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MÁLTA

KAMRA TAD-DEPUTATI

ABBOZZ ta' Liġi mressaq mill-Onorevoli Censu Galea, Ministru għat-Trasport u Kumunikazzjoni u moqri għall-ewwel darba fis-Seduta tat-23 ta' Settembru, 2002.

ATT biex jemenda l-Ordinanza dwar l-Assigurazzjoni ta' Vetturi tal-Mutur għar-Riskji ta' Terzi Persuni, Kap. 104.

RICHARD J. CAUCHI

Skriivan tal-Kamra tad-Deputati

HOUSE OF REPRESENTATIVES

A BILL introduced by the Honourable Censu Galea, Minister for Transport and Communication and read for the first time at the Sitting of the 23rd September, 2002.

AN ACT to amend the Motor Vehicles Insurance (Third-Party Risks) Ordinance, Cap. 104.

RICHARD J. CAUCHI

Clerk of the House of Representatives

ABBOZZ TA' LIĠI msejjaħ

ATT biex jemenda l-Ordinanza dwar l-Assigurazzjoni ta' Vetturi tal-Mutur għar-Riskji ta' Terzi Persuni, Kap. 104

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorita' ta' l-istess, hareġ b'liġi dan li ġejj:-

1. It-titolu fil-qosor ta' dan l-Att hu Att ta' l-2002 li jemenda l-Ordinanza dwar l-Assigurazzjoni ta' Vetturi tal-Mutur għar-Riskji ta' Terzi Persuni. Dan l-Att għandu jiftiehem u jinqara haġa waħda ma' l-Ordinanza dwar l-Assigurazzjoni ta' Vetturi tal-Mutur għar-Riskji ta' Terzi Persuni, hawnhekk iżjed 'il quddiem imsejjaħ "il-liġi prinċipali",

Titolu fil-qosor u bidu fis-seħh.

u għandu jibda jseħħ f'dik id-data li l-Ministru responsabbli għat-trasport jista', b'avviż fil-Gazzetta, jistabbilixxi, u dati differenti jistgħu jiġu hekk stabbiliti għal disposizzjonijiet differenti u għanijiet differenti ta' dan l-Att.

2. L-artikolu 2 tal-liġi prinċipali għandu jiġi emendat kif ġejj:

Emenda ta' l-artikolu 2 tal-liġi prinċipali.

(a) it-tifsira ta' "assiguratur awtorizzat" għandha tkun sostitwita bit-tifsira li ġejja:

““assiguratur awtorizzat” tfisser impriża li tkun irċeviet l-awtorizzazzjoni uffiċjali tagħha f'Malta biex tibda kummerċ ta' assicurazzjoni diretta u li tmexxi l-kummerċ ta'

assicurazzjoni dwar ir-responsabbilta' obligatorja ta' terzi ghar-rigward ta' l-użu ta' vetturi bil-mutur;";

(b) fit-tifsira ta' "*bureau* barrani" il-kliem "meta jidhlu f'pajjiżi fejn l-assigurazzjoni kontra dawk ir-riskji tkun obligatorja" ghandhom jithassru;

(c) fit-tifsira ta' "*bureau* lokali" il-kliem "meta jidhlu f'pajjiżi fejn l-assigurazzjoni kontra dawk ir-riskji tkun obligatorja" ghandhom jithassru;

(d) fit-tifsira ta' "ċertifikat internazzjonali ta' sigurtà" minflok il-kliem "lil sewwieq ta' karożza li jkun qed iżur pajjiż taht l-awtorita'" ghandhom jidhlu l-kliem "ghan-nom"; u fit-test Malti tal-liġi Maltija, minflok il-kelma "sigurtà" kull fejn din tinsab ghandha tidhol il-kelma "assicurazzjoni";

(e) wara t-tifsira ta' "stabbilit" ghandha tidhol din it-tifsira ġdida li ġejja:

" "Fond ghal Protezzjoni u Kumpens" tfisser il-Fond ghal Protezzjoni u Kumpens imwaqqaf taht l-artikolu 49 ta' l-Att dwar il-Kummerċ ta' l-Assigurazzjoni;";

(f) wara t-tifsira ġdida ta' "Fond ghal Protezzjoni u Kumpens" ghandha tidhol din it-tifsira ġdida li ġejja:

" "Ftehim Multilaterali dwar Garanziji" tfisser il-Ftehim Multilaterali dwar Garanziji bejn il-*bureaux* ta' assiguraturo nazzjonali tal-15 ta' Marzu 1991, kif minn żmien ghal żmien emendat, supplimentat jew sostitwit;";

(g) wara t-tifsira ġdida ta' "Ftehim Multilaterali dwar Garanziji" ghandha tidhol din it-tifsira ġdida li ġejja:

" "impriza ta' l-assigurazzjoni" tfisser impriza li tkun irċeviet l-awtorizzazzjoni uffċjali taghha biex tibda kummerċ ta' assiguraturo diretta f'Malta jew fit-territorju ta' Stat imsemmi u li tmexxi l-kummerċ ta' l-assigurazzjoni dwar ir-reseponsabbilta' obligatorja ta' terzi ghar-rigward ta' l-użu ta' vetturi bil-mutur;";

(h) wara t-tifsira ġdida ta' "impriza ta' l-assigurazzjoni" ghandha tidhol din it-tifsira ġdida li ġejja:

" "Malta" ghandha l-istess tifsira bhalma ghandha fl-artikolu 124 tal-Kostituzzjoni;

(i) wara t-tifsira ġdida ta' "Malta" għandha tidhol din it-tifsira ġdida li ġejja:

““obligazzjonijiet internazzjonali ta' Malta” tfisser ir-rabtiet, responsabbiltajiet u obligazzjonijiet ta' Malta li joriginaw mis-shubija jew affiljazzjoni jew relazzjoni ma' xi organizzazzjoni globali jew reġjonali internazzjonali jew minn xi grupp ta' pajjiżi jew minn xi trattat, konvenzjoni jew ftehim internazzjonali iehor ikun kif ikun imsejjaħ, kemm bilaterali kemm multilaterali, li Malta tkun parti fih;”;

(j) it-tifsira ta' “*motor cycle*” għandha tithassar;

(k) wara t-tifsira ġdida ta' “obligazzjonijiet internazzjonali ta' Malta” għandha tidhol din it-tifsira ġdida li ġejja:

““pajjiż terz” tfisser Stat li ma jkunx Malta u li ma jkunx Stat imsemmi;”;

(l) wara t-tifsira ġdida ta' “pajjiż terz” għandha tidhol din it-tifsira ġdida li ġejja:

““parti offiża” tfisser kull min ikollu jedd għal kumpens dwar telf jew feriment kaġunat minn vettura bil-mutur;”;

(m) fit-tifsira ta' “polza tas-sigurtà” jew “polza ta' l-assigurazzjoni” kif emendata b'dan l-Att, il-kliem “mahruġ lil sewwieq ta' karrozza li jkun qed iżur pajjiż u valida għal Malta” għandhom jithassru;

(n) wara t-tifsira ta' “sid” għandha tidhol din it-tifsira ġdida li ġejja:

““sistema *green card*” tfisser is-sistema internazzjonali ta' assicurazzjoni ta' vetturi għal riskji kontra terzi persuni bbażata fuq il-Ftehim Uniformi bejn il-*bureaux* u l-Ftehim Multilaterali dwar Garanziji u kull ftehim iehor bhal dak li jista' jidhol fis-seħħ minn żmien għal żmien;”;

(o) wara t-tifsira ġdida ta' “sistema *green card*” għandha tidhol din it-tifsira ġdida li ġejja:

““stabbiliment” fir-rigward ta' impriża ta' l-assigurazzjoni tfisser l-uffiċċju prinċipali, aġenzija jew fergħa u tinkludi kull preżenza permanenti ta' impriża fit-territorju ta' Malta jew ta' Stat imsemmi, anke jekk dik il-preżenza ma

tieħux il-forma ta' fergħa jew aġenzija, imma tkun tikkonsisti f'uffiċċju manigġat mill-persunal innifsu ta' l-impriza jew minn persuna indipendenti li jkollha awtorita' taġixxi għall-impriza u f'isimha;";

(p) wara t-tifsira ta' "stabbilit" għandha tidhol din it-tifsira ġdida li ġejja:

“ “Stat imsemmi” tfisser Stat elenkat bħala tali b'regolamenti magħmulin mill-Ministru responsabbli għat-trasport;”;

(q) wara t-tifsira ġdida ta' "Stat imsemmi" għandha tidhol din it-tifsira ġdida li ġejja:

“ “territorju fejn vettura bil-mutur tkun normalment bażata” tfisser -

(i) it-territorju ta' l-Istat li l-vettura bil-mutur ikollha l-pjanċa ta' registrazzjoni tiegħu; jew

(ii) f'każijiet meta ma tkun meħtieġa ebda registrazzjoni għal xi tip ta' vettura bil-mutur imma l-vettura ikollha pjanċa ta' l-assigurazzjoni, jew sinjal distintiv analogu għall-pjanċa ta' registrazzjoni, it-territorju ta' l-Istat fejn tinhareg il-pjanċa ta' l-assigurazzjoni jew is-sinjal; jew

(iii) f'każijiet meta ma jkunu meħtieġa la pjanċa ta' registrazzjoni, la pjanċa ta' l-assigurazzjoni u lanqas sinjal distintiv għal xi tipi ta' vettura bil-mutur, it-territorju ta' l-Istat fejn min ikollu l-kustodja tal-vettura jkun residenti permanentement;

u “vettura bil-mutur li tkun normalment bażata f'Malta” għandha titfisser skond hekk;

(r) it-tifsira ta' “vettura tal-mutur” għandha tkun sostitwita bit-tifsira li ġejja:

“ “vettura bil-mutur” tfisser kull vettura maħsuba biex tivvjagġa fuq l-art u li tkun immexxija b'forza mekkanika, imma li timxix fuq il-binarji, u kull *trailer*, kemm akkoppjat kemm mhux;”; u fit-test Malti tal-ligi Maltija, minflok il-kliem “vettura bil-mutur” u “vetturi tal-mutur” kull fejn dawn jinsabu għandhom jidhlu l-kliem “vettura bil-mutur” u “vetturi bil-mutur” rispettivament.

3. L-artikolu 3 tal-liġi prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 3 tal-liġi prinċipali.

(a) minnufih wara s-subartikolu (1) tiegħu għandhom jidhlu s-subartikoli (1A) u (1B) ġodda li ġejjin:

“(1A) Ikun preżunt li ma kienx hemm polza ta' l-assigurazzjoni fis-sehh skond is-subartikolu (1) ta' dan l-artikolu, kemm-il darba min jiġi akkużat b'reat taht is-subartikolu (1) ma jgibx prova kuntrarja billi juri ċertifikat ta' l-assigurazzjoni mahruġ taht is-subartikolu (4) ta' l-artikolu 4 ta' din l-Ordinanza.

