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CHAPTER 133.**MOTOR VEHICLES (THIRD PARTY INSURANCE).**

An Ordinance to make provision against third party risks arising out of the use of motor vehicles. 3 of 1949.

[1ST APRIL, 1951.] *

1. This Ordinance may be cited as the Motor Vehicles (Third Party Insurance) Ordinance, and shall apply to the Colony and Protectorate. Short title and application.

2. In this Ordinance unless the context otherwise requires— Interpretation.
 “driving licence” means a licence to drive a motor vehicle granted under the provisions of the Road Traffic Ordinance; Cap. 132.

* P.N. 120 of 1950.

“highway” includes any roadway to which the public have access;

“motor cycle” means a motor vehicle designed to travel on not more than two wheels and includes a combination of motor cycle and side-car;

“motor vehicle” means a vehicle propelled by mechanical power other than a vehicle constructed to run on rails and includes a motor cycle;

“owner” in relation to a motor vehicle which is the subject of a hiring agreement or a hire purchase agreement means the person in possession of the motor vehicle under that agreement;

“passenger vehicle” means a motor vehicle used for carrying passengers for hire or reward;

“police officer” means a member of the Sierra Leone Police Force, or an administrative officer;

“policy of insurance” includes a covering note;

“superior police officer” means any police officer of or above the rank of Assistant Superintendent;

“use” with its grammatical variations and cognate expressions means use on a highway.

Users of motor vehicles to be insured against third party risks.

3. (1) Subject to the provisions of this Ordinance no person shall use, or cause or permit any other person to use a motor vehicle unless there in in force in relation to the user of that motor vehicle by such person or such other person, as the case may be, such a policy of insurance or such a security in respect of third party risks as complies with the provisions of this Ordinance.

(2) If a person acts in contravention of this section he shall be liable on summary conviction to a fine of one hundred pounds or to imprisonment for one year or to both such fine and imprisonment and a person convicted of an offence under this section shall (unless the Court for special reasons sees fit to order otherwise and without prejudice to the power of the Court to order a longer period of disqualification) be disqualified for holding or obtaining a driving licence for a period of twelve months from the date of conviction.

A person disqualified by virtue of a conviction under this section for holding or obtaining a driving licence shall be deemed to be so disqualified under the provisions of the Road Traffic Ordinance.

“highway” includes any roadway to which the public have access;

“motor cycle” means a motor vehicle designed to travel on not more than two wheels and includes a combination of motor cycle and side-car;

“motor vehicle” means a vehicle propelled by mechanical power other than a vehicle constructed to run on rails and includes a motor cycle;

“owner” in relation to a motor vehicle which is the subject of a hiring agreement or a hire purchase agreement means the person in possession of the motor vehicle under that agreement;

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Users of motor vehicles to be insured against third party risks.

3. (1) Subject to the provisions of this Ordinance no person shall use, or cause or permit any other person to use a motor vehicle unless there in in force in relation to the user of that motor vehicle by such person or such other person, as the case may be, such a policy of insurance or such a security in respect of third party risks as complies with the provisions of this Ordinance.

(2) If a person acts in contravention of this section he shall be liable on summary conviction to a fine of one hundred pounds or to imprisonment for one year or to both such fine and imprisonment and a person convicted of an offence under this section shall (unless the Court for special reasons sees fit to order otherwise and without prejudice to the power of the Court to order a longer period of disqualification) be disqualified for holding or obtaining a driving licence for a period of twelve months from the date of conviction.

A person disqualified by virtue of a conviction under this section for holding or obtaining a driving licence shall be deemed to be so disqualified under the provisions of the Road Traffic Ordinance.

4. Notwithstanding the provisions of any law which prescribe a time within which proceedings may be brought before a Court, proceedings in respect of an offence under section 3 may be instituted—

Limitation of time for proceedings.

(a) within a period of six months from the date of the commission of the alleged offence; or

(b) within a period which exceeds neither six months from the date on which it came to the knowledge of the prosecutor that the offence had been committed nor one year from the date of the commission of the offence,

whichever period is the longer.

5. The provisions of section 3 shall not apply—

Exemptions.

