

CHAPTER 193**THE MOTOR VEHICLE INSURANCE (THIRD PARTY RISKS)
ACT****Arrangement of Sections**

Section

PART I—INTERPRETATION

1. Interpretation

PART II—COMPULSORY INSURANCE OF VEHICLES

2. Vehicles to be insured against third party risks
3. Scope of policy of insurance
4. Penalty for false statements and wilful avoidance of policy
5. Certain conditions in policy to be of no effect
6. Avoidance of restrictions on scope of policy
7. Certificate of insurance
8. Display of certificate of insurance
9. Owner to give notice of accident to insurer
10. Duty of owner, *etc.* to give information as to insurance
11. Provisions applicable where premium less than proper premium is paid
12. Insurer may settle claim
13. Rights of third parties against insurer on bankruptcy, *etc.* of insured
14. Passengers for hire not to contract themselves out of benefits

**PART III—ACCIDENTS CAUSED BY UNIDENTIFIED
OR UNINSURED VEHICLES***Establishment of Nominal Defendant Council*

15. Establishment of Nominal Defendant Council
16. Duty of Council
17. Functions of Council
18. Powers of Council
19. Appointment and composition of Board

20. Meetings of Board
21. Remuneration of members

Staff

22. Executive Secretary
23. Authentication of documents of Council
24. Other staff
25. Indemnity of officers

Financial matters

26. Capital of Council
27. Subscriptions by Government
28. Subscriptions by insurance companies
29. Estimates
30. Council to operate on sound business principles
31. Accounts and audit

Liability covered

32. Liability where vehicle is unidentified or uninsured and owner is unidentified
33. Liability where vehicle is uninsured
34. Limit of liability of Council
35. Council may settle claims
36. Recovery from owner

PART IV—MISCELLANEOUS

37. Production of evidence of policy on licensing and transfer of vehicle
38. Insurance companies to underwrite third party insurance
39. Third party to sue insured, *etc.* and not insurer
40. General penalty
41. Regulations
42. Suspension of application of Part III
43. Power to amend Schedule

7056 **Cap. 193.]** *Motor Vehicle Insurance (Third Party Risks) Act*

SCHEDULE

Schedule

Currency Point

CHAPTER 193

THE MOTOR VEHICLE INSURANCE (THIRD PARTY RISKS) ACT

Commencement: 1 July, 1989 (sections 1-14, 26-42);
1 October, 1989 (sections 15-25)

An Act to provide for compulsory insurance against third party risks in respect of the use of vehicles; to provide for the establishment of the Nominal Defendant Council and for related matters.

PART I—INTERPRETATION

1. Interpretation

In this Act, unless the context otherwise requires—

- “Authority” means the Insurance Regulatory Authority established under the Insurance Act;
- “Board” means the Board of the Nominal Defendant Council established under section 19;
- “certificate of insurance” means a certificate of insurance issued under section 7;
- “Council” means the Nominal Defendant Council established under section 15;
- “currency point” has the value assigned to it in the Schedule to this Act;
- “driver” means any person who drives a vehicle on a road or who is in actual physical control of the vehicle;
- “insurance company” means an insurer within the meaning of section 6 of the Insurance Act;
- “insured” means a person or persons or classes of persons covered by a policy of insurance taken out under section 2;
- “insurer” means an insurance company which issues a policy of insurance required under section 2;
- “Minister” means the Minister responsible for finance;
- “owner” has the same meaning as in the Traffic and Road Safety Act;
- “third party” means a person or persons or classes of persons not privy to the policy of insurance taken out under section 2;

“vehicle” means all types of motor vehicles defined under and for the purposes of the Traffic and Road Safety Act, and includes trailer and engineering plant as defined in that Act but does not include any of the following—

- (a) a vehicle propelled by mechanical power and specially designed and constructed (and not merely adapted) for the use of persons suffering from some physical defect or disability and used solely by those persons;
- (b) a bicycle or tricycle fitted with an auxiliary internal combustion engine having a maximum cylinder capacity of thirty-five cubic centimetres; and
- (c) such other vehicles as may by regulations made under the Traffic and Road Safety Act, be declared not to be motor vehicles for the purposes of that Act.

