

## CHAPTER 288

### THE MOTOR VEHICLES INSURANCE (THIRD-PARTY RISKS) ACT

#### Arrangement of Sections

#### Section

1. Short title.
2. Interpretation.
3. Users of motor vehicles to be insured against third-party risks.
4. Requirements in respect of policies.
5. Requirements in respect of securities.
6. Certain conditions to policies or securities to be of no effect.
7. Duty of insurers to satisfy judgments against persons insured in respect of third-party risks.
8. Bankruptcy, etc., of insured persons not to effect certain claims by third parties.
9. Avoidance of restrictions on scope of policies covering third-party risks.
10. Duty to give information as to third parties.
11. Duty to surrender certificate on cancellation of policy.
12. Application of sections 7 to 11 to securities.
13. Saving as to preservation of rights in case of death of an insured.
14. Requirements as to production of certificate of insurance or of security.
15. Deposits.
16. Unlawful user of certificates, etc.
17. Insurers to be registered.
18. Registration of insurers.
19. Conditions under which registration may be cancelled.
20. Issuing policies or giving certificates without being registered.
21. Deposits.
22. Savings.
23. Savings.

Section

24. Rules.

25. Penalty.

---

MOTOR VEHICLES INSURANCE  
(THIRD-PARTY RISKS)

(1st January, 1952.)

11/1950.  
14/1967.  
18/1989.

1. This Act may be cited as the Motor Vehicles **Short title**-  
Insurance (Third-Party Risks) Act.

2. In this Act—

**Interpretation.**

"Accountant-General" means the officer for the time being performing the duties of Accountant-General of Antigua and Barbuda;

"appointed day" means such day; not being earlier than six months after the 23rd of February, 1967, as the Minister shall specify by notice published in the Gazette;

"driver" where a separate person acts as steersman of a motor vehicle, includes that person as well as any other person engaged in the driving of the vehicle, and the expression "drive" shall be construed accordingly;

"insurer" means any person carrying on the business of—

(a) issuing policies of insurance; or

(b) giving securities

against liabilities to third parties in relation to the user of motor vehicles, being a person registered under section 18 of this Act;

"invalid carriage" means a mechanically propelled vehicle the weight of which unladen does not exceed five hundredweight and which is specially designed and constructed, and not merely adapted, for the use of persons suffering from some physical defect or disability and is used solely by such persons;

"local authority" means any authority which the Cabinet shall by order published in the *Gazette* declare to be a local authority for the purposes of this Act;

"Minister" means the Minister responsible for the subject of Communications;

"motor vehicle" means any mechanically propelled vehicle intended or adapted for use on roads;

"owner" in relation to a vehicle which is the subject of a hiring agreement or hire purchase agreement, means the person in possession of the vehicle under the agreement;

"public road" means any street, road or open space to which the public are granted access, and any bridge over which a road passes, and includes any privately owned street, road or open space to which the public are granted access either generally or conditionally.

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

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

(2) If a person acts in contravention of this section, he shall be liable to a fine not exceeding three thousand dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment and a person convicted of an offence under this section shall (unless the court for special reason thinks fit to order otherwise and without prejudice to the power of the court to order a longer period of disqualification) be disqualified for holding or obtaining a driver's licence under the Vehicles and Road Traffic Act, for a period of twelve months from the date of the conviction.

Cap. 460.

A person disqualified by virtue of a conviction under this section or of an order made thereunder for holding or

obtaining a driver's licence shall for the purposes of the Vehicles and Road Traffic Act, be deemed to be disqualified by virtue of a conviction under the provisions of that Act.

(3) This section shall not apply to a motor vehicle owned by the Government of Antigua and Barbuda or by the Government of the United Kingdom or by any local authority in Antigua and Barbuda whilst the vehicle is being used for the purpose of the Government or local authority owning the vehicle, or to invalid carriages.