(a) to the user of a motor vehicle owned by Government or by the Imperial Government while such motor vehicle is being used for the purposes of the Government owning such motor vehicle; or

(b) to the user of a passenger vehicle owned by a person who has deposited or keeps deposited with the Accountant General the sum of twenty-five thousand pounds or of any other vehicle owned by a person who has so deposited the sum of five thousand pounds in respect of such a motor vehicle at any time when such motor vehicle is being driven by the owner or by a servant of the owner in the course of his employment or is otherwise subject to the control of the owner; or

(c) to the user of a motor vehicle at any time when it is driven for police purposes by or under the direction of a superior police officer.

6. Notwithstanding anything in any law contained, no licence for a motor vehicle shall be issued under the Road Traffic Ordinance, until there has been produced to the licensing authority proof in such form as may be prescribed that on the date when the licence comes into operation there will be in force a policy of insurance or a security valid for the purposes of this Ordinance in relation to the user of the motor vehicle by the applicant for the licence or by other persons on his order or with his permission or that the user of such motor vehicle is not required to be covered by any such policy or security by reason of the provisions of section 5 of this Ordinance.

No motor vehicle to be licensed until user is insured. Cap. 132.

7. (1) A policy of insurance for the purposes of this Ordinance must be a policy which—

Requirements in respect of policies.

(a) is issued by an insurer approved by the Governor in Council; and

(b) insures such person or classes of person as may be specified in the policy in respect of any liability which may be incurred by him or them in respect of the death of or bodily injury to any person caused by or arising out of the use of a motor vehicle covered by the policy:

Provided that such policy shall not be required to cover—

(a) liability in respect of the death arising out of and in the course of his employment of a person in the employment of a person insured by the policy or of bodily injury sustained by such a person arising out of and in the course of his employment; or

(b) save in the case of a passenger vehicle or where persons are carried by reason of or in pursuance of a contract of employment, liability in respect of the death of or bodily injury to a person being carried in or upon or entering or getting on to or alighting from a motor vehicle at the time of the occurrence of the event out of which the claims arise; or

(c) any contractual liability.

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

Certificate of insurance.

(3) A policy shall be of no effect for the purpose of this Ordinance unless and until there is issued by the approved insurer in favour of the person by whom the policy is effected a certificate (in this Ordinance referred to as a "certificate of insurance") in the prescribed form and containing such particulars of any conditions subject to which the policy is issued and of such other matters as may be prescribed.

Requirements in respect of insurance.

8. (1) For the purposes of this Ordinance a security must—

(a) be given either by an insurer approved by the Governor in Council or by some person, company or body of persons approved by the Governor in Council carrying on the business of giving securities of a like kind; and

(b) consist of an undertaking by the giver of the security to make good, subject to any conditions contained therein, any failure by the owner of any passenger vehicle or any other motor vehicle or such other persons or classes of person as may be specified in the security duly to discharge any such liability as is required to be covered by a policy of

insurance issued under the provisions of this Ordinance which may be incurred by him or them, and such security shall in the case of an undertaking relating to the use of passenger vehicles be up to an amount of not less than twenty-five thousand pounds and in any other case of not less than five thousand pounds.

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

Certificate of security.

9. Any condition in a policy or security issued or given for the purposes of this Ordinance providing that no liability shall arise under the policy or security or that any liability so arising shall cease in the event of some specified thing being done or omitted to be done after the happening of the event giving rise to a claim under the policy or security shall, in respect of such liabilities as are required to be covered by a policy or security issued for the purposes of this Ordinance, be of no effect:

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

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

10. Where a certificate of insurance has been issued in favour of the person by whom a policy has been effected or where a certificate of security has been issued in favour of the person whose liability is covered by such security so much of the policy as purports to restrict the insurance of a person insured thereby or, in the case of a security, such conditions attached thereto as purport to restrict the liability of the giver of the security, in respect of any of the following matters—

Avoidance of restrictions on the scope of policies and securities.

- (a) the age or physical or mental condition of persons driving the motor vehicle; or
- (b) the condition of the motor vehicle; or
- (c) the number of persons that the motor vehicle carries; or
- (d) the weight or physical characteristics of the goods that the motor vehicle carries; or

(e) the times at which or the area within which the motor vehicle is used; or

(f) the horse-power or cylinder capacity or value of the motor vehicle; or

(g) the carrying on the motor vehicle of any particular apparatus; or

(h) the carrying on the motor vehicle of any particular means of identification other than any means of identification required to be carried under the provisions of the Road Traffic Ordinance,

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shall, in respect of such liabilities as are required to be covered by a policy or security issued for the purposes of this Ordinance, be of no effect:

Provided that nothing in this section shall require an insurer or the giver of a security to pay any sum in respect of the liability of any person otherwise than in or towards the discharge of that liability and any sum paid by an insurer or the giver of a security in or towards the discharge of the liability of any person which is covered by the policy or security by virtue only of this section shall be recoverable by the insurer or the giver of the security from that person.