PART II—COMPULSORY INSURANCE OF VEHICLES

2. Vehicles to be insured against third party risks

(1) It shall not be lawful for any person to use, or to cause or to permit any other person to use, a vehicle on a road unless there is in force in relation to the use of the vehicle by that person or that other person, as the case may be, a policy of insurance in respect of third party risks that complies with the requirements of this Act.

(2) Subsection (1) shall not apply to a vehicle owned by the Government of Uganda.

(3) Any person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five currency points or to imprisonment for a term not exceeding two years, or both.

(4) A person convicted under subsection (3) shall, unless the court for special reasons thinks fit to order otherwise, and without prejudice to the power of the court to order a longer period of disqualification, be disqualified from holding or obtaining a driving permit for twelve months from the date of conviction, in addition to the penalties that may be imposed under subsection (3).

3. Scope of policy of insurance

In order to comply with the requirements of section 2, the policy of insurance must be a policy which—

- (a) is issued by an insurer holding a licence issued by the Authority under the Insurance Act; and
- (b) insures such a person or persons or classes of persons as may be specified in the policy in respect of liability which may be incurred by him or her or them in respect of death of or bodily injury to another person caused by or arising out of the use of a vehicle on the road; except that a policy in terms of this section shall not be required to cover liability in respect of the death of or bodily injury to a person arising out of and in the course of employment of the person, by a person insured under the policy.

4. Penalty for false statements and wilful avoidance of policy

Any person who, for the purposes of obtaining a policy of insurance as required under section 2, makes any false statement in consequence of which the policy is liable to be avoided, or wilfully does any act which disentitles him or her to claim under the policy, commits an offence and is liable, on conviction, to a fine not exceeding five currency points or to imprisonment for a term not exceeding two years, or both.

5. Certain conditions in policy to be of no effect

(1) Any condition in a policy of insurance providing that no liability shall arise under the policy, or that any liability so arising shall cease in the event of some specified thing being done or being omitted to be done after the happening of the event giving rise to a claim under the policy, shall, as respects such liabilities as are required under section 3(b) to be covered by a policy, be of no effect.

(2) Nothing in subsection (1) shall be taken to render void any provisions in a policy requiring the person insured to repay to the insurer any sums which the insurer may have become liable to pay under the policy and which have been applied to the satisfaction of the claims of third parties.

6. Avoidance of restrictions on scope of policy

(1) Where a certificate of insurance has been issued under section 7 to the person by whom a policy has been effected, so much of the policy as purports to restrict the insurance of the persons insured by reference to any of the following matters—

- (a) the age, physical or mental conditions of persons driving the vehicle;
 - (b) the condition of the vehicle;
 - (c) the number of persons that the vehicle carries;
 - (d) the weight or physical characteristics of the goods that the vehicle carries;
 - (e) the times at which or the areas within which the vehicle is used;
 - (f) the horsepower or value of the vehicle;
 - (g) the carrying on the vehicle of any particular apparatus; or
 - (h) the carrying on the vehicle of any particular means of identification,
- shall, as respects the liabilities required to be covered by a policy under section 3(b), be of no effect.

(2) The insurer may recover from the insured any sum paid in or towards the discharge of liability incurred by virtue only of this section.

7. Certificate of insurance

(1) A certificate of insurance shall be issued by the insurer to the person by whom a policy of insurance is effected at the same time as the cover note is issued.

(2) The certificate shall be in a prescribed form and shall contain such particulars of any conditions subject to which the policy is issued and of any matters as may be prescribed, and different forms and different particulars may be prescribed in relation to different cases or circumstances.