(1B) Tista' tingħata eċċezzjoni valida, fil-prosekuzzjoni ta' reat taht is-subartikolu (1) ta' dan l-artikolu, mill-akkużat jekk igib prova li r-reat ikun sar mingħajr ma huwa kien jaf bih u li jkun eżerċita kull diligenza dovuta biex ma jhallix li r-reat isir.”; u

(b) fil-paragrafu (b) ta' s-subartikolu (4) minnufih wara l-kliem “għal xi klassi determinata ta' vetturi tal-mutur li għaliha” għandhom jidhlu l-kliem “, jew għal xi persuni naturali jew legali, sew pubbliċi jew privati, li lilhom”, u minnufih wara għandu jidhlo dan li ġej:

“Izda kull telf jew feriment kaġunat fit-territorju ta' Stat imsemmi minn vettura bil-mutur li tkun tappartjeni lil persuna naturali jew legali, sew pubblika sew privata, li dwarhom tkun provduta deroga taht din l-Ordinanza mill-applikazzjoni tas-subartikolu (1) ta' dan l-artikolu, għandu jiġi kkumpensat skond kriterji u proċeduri li jiġu stabbiliti b'regolamenti mill-Ministru responsabbli għat-trasport mahruġ taht dan l-artiklu.” ; u

(ċ) is-subartikolu (2) għandu jiġi emendat kif ġej:-

(i) fil-paragrafu (a) tiegħu minflok il-kliem “mitejn u hamsin lira maltin (LM250) għandhom jidhlu l-kliem “elf lira Maltin (LM1,000) u minflok il-kliem “hames mitt lira Maltin (Lm500)” għandhom jidhlu l-kliem “elfejn lira Maltin (Lm2,000)”;

(ii) fil-paragrafu (b) tiegħu minflok il-kliem “hames mitt lira Maltin (Lm500)” għandhom jidhlu l-kliem “elfejn lira Maltin (Lm2,000)” u minflok il-kliem “seba' mija u hamsin lira Maltin (LM750)” għandhom jidhlu l-kliem “elfejn u hames mitt lira Maltin (Lm2,500)”;

(iii) fil-paragrafu (ċ) tiegħu minflok il-kliem “seba' mija u hamsin lira Maltin (LM750)” għandhom jidhlu l-kliem

“elfejn u hames mitt lira Maltin (Lm2,500)” u minflok il-kliem “elf lira Maltin (LM1,000)” ghandhom jidhlu l-kliem “tliet elef lira Maltin (Lm3,000)”.

Emenda ta' l-artikolu 4 tal-ligi prinċipali.

4. L-artikolu 4 tal-ligi prinċipali ghandu jigi emendat kif ġej:

(a) is-subartikolu (1) ghandu jigi sostitwit b'dawn is-subartikoli (1) u (1A) godda li ġejjin:

“(1) Sabiex jitharsu l-htigiet ta' din l-Ordinanza, polza ta' l-assigurazzjoni dwar l-użu ta' vettura bil-mutur li tkun normalment bażata f'Malta jew fit-territorju ta' Stat imsemmi ghandha, minbarra li tkun polza ta' l-assigurazzjoni mfissra fl-artikolu 2, tkun tkopri:

(a) kull responsabbilta' ċivili li tista' toriġina mill-mewt jew mill-feriment ta' xi persuna, inklużi l-passiġġieri kollha (li ma jkunux id-drajver), jew ħsara fil-proprjeta', kaġunata mill-vettura bil-mutur f'Malta; u

(b) kull telf jew feriment kaġunat mill-vettura bil-mutur fit-territorju ta' Stat imsemmi, skond il-ligi fis-seħħ fl-istess Stat imsemmi; u

(ċ) kull telf jew feriment kaġunat mill-vettura bil-mutur li jiġġarrab minn persuna ta' nazzjonalita' Maltija jew persuna ta' nazzjonalita' ta' Stat imsemmi matul vjaġġ dirett bejn Malta u t-territorju ta' Stat imsemmi jew bejn it-territorji ta' żewġ Stati msemmija, jekk ma jkun hemm ebda *bureau* barrani responsabbli ghat-territorju li fuqu jkun qed isir il-vjaġġ:

Iżda dik il-polza ta' l-assigurazzjoni ma tkunx mehtieġa tkopri:

(i) responsabbilta' għal dik il-ħsara fil-proprjeta' ta' terzi li teċċedi l-hamsin elf lira Maltin (Lm50,000) li toriġina minn xi talba wahda jew ammont oġhla li jista' jigi stabbilit b'regolamenti magħmula mill-Ministru responsabbli ghat-trasport taht dan l-artikolu; jew

(ii) responsabbilta' għal ħsara lil oġġetti li jingarru b'kiri jew b'kumpens fil-vettura jew fuqha jew fi *trailer* jew fuqu (kemm akkoppjat kemm mhux) miġbud mill-vettura; jew

(iii) kull responsabbilta' għal hsara lil proprjeta' ta' terzi fuq vettura bil-mutur assigurata jew go fiha jew li tkun fil-pussess tal-persuna assigurata; jew

(iv) kull responsabbilta' li toħroġ minn kuntratt.

(1A) Polza ta' l-assigurazzjoni dwar l-użu ta' vettura bil-mutur li tkun normalment bażata f' Malta jew fit-territorju ta' Stat imsemmi għandha tkopri, abbażi ta' *premium* uniku, it-territorju kollu ta' Malta u ta' l-Istati kollha msemmija, u tiggarantixxi, abbażi ta' l-istess *premium* uniku:

(a) f' Malta, il-kopertura meħtieġa taht l-Ordinanza; u

(b) f' kull Stat imsemmi, il-kopertura meħtieġa bil-liġi ta' dak l-Istat jew il-kopertura meħtieġa bil-liġi ta' l-Istat fit-territorju fejn vettura bil-mutur tkun normalment bażata jekk dik il-kopertura tkun oghla.”; u

(b) fis-subartikolu (4) tiegħu minflok il-kliem “Hlief meta polza ta' sigurtà ma tkunx ċertifikat internazzjonali ta' sigurtà, polza” għandhom jithassru u l-kelma “polza” għandha tkunu sostitwitja bil-kelma “Polza”.

5. Minnufih wara l-artikolu 4 tal-liġi prinċipali, għandu jidhol dan l-artikolu 5 ġdid li ġej:

Żjieda ta' l-artikolu 5 ġdid mal-liġi prinċipali.

“Huġiet
dwar poloz
li
jirrigwardaw
xi vetturi
bil-mutur li
jidhlu
f' Malta.

5. (1) Vettura bil-mutur li tkun normalment bażata fit-territorju ta' pajjiż terz għandha, qabel ma tidhol Malta, tkun provduta b' ċertifikat internazzjonali ta' l-assigurazzjoni jew b' tali ċertifikat ieħor li jista' jkun ordnat mill-Ministru responsabbli għat-trasport taht dan l-artiklu u li jstabbilixxi li dik il-vettura bil-mutur tkun assigurata skond is-subartikoli (1) u (1A) ta' l-artikolu 4:

Izda dan is-subartikolu ma japplikax għal dawk it-tipi ta' vetturi bil-mutur li jkunu normalment ibbażati fit-territorju ta' pajjiż terz li fir-rigward tagħhom il-Ministru responsabbli għat-trasport jista' b' regolamenti jordna li dan is-subartikolu ma japplikax għalihom.

(2) Jekk Stat imsemmi ikun ipprova għal deroga dwar dak it-tip ta' vettura bil-mutur jew xi vetturi bil-mutur

li jkollhom pjanċa speċjali mill-obbligazzjoni li jkollhom assigurazzjoni kontra r-responsabbiltà ċivili dwar l-użu ta' vetturi bil-mutur li jkunu normalment bażati fit-territorju ta' dak l-Istat, il-persuna li jkollha l-kustodja ta' dik il-vettura bil-mutur tista' tkun mehtieġa għib magħha, fil-waqt li din il-vettura bil-mutur tiddaħhal f'Malta, ċertifikat ta' l-assigurazzjoni internazzjonali validu jew inkella tagħmel kuntratt ta' l-assigurazzjoni li jkun konformi mal-htigiet ta' din l-Ordinanza.”.

Emenda ta' l-artikolu 6 tal-ligi prinċipali.

6. Fl-artikolu 6 tal-ligi prinċipali minflok il-kliem “fl-artikolu 4(1)(b)” għandhom jidhlu il-kliem “fis-subartikolu (1) ta' l-artikolu 4”.

Zieda ta' l-artikolu 7A gdid mal-ligi prinċipali.

7. Minnufih wara l-artikolu 7 tal-ligi prinċipali, għandu jidhol dan l-artikolu 7A gdid li ġej:

“Verifiki każwali.

7A. Il-Ministru responsabbli għat-trasport jista' jipprovdi, b'regolamenti taht dan l-artiklu, dwar kif isiru verifiki każwali fuq l-istatus ta' assigurazzjoni ta' vetturi bil-mutur li jkunu normalment bażati fit-territorju ta' Stat imsemmi, jew vetturi bil-mutur li jkunu normalment bażati fit-territorju ta' pajjiż terz meta jiddaħhlu Malta mit-territorju ta' Stat imsemmi.”.

Zieda ta' artikoli 9A sa 9E għodda mal-ligi prinċipali.

8. Minnufih wara l-artikolu 9 tal-ligi prinċipali, għandu jidhol dan l-artikolu 9A gdid li ġej:

“Jedd dirett għal azzjoni.

9A. (1) Parti offiża residenti f'Malta jew fi Stat imsemmi u li jkollha jedd għal kumpens dwar kull telf jew feriment li jirriżulta minn aċċident kaġunat bl-użu ta' vettura bil-mutur li tkun assigurata minn assiguratatur awtorizzat u normalment bażata f'Malta jew fit-territorju ta' Stat imsemmi, ikollha jedd dirett għal azzjoni kontra l-assiguratatur awtorizzat f'Malta, jekk:

(a) l-aċċident ikun ġara f'Malta jew fi Stat imsemmi; jew

(b) l-aċċident ikun ġara f'pajjiż terz li l-*bureau* barrani tiegħu jkun issieheb mas-sistema *green card*.

(2) Parti offiża residenti f'Malta u li jkollu jedd għal kumpens dwar kull telf jew feriment li jirriżulta minn xi aċċident kaġunat bl-użu ta' vettura bil-mutur li tkun assigurata u normalment bażata fit-territorju ta' Stat imsemmi, għandu jkollha jedd dirett għal azzjoni kontra l-impriza ta' l-

assigurazzjoni li tkun harġet il-polza ta' l-assigurazzjoni u jkollha jedd teżerċita l-jedd dirett li jkollha għal azzjoni kontra r-rappreżentant tat-talbiet għad-danni ta' l-impriża ta' l-assigurazzjoni f' Malta, jekk:

(a) l-aċċident ikun ġara fi Stat imsemmi; jew

(b) l-aċċident ikun ġara f'pajjiż terz li l-*bureau* barrani tiegħu ikun issieheb mas-sistema *green card*.

Dispożizzjonijiet
dwar ir-
rappreżentanti
tat-talbiet
għad-danni.

9B. (1) Assiguratur awtorizzat għandu jahtar r-rappreżentant tat-talbiet għad-danni f'kull Stat imsemmi, li l-istess rappreżentant għandu jittratta u jirrisolvi talbiet għad-danni li joriġinaw minn xi aċċident fil-każijiet imsemmija fis-subartikolu (1) ta' l-artikolu 9A ta' din l-Ordinanza:

Iżda l-aċċident li minnu toriġina t-talba għad-danni jkun kaġunat bl-użu ta' vettura bil-mutur li tkun assicurata permezz ta' stabbiliment f' Malta jew fi Stat imsemmi u tkun normalment bażata f' Malta jew fit-territorju ta' Stat imsemmi, u l-parti offiża ma tkunx residenti f' Malta jew fl-Istat ta' l-istabbiliment jew fl-Istat fejn il-vettura tkun normalment bażata.