Duty of insurers to satisfy judgments against persons insured in respect of third party risks.

11. (1) If after a certificate of insurance has been issued in favour of the person by whom a policy has been effected or a certificate of security has been issued in favour of the person whose liability is covered by such security judgment in respect of any such liability as is required to be covered by a policy or security issued for the purposes of this Ordinance, being a liability covered by the terms of the policy or security, is obtained against any person insured by the policy or whose liability is covered by the security, as the case may be, then, notwithstanding that the insurer or the giver of the security may be entitled to avoid or cancel or may have avoided or cancelled the policy or the security, as the case may be, the insurer or the giver of the security shall, subject to the provisions of this section, pay to the persons entitled to the benefit of such judgment any sum payable thereunder in respect of the liability including any sum payable in respect of costs and any sum payable by virtue of any law in respect of interest on that sum or judgment.

(2) No sum shall be payable by an insurer or the giver of a security under the provisions of sub-section (1)—

(a) in respect of any judgment unless before or within fourteen days after the commencement of the proceedings in

which the judgment was given the insurer or the giver of the security had notice of the bringing of the proceedings; or

(b) in respect of any judgment so long as execution thereon is stayed pending an appeal; or

(c) in connection with any liability if before the happening of the event, which was the cause of the death or bodily injury giving rise to the liability, the policy or security was cancelled by mutual consent or by virtue of any provision contained therein and either—

(i) before the happening of such event the certificate of insurance or the certificate of security, was surrendered to the insurer or the giver of the security, as the case may be, or the person to whom such certificate was delivered made a statutory declaration stating that such certificate had been lost or destroyed and so could not be surrendered; or

(ii) after the happening of such event but before the expiration of fourteen days from the taking effect of the cancellation of the policy or of the security the certificate of insurance or the certificate of security, as the case may be, was surrendered to the insurer or the giver of the security or the person to whom such certificate was delivered made a statutory declaration that such certificate had been lost or destroyed and so could not be surrendered; or

(iii) either before or after the happening of the event, but within a period of fourteen days from the taking effect of the cancellation of the policy or the security, the insurer or the giver of the security had commenced criminal proceedings under section 15 of this Ordinance in respect of the failure to surrender the certificate of insurance or the certificate of security, as the case may be.

(3) No sum shall be payable by an insurer or the giver of a security under the provisions of this section if in an action commenced before or within three months after the commencement of the proceedings in which the judgment was given he has obtained a declaration that apart from any provisions contained in the policy or the security, as the case may be, he is entitled to avoid it on the ground that it was obtained by the non-disclosure of a material fact or by a representation of fact which was false in a material particular or, if he has avoided the policy or the security on that ground, that he was entitled to do so apart from any provision contained in it:

Provided that an insurer or the giver of a security who has obtained such a declaration in an action shall not thereby be

entitled to the benefit of the provision of this sub-section in respect of any judgment obtained in any proceedings commenced before the commencement of that action, unless before or within fourteen days after the commencement of that action he has given notice thereof to the person who is plaintiff in the said proceedings specifying the non-disclosure or false representation on which he proposes to rely and any person to whom notice of such action is given shall be entitled, if he thinks fit, to be made a party thereto.

(4) If the amount which an insurer or the giver of a security under the provisions of this section becomes liable to pay in respect of the liability of a person insured by a policy or covered by a security, as the case may be, exceeds the amount for which he would, apart from the provisions of this section, be liable to pay under the policy or the security in respect of that liability, he shall be entitled to recover the excess from that person.

Interpreta-
tion.

(5) In this section—

“ liability covered by the terms of the policy or security ” means a liability which is covered by the policy or the security, as the case may be, or which would be so covered were it not that the insurer or the giver of the security is entitled to avoid or cancel or has avoided or cancelled the policy or the security, as the case may be; and

“ material ” in respect of an insurance policy means of such a nature as to influence the judgment of a prudent insurer in determining whether he will accept the risk and if so, at what premium and on what conditions, and, in respect of a security, means of such a nature as to influence the judgment of a prudent person giving such securities in determining whether he would give such security and if so, on what conditions.