8. Display of certificate of insurance

(1) No vehicle in respect of which a policy of insurance is required under this Act shall be used on a road unless a legible certificate of insurance is displayed on the vehicle in a conspicuous manner.

(2) Any person who, using a vehicle on a road in contravention of subsection (1), is required by a police officer to produce his or her certificate of insurance for the purposes of determining whether the vehicle was or was not being driven in contravention of section 2 shall, within seven days from the date of the request, produce to the police officer or the nearest police station the certificate or such other evidence as may show that there is a policy of insurance in force.

(3) A person who contravenes subsection (1) or (2) commits an offence.

9. Owner to give notice of accident to insurer

(1) In the event of an accident affecting a vehicle, and resulting in the death of or bodily injury to any person, the owner shall forthwith after the accident, or if the owner was not in charge of the vehicle at the time of the accident forthwith after he or she first becomes aware of the accident, give notice in writing to the insurer of the fact of the accident, with particulars as to the date, nature and circumstances of the accident, and thereafter give all such other information and take all such steps as the insurer may reasonably require in relation to the accident, whether or not any claims have actually been made against the owner on account of the accident.

(2) Notice in writing of every claim made or action brought against the owner, or to the knowledge of the owner made or brought against any other person, on account of an accident as aforesaid shall forthwith thereafter be given by the owner to the insurer; and thereafter the owner shall give such other particulars as the insurer may require.

(3) If the owner fails to give any notice or otherwise fails to comply with any requirement of this section in respect of any matter, the insurer shall be entitled to recover from him or her as a debt such amount as the court, having regard to all the circumstances of the case, thinks fit, not exceeding an amount equal to the total amount, including costs, incurred by the insurer as a result of such failure or non-compliance.

10. Duty of owner, *etc.* to give information as to insurance

(1) Any person against whom a claim is made in respect of any liability as is required under section 3(b) to be covered by a policy of

insurance shall, on demand by or on behalf of the person making the claim, state whether or not he or she was insured in respect of that liability under 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 or she 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 of that policy under section 7.

(2) Any person who, without reasonable excuse, fails to comply with this section, or wilfully makes any false statements in reply to any such demand as aforesaid, commits an offence and is liable, on conviction, to a fine not exceeding five currency points.

11. Provisions applicable where premium less than proper premium is paid

(1) Subject to the powers of the Authority under the Insurance Act, but subject to this Act, an insurer may fix different rates of insurance premium in respect of different purposes for which a vehicle may be used.

(2) Where the premium has been so fixed in respect of a vehicle, the owner of the vehicle shall not use it or permit it to be used for a purpose other than that for which the rate of insurance premium has been fixed, unless the full amount of the insurance premium payable in respect of that other purpose has been paid, but failure by an owner to comply with the requirements of this subsection shall not affect the rights of a third party under this Act.

(3) Where an owner of a vehicle uses or permits such a vehicle to be used in contravention of this section, the insurer shall be entitled to recover from him or her as a debt the difference between the premium paid and the premium properly payable plus an amount equal to one full premium properly payable.

12. Insurer may settle claim

(1) An insurer that is a party to a policy under this Act may at any stage undertake on behalf of the insured or any other person that the insurer is liable to indemnify under the policy—

- (a) the settlement of any claim against the insured or other person;
- and

any proceedings or enforcement of any claim or the settlement of any issue arising from a claim.

(2) Where the insurer undertakes the conduct or defence of any proceedings under subsection (1), it shall indemnify the insured or other person against all costs and expenses of and incidental to those proceedings.

(3) The insured or other person shall sign all such warrants and authorities as the insurer may require for the purpose of enabling the insurer to have the conduct or defence of any such proceedings.