4. (1) In order to comply with the requirements of this Act, a policy of insurance must be a policy which— **Requirements in respect of policies.**

(a) is issued by a person who is an insurer, and

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

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

- (i) liability in respect of the death arising out of and in the course of his employment of a person in the employment of a person insured by the policy or of bodily injury sustained by such a person arising out of and in the course of his employment; or
- (ii) except in the case of a motor vehicle in which passengers are being carried for hire or reward or by reason of or in pursuance of a contract of employment, liability in respect of the death of or bodily injury to persons being carried in or upon or entering or getting on to or alighting from the motor vehicle at the time of the occurrence of the event out of which the claims arise; or
- (iii) any contractual liability; or
- (iv) liability in respect of the first twenty-four dollars of any claim by any one person; or

- (v) liability in respect of any sum in excess of ten thousand dollars arising out of any one claim by any one person; or
- (vi) liability in respect of any sum in excess of one hundred thousand dollars arising out of the total claims for any one accident for each vehicle concerned.

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

(3) A policy shall be of no effect for the purposes of this Act unless and until there is issued by the insurer in favour of the person by whom the policy is effected a certificate (in this Act 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 any other matters as may be prescribed, and different forms and different particulars may be prescribed in relation to different cases or circumstances.

(4) In this Act the expression "policy of insurance" includes a covering note.

**Requirements in respect of securities.**

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

(a) be given by an insurer; and

(b) consist of an undertaking by the insurer to make good, subject to any conditions specified therein, and up to an amount of not less than forty-eight thousand dollars in respect of each motor vehicle any failure by the owner of the motor vehicle or such other person or classes of persons as may be specified in the security duly to discharge any such liability as is required to be covered by a policy of insurance under the last preceding section which may be incurred by him or them.

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

(3) In lieu of the security mentioned in this section a deposit may be made by the owner of the motor vehicle or by the person who stands security for him of the sum of forty-eight thousand dollars or approved securities to the like amount in the hands of the Accountant-General to make good any liability as is specified in this Act.

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

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

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

7. (1) If after a certificate of insurance has been issued under subsection (3) of section 4 in favour of the person by whom a policy has been effected, judgment in respect of any such liability as is required to be covered by a policy under paragraph (b) of subsection (1) of section 4 (being a liability covered by the terms of the policy) is obtained against any person insured by the policy, then, notwithstanding that the insurer may be entitled to avoid or cancel, or may have avoided or cancelled, the policy, the insurer shall, subject to the provisions of this section, pay to the persons entitled to the benefit of the judgment any sum payable thereunder

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

in respect of the liability, including any amount payable in respect of costs and any sum payable in respect of interest on that sum by virtue of any enactment relating to interest on judgments.

(2) No sum shall be payable by an insurer under the foregoing provisions of this section—

(a) in respect of any judgment, unless before or within seven days after the commencement of the proceedings in which the judgment was given, the insurer 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 was cancelled by mutual consent or by virtue of any provision contained therein, and either—

- (i) before the happening of the said event the certificate was surrendered to the insurer, or the person in whose favour the certificate was issued made a statutory declaration stating that the certificate had been lost or destroyed, or
- (ii) 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 certificate was surrendered to the insurer, or the person in whose favour the certificate was issued made such a declaration as aforesaid, or
- (iii) either before or after the happening of the said event, but within the said period of fourteen days, the insurer has commenced proceedings under this Act in respect of the failure to surrender the certificate.

(3) No sum shall be payable by an insurer under the foregoing 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 provision

contained in the policy 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 some material particular, or if he has avoided the policy on that ground that he was entitled so to do apart from any provision contained in it:

Provided that an insurer who has obtained such a declaration as aforesaid in an action shall not thereby become entitled to the benefit of this subsection as respects any judgment obtained in proceedings commenced before the commencement of that action unless before or within seven days after the commencement of that action he has given notice thereof to the person who is the 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 so given shall be entitled, if he thinks fit, to be made a party thereto.