(2) Assiguratur awtorizzat għandu jagħzel lir-rappreżentant tat-talbiet għad-danni tiegħu skond ma jrid hu:

Iżda r-rappreżentant tat-talbiet għad-danni għandu jkun:

(i) residenti jew stabbilit fl-Istat imsemmi fejn ikun ġie mahtur; u

(ii) kapaċi jittratta każijiet fl-ilsien jew ilsna ufficjali ta' l-Istat imsemmi ta' residenza tal-parti offiża.

(3) Ir-rappreżentant tat-talbiet għad-danni għandu, fir-rigward tat-talbiet għad-danni msemmija fis-subartikolu (1), jiġbor kull informazzjoni meħtieġa f'dak li għandu x'jaqsam mar-risolviment tat-talbiet għad-danni u għandu jiehu l-miżuri meħtieġa biex jinnegozja r-risolviment ta' talbiet għad-danni.

(4) L-assiguratur awtorizzat għandu jiehu l-miżuri kollha meħtieġa biex iversti lir-rappreżentant tat-talbiet għad-danni b' setgħat sufficjenti biex jirrappreżenta lill-assiguratur awtorizzat fir-rigward ta' partijiet offiži fil-każijiet imsemmija

fis-subartikolu (1) u li jadempixxi ghalkollox it-talbiet kollha li jaghmlu ghad-danni.

(5) Il-htieġa li jinhatar ir-rappreżentant tat-talbiet ghad-danni ma ghandux jipprekludi l-jedd li jkollha l-parti offiża jew l-impriża ta' l-assigurazzjoni tiegħu, li tistitwixxi proċedimenti direttament kontra l-persuna li tkun ikkaġunat l-aċċident jew kontra l-assiguratur awtorizzat.

(6) Meta l-parti offiża tippreżenta t-talba tagħha ghal kumpens kemm direttament lill-assiguratur awtorizzat tal-persuna li tkun ikkaġunat l-aċċident kemm lir-rappreżentant tat-talbiet ghad-danni tagħha:

(a) f'każijiet meta ma tkunx ikkontestata r-responsabbilta' u jkunu ġew kwantifikati d-danni, l-assiguratur awtorizzat tal-persuna li tkun ikkaġunat l-aċċident jew ir-rappreżentant tagħha tat-talbiet ghad-danni jkun meħtieġ li jagħmel offerta ta' kumpens raġonevoli; jew

(b) f'każijiet meta tincahad ir-responsabbilta' jew din ma tkunx ġiet stabbilita b'mod ċar jew id-danni ma jkunux ġew kwantifikati ghalkollox, l-assiguratur awtorizzat li t-talba ghal kumpens tkun ġiet lill-indirizzata jew ir-rappreżentant tiegħu tat-talbiet ghad-danni, jkun meħtieġ jipprovdi risposta raġonevoli għall-kwistjonijiet rilevati fit-talba ghad-danni,

f'kull każ fi żmien tliet xhur mid-data meta l-parti offiża tkun ippreżentat it-talba tagħha ghad-danni.

(7) Jekk ma ssir ebda offerta jew risposta bħal dik imsemmija fis-subartikolu (6) fi żmien il-perjodu ta' tliet xhur, l-assiguratur awtorizzat tal-persuna li tkun ikkaġunat l-aċċident tista' tehel penali ta' mhux iżjed minn hamest elef lira Maltin (Lm5,000), li tithallas lill-Fond ghal Protezzjoni u Kumpens, skond ma jista' jiġi stabbilit, liema penali tiġi riċevuta bħala dejn ċivili mill-fond imsemmi. Jekk offerta bħal dik imsemmija fil-paragrafu (a) tas-subartikolu (6) ma ssirx fi żmien tliet xhur, ghandu jithallas mgħax mill-assiguratur awtorizzat fuq l-ammont ta' kumpens offrut jew mogħti mill-Qorti lill-parti offiża; iżda jekk ikunu dovuti interessi dawn għandhom jibdew jghoddu mid-data li fiha tkun ġiet ippreżentata t-talba għall-kumpens mill-parti offiża, sad-data li jiġi riċevut il-kumpens mill-parti offiża, u fi

kwalunkwe każ l-assiguratur ikun responsabbli li jhallas l-interessi fuq id-differenza fl-ammont bejn l-offerta ta' kumpens mghamul taht subartiklu (6) ta' dan l-artiklu u l-ammont attwalment riċevut mill-parti offiża.

(8) Id-disposizzjonijiet hawn qabel imsemmija mhumiex intiżi, jew ma jnaqqsu ebda dritt li l-parti offiża, jew l-assiguratur awtorizzat jew impriża ta' l-assigurazzjoni tagħha skond il-każ, jista' jkollha jew li permezz tagħhom dawk il-persuni jkunu jistgħu jibdew proċedimenti legali kontra l-persuna li tkun ikkaġunat l-aċċident jew l-assiguratur awtorizzat jew l-impriża ta' l-assigurazzjoni ta' dik il-persuna skond il-każ.

(9) Il-hatra tar-rappreżentant tat-talbiet għad-danni ma tfissirx fiha nnifisha li jkollha tinfetah fergha fil-kuntest tat-tifsira ta' l-Att dwar il-Kummerċ ta' l-Assigurazzjoni, u r-rappreżentant tat-talbiet għad-danni ma għandux jitqies li jkun xi stabbiliment skond it-tifsir ta' l-Att dwar il-Kummerċ ta' l-Assigurazzjoni, jew għall-finijiet ta' kull liġi dwar il-ġurisdizzjoni u r-rikonossiment u l-infurzar ta' sentenzi fi kwistjonijiet ċivili u kummerċjali.

Disposizzjonijiet
dwar il-korp
li jagħti
kumpens.

9C. (1) Għandu jiġi mwaqqaf jew approvat mill-Ministru responsabbli għat-trasport korp li jagħti kumpens biex jikkumpensa lil partijiet offiżi li jkunu residenti f'Malta skond dan l-artikolu, fil-każijiet imsemmija fis-subartikolu (2) ta' l-artikolu 9A ta' din l-Ordinanza, jekk l-aċċident li minnu toriġina t-talba għad-danni ikun kaġunat bl-użu ta' vettura bil-mutur li tkun assigurata permezz ta' stabbiliment fi Stat imsemmi, u li tkun normalment bażata fit-territorju ta' Stat imsemmi.

(2) Parti offiża residenti f'Malta tista' tippreżenta talba għad-danni lill-korp li jagħti kumpens:

(a) jekk, fi żmien tliet xhur mid-data meta l-parti offiża tkun ippreżentat l-pretensjoni tagħha għall-kumpens lill-impriża ta' l-assigurazzjoni li tkun harġet il-polza ta' l-assigurazzjoni dwar l-użu tal-vettura bil-mutur li tkun ikkaġunat l-aċċident jew ir-rappreżentant tagħha tat-talbiet għad-danni, l-impriża ta' l-assigurazzjoni jew ir-rappreżentant tagħha tat-talbiet għad-danni ma jkunux taw risposta raġonevoli għall-kwistjonijiet mqajjma fit-talba għad-danni; jew

(b) jekk l-impriża ta' l-assigurazzjoni li tohrog il-polza ta' l-assigurazzjoni dwar l-użu tal-vettura bil-mutur li tkun ikkaġunat l-aċċident tkun naqset milli tahtar rappreżentant tat-talbiet għad-danni f'Malta. Izda, parti offiża tista' ma tippreżentax talba għad-danni lill-korp li jagħti kumpens jekk hija tkun ippreżentat talba għal kumpens direttament lill-impriża ta' l-assigurazzjoni u jekk hija tkun irċeviet rispoġta raġonevoli fi żmien tliet xhur minn meta tiġi ppreżentata t-talba għad-danni:

Izda parti offiża tista' ma tippreżentax talba għad-danni lill-korp li jagħti kumpens jekk hija tkun mexxiet azzjoni legali direttament kontra l-impriża ta' l-assigurazzjoni.

(3) Il-korp li jagħti kumpens għandu jagixxi b'dak il-mod kif jista' jiġi stabbilit b'regolamenti magħmula mill-Ministru responsabbli għat-trasport taht dan l-artiklu, fi żmien xahrejn mid-data minn meta l-parti offiża tippreżenta t-talba għal kumpens imma għandu jitttermina l-azzjoni tiegħu jekk l-impriża ta' l-assigurazzjoni, jew ir-rappreżentant tagħha tat-talbiet għad-danni, sussegwentement tagħti rispoġta raġonevoli għat-talba għad-danni.

(4) Il-korp li jagħti kumpens għandu minnufih jgħarraf:

(a) lill-impriża ta' l-assigurazzjoni tal-vettura bil-mutur li l-użu tagħha ikun ikkaġuna l-aċċident jew lir-rappreżentant tagħha tat-talbiet għad-danni;

(b) lill-korp li jagħti kumpens fl-Istat imsemmi ta' l-impriża ta' l-istabbiliment ta' l-assigurazzjoni li johrog il-polza;

(c) jekk tkun magħrufa, l-persuna li tkun ikkaġunat l-aċċident,

li tkun irċeviet talba għad-danni mill-parti offiża u li tkun se twiegeb għal dik it-talba għad-danni fi żmien xahrejn mill-preżentata ta' dik it-talba għad-danni.

(5) Il-hlas ta' kumpens għandu jsir bla hsara għal dawk il-limitazzjonijiet u restrizzjonijiet li jistgħu jiġu stabbiliti b'regolament magħmul taht subartiklu (3). Il-korp li jagħti kumpens ma għandux jirrendi l-hlas ta' kumpens bhala kondizzjoni fuq il-jedd tal-parti offiża li tistabbilixxi

b'xi mod li jkun li l-persuna responsabbli ma tkunx kapaci jew tirrifjuta milli thallas.

(6) Jekk il-korp li jaghti kumpens jikkumpensa l-parti offiża u jkun talab ghar-rimborz ta' l-ammont imhallas bhala kumpens mill-korp li jaghti kumpens fl-Istat imsemmi ta' l-istabiliment ta' l-impriza ta' l-assigurazzjoni li tkun harġet il-polza ta' l-assigurazzjoni, dak l-ahhar korp ghandu jigi surrogat ghall-parti offiża fil-jeddijiet taghha, kontra l-persuna li tkun ikkagunat l-accident jew l-impriza ta' l-assigurazzjoni tieghu sakemm il-korp li jaghti kumpens f'Malta jkun ipprovda kumpens ghat-telf jew il-feriment mgarrab.