13. Rights of third parties against insurer on bankruptcy, etc. of insured

() Where under any policy of insurance a person is insured against liabilities to third parties which he or she may incur, then

(a) in the event of the insured becoming bankrupt or making a composition or arrangement with his or her creditors; or

(b) in the case of the insured being a company, in the event of a winding up order being made, or a resolution for a voluntary winding up being passed with respect to the company, or of a receiver or manager of the business or undertaking of the company being duly appointed or of possession being taken, by or on behalf of the holders of any debentures secured by a floating charge, or any property comprised in or subject to the charge,

if either before or after that event any such liability as aforesaid is incurred by the insured, his or her rights against the insurer under the policy in respect of the liability shall, notwithstanding anything in any law to the contrary, be transferred to and vest in the third party to whom the liability was so incurred.

(2) Where an order is made under the Insolvency Act for the administration of the estate of a deceased debtor according to the provisions on bankruptcy in that Act, then, if any debt provable in bankruptcy is owing by the deceased in respect of a liability against which he or she was insured under a policy of insurance as being a liability to a third party, the deceased debtor's rights against the insurer under the policy in respect of that liability shall, notwithstanding anything in that Act, be transferred to and vest in the person to whom the debt is owing.

(3) Where there is provision in any policy of insurance made in respect of any liability of the insured to third parties purporting, whether directly or indirectly, to avoid the policy or to alter the rights of the parties thereunder upon the happening to the insured of any of the events specified in subsection (1)(a) or (b), or upon the making of an order under the Insolvency Act in respect of his or her estate, the policy shall insofar as that provision is concerned be of no effect.

(4) Upon a transfer of the rights against the insurer under subsection (1) or (2), the insurer shall be under the same liability to the third party as he or she would have been to the insured, but—

- (a) if the liability of the insurer to the insured exceeds the liability of the insured to the third party, nothing in this section shall affect the rights of the insured to claim against the insurer in respect of the excess; and
- (b) if the liability of the insurer to the insured is less than the liability of the insured to the third party, nothing in this section shall affect the rights of the third party against the insured in respect of the balance.

(5) For the purposes of this section, “liabilities to third parties”, in relation to a person insured under any policy of insurance, shall not include any liability of that person in the capacity of insurer under some other contract of insurance.

(6) This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

14. Passengers for hire not to contract themselves out of benefits

In any proceedings or any claim against an insured or an insurer under this Act in respect of an accident causing death of or bodily injury to any person being at the time of the accident a passenger for hire in the vehicle, it shall not be a defence that the contract of carriage had excluded or modified the liability of the insured or of any other person from paying or to pay damages in respect of accidents due to the negligence or wilful default of the insured.

PART III—ACCIDENTS CAUSED BY UNIDENTIFIED OR
UNINSURED VEHICLES

Establishment of Nominal Defendant Council

15. Establishment of Nominal Defendant Council

(1) There is established, for the purpose of this Act, a council to be known as the Nominal Defendant Council.

(2) The Council shall consist of the Government and all the insurance companies in Uganda undertaking insurance business as provided under the Insurance Act.

(3) The Council shall be a body corporate having perpetual succession and a common seal and may sue or be sued in its corporate name.

16. Duty of Council

Subject to sections 32, 33, 34, 35 and 36, the Nominal Defendant Council shall be responsible for making good liability incurred by the owner or driver of an unidentified or uninsured vehicle where death of or bodily injury to any person is caused by or through or in connection with the use of the vehicle on the road.

17. Functions of Council

The Council shall—

- (a) register and keep a record and directory of all insurance companies undertaking business as described under section 15(2);
- (b) ensure that all subscriptions due to it from the Government and each insurance company are paid promptly and in any case within three months after commencement of each financial year;
- (c) register and keep a record of all claims made against it under this Act; and
- (d) perform such other functions as may be assigned to it by the Minister.