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

(5) In this section the expression "material" means of such a nature as to influence the judgment of a prudent insurer in determining whether he will take the risk, and, if so, at what premium and on what conditions, and the expression "liability covered by the terms of the policy" means a liability which is covered by the policy or which would be so covered but for the fact that the insurer is entitled to avoid or cancel, or has avoided or cancelled, the policy.

(6) In this Act reference to a certificate of insurance in any provision relating to the surrender or the loss or destruction of a certificate of insurance shall in relation to policies under which more than one certificate is issued be construed as references to all the certificates and shall where any copy has been issued of any certificate be construed as including a reference to that copy.

Bankruptcy, etc.,  
of insured  
persons not to  
affect certain  
claims by third  
parties.  
Cap. 426.

**8.** Where a certificate of insurance has been issued under subsection (3) of section 4 in favour of the person by whom a policy has been effected, the happening in relation to any person insured by the policy of any such event as is mentioned in subsection (1) or subsection (2) of section 2 of the Third Parties (Rights against Insurers) Act, shall, notwithstanding anything in this Act, not affect any such liability of that person as is required to be covered by a policy under paragraph (b) of subsection (1) of section 4 but nothing in this section shall affect any rights against the insurer conferred by this Act on the person to whom the liability was incurred.

Avoidance of  
restrictions on  
scope of policies  
covering third-  
party risks.

**9.** Where a certificate of insurance has been issued under subsection (3) of section 4 in favour of the person by whom a policy has been effected, so much of the policy as purports to restrict the insurance of the persons insured thereby by reference to any of the following matters—

(a) the age or physical or mental condition of persons driving the vehicle; or

(b) the condition of the vehicle; or

(c) the number of persons that the vehicle carries; or

(d) the weight or physical characteristics of the goods that the vehicle carries; or

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

(f) the horse power or value of the vehicle; or

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

(h) the carrying on the vehicle of any particular means of identification other than any means of identification required to be carried by or under the Vehicles and Road Traffic Act,

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

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

and any sum paid by an insurer which is covered by the policy by virtue only of this section shall be recoverable by the insurer from that person.

**10.** (1) Any person against whom a claim is made in respect of any such liability as is required to be covered by a policy under paragraph (b) of subsection (1) of section 4 shall, on demand by or on behalf of the person making the claim, state whether or not he was insured in respect of that liability by any policy having effect for the purposes of this Act, or would have been so insured if the insurer had not avoided or cancelled the policy, and, if he was or would have been so insured, give such particulars with respect to that policy as were specified in the certificate of insurance issued in respect thereof under subsection (3) of section 4.

**Duty to give information as to third parties.**

(2) If without reasonable excuse any person fails to comply with the provisions of this section, or wilfully makes any false statement in reply to any such demand as aforesaid, he shall be guilty of an offence against this Act.

**11.** Where a certificate of insurance has been issued under subsection (3) of section 4 in favour of the person by whom a policy has been effected and the policy is cancelled by mutual consent or by virtue of any provision in the policy, the person in whose favour the certificate was issued shall, within seven days from the taking effect of the cancellation, surrender the certificate to the insurer, or if it has been lost or destroyed, make a statutory declaration to that effect, and if he fails so to do he shall be guilty of an offence against this Act.

**Duty to surrender certificate on cancellation of policy.**

**12.** The provisions of sections 7 to 11 inclusive shall apply in relation to securities having effect for the purposes of this Act as they apply in relation to policies of insurance, and in relation to any such security as aforesaid, references in the said section to being insured, to a certificate of insurance, and to persons insured, shall be construed respectively as references to the having in force the security, to the certificate of security, and to the persons whose liability is covered by the security.

**Application of sections 7 to 11 to securities.**

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

**13.** The rights of any person in respect of any liability incurred by an insured shall, in the event of the death of the insured, be preserved to and be enforceable by such person against the personal representatives of the insured in the same manner and to the same extent as such rights would have been enforceable against the insured if he had survived and the provisions of subsection (2) of section 4 shall apply accordingly.