(7) Jekk assiguratatur awtorizzat f'Malta jkun hareġ il-polza ta' l-assigurazzjoni dwar l-użu tal-vettura bil-mutur li tkun ikkagunat l-accident fil-kazijiet imsemmija fis-subartikolu (1) ta' l-artikolu 9B, il-korp li jaghti kumpens fl-Istat ta' residenza imsemmi tal-parti offiża li jkun ikkumpensa lill-parti offiża ghandu jkollu jedd jitlob ghar-rimborz tad-danni ta' l-ammont imhallas bhala kumpens mill-korp li jaghti kumpens f'Malta, f'liema kaz dan l-ahhar korp jigi surrogat ghall-parti offiża fil-jeddijiet taghha kontra l-persuna li tkun ikkagunat l-accident jew l-assiguratatur awtorizzat sakemm il-korp li jaghti kumpens fl-Istat ta' residenza imsemmi tal-parti offiża jkun ipprovda kumpens ghat-telf jew il-feriment mgarrab.”.

9D. Hsara jew feriment kagunati minn vetturi bil-mutur mhux identifikati jew mhux assigurati.

(1) Jekk il-mewt ta' jew il-feriment fil-gisem ta' xi persuna jew il-hsara fil-proprjeta', ikunu kagunati minn vettura bil-mutur mhux identifikata jew vettura bil-mutur li dwarha l-obbligazzjoni ta' assigurazzjoni li hemm provdut dwarha fis-subartikolu (1) ta' l-artikolu 4 ma tkunx giet sodisfatta, il-parti offiża jkollha l-jedd tapplika direttament lill-Fond ghal Protezzjoni u Kumpens. Il-Fond ghal Protezzjoni u Kumpens ghandu jaghti lill-parti offiża risposta ragonevoli li tirrigwarda l-hlas ta' kumpens, abbaži ta' informazzjoni provduta mill-parti offiża fuq talba tal-Fond ghal Protezzjoni u Kumpens.

(2) Il-hlas ta' kumpens ikun bla hsara ghal dawk il-kondizzjonijiet, limitazzjonijiet u restrizzjonijiet li jistghu jigu stabbiliti b'regolamenti maghmulin taht paragrafu (b) ta' l-

artikolu 49 ta' l-Att dwar il-Kummerċ ta' l-Assigurazzjoni. Il-Fond għal Protezzjoni u Kumpens ma għandux jagħmel il-hlas ta' kumpens bhala kondizzjoni fuq li l-parti offiża tistabbilixxi b'xi mod li jkun li l-persuna responsabbli ma tkunx tista' jew tkun qed tirmifjuta li thallas.

(3) Fil-każ ta' tilwima bejn il-Fond għal Protezzjoni u Kumpens u l-assiguratatur awtorizzat jew l-impriża ta' l-assigurazzjoni li tkun harget il-polza ta' l-assigurazzjoni, dwar min minnhom ikun fl-aħħar mill-aħħar responsabbli jhallas xi kumpens, min jiġi wara ikun responsabbli fl-ewwel lok għall-hlas ta' kumpens lill-parti offiża minghajr ebda dewmien. Jekk jiġi fl-aħħar deċiż li l-parti l-oħra kien imissha hallset il-kumpens kollu jew parti minnu, dik il-parti l-oħra għandha tirmborża skond hekk lill-parti li tkun hallset.

9E. Kumpens mill-korp li jagħti kumpens meta l-vettura bil-mutur jew l-impriża ta' l-assigurazzjoni ma jkunux identifikati.

(1) Parti offiża residenti f'Malta tista' tapplika għall-kumpens mill-korp li jagħti kumpens imsemmi fis-subartikolu (1) ta' l-artikolu 9C jekk ikun impossibbli li l-vettura bil-mutur li tkun ikkagunat l-aċċident tiġi identifikata jew jekk, fi żmien xahrejn mill-aċċident, ikun impossibbli li tiġi identifikata l-impriża ta' l-assigurazzjoni:

Iżda l-aċċident irid ikun:

(i) ġara fi Stat imsemmi bl-użu ta' vettura bil-mutur assigurata u normalment bażata f'Malta jew fi Stat imsemmi; jew

(ii) ġara f'pajjiż terz li jkollu *bureau* barrani li jkun issieheb mas-sistema *green card* bl-użu ta' vettura bil-mutur assigurata u normalment bażata f'Malta jew fi Stat imsemmi; jew

(iii) kaġunat minn vettura bil-mutur koperta bl-artikolu 5.

(2) Il-korp li jagħti kumpens għandu jipprovdi l-kumpens skond id-disposizzjonijiet tas-subartikolu (1) ta' l-artikolu 4 u l-artikolu 9D.

(3) Korp fi Stat imsemmi ekwivalenti għal-korp li jagħti kumpens f'Malta kif imsemmi fis-subartikolu (1) ta' l-

artikolu 9C, li jkun ikkumpensa parti offiċja residenti f'dak l-Istat, taht kondizzjonijiet ekwivalenti għal dawk fis-subartikolu (7) ta' l-artikolu 9C, ikollu jedd jagħmel talba għar-rimborż tad-danni kontra l-Fond għal Protezzjoni u Kumpens:

(a) meta l-impriza ta' l-assigurazzjoni ma tkunx tista' tiġi identifikata u l-vettura bil-mutur tkun normalment bażata f'Malta;

(b) meta l-vettura bil-mutur ma tkunx tista' tiġi identifikata u l-aċċident ikun ġara f'Malta;

(ċ) meta l-vettura bil-mutur tkun normalment bażata fit-territorju ta' pajjiż terz u l-aċċident ikun ġara f'Malta.”.

9. L-artikolu 10 tal-liġi prinċipali għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 10 tal-liġi prinċipali.

Paragrafu (iii) tas-subartikolu (2)(ċ) ta' l-artikolu 10 tal-liġi prinċipali għandu jkun sostitwit bil-paragrafu ġdid li ġej:

“(iii) qabel ma jiġri l-fatt hawn imsemmi, l-assiguratur awtorizzat ikun ippreżenta ittra uffiċjali kontra l-persuna li jkun inħariglu, sarlu jew gie kkunsinnat lilu ċ-ċertifikat, dwar in-nuqqas li jagħti lura dak iċ-ċertifikat, u dik l-ittra giet notifikata bil-miktub lil dik il-persuna mill-inqas jumejn tax-xogħol qabel ma jkun ġara dak il-fatt, jew”;

(iv) wara li jiġri l-fatt hawn imsemmi, imma qabel ma jgħaddu erbatax-il ġurnata minn meta jibda jsehh it-tħassir tal-polza, l-assiguratur awtorizzat ikun beda proċedimenti taht din l-Ordinanza dwar in-nuqqas li jingħata lura dak iċ-ċertifikat.”.

10. L-artikolu 12 tal-liġi prinċipali għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 12 tal-liġi prinċipali.

(a) fin-nota marginali tiegħu l-kliem “rigward trasport b'kiri jew bi hlas ta' passigġieri” għandhom jithassru;

(b) fis-subartikolu (1) il-kliem “l-artikolu 4(1)(b)” għandhom ikunu sostitwiti bil-kliem “is-subartikolu (1) ta' l-artikolu 4”;

(ċ) wara s-subartikolu (2) għandhom jidhlu dawn is-subartikoli (3) u (4) ġodda li ġejjin:

“(3) Kull klawżola li tinsab fil-polza ta’ l-assigurazzjoni mahruġa skond is-subartikolu (1) ta’ l-artikolu 4 li teskludi mill-kopertura ta’ l-assigurazzjoni taht il-polza l-użu jew is-sewqan ta’ vetturi bil-mutur minn:

(a) persuni li ma jkollhomx awtorizzazzjoni ghaldaqstant espressa jew implicita; jew

(b) persuni li ma jkollhomx liċenza li tippermettathom isuqu l-vettura bil-mutur inkwistjoni; jew

(c) persuni li jiksru l-htigiet tekniċi stabbiliti li jirrigwardaw il-kondizzjoni u s-sigurtà tal-vettura bil-mutur inkwistjoni,

tkun invalida fir-rigward ta’ talbiet ghad-danni minn terzi:

Izda l-klawżola msemmija fil-paragrafu (a) ta’ dan is-subartikolu tista’ tigi invokata kontra persuni li jkunu volontarjament dahlu fil-vettura bil-mutur li l-użu taghha ikun ikkaguna l-hsara jew il-feriment, jekk l-assiguratur awtorizzat jista’ jipprova li dawn il-persuni kienu jafu li l-vettura bil-mutur kienet misruqa jew li tkun giet użata minghajr awtorizzazzjoni.

(4) Kull klawżola li jkun fiha l-polza ta’ l-assigurazzjoni li teskludi lill-membri tal-familja tal-persuna assicurata, lil xi drajver jew xi persuna oħra li tinkorri responsabbiltà ċivili, u li responsabbiltà taghha tkun koperta b’polza ta’ l-assigurazzjoni kif imsemmija fis-subartikolu (1) ta’ l-artikolu 4, mill-assigurazzjoni dwar il-ferimenti taghhom fil-persuna minhabba f’dik ir-relazzjoni, tkun invalida.”.

Zieda ta’ l-artikolu 15 ġdid mal-liġi prinċipali.

11. Minnufih wara l-artikolu 14 tal-liġi prinċipali, ghandu jidhol dan l-artikolu ġdid li ġej:

“Dmir to tagħi avviz lill-assiguratur.

15. (1) Meta jigri fatt fir-rigward ta’ xi vettura bil-mutur b’konsegwenza li assicuratur awtorizzat jista’ jkun responsabbli biex jindennizza lill-parti offiża, il-persuna assicurata ghandha kemm jista’ jkun malajr wara li jigri dak il-fatt u f’kull każ fi żmien jumejn tax-xoghol, jew meta l-fatt ma jkunx ġara fil-preżenza taghha, fi żmien jumejn tax-xoghol minn meta tkun saret taf bil-ġrajja tal-fatt għall-ewwel darba,

taghti lill-assiguratur awtorizzat li jkun hareġ il-polza, avviż bil-miktub tal-ġrajja tal-fatt flimkien ma' dawk il-partikolaritajiet tal-fatt li tkun taf bihom jew li tkun tista' takkwista u li jkunu raġonevolment mehtieġa mill-assiguratur.

(2) Meta jiġri fatt fir-rigward ta' vettura bil-mutur li b'konsegwenza tiegħu assiguratur awtorizzat jista' jsir responsabbli biex jindennizza parti offiċja, il-persuna li kienet qegħda attwalment tuża l-vettura bil-mutur meta jkun ġara l-fatt hawn qabel imsemmi, għandha:

(a) kemm-il darba ma tkunx hi nnifisha l-assigurata taht il-polza, taghti lill-persuna assigurata kemm jista' jkun malajr wara li jkun ġara l-fatt, u f'kull każ fi żmien jumejn tax-xogħol, avviż tal-ġrajja tal-fatt flimkien mal-partikolaritajiet kollha tal-fatt; u

(b) taghti kemm jista' jkun malajr wara l-ġrajja tal-fatt u f'kull każ fi żmien jumejn tax-xogħol lill-assiguratur awtorizzat li jkun hareġ il-polza, avviż bil-miktub tal-ġrajja tal-fatt flimkien ma' dawk il-partikolaritajiet tal-fatt li huwa jkun jaf bihom jew li jkun jista' akkwista, u li jkunu raġonevolment mehtieġa mill-assiguratur.

(3) Meta assiguratur awtorizzat ikollu tassew għaliex jahseb b'mod raġonevoli li jkun ġara fatt fir-rigward ta' vettura bil-mutur li b'konsegwenza tiegħu l-assiguratur jista' jsir responsabbli biex jindennizza parti offiċja, għaldaqstant, u minkejja li l-persuna li tkun mehtieġa li tagħtih avviż ta' dak il-fatt taht is-subartikoli (1) jew (2) tonqos milli tagħmel dan, huwa għandu jittratta dak il-fatt bħala talba għad-danni magħmula mill-assigurat taht il-polza ta' l-assigurazzjoni.