18. Powers of Council

The Council may do all such things as are calculated to facilitate or are incidental or conducive to the better carrying out of its duties and functions and may, in particular, but without prejudice to the generality of the foregoing—

- (a) purchase, acquire, hold, manage and dispose of any property and enter into such contracts as may be necessary or expedient;
- (b) establish and maintain offices in any district of Uganda;
- (c) borrow or otherwise raise money, for discharging its obligations or performing its functions, on such security as may be necessary;
- (d) invest such money as is not immediately required for the performance of its functions or for the discharge of its obligations under this Act;
- (e) create a reserve, depreciation or renewal fund or such other fund as it may determine.

19. Appointment and composition of Board

(1) The Minister shall appoint a Board to carry out and exercise the duties, functions and powers of the Nominal Defendant Council.

(2) The Board shall consist of—

- (a) four representatives of the insurance companies described in section 15, to be appointed from among persons nominated by those insurance companies;
- (b) three representatives of the Government each of whom shall be nominated by—
 - (i) the Minister responsible for finance;
 - (ii) the Attorney General; and
 - (iii) the Minister responsible for transport.

(c) There shall be a Chairperson who shall be elected by the Board from among the members appointed under subsection (2)(a).

(4) All members shall be appointed to the Board for a period of three years and shall be eligible for re-appointment.

(5) The Chairperson may, at any time, resign his or her office by writing under his or her hand addressed to the Council through the Executive Secretary.

(6) Any member of the Board may, at any time, resign his or her office by writing under his or her hand addressed to the Minister and may be removed from office by the Minister for inability to perform the functions of his or her office or for any other sufficient cause.

(7) Any vacancy on the Board shall be filled in the manner in which the vacating member was appointed.

20. Meetings of Board

(1) The Board shall meet at least once in every three months at such time and place as the Chairperson may appoint.

(2) The Chairperson shall preside at all meetings of the Board at which he or she is present; and in his or her absence, a member of the Board as the members present may appoint shall preside.

(3) The Chairperson shall, if requested by notice in writing signed by three members of the Board, convene a special meeting of the Board within fourteen days from the date of receipt of the notice.

(4) The Board may invite any number of persons to act as consultants or advisers at any of its meetings as it may think fit, but such person shall not vote on any matter before the Board.

(5) Questions proposed at a meeting of the Board shall be determined by a simple majority of the members present and voting; and in case of equality of votes, the person presiding shall have a second or casting vote.

(6) The quorum at a meeting of the Board is five members.

(7) Subject to this section the Board shall regulate its own procedure.

21. Remuneration of members

The Chairperson and the other members of the Board and any other person attending any meeting of the Board may be paid such remuneration or allowance as the Minister may approve.

*Staff***22. Executive Secretary**

(1) There shall be an Executive Secretary to the Council appointed by the Minister acting in accordance with the advice of the Board.

(2) The Executive Secretary shall be a full time employee of the Council and shall be responsible for the execution of the policies of the Council and shall carry out all such other duties under this Act as may be assigned to him or her by the Board.

(3) No person shall qualify to be appointed to the office of Executive Secretary unless he or she is an advocate of the High Court of Uganda with three years' experience in legal practice.

(4) The Executive Secretary shall be responsible for

- (a) taking and keeping minutes of the meetings of the Board;
- (b) keeping the records of all transactions of the Council; and
- (c) the custody of the seal of the Council.

23. Authentication of documents of Council

(1) The application of the seal of the Council shall be authenticated by the Chairperson, the Executive Secretary and a member of the Board designated in that behalf by the Board.

(2) Every document purporting to be an instrument issued by the Council and to be sealed with the seal of the Council authenticated in the manner provided under this section shall be received and deemed to be such an instrument without further proof, unless the contrary is shown.

24. Other staff

(1) The Board may, on such terms and conditions as it thinks fit, appoint such other officers and employees as may be necessary for the proper and efficient performance of the functions of the Council.

(2) Public officers may be seconded to work for the Council.

25. Indemnity of officers

Nothing done by an officer or employee of the Council, if done *bona fide* for the purposes of carrying out any provision of this Act, shall subject him or her to any civil liability.