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

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

**14.** (1) Any person driving a motor vehicle on a public road shall, on being so required by any police officer, give his name and address and the name and address of the owner of the motor vehicle and produce his certificate and if he fails so to do he shall be guilty of an offence against this Act:

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 as may have been specified by him at the time its production was required, he shall not be convicted under this subsection of the offence of failing to produce his certificate to the police officer.

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

(3) If in any case where, owing to the presence of a motor vehicle on a road, an accident occurs involving personal injury to another person, the driver of the motor vehicle does not at the time produce his certificate to a police officer or to some person who, having reasonable grounds for so doing has required its production, the driver shall report

the accident at a police station as soon as possible, and in any case within twenty-four hours of the occurrence of the accident, and there produce his certificate, and if he fails to do so he shall be guilty of an offence against this Act:

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

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

**15.** If any sum is deposited by any person under the provisions of subsection (3) of section 5 no part of such sum shall so long as any liabilities (being such liabilities as are required to be covered by a policy of insurance under this Act) which have been incurred by him have not been discharged or otherwise provided for be applicable in discharge of any other liabilities incurred by him. Deposits.

**16.** (1) If, with intent to deceive, any person— Unlawful user of  
certificates, etc.

(a) uses or lends to or allows to be used by any other person, a certificate of insurance or certificate of security within the meaning of this Act, or

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

he shall be guilty of a misdemeanour and shall be liable on conviction on indictment to imprisonment for two years.

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

(3) If any person issues a certificate of insurance or certificate of security which is to his knowledge false in any material particular he shall be liable to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding six months 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 produced to him in pursuance of the provisions of this Act by the driver 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 document is seized under this section, the person from whom it was taken shall, unless previously charged with an offence under this section, be summoned before a Magistrate's Court to account for his possession of the said document, and the Magistrate shall make such order respecting the disposal of the said document and award such costs as the justice of the case may require.

**Insurers to be registered.**

**17.** (1) From and after the appointed day no person shall carry on the business of—

- (a) issuing policies of insurance; or
- (b) giving securities;

against liabilities to third parties in relation to the user of motor vehicles unless such person is registered under this Act.

**Registration of insurers.**

**18.** (1) The Minister shall cause to be kept a register, to be known as the Register of Insurers in such form and manner and containing such particulars as may be prescribed.

(2) The Register of Insurers shall be open to inspection by any member of the public at all reasonable times.

(3) Any person desiring to be registered under this Act shall make application in such form and manner as may be prescribed.

(4) Where the Minister decides to grant an application he shall cause the applicant to be registered—

- (a) unconditionally; or

(b) subject to such restrictions and conditions including the requirement that the applicant should deposit and keep deposited with the Accountant-General the sum of \$50,000.00 or approved securities to the like amount in respect of that business and approved by the Minister as the Minister may specify in writing and direct that a certificate of registration in the prescribed form be issued to the applicant.

(5) Where the Minister refuses an application he shall cause the applicant to be informed in writing accordingly.

(6) The Minister shall cause to be published in the *Gazette* a list containing the names and addresses of all insurers as soon as may be after the appointed day and thereafter in the months of January and July in each year.

**19.** (1) Subject to the provisions of subsections (2) and (3) of this section the Minister may cause the registration of an insurer to be cancelled—

Conditions under which registration may be cancelled.

(a) where the Minister is satisfied that such registration was procured as a result of any misleading false or fraudulent representation or in consequence of any incorrect information (whether such information was supplied wilfully or otherwise); or

(b) where there has been a breach of any restriction or conditions subject to which such insurer was registered; or

(c) where such insurer fails to make any deposit required by the Minister; or

(d) where such insurer fails to make any return or furnishes any information in compliance with the requirements of regulations made under this Act or fails to furnish within a reasonable time, any information requested by the Minister concerning the operations of such insurer; or

(e) where the Minister has reason to believe that such insurer has been or will be unable, as a result of the state of his financial affairs, to satisfy claims made against him pursuant to policies of insurance issued, or securities given by him.

