum payable in respect of interest on that sum.

(2) No sum shall be payable by an insurer under subsection (1) if—

- (a) the policy had been cancelled at the date on which the liability arose; and  
(b) notice of that cancellation had been served upon the person insured and upon the Director.

### **Rights of third parties against corporate insured**

9. (1) Where a person insured in accordance with this Ordinance is a company and one of the events set out in subsection (2) occurs in respect of that company and either before or after that event a liability is incurred by the insured to a third party which is a liability as described in section 4, the rights of the insured under the contract of insurance in respect of that liability shall, notwithstanding any law to the contrary, be transferred to and vest in the third party to whom the liability was so incurred.

(2) The events referred to in subsection (1) are—

- (a) a winding-up order being made;  
(b) a resolution for a voluntary winding-up order being passed;  
(c) a receiver being appointed;  
(d) possession being taken by or on behalf of the holders of any debenture secured by a charge of any property subject to the charge.

(3) In so far as any contract of insurance made after the commencement of this Ordinance purports directly or indirectly to avoid the contract or to alter

the rights of the parties thereunder upon the happening of the events specified in subsection (2), the contract shall be of no effect.

(4) Upon a transfer under subsection (1), the insurer shall, subject to section 12, 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 purpose 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.

### **Preservation of rights in case of death of insured person**

**10.** The rights of any person in respect of any liability incurred by an insured person shall, in the event of the death of the insured person, and notwithstanding any law or rule of law to the contrary, be preserved to and be enforceable by such person against the personal representatives of the insured person in the same manner and to the same extent as such rights would have been enforceable against the insured person if he had survived, and this Ordinance shall apply accordingly.

### **Duty to give information to third parties**

**11.** (1) 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 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 company, or trustee, liquidator, receiver or manager, or person in possession of the property, to give at the request of any person claiming that the 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. In relation to the enforcement of such rights, if any, 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 or 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 subsection (1) 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 subsection (1) 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 is a company, and 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 winding-up, 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.

### **Requirements as to production of certificate of insurance**

13. (1) Any person driving a motor vehicle in a public place shall, on being so required by any police officer in uniform, 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 without reasonable excuse so to do he commits an offence and is liable upon summary conviction to a fine of \$1,000 or to imprisonment for a term of three months or to both:

Provided that if the driver of a motor vehicle within forty-eight hours of the time when the production of his certificate was so required, produces the certificate in person at such police station as may have been specified to him at the time its production was required, he shall not be convicted under this subsection 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 any police officer to give as to the identity of the driver of the motor vehicle on any occasion when the driver was required under subsection (1) to produce the certificate; and if the owner fails without reasonable excuse to do so, he commits an offence and is liable on summary conviction to a fine of \$1,000 or to a term of imprisonment of three months or to both.

(3) If in any case where, owing to the presence of a motor vehicle on a road, an accident occurs involving injury to another person or to an animal or to the property of any person, and the driver of the motor vehicle does not at the time produce his certificate to a police officer or to some person who, having reasonable ground for so doing, has required its production, the driver shall report the accident at a police 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 without reasonable excuse to do so, he commits an

offence and is liable upon summary conviction to a fine of \$1,000 or to imprisonment for a term of three months or to both:

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

### **Persons against whom claims are made to give information as to insurance**

**14.** (1) Any person against whom a claim is made in respect of any such liability as is required to be covered by a policy under section 4(1), shall on demand by or on behalf of the person making the claim, state whether or not he was insured in respect of that liability by any policy having effect for the purposes of this Ordinance, or would have been so insured if the insurer had not avoided or cancelled the policy, and, if he was or would have been so insured, give such particulars with respect to that policy as were specified in the certificate of insurance delivered in respect thereof under section 4(4).

(2) Any person who, without reasonable excuse—

(a) fails to comply with the foregoing provisions of this section; or

(b) wilfully makes any false statement in reply to any such demand as aforesaid,

commits an offence and is liable upon summary conviction to a fine of \$1,000 or to imprisonment for a term of three months or to both.