(4) Meta ssir talba għad-danni kontra assiguratur awtorizzat dwar xi responsabbiltà mehtieġa li tkun koperta minn polza ta' l-assigurazzjoni dwar l-użu ta' vettura bil-mutur taht din l-Ordinanza, għandu jitqies li l-assigurat ikun qabel li jsir il-hlas tat-talba għad-danni, jekk:

(a) l-assiguratur awtorizzat ikun ta avviż bil-miktub, b'ittra reġistrata jew ittra ufficjali, lill-assigurat jew lill-persuna li tkun qegħda taġixxi f'ismu, dwar l-intenzjoni li jkollu li jhallas it-talba għad-danni lill-parti offiċja, u għal kemm ikun se jammonta dak il-hlas; u

(b) l-assigurat ma jkunx, fi zmien għaxart ijiem minn meta jirċievi dak l-avviż, ta avviż bil-miktub lill-assigurat awtorizzat dwar l-oġġezzjoni tiegħu għal dak il-hlas.

(5) L-assigurat awtorizzat ikollu l-jedd jirkupra l-ispejjeż legali u ġudizzjarji u l-imghax minghand il-persuna assigurata, jekk:

(a) l-assigurat ikun ipprovdha lill-persuna assigurata b'informazzjoni bil-miktub f'forma li tiftiehem sew dwar il-konsegwenzi ta' l-oġġezzjoni tiegħu; u

(b) il-persuna assigurata tkun oġġezzjonat għat-talba għad-danni; u

(ċ) l-persuna assigurata tinsab responsabbli f'sentenza finali:

Iżda l-assigurat awtorizzat ikollu biss jedd jirkupra dawk l-ispejjeż u mghax li jintefqu waqt il-proċedimenti li jwasslu għas-sentenza finali u dan fi proporzjon għar-responsabbilta' tal-persuna assigurata skond ma jiġi stabbilit mis-sentenza finali.”

Emenda ta' l-
artikolu 18 tal-liġi
prinċipali.

12. L-artikolu 18 tal-liġi prinċipali għandu jiġi emendat kif ġej:

(a) id-disposizzjoni preżenti għandha tiġi enumerata mill-ġdid bħala s-subartikolu (1) tiegħu; u

(b) wara s-subartikolu (1) kif enumerat mill-ġdid għandhom jidhlu dawn is-subartikoli (2) u (3) ġodda li ġejjin:

“(2) Min ikollu l-pussess ta' vettura għandu minghajr ebda dewmien, jekk jiġi hekk mitlub mill-persuni involuti f'acċident stradali tat-traffiku, jgħarraf lil dawk il-persuni bl-identita' ta' l-assigurat li jkun ikopri r-responsabbilta' li torigina mill-użu ta' vettura bil-mutur involuta fl-acċident.

(3) Jekk jiġi kaġunat acċident f'Malta minn vettura bil-mutur li tkun normalment bażata fit-territorju ta' Stat imsemmi, il-bureau lokali għandu jikseb informazzjoni dwar it-territorju fejn vettura bil-mutur tkun normalment bażata, u dwar il-marka ta' reġistrazzjoni tagħha, jekk ikun hemm; u safejn ikun possibbli, dwar id-dettalji ta' l-assigurazzjoni tal-vettura bil-mutur, bħalma dawn normalment jidhru fuq iċ-

ċertifikat internazzjonali ta' l-assigurazzjoni, li jkunu fil-pussess tal-persuna li jkollha l-kustodja tal-vettura, daqstant li daww id-dettalji jkunu meħtieġa mill-Istat imsemmi li fit-territorju tiegħu l-vettura tkun normalment bażata. Il-*bureau* lokali għandu jwassal dik l-informazzjoni lill-*bureau* barrani ta' l-Istat imsemmi li fit-territorju tiegħu l-vettura tkun normalment bażata.”.

13. Minnufih wara l-artikolu 18 tal-liġi prinċipali, għandu jidhol dan l-artikolu ġdid li ġej:

Zieda ta' l-artikolu 18A ġdid mal-liġi prinċipali.

Dispożizzjonijiet
dwar iċ-
ċentru ta'
informazzjoni

18. (1) Għandu jiġi approvat mill-Ministru responsabbli għat-trasport, ċentru ta' informazzjoni għall-finijiet li jiġi facilitat il-mod kif partijiet offiċi residenti f'Malta jew fi Stat imsemmi ifittxu l-kumpens.

(2) Iċ-ċentru ta' informazzjoni jkun responsabbli:

(a) biex iżomm regjistru li jkun fih din l-informazzjoni li ġejja:

(i) in-numri ta' registrazzjoni ta' vetturi bil-mutur li jkunu normalment bażati f'Malta;

(ii) in-numri tal-poloż ta' l-assigurazzjoni li jkopru l-użu ta' vetturi bil-mutur li jkunu normalment bażati f'Malta għal riskji minbarra r-responsabbilta' ta' min iġorr, klassifikati fi klassi 10 tat-Taqsima I ta-Tielet Skeda li tinsab ma' l-Att dwar il-Kummerċ ta' l-Assigurazzjoni, u meta l-perjodu ta' validita' tal-polza ta' l-assigurazzjoni tkun skadiet, ukoll id-data ta' terminazzjoni tal-kopertura ta' l-assigurazzjoni;

- in-numru taċ-ċertifikat ta' l-assigurazzjoni internazzjonali jew tali ċertifikat ieħor li jista' jiġi stabbilit mill-Ministru responsabbli għat-trasport taħt dan l-artiklu, jekk il-vettura bil-mutur tigi koperta b'dokument bħal dak f'każ li l-vettura bil-mutur tkun tibbenefika mid-deroga kif inhi msemmija fis-subartikolu (2) ta' l-artikolu 5;

(iii) l-assiguraturi awtorizzati u l-impriżi ta' l-assigurazzjoni li jkunu jkopru l-użu ta' vetturi bil-mutur għar-riskji minbarra r-responsabbilta' ta' min iġorr, klassifikati fi klassi 10 tat-Taqsima I ta-Tielet

Skeda li tinsab ma' l-Att dwar il-Kummerè ta' l-Assigurazzjoni, u r-rappreżentanti tat-talbiet għad-danni mahtura minn dawk l-assiguraturi awtorizzati u impriži ta' l-assigurazzjoni;

(iv) il-lista ta' vetturi bil-mutur li, f'Malta u f'kull Stat imsemmi, jibbenefikaw mid-deroga mill-htieġa ta' responsabbiltà ċivili ta' kopertura assigurattiva;

(v) li jkun jirrigwarda l-vetturi bil-mutur imsemmija fis-subparagrafu (iv):

- l-isem ta' l-awtorità jew il-korp imsemmi bħala responsabbli biex jikkompensa l-partijiet offiżi f'kazijiet meta Stat ma jkunx iffirma l-Ftehim Multilaterali dwar Garanziji, jekk il-vettura bil-mutur tkun tibbenefika mid-deroga dwar persuni naturali jew legali msemmija fil-paragrafu (b) tas-subartikolu (4) ta' l-artikolu 3;

- l-isem tal-korp li jkun qed ikopri l-vettura bil-mutur f'Malta jew fl-Istat imsemmi fejn din tkun normalment bażata jekk il-vettura bil-mutur tkun tibbenefika mid-deroga dwar dawk it-tipi ta' vettura li jkollhom pjanċa speċjali kif inhuma imsemmija fis-subartikolu (2) ta' l-artikolu 5;

(b) għall-koordinament tal-ġbir u t-tixrid ta' dik l-informazzjoni; u

(ċ) għall-ghajjnuna li tinghata lil persuni li jkollhom jedd li jinżammu mgħarrfa bl-informazzjoni msemmija f'sub-paragrafi (i), (ii), (iii), (iv) u (v) tal-paragrafu (a) ta' dan is-subartikolu.

L-informazzjoni taht is-sub-paragrafi (i), (ii) u (iii) tal-paragrafu (a) ta' dan is-subartikolu għandha tibqa' tinżamm għal perjodu ta' seba' snin wara li tintemm ir-registrazzjoni tal-vettura bil-mutur jew jintemm il-kuntratt ta' assigurazzjoni skond liema tiġi l-ewwel.

(3) Assiguraturi awtorizzati u impriži ta' l-assigurazzjoni msemmija fis-subparagrafu (iii) tal-paragrafu (a) tas-subartikolu (2) għandhom javżaw liċ-ċentru ta' informazzjoni Malti u liċ-ċentru ta' informazzjoni ta' l-Istati kollha

msemmija bl-isem u l-indirizz tar-rappreżentant tat-talbiet għad-danni li huma jkunu ħatru f' Malta u f' kull Stat imsemmi.

(4) Parti offiża jkollha l-jedd, għal perjodu ta' seba' snin wara l-aċċident, tikseb mingħajr ebda dewmien miċ-ċentru ta' informazzjoni t-tagħrif li ġej:

(a) l-isem u l-indirizz ta' l-assiguratur awtorizzat rilevanti jew ta' l-impriża ta' l-assigurazzjoni;

(b) in-numru tal-polza ta' l-assigurazzjoni rilevanti; u

(ċ) l-isem u l-indirizz tar-rappreżentant tat-talbiet għad-danni ta' l-assiguratur awtorizzat jew ta' l-impriża ta' l-assigurazzjoni rilevanti fl-Istat ta' residenza tal-parti offiża:

Iżda dan jiġri kemm-il darba l-parti offiża tkun residenti f' Malta jew il-vettura bil-mutur involuta tkun normalment bażata f' Malta jew l-aċċident ikun ġara f' Malta.

(5) Iċ-ċentru ta' informazzjoni għandu jipprovdi lill-parti offiża bl-isem u l-indirizz tas-sid jew tad-drajver tas-soltu tal-vettura bil-mutur jew tal-persuna reġistrata li jkollha l-vettura f'idejha, jekk il-parti offiża jkollha interess legittimu fil-ksib ta' din l-informazzjoni. Għall-finijiet ta' dan is-subartikolu, iċ-ċentru ta' informazzjoni għandu jindirizza lill-nnifsu b'mod partikolari:

(a) lejn l-assiguratur awtorizzat; jew

(b) lejn l-aġenzija ta' reġistrazzjoni tal-vettura rilevanti.

(6) Jekk il-vettura bil-mutur tkun tibbenefika mid-deroga fir-rigward ta' dawk il-persuni naturali jew legali kif inhum msemmeja fil-paragrafu (b) tas-subartikolu (4) ta' l-artikolu 3, iċ-ċentru ta' informazzjoni għandu jgħarraf lill-parti offiża bl-isem ta' l-awtorita' jew tal-korp imsemmi skond il-proviso tal-paragrafu (b) tas-subartikolu (4) ta' l-artikolu 3 li tkun responsabbli biex tikkumpensa lill-partijiet offiżi f'kazijiet meta l-Istat ma jkunx iffirma l-Ftehim Multilaterali dwar Garanziji.