Duty to give
information
to third
parties.

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

(2) Any person who, without reasonable excuse, the onus of proving which shall be upon him, fails to comply with the provisions of this section or who wilfully or negligently makes any false or misleading statement in reply to a demand for information, shall be guilty of an offence against this Ordinance.

13. (1) No settlement made by an insurer or the giver of a security in respect of any claim which might be made by a third party in respect of any liability as is required to be covered by a policy or security issued for the purposes of this Ordinance shall be valid unless such third party is a party to such settlement.

Rights of third parties against insurers.

(2) A policy or security issued under the provisions of this Ordinance shall remain in force and available for third parties notwithstanding the death of any person insured under such policy or covered by such security, as the case may be, as if such person were still alive, and any cash deposit made by any person under paragraph (b) of section 5 shall remain available for third parties notwithstanding the death of the depositor.

14. Where any payment is made, whether or not with an admission of liability, by—

Insurer to pay certain hospital expenses.

(a) an approved insurer under or in consequence of a policy issued under the provisions of this Ordinance; or

(b) the owner of a motor vehicle in relation to the user of which a security under section 8 is in force; or

(c) the owner of a motor vehicle who has made a deposit under section 5,

in respect of the death of or bodily injury to any person arising out of the use of a motor vehicle and the person who has so died or received bodily injury has to the knowledge of the approved insurer or such owner as the case may be received treatment at a hospital, whether as an in-patient or an out-patient, in respect of the injury so arising, there shall be also paid by the approved insurer or such owner to such hospital the expenses reasonably incurred by such hospital in giving such treatment after deducting any moneys actually received by such hospital in payment of a specific charge for such treatment:

Provided that the amount to be paid by the approved insurer or the owner shall not exceed fifty pounds for each person so treated as an in-patient and five pounds for each person so treated as an out-patient.

Duty to
surrender
certificate of
cancellation
of policy.

15. Where a certificate of insurance has been issued, under the provisions of this Ordinance, in favour of the person by whom a policy has been effected or a certificate of security has been issued in favour of a person whose liability is covered by a security and the policy or security, as the case may be, is cancelled by mutual consent or by virtue of any provision in the policy or security, the person to whom such certificate was delivered shall, within seven days from the taking effect of the cancellation of such policy or security, surrender such certificate to the insurer or the giver of the security, or, if such certificate has been lost or destroyed, make a statutory declaration to that effect and any person contravening the provisions of this section shall be guilty of an offence against this Ordinance.

Certificate to
be produced.

16. (1) Any person driving a motor vehicle on a highway shall, on being so required by a police officer, give his name and address and the name and address of the owner of the motor vehicle and shall produce his certificate and any person contravening the provisions of this sub-section shall be guilty of an offence against this Ordinance:

Provided that, if the driver of a motor vehicle within five days after the date on which the production of his certificate was so required produces the certificate in person at such police station in the Colony or at the office of such administrative officer in the Protectorate as may have been specified by such driver at the time when its production was required, he shall not be convicted of an offence under this sub-section by reason only of failure to produce his certificate to the police officer.

(2) In any case where owing to the presence of a motor vehicle on a highway an accident occurs involving bodily injury to any person, the driver of such motor vehicle shall produce his certificate to a police officer or to any person having reasonable grounds for requiring its production and in the event of any driver in such circumstances failing to produce his certificate he shall, when reporting the accident in accordance with the provisions of section 47 of the Road Traffic Ordinance, produce his certificate, and any person contravening the provisions of this sub-section shall be guilty of an offence against this Ordinance:

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Provided that a person shall not be convicted under this sub-section by reason only of failure to produce his certificate, if, within five days after the occurrence of the accident, he produces the certificate in person at such police station in the Colony or at the office of such administrative officer in the

Protectorate as may be specified by him at the time the accident was reported.

(3) The provisions of this section shall be in addition to and not in derogation of the provisions of section 47 of the Road Traffic Ordinance. Cap. 132.

(4) An owner of a motor vehicle shall give such information as may be required by a police officer for the purpose of determining whether the motor vehicle was or was not being driven in contravention of the provisions of this Ordinance on any occasion on which the driver was required to produce his certificate and any owner failing so to do shall be guilty of an offence against this Ordinance.