### **Misrepresentations to insurers**

**15.** (1) A person who—

(a) in an application to an insurer for a policy to be issued to him in accordance with the requirements of this Ordinance; or

(b) in any oral or written communication made in connection with or in support of such an application,

deliberately or recklessly misrepresents or conceals any material fact commits an offence and is liable upon summary conviction to a fine of \$1,000 or to imprisonment for a term of three months, or to both.

(2) In this section “material fact” means any fact which would be relevant to a reasonable insurer in deciding whether to issue the policy applied for or in deciding on the amount of the premium to be charged for such policy.

### **Disclosure of police records to insurers**

**16.** (1) An authorised insurer may request the Commissioner of Police to provide particulars of any convictions of a person for any criminal offences if that person has applied to the insurer for a policy to be issued to him in accordance with the requirements of this Ordinance.

(2) If the Commissioner of Police is satisfied that a request has been made *bona fide* under subsection (1), he shall comply with it.

(3) The Commissioner of Police may charge such fee as may be prescribed for the provision of information requested under subsection (1) and may decline to comply with a request made under subsection (1) until such fee has been paid.

### **Reimbursement by insurers of Government medical and related expenses**

17. (1) Where an insurer is liable under a policy issued in accordance with this Ordinance to make a payment in respect of the death of, or bodily injury to, a person and that person has been treated by a nurse or doctor employed by the Government in respect of that fatal or other injury, the insurer shall pay to the Government the sum referred to in subsection (2).

(2) The sum payable under subsection (1) shall be assessed by the Chief Medical Officer having regard to the services and skills involved in the treatment and the charges which would be reasonably required for the same services and skills if rendered by medical staff in private practice in the Islands.

(3) An assessment made under subsection (2) shall be binding upon the insurer and the sum payable under subsection (1) shall be recoverable as though it were a judgement debt of a Court of the Islands having jurisdiction in respect of such sum.

(4) Where in addition to or instead of treatment by a doctor employed by the Government, and by reason of the nature or extent of the injury concerned, the person referred to in subsection (1) is carried to another country for medical treatment, and the cost of such carriage falls upon the Government, the insurer referred to in subsection (1) shall pay to the Government the full amount of such cost.

(5) A sum payable under subsection (4) shall be recoverable as though it were a sum payable under subsection (1).

### **Production of certificate of insurance on application for motor vehicle licence**

18. Any person applying for a licence in respect of a motor vehicle under the Road Traffic Ordinance shall produce to the Director such evidence as may be prescribed, or, in the absence of such Regulations, as the Director may reasonably require, that on the date when the licence comes into operation there will be in force the necessary policy of insurance in relation to the use of the vehicle by the applicant or by other persons on his order or with his permission.

### **Regulations**

19. (1) The Governor may make Regulations prescribing all matters that are required or permitted by this Ordinance to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Ordinance.

(2) Regulations made under this section may amend the Schedule.

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**SCHEDULE**

MOTOR VEHICLES (THIRD PARTY INSURANCE) ORDINANCE

**FORM OF CERTIFICATE OF INSURANCE**

*(Sections 4(4) and 19)*

Certificate No:

Policy No:

1. Index mark and registration number of the vehicle:
2. If the vehicle is not registered, make of the vehicle:
3. Policyholder:
4. Effective date of the commencement of insurance for the purposes of the Ordinance:
5. Date of expiry of insurance (at 12:01 a.m.- both dates inclusive):
6. Persons or classes of persons entitled to drive (provided that the person driving holds a licence, within the meaning of the relevant written law, to drive the motor vehicle or has held and is not disqualified from holding or obtaining such licence):
7. Limitations as to use:

I/We hereby certify that the policy to which this certificate relates is issued in accordance with the provisions and complies with the requirements of the above mentioned Ordinance.

.....  
Authorised Insurer

Per: .....  
Authorised Representative

.....