(7) Jekk il-vettura tkun tibbenefika mid-deroga kif inhi msemmeja fis-subartikolu (2) ta' l-artikolu 5, iċ-ċentru ta' informazzjoni għandu jgħarraf lill-parti offiża bl-isem tal-korp li jkun qed ikopri l-vettura fil-pajjiż fejn din tkun normalment bażata.

(8) L-ipproċessar ta' taghrif personali li jirrizulta minn dan l-artikolu għandu jsir skond l-Att dwar il-Protezzjoni ta' *Data*.”.

Emenda ta' l-artikolu 23 tal-liġi prinċipali.

14. L-artikolu 23 tal-liġi prinċipali għandu jiġi emendat kif ġej:-

(a) minnufih wara paragrafu (e) fis-subartikolu(1) tiegħu, għandu jidhol dan il-paragrafu ġdid li ġej:

“(f) li jehtiegu li polza ta' l-assigurazzjoni, tkun tassigura lil dik il-persuna, dawk il-persuni jew klassijiet ta' persuni, kif jistgħu jiġu speċifikati fil-polza, kontra kull responsabbilita' għal danni morali li joriginaw taht kull liġi oħra.”;

(b) is-subartikolu (2) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (3) tiegħu; u

(ċ) minnufih wara s-subartikolu (1) tiegħu kif enumerat mill-ġdid, għandu jidhol is-subartikolu (2) ġdid li ġej:

“(2) L-eżerċizzju tas-setgħat mogħtija bis-saħħa ta' dan l-artikolu huma bla hsara għal kull obbligazzjoni jew ristrizzjoni li toriġina mill-obbligazzjonijiet internazzjonali ta' Malta.”.

Zieda ta' l-artikolu 24 ġdid tal-liġi prinċipali.

15. Minnufih wara l-artikolu 23 tal-liġi prinċipali, għandu jidhol dan l-artikolu ġdid li ġej:

“Applikazzjoni ta' xi disposizzjonijiet jekk tkun meħtieġa reċiproċita' minn pajjiż terz.

24. Jekk il-jedd li jkollha parti offiża li tapplika għall-hlas ta' kumpens mingħand korp li jkollu l-funzjoni li jipprovdi kumpens għal xi telfien jew feriment kaġunat minn vettura bil-mutur mhux identifikata jew mhux assicurata f' pajjiż terz, isir bil-hsieb li tkun meħtieġa reċiproċita', id-disposizzjonijiet ta' l-artikolu 9D għandu jkollhom sehħ dwar dak il-pajjiż terz, il-persuni nazzjonali jew residenti tiegħu, minn data li tiġi stabbilita mill-Ministru responsabbli għat-trasport.”.

Emenda ta' liġijiet oħra.

16. Il-liġijiet li jinsabu fl-Ewwel Kolonna ta' l-Iskeda li tinsab ma' dan l-Att għandhom isehħu skond l-emendi li jidhru relattivament għalihom fit-Tieni Kolonna ta' dik l-Iskeda.

Għanijiet u Raġunijiet

L-għan ta' dan l-Abbozz hu sabiex iqarreb il-liġijiet ta' Malta li jirrigwardaw l-assigurazzjoni dwar ir-responsabbilità ċivili fl-użu ta' vetturi bil-mutur lejn dawk ta' stati msemmija sabiex jiggarrantixxi trattament paragonabbli għal vittmi ta' aċċidenti irrispettivament minn fejn jiġri l-aċċident.

**A BILL
entitled**

*AN ACT to amend the Motor Vehicles Insurance (Third-Party Risks)
Ordinance, Cap. 104*

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled and by the authority of the same, as follows:-

1. (a) The title of this Act is the Motor Vehicles Insurance (Third-Party Risks) (Amendment) Act, 2002. This Act shall be read and construed as one with the Motor Vehicles Insurance (Third-Party Risks) Ordinance, hereinafter referred to as "the principal law", and shall come into force on such date as the Minister responsible for transport may, by notice in the Gazette, appoint, and different dates may be so appointed for different provisions and different purposes thereof.

Short title and commencement.

2. Article 2 of the principal law shall be amended as follows:

Amendment of article 2 of the principal law.

(a) the definition of "authorized insurer" shall be substituted by the following definition:

" "authorized insurer" means an undertaking which has received its official authorisation in Malta for the taking-up of business of direct insurance and which conducts the business of compulsory third party liability insurance in respect of the use of motor vehicles;"

(b) after the definition of “authorized insurer” the following new definition shall be inserted:

“ “designated State” means a State listed as such by regulations made by the Minister responsible for transport;”;

(c) after the definition of “driver” the following new definition shall be inserted:

“ “establishment” in relation to an insurance undertaking means the head office, an agency or branch and includes any permanent presence of an undertaking in the territory of Malta or a designated State, even if that presence does not take the form of a branch or agency, but consists of an office managed by the undertaking’s own staff or by an independent person who has authority to act for and on behalf of the undertaking;”;

(d) in the definition of “foreign bureau” the words “when entering countries where insurance against such risks is compulsory” shall be deleted;

(e) after the definition of “foreign bureau” the following new definition shall be inserted:

“ “green card system” means the international third party motor insurance system based on the Uniform Agreement between bureaux and the Multilateral Guarantee Agreement and such other agreement which may come into force from time to time;”;

(f) after the new definition of “green card system” the following new definition shall be inserted:

“ “injured party” means any person entitled to compensation in respect of any loss or injury caused by a motor vehicle;”;

(g) after the new definition of “injured party” the following new definition shall be inserted:

“ “insurance undertaking” means an undertaking which has received its official authorisation for the taking-up of business of direct insurance in Malta or in the territory of a designated State and which conducts the business of compulsory third party liability insurance in respect of the use of motor vehicles;”;

(h) in the definition of “international certificate of insurance” for the words “to a visiting motorist under the authority of” there shall be substituted the words “on behalf of”; and in the Maltese text of the principal law, for the word “sigurta” wherever it occurs there shall be substituted the word “assigurazzjoni”;

(i) in the definition of “local bureau” the words “when entering countries where insurance against such risks is compulsory” shall be deleted;

(j) after the definition of “local bureau” the following new definition shall be inserted:

“ “Malta” has the same meaning as is assigned to it in Article 124 of the Constitution;

(k) after the new definition of “Malta” the following new definition shall be inserted:

“ “Malta’s international commitments” means Malta’s commitments, responsibilities and obligations arising out of membership of or affiliation to or relationship with any international global or regional organisation or grouping of countries or out of any treaty, convention or other international agreement however called, whether bilateral or multilateral, to which Malta is party;

(l) the definition of “motor cycle” shall be deleted;

(m) the definition of “motor vehicle” shall be substituted by the following definition:

“ “motor vehicle” means any vehicle intended for travel on land and propelled by mechanical power, but not running on rails, and any trailer, whether or not coupled;”; and in the Maltese text of the principal law, for the words “vettura tal-mutur” and “vetturi tal-mutur” wherever they occur there shall be substituted the words “vettura bil-mutur” and “vetturi bil-mutur” respectively;

(n) after the definition of “motor vehicle” the following new definition shall be inserted:

“ “Multilateral Guarantee Agreement” means the Multilateral Guarantee Agreement between national insurers’ bureaux of 15 March 1991, as from time to time amended, supplemented or replaced;”;

(o) in the definition of “policy of insurance” the words “issued to a visiting motorist and valid for Malta” shall be deleted;

(p) after the definition of “prescribed” the following new definition shall be inserted:

“ “Protection and Compensation Fund” means the Protection and Compensation Fund established under article 49 of the Insurance Business Act;” and

(q) after the definition of “road” the following new definition shall be inserted:

“ “territory in which the motor vehicle is normally based” means -

(i) the territory of the State of which the motor vehicle bears the registration plate; or

(ii) in cases where no registration is required for a type of motor 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 insurance plate or the sign is issued; or

(iii) in cases where neither registration plate nor insurance plate nor distinguishing sign is required for certain types of motor vehicle, the territory of the State in which the person who has custody of the vehicle is permanently resident;

and “motor vehicle which is normally based in Malta” shall be interpreted accordingly;

(r) after the new definition of “territory in which the motor vehicle is normally based” the following new definition shall be inserted:

“ “third country” means a State other than Malta and which is not a designated State;”.

Amendment of
article 3 of the
principal law.

3. Article 3 of the principal law shall be amended as follows:

(a) immediately after subarticle (1) thereof the following new subarticle (1A) and 1(B) shall be inserted:

“(1A) It shall be presumed that there was not a policy of insurance in force in terms of subarticle (1) of this article, unless the person charged with an offence under subarticle (1) shall show the contrary through the production of a certificate of insurance issued under subarticle (4) of article 4 of this Ordinance.”;

“(1B) It shall be a valid defence, in prosecution for an offence under subarticle (1) of this article, for the defendant to prove that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of the offence.”; and

(b) in paragraph (b) of subarticle (4) immediately after the words “to any specified class of motor vehicles to which” the words “or to certain natural or legal persons, whether public or private, to whom” shall be inserted, and immediately at the end thereof there shall be inserted the following proviso

“Provided that any loss or injury caused in the territory of a designated State by a motor vehicle belonging to a natural or legal person, whether public or private, in respect of whom a derogation is provided under this Ordinance from the application of subarticle (1) of this article, shall be compensated according to criteria and procedures to be prescribed by regulations by the Minister responsible for Transport made under this article.”; and

(c) sub-article (2) shall be amended as follows:

(i) in paragraph (a) thereof the words “two hundred and fifty maltese liri (Lm250)” shall be substituted by the words “one thousand maltese liri (Lm1,000)” and the words “five hundred maltese liri (Lm500)” shall be substituted by the words “two thousand maltese liri (Lm2,000)”;

(ii) in paragraph (b) thereof the words “five hundred maltese liri (Lm500)” shall be substituted by the words “two thousand maltese liri (Lm2,000)” and the words “seven hundred and fifty maltese liri (Lm750)” shall be substituted by the words “two thousand five hundred maltese liri (Lm2,500)”;

(iii) in paragraph (c) thereof the words “seven hundred and fifty maltese liri (Lm750)” shall be substituted by the words “one thousand maltese liri (Lm1,000)” and the words “one thousand maltese liri (Lm1,000)” shall be substituted by the words “three thousand maltese liri (Lm3,000)”.

4. Article 4 of the principal law shall be amended as follows:

(a) subarticle (1) thereof shall be substituted by the following new subarticles (1) and (1A):

“(1) In order to comply with the requirements of this Ordinance, a policy of insurance in respect of the use of a motor vehicle which is normally based in Malta or in the territory of a designated State must, in addition to being a policy of insurance defined in article 2, cover:

(a) any civil liability which may be incurred in respect of the death of or bodily injury to any person, including all passengers (other than the driver), or damage to any property, caused by the motor vehicle in Malta; and

(b) any loss or injury caused by the motor vehicle in the territory of a designated State, according to the law in force in that designated State; and

(c) any loss or injury caused by the motor vehicle which is suffered by a Maltese national or a national of a designated State during a direct journey between Malta and the territory of a designated State or between the territories of two designated States, if there is no foreign bureau responsible for the territory which is being crossed:

Provided that such a policy of insurance shall not be required to cover:

(i) liability for such damage to third party property as exceeds fifty thousand Maltese liri (Lm50,000) arising from any one claim or such higher sum as may be prescribed by regulation made by the Minister responsible for Transport under this article; or

(ii) liability for damage to goods carried for hire or reward in or on the vehicle or in or on any trailer (whether or not coupled) drawn by the vehicle; or

(iii) any liability for damage to third-party property on or in the insured motor vehicle or in the possession of the person insured; or

(iv) any contractual liability.”;

“(1A) A policy of insurance in respect of the use of a motor vehicle which is normally based in Malta or in the territory of a designated State must cover, on the basis of a single premium, the entire territory of Malta and all designated States, and guarantee, on the basis of the same single premium:

(a) in Malta, the cover required under this Ordinance; and

(b) in each designated State, the cover required by the law of that State or the cover required by the law of the State in the territory of which the vehicle is normally based if that cover is higher.”; and

(b) in subarticle (4) thereof the words “Except where a policy of insurance consists of an international certificate of insurance,” shall be deleted and the words “a policy” shall be substituted by the words “A policy”.