(2) Before the Minister causes the registration of an insurer to be cancelled he shall give such insurer notice in writing informing him—

(a) of the ground on which it is proposed to cancel the registration; and

(b) that he may show cause within a specified time why the registration should not be cancelled.

If such insurer fails to show cause within the specified time why the registration should not be cancelled, or if the cause shown is inadequate in the opinion of the Minister, he may thereupon cause the registration to be cancelled and such decision of the Minister shall not be questioned in a Court of Law.

(3) Upon cancellation of the registration of an insurer the Minister shall cause notice of such cancellation to be published in the *Gazette*.

Issuing policies  
or giving  
certificates  
without being  
registered.

**20.** (1) Any person who contravenes the provisions of section 17 of this Act shall be guilty of an offence and shall be liable on summary conviction before a Magistrate to a fine not exceeding twenty-five thousand dollars or to imprisonment with or without hard labour for a term not exceeding six months or to both such fine and imprisonment and in the case of a continuing offence to a further fine not exceeding two thousand dollars for each day on which the offence continues after conviction.

(2) Where a Company is guilty of a contravention of the provisions of section 17 every director, manager, agent and officer of the Company in Antigua and Barbuda who is knowingly a party to the contravention shall be liable to the penalties prescribed by subsection (1).

Deposits.

**21.** The Minister may, at any time, require any insurer to make a deposit within such time and in such amount as the Minister may specify in respect of different insurers.

Savings.

**22.** Notwithstanding anything contained in this Act, where any document purporting to be—

(a) a policy of insurance; or

(b) a security

against liabilities to third parties in relation to the user of motor vehicles has been issued by a person who is not an insurer or by a person whose registration as an insurer was cancelled, whether before or after the issue of the document such person shall be bound by any offer or undertaking made or given by him in such document to the same extent that he would be if the document were a policy or security which complies with the requirements of this Act, and sections 7, 8 and 10 shall have effect in relation to him as if he were an insurer.

**23.** All policies of insurance and all securities issued or given, as the case may be, before the appointed day, being policies and securities which, but for the Motor Vehicles Insurance (Third Party Risks) (Amendment) Act, 1967, would have complied with the requirements of this Act, shall be deemed after the 23rd of February, 1967, to comply with the requirements of this Act and the persons by whom such policies and securities were issued or given, as the case may be, shall, after the 23rd February, 1967, be deemed during the subsistence and for the purposes of such policies and securities to be insurers. Savings.

**24.** (1) The Cabinet may make rules for prescribing anything which may be prescribed under this Act, and generally for the purpose of carrying this Act into effect, and in particular, but without prejudice to the generality of the foregoing provisions, may make rules— Rules.

(a) as to the forms to be used for the purposes of this Act;

(b) as to application for and the issue of certificates of insurance and certificates of security and any other documents which may be prescribed and as to the keeping of records of documents and the furnishing of particulars thereof or the giving of information with respect thereto to the Commissioner or Police;

(c) as to the issue of copies of any such certificates or other documents which are lost or destroyed;

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

(e) for providing that any provisions of this Act shall, in relation to motor vehicles brought into Antigua and Barbuda by persons making only a temporary stay therein, have effect subject to such modifications and adaptations as may be prescribed;

(f) with respect to the payment of deposits under this Act and the investment thereof or dealing therewith, 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 are for the time being invested and the withdrawal and transfer of deposits;

(g) as to the returns to be made, and information to be furnished, by insurers or any specified class of insurers.

(2) Rules made under this section may prescribe the imposition of a fine not exceeding ten thousand dollars upon offenders against the said rules and in default of payment thereof imprisonment with or without hard labour for a term not exceeding six months.

(3) Rules made under this section shall have no force or effect until they have been approved by Parliament.

**Penalty.**

**25.** Any person who is guilty of an offence against this Act, for which no penalty has been specifically provided shall be liable, on summary conviction, to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three months.

---