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

17. Notwithstanding any law to the contrary, where a sum is deposited by any person under the provisions of section 5 or as a condition of approval by the Governor in Council under the provisions of section 7 or section 8 neither that sum nor any part thereof shall, so long as any liability being a liability required to be covered by a policy of insurance under this Ordinance which has been incurred by such person remain undischarged or otherwise unprovided for, be applicable in discharge of any other liabilities incurred by such person. Deposits.

18. (1) If any person for the purpose of obtaining a certificate of insurance or a certificate of security under the provisions of this Ordinance makes any statement either oral or written which is false or misleading or withholds any material information such person shall, unless he proves to the satisfaction of the court that he acted without any intent to deceive, be guilty of an offence against this Ordinance and be liable, on conviction, to a fine of two hundred pounds or to imprisonment for two years or to both such fine and imprisonment. Offences and penalties.

(2) Any person who with intent to deceive—

(a) forges, alters, defaces or mutilates any certificate of insurance or certificate of security or any other document issued under this Ordinance; or

(b) uses or allows to be used by any other person any forged, altered, defaced or mutilated certificate of insurance

or certificate of security or any other document issued under this Ordinance; or

(c) lends to or borrows from any other person a certificate of insurance or a certificate of security or any other document issued under the provisions of this Ordinance; or

(d) makes or has in his possession any document so closely resembling a certificate of insurance or a certificate of security or any other document issued under the provisions of this Ordinance as to be calculated to deceive; or

(e) issues any certificate of insurance or certificate of security or any other document to be issued under the provisions of this Ordinance which is to his knowledge false in any material particular,

shall be guilty of an offence and liable, on summary conviction, to a fine of one hundred pounds or to imprisonment for one year or to both such fine and imprisonment.

Penalties.

(3) Any person who is guilty of an offence against this Ordinance for which no special penalty is provided shall, on summary conviction, be liable in respect of a first conviction, to a fine of fifty pounds or six months imprisonment or to both such fine and imprisonment and in the case of a second or subsequent conviction to a fine of one hundred pounds or to imprisonment for one year or to both such fine and imprisonment.

(4) If any police officer has reasonable cause to believe that any certificate of insurance or certificate of security or any other document produced to him in pursuance of the provisions of this Ordinance by the driver or owner of a motor vehicle is a document in relation to which an offence under this section has been committed, he may seize the document and when any such document is so seized the driver and the owner of such motor vehicle or either of them shall, if neither of them has been charged with an offence under the provisions of this section, be summoned before a magistrate to account for the possession of or the presence on the motor vehicle of the said document and the magistrate may make such order respecting the disposal of the document and award such costs as he may deem just.

References to
certificate to
include
copies.

19. In this Ordinance references to a certificate of insurance or certificate of security in any provision relating to the surrender or loss or destruction of a certificate, shall, in relation to policies or securities under which more than one certificate is issued, be construed as references to all or any of such certificates

and shall, where any copy of a certificate has been issued, be construed as including a reference to such copy.

20. The Governor in Council may make rules for prescribing ^{Rules.} everything which may be prescribed under the provisions of this Ordinance and generally for the purpose of putting this Ordinance into effect and in particular but without prejudice to the generality of the foregoing provisions, may make rules—

(a) prescribing the forms to be used for the purposes of this Ordinance;

(b) declaring approved insurers;

(c) prescribing the requirements in relation to securities either generally or in any particular case;

(d) as to applications for and the issue of certificates of insurance, certificates of security and any other documents which may be prescribed and the furnishing of particulars thereof and the giving of information with respect thereto;

(e) as to the issue of copies of any certificates or documents which are lost, mutilated or destroyed;

(f) as to the custody, production, cancellation and surrender of any such certificates or other documents;

(g) for providing that any of the provisions of this Ordinance shall, in relation to motor vehicles brought into Sierra Leone by persons making only a temporary stay in Sierra Leone, have effect subject to such modifications and adaptations as may be prescribed;

(h) with respect to the payment of deposits and the documents to be issued in relation thereto and the investments thereof and dealing with the deposit of stocks or other securities in lieu of money, the payment of the interest or dividends from time to time accruing due on any securities in which deposits may be for the time invested and the withdrawal and transfer of deposits;

(i) prescribing fees to be charged in respect of anything done under the provisions of this Ordinance;

(j) prescribing penalties for the breach of any rules made hereunder not exceeding a fine of fifty pounds or imprisonment for six months or both such fine and imprisonment.