5. Immediately after article 4 of the principal law, the following new article 5 shall be inserted:

Addition of new article 5 to the principal law.

“Requirements in respect of policies regarding certain motor vehicles entering Malta.

5. (1) A motor vehicle which is normally based in the territory of a third country shall, before entering Malta, be provided with an international certificate of insurance or with such other certificate as may be prescribed by the Minister responsible for Transport under this article, establishing that the motor vehicle is insured in accordance with subarticles (1) and (1A) of article 4:

Provided that this subarticle shall not apply to such types of motor vehicles which are normally based in the territory of a third country to which the Minister responsible for Transport shall by regulation direct that this subarticle shall not apply.

(2) If a designated State has provided for a derogation in respect of a type of motor vehicles or certain motor vehicles having a special plate from the obligation of insurance cover against civil liability in respect of the use of motor vehicles which are normally based in the territory of that State, the person having custody of such a motor vehicle

may be required to produce, at the time of entry into Malta of the motor vehicle, a valid international certificate of insurance or to conclude an insurance contract complying with the requirements of this Ordinance.”.

Amendment of article 6 of the principal law.

6. In article 6 of the principal law for the words “article 4(1)(b)” there shall be substituted the words “subarticle (1) of article 4”.

Addition of new article 7A to the principal law.

7. Immediately after article 7 of the principal law, the following new article 7A shall be inserted:

“Random checks.

7A. The Minister responsible for Transport may provide, by way of regulations under this article, for the making of random checks on the insured status of motor vehicles which are normally based in the territory of a designated State, or motor vehicles which are normally based in the territory of a third country entering Malta from the territory of a designated State.”.

Addition of new articles 9A to 9E to the principal law.

8. Immediately after article 9 of the principal law, the following new article 9A shall be inserted:

“Direct right of action.

9A. (1) An injured party resident in Malta or a designated State and entitled to compensation in respect of any loss or injury resulting from an accident caused by the use of a motor vehicle which is insured by an authorized insurer and normally based in Malta or the territory of a designated State, shall have a direct right of action against the authorized insurer in Malta, if:

(a) the accident occurred in Malta or a designated State; or

(b) the accident occurred in a third country whose foreign bureau has joined the green card system.

(2) An injured party resident in Malta and entitled to compensation in respect of any loss or injury resulting from an accident caused by the use of a motor vehicle which is insured and normally based in the territory of a designated State, shall have a direct right of action against the insurance undertaking issuing the policy of insurance and shall be entitled to exercise his direct right of action against the insurance undertaking’s claims representative in Malta, if:

- (a) the accident occurred in a designated State;
- or
- (b) the accident occurred in a third country whose foreign bureau has joined the green card system.

Provisions
as to claims
representatives.

9B. (1) An authorized insurer shall appoint a claims representative in every designated State, which claims representative shall handle and settle claims arising from an accident in the cases referred to in subarticle (1) of article 9A of this Ordinance:

Provided that the accident from which the claim arises is caused by the use of a motor vehicle which is insured through an establishment in Malta or a designated State and is normally based in Malta or the territory of a designated State, and that the injured party is not resident in Malta or in the establishment's State or in the State where the vehicle is normally based.

(2) An authorized insurer shall choose its claims representative at its own discretion:

Provided that the claims representative shall:

- (i) be resident or established in the designated State where he is appointed; and
- (ii) be capable of dealing with cases in the official language or languages of the designated State of residence of the injured party.

(3) The claims representative shall, in relation to the claims referred to in subarticle (1), collect all information necessary in connection with the settlement of the claims and shall take the measures necessary to negotiate a settlement of claims.

(4) The authorized insurer shall take all necessary measures to vest the claims representative with sufficient powers to represent the authorized insurer in relation to injured parties in the cases referred to in subarticle (1) and to meet their claims in full.

(5) The requirement of appointing a claims representative shall not preclude the right of the injured party or his insurance undertaking to institute proceedings directly

against the person who caused the accident or the authorized insurer.

(6) When the injured party presents his claim for compensation either directly to the authorized insurer of the person who caused the accident or to its claims representative:

(a) in cases where liability is not contested and the damages have been quantified, the authorized insurer of the person who caused the accident or his claims representative is required to make a reasoned offer of compensation; or

(b) in cases where liability is denied or has not been clearly determined or the damages have not been fully quantified, the authorized insurer to whom the claim for compensation has been addressed or his claims representative is required to provide a reasoned reply to the points made in the claim,

in either case within three months of the date when the injured party presented his claim.

(7) If no offer or reply such as referred to in subarticle (6) is made within the three-month time limit, the authorized insurer of the person who caused the accident shall be liable to a penalty not exceeding five thousand liri, payable to the Protection and Compensation Fund, as may be prescribed, such penalty to be receivable as a civil debt by the said fund. If an offer such as is referred to in paragraph (a) of subarticle (6) is not made within the three-month time limit, interest shall be payable by the authorized insurer on the amount of compensation offered or awarded by the Court to the injured party: provided that, if interest is due it shall commence to run from the date that the claim is presented by the injured party, until the date compensation is received by the injured party concerned, and in any case the insurer shall be liable to pay interest on the difference in the amount between the offer of compensation made under subarticle (6) of this article and the amount actually received by the injured party.

(8) The aforementioned provisions are not intended to, or do not restrict any rights which the injured party, or its authorized insurer or insurance undertaking as the case may be, may have or which would enable such

persons to begin legal proceedings against the person causing the accident or that person's authorized insurer or insurance undertaking as the case may be.

(9) The appointment of a claims representative shall not in itself constitute the opening of a branch within the meaning of the Insurance Business Act and the claims representative shall not be considered an establishment within the meaning of the Insurance Business Act or for the purposes of any law relating to jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

Provisions
as to the
compensation
body.

9C. (1) There shall be established or approved by the Minister responsible for Transport, a compensation body which shall compensate injured parties resident in Malta in accordance with this article, in the cases referred to in subarticle (2) of article 9A of this Ordinance, if the accident from which the claim arises is caused by the use of a motor vehicle which is insured through an establishment in a designated State, and is normally based in the territory of a designated State.

(2) An injured party resident in Malta may present a claim to the compensation body:

(a) if, within three months of the date when the injured party presented his claim for compensation to the insurance undertaking issuing the policy of insurance in respect of the use of the motor vehicle which caused the accident or its claims representative, the insurance undertaking or its claims representative has not provided a reasoned reply to the points made in the claim; or

(b) if the insurance undertaking issuing the policy of insurance in respect of the use of the motor vehicle which caused the accident has failed to appoint a claims representative in Malta. Provided that, an injured party may not present a claim to the compensation body if he has presented a claim for compensation directly to the insurance undertaking and if he has received a reasoned reply within three months of presenting the claim:

Provided that an injured party may not present a claim to the compensation body if he has taken legal action directly against the insurance undertaking.

(3) The compensation body shall take such action as may be prescribed by regulations made by the Minister responsible for Transport under this article, within two months of the date when the injured party presents a claim for compensation to it but shall terminate its action if the insurance undertaking, or its claims representative, subsequently makes a reasoned reply to the claim.

(4) The compensation body shall immediately inform:

(a) the insurance undertaking of the motor vehicle the use of which caused the accident or its claims representative;

(b) the compensation body in the designated State of the insurance undertaking's establishment which issued the policy;

(c) if known, the person who caused the accident,

that it has received a claim from the injured party and that it will respond to that claim within two months of the presentation of that claim.

(5) The payment of compensation shall be subject to such limitations and restrictions as may be prescribed by regulation made under subarticle (3). The compensation body shall not make the payment of compensation conditional on the injured party's establishing in any way that the person liable is unable or refuses to pay.

(6) If the compensation body compensates the injured party and has claimed reimbursement of the sum paid by way of compensation from the compensation body in the designated State of the insurance undertaking's establishment which issued the policy of insurance, the latter body shall be subrogated to the injured party in his rights against the person who caused the accident or his insurance undertaking in so far as the compensation body in Malta has provided compensation for the loss or injury suffered.

(7) If an authorized insurer in Malta issued the policy of insurance in respect of the use of the motor vehicle which caused the accident in the cases referred to in subarticle (1) of article 9B, the compensation body in the injured party's

designated State of residence which has compensated such injured party shall be entitled to claim reimbursement of the sum paid by way of compensation from the compensation body in Malta, in which case the latter body shall be subrogated to the injured party in his rights against the person who caused the accident or his authorized insurer in so far as the compensation body in the injured party's designated State of residence has provided compensation for the loss or injury suffered.

9D. Damage or injury caused by unidentified or uninsured motor vehicles

(1) If the death of or bodily injury to any person or the damage to any property, is caused by an unidentified motor vehicle or a motor vehicle for which the insurance obligation provided for in subarticle (1) of article 4 has not been satisfied, the injured party shall have the right to apply directly to the Protection and Compensation Fund. The Protection and Compensation Fund shall give the injured party a reasoned reply regarding the payment of compensation, on the basis of information provided by the injured party at the Protection and Compensation Fund's request.

(2) The payment of compensation shall be subject to such conditions, limitations and restrictions as may be prescribed by regulations made under paragraph (b) of article 49 of the Insurance Business Act. The Protection and Compensation fund shall not make the payment of compensation conditional on the injured party's establishing in any way that the person liable is unable or refuses to pay.

(3) In the event of a dispute between the Protection and Compensation Fund and the authorized insurer or insurance undertaking which issued the policy of insurance, as to who of them is ultimately liable to pay compensation, the latter shall be responsible in the first instance for paying compensation to the injured party without delay. If it is ultimately decided that the other party should have paid all or part of the compensation, that other party shall reimburse accordingly the party which has paid.

9E. Compensation from the compensation body where the motor vehicle or the insurance undertaking is unidentified

(1) An injured party resident in Malta may apply for compensation from the compensation body referred to in subarticle (1) of article 9C if it is impossible to identify the motor vehicle which caused the accident or if, within two months following the accident, it is impossible to identify the insurance undertaking:

Provided that the accident:

(i) occurred in a designated State by the use of a motor vehicle insured and normally based in Malta or a designated State; or

(ii) occurred in a third country whose foreign bureau has joined the green card system by the use of a motor vehicle insured and normally based in Malta or a designated State; or

(iii) was caused by a motor vehicle covered by article 5.

(2) The compensation body shall provide the compensation in accordance with the provisions of subarticle (1) of article 4 and article 9D.

(3) A body in a designated State equivalent to the compensation body in Malta as referred to in subarticle (1) of article 9C, which has compensated an injured party resident in that State, under conditions equivalent to those in subarticle (7) of article 9C, shall be entitled to claim reimbursement against the Protection and Compensation Fund:

(a) where the insurance undertaking cannot be identified and the motor vehicle is normally based in Malta;

(b) where the motor vehicle cannot be identified and the accident took place in Malta;

(c) where the motor vehicle is normally based in the territory of a third country and the accident took place in Malta.”.

Amendment of article 10 of the principal law.

9. Paragraph (iii) of subarticle (2)(c) of article 10 of the principal law shall be substituted by the following new paragraph:

“(iii) before the happening of the said event, the authorized insurer has filed a judicial letter against the person to whom the certificate was issued, made or delivered, in respect of the failure to surrender such certificate, and such letter was notified in writing to such person at least two working days before the happening of such event, or (iv) after the happening of the said event, but before the expiration of a period of fourteen days from the taking effect of the cancellation of the policy, the authorized insurer has commenced proceedings under this Ordinance in respect of the failure to surrender such certificate.”.

10. Article 12 of the principal law shall be amended as follows: Amendment of article 12 of the principal law.

(a) in the marginal note thereof there shall be deleted the words “in respect of passengers carried for hire or reward”;

(b) in subarticle (1) the words “article 4(1)(b)” shall be substituted by “subarticle (1) of article 4”;

(c) after subarticle (2) there shall be inserted the following new subarticle (3) and (4):

“(3) Any clause contained in the policy of insurance issued in accordance with subarticle (1) of article 4 which excludes from insurance cover under the policy the use or driving of motor vehicles by:

(a) persons who do not have express or implied authorisation thereto; or

(b) persons who do not hold a licence permitting them to drive the motor vehicle concerned; or

(c) persons who are in breach of the prescribed technical requirements concerning the condition and safety of the motor vehicle concerned,

shall be void in respect of claims by third parties:

Provided that the clause referred to in paragraph (a) of this subarticle may be invoked against persons who voluntarily entered the motor vehicle the use of which caused the damage or injury, if the authorized insurer can prove that such persons knew the motor vehicle was stolen or was used without authorisation

(4) Any clause contained in the policy of insurance which excludes the members of the family of the insured person, driver or any other person who incurs civil liability, and whose liability is covered by the policy of insurance as referred to in subarticle (1) of article 4, from insurance in respect of their personal injuries by virtue of that relationship shall be void.”

Addition of new article 15 to the principal law.

11. Immediately after article 14 of the principal law, there shall be inserted the following new article:

“Duty to give notice to the insurer.

15. (1) Where an event occurs in relation to a motor vehicle in consequence of which an authorized insurer may become liable to indemnify an injured party, the insured person shall as soon as practicable after the occurrence of the event and in any case within two working days, or where the event did not occur in his presence, within two working days after the occurrence of the event first came to his knowledge, give to the authorized insurer by whom the policy was issued, notice in writing of the occurrence of the event together with such particulars of the event as are in his knowledge or may be procured by him, and are reasonably required by the insurer.

(2) Where an event occurs in relation to a motor vehicle in consequence of which an authorized insurer may become liable to indemnify an injured party, the person who was actually using the motor vehicle when the aforementioned event occurred shall:

(a) unless he is himself the insured under the policy, give to such insured person as soon as practicable after the occurrence of the event, and in any case within two working days, notice of the occurrence of the event together with full particulars of the event; and

(b) give to the authorised insurer by whom the policy was issued, as soon as practicable after the occurrence of the event, and in any case within two working days, notice in writing of the occurrence of the event together with such particulars of the event as are in his knowledge or may be procured by him, and are reasonably required by the insurer.

(3) Where an authorized insurer has reasonable grounds to believe that an event has occurred in relation to a motor vehicle in consequence of which the insurer may

become liable to indemnify an injured party, then, notwithstanding that the person who is required to give notice to him of such event under subarticles (1) or (2) fails to do so, he shall handle such event as a claim made by the insured under the policy of insurance.

(4) Where a claim is made against an authorized insurer in respect of any liability as is required to be covered by a policy of insurance in respect of the use of a motor vehicle under this Ordinance, it shall be presumed that the insured has agreed to the payment of the claim, if:

(a) the authorized insurer has given written notice, by registered mail or judicial letter, to the insured or the person acting on his behalf of his intention to pay the claim to the injured party, and the amount of such payment; and

(b) the insured has not, within ten days of receipt of such notice, given written notice to the authorized insurer of his objection to such payment.

(5) The authorized insurer shall be entitled to recover the legal and judicial costs and interest from the insured person, if:

(a) the insurer has provided the insured person with written information in an intelligible form about the consequences of his objection; and

(b) the insured person objected to the claim; and

(c) the insured person is found liable in a final judgment:

Provided that the authorized insurer shall only be entitled to recover the said costs and interest incurred in the proceedings leading to the final judgment and in proportion to the insured person's liability as established by the final judgment."

12. Article 18 of the principal law shall be amended as follows: Amendment of article 18 of the principal law.

(a) the present provision shall be renumbered as subarticle (1) thereof ; and

(b) after subarticle (1) thereof as renumbered there shall be inserted the following new subarticle (2) and (3):

“(2) the person having custody of the vehicle shall without delay, if so requested by the persons involved in a road traffic accident, inform such persons of the identity of the insurer covering the liability arising out of the use of any motor vehicle involved in the accident.

(3) If an accident is caused in Malta by a motor vehicle which is normally based in the territory of a designated State, the local bureau shall obtain information as to the territory in which the motor vehicle is normally based, and as to its registration mark, if any; and in so far as is possible, as to the details of the insurance of the motor vehicle, as they normally appear on the international certificate of insurance, which are in possession of the person having custody of the vehicle, to the extent that these details are required by the designated State in whose territory the vehicle is normally based. The local bureau shall communicate the said information to the foreign bureau of the designated State in whose territory the vehicle is normally based.”.

Addition of new article 18A to the principal law.

13. Immediately after article 18 of the principal law, there shall be inserted the following new article:

“Provisions relating to the information centre.

18A. (1) There shall be approved by the Minister responsible for transport an information centre for the purposes of facilitating certain injured parties resident in Malta or a designated State to seek compensation.

(2) The information centre shall be responsible for:

(a) keeping a register containing the following information:

(i) the registration numbers of motor vehicles which are normally based in Malta;

(ii) the numbers of the policies of insurance covering the use of motor vehicles which are normally based in Malta for the risks other than carrier's liability, classified in class 10 of Part I of the Third Schedule to the Insurance Business Act, and where the period of validity of the policy of

insurance has expired, also the date of termination of the insurance cover;

- the number of the international certificate of insurance or such other certificate as may be prescribed by the Minister responsible for transport under this article, if the motor vehicle is covered by such a document in case the motor vehicle benefits from the derogation as is referred to in subarticle (2) of article 5;

(iii) authorized insurers and insurance undertakings covering the use of motor vehicles for the risks other than carrier's liability, classified in class 10 of Part I of the Third Schedule to the Insurance Business Act, and claims representatives appointed by such authorized insurers and insurance undertakings;

(iv) the list of motor vehicles which, in Malta and in each designated State, benefit from the derogation from the requirement for civil liability insurance cover;

(v) regarding the motor vehicles referred to in subparagraph (iv):

- the name of the authority or the body designated as responsible for compensating injured parties in cases where a State has not signed the Multilateral Guarantee Agreement, if the motor vehicle benefits from the derogation in respect of certain natural or legal persons as referred to in paragraph (b) subarticle (4) of article 3;

- the name of the body covering the motor vehicle in Malta or in the designated State where it is normally based if the motor vehicle benefits from the derogation in respect of such types of vehicle having a special plate as are referred to in subarticle (2) of article 5;

(b) for co-ordinating the compilation and dissemination of that information; and

(c) for assisting entitled persons to be apprised of the information mentioned in subparagraphs (i), (ii), (iii), (iv) and (v) of paragraph (a) of this subarticle.

The information under subparagraphs (i), (ii) and (iii) of paragraph (a) of this subarticle must be preserved for a period of seven years after the termination of the registration of the motor vehicle or the termination of the insurance contract whichever is the earlier.

(3) Authorized insurers and insurance undertakings referred to in subparagraph (iii) of paragraph (a) of subarticle (2) shall notify to the Maltese information centre and to the information centres of all designated States the name and address of the claims representative which they have appointed in Malta and in each of the designated States.

(4) An injured party shall be entitled, for a period of seven years after the accident, to obtain without delay from the information centre the following information:

(a) the name and address of the relevant authorized insurer or insurance undertaking;

(b) the number of the relevant policy of insurance; and

(c) the name and address of the relevant authorized insurer's or insurance undertaking's claims representative in the State of residence of the injured party:

Provided that the injured party is resident in Malta or the motor vehicle involved is normally based in Malta or the accident occurred in Malta.

(5) The information centre shall provide the injured party with the name and address of the owner or usual driver or the registered keeper of the motor vehicle if the injured party has a legitimate interest in obtaining this information. For the purposes of this subarticle, the information centre shall address itself in particular:

(a) to the authorized insurer; or

(b) to the relevant vehicle registration agency.

(6) If the motor vehicle benefits from the derogation in respect of such natural or legal persons as are referred to in paragraph (b) of subarticle (4) of article 3, the information centre shall inform the injured party of the name of the authority or body designated in accordance with the proviso of paragraph (b) of subarticle (4) of article 3 as responsible for compensating injured parties in cases where a State has not signed the Multilateral Guarantee Agreement.

(7) If the vehicle benefits from the derogation as is referred to in subarticle (2) of article 5, the information centre shall inform the injured party of the name of the body covering the vehicle in the country where it is normally based.

(8) The processing of personal data resulting from this article shall be carried out in accordance with the Data Protection Act.”.

14. Immediately after paragraph (1) thereof, there shall be inserted the following new paragraph:

Amendment of article 23 of the principal law.

“ (f) as to require that a policy of insurance, insure such person, persons or classes of persons, as may be specified in the policy, against any liability for moral damages arising under any other law”

(b) Subarticle (2) thereof, shall be renumbered as subarticle (3) thereof: and

(c) Immediately after subarticle (1) thereof, there shall be inserted the following new subarticle (2)

(2) The exercise of the powers conferred by this article shall be subject to any obligations or restrictions arising from Malta's international commitments”

15. Immediately after article 23 of the principal law, there shall be inserted the following new article:

Addition of new article 24 of the principal law.

“Application of certain provisions if reciprocity is required by a third country.

24. If an injured party's right to apply for the payment of compensation to a body with the task to provide compensation for loss or injury caused by an unidentified or uninsured motor vehicle in a third country is on the condition of reciprocity, the provisions of article 9D shall take effect in

respect of such third country, its nationals or residents from a date to be appointed by the Minister responsible for Transport”.

Amendment of
other enactments.

16. The enactments in the First Column of the Schedule to this Act shall have effect subject to the amendments appearing relative thereto in the Second Column of the said Schedule.

Objects and Reasons

The object of this Bill is to approximate the laws of Malta relating to insurance against civil liability in respect of the use of motor vehicles with those of other designated States in order to guarantee comparable treatment for accident victims irrespective of where the accident occurs.