Financial matters

26. Capital of Council

- (1) The Minister may, by statutory instrument, prescribe—
 - (a) the authorised capital of the Council, and any increase in the authorised capital as he or she may deem necessary; and
 - (b) the subscriptions to be made by
 - (i) the Government under section 27; and
 - (ii) the insurance companies under section 28.
- (c) The working capital of the Council shall consist of—
 - (a) subscriptions from the Government and the insurance companies;
 - (b) loans; and
 - (c) any money that may become payable to the Council in the performance of its functions under this Act.

(3) All income and other money of the Council shall be deposited to the credit of the Council in a bank to be approved by the Minister.

27. Subscriptions by Government

(1) The Government shall subscribe to the authorised capital of the Council such amounts as the Minister may prescribe.

(2) There shall be charged on and paid out of the Consolidated Fund, without any further appropriation than this Act, all payments required to be made by the Government under this Act.

(3) For the purpose of providing any sum required for making payments under this section, the Minister may, on behalf of the Government, make such arrangements as are necessary, or raise loans by the creation and issue of securities bearing such rates of interest and subject to such conditions as to repayment, redemption or otherwise as he or she thinks fit; and the

principal and interest of those securities and the charges and expenses incurred in connection with their issue shall be charged on and issued out of the Consolidated Fund.

(4) Any money received by the Government or raised under subsection (3) shall be paid into and form part of the Consolidated Fund and shall be available in any manner in which the Consolidated Fund is available.

28. Subscriptions by insurance companies

(1) Every insurance company holding a licence issued by the Authority under the Insurance Act shall subscribe to the authorised capital of the Council such amounts as the Minister may prescribe.

(2) In prescribing the amount to be paid by each insurance company under subsection (1), the Minister shall, where applicable, take into consideration the annual premium income of the insurance companies for the preceding year as contained in the accounts submitted to the Authority under section 104 of the Insurance Act or such other factors as he or she may deem material.

29. Estimates

(1) The Council shall, within three months after the end of each financial year, prepare estimates of its income and expenditure for the next ensuing year and shall submit them to the Minister for approval.

(2) No expenditure by the Council for the discharge of its obligations or performance of its functions under the Act shall be made out of the money of the Council unless estimates for the expenditure have been approved by the Minister under the estimates for the year in which the expenditure is to be made or in any other estimates supplementary to those estimates.

30. Council to operate on sound business principles

In the discharge of its obligations and in the performance of its functions under this Act, the Council shall conduct its business on sound business principles.

31. Accounts and audit

(1) The Board shall keep proper books of accounts and proper records in relation to the books of accounts and shall, at the end of each financial year, prepare a balance sheet and a profit and loss account for the year.

(2) For the purposes of this section, proper books of accounts shall be deemed to have been kept with respect to the business of the Council if there are such books as are necessary to give a true and fair view of the affairs of the Council and to explain its transactions.

(3) The accounts shall, in respect of every financial year, be audited by the Auditor General or an auditor appointed by the Auditor General.

Liability covered

32. Liability where vehicle is unidentified or uninsured and owner is unidentified

(1) Where the death of or bodily injury to any person is caused by or through or in connection with the use of a vehicle and—

- (a) the identity of the vehicle cannot be established after reasonable inquiries have been made; or
- (b) the vehicle is uninsured and the identity of the owner or driver of the vehicle cannot be established after reasonable inquiries have been made,

any person who could have obtained a judgment against the owner or driver of the vehicle in respect of that death or bodily injury may obtain against the Council the judgment which in the circumstances he or she could have obtained against the owner or driver of the vehicle.

(2) No person may bring an action against the Council under this Act unless, within thirty days after the accident giving rise to the cause of action, he or she gave to the Council notice in writing of his or her intention to bring the action; the notice shall be accompanied by a statutory declaration setting forth—

- (a) the grounds of the proposed claim and full particulars of the circumstances upon which the proposed claim will be based;

- (b) the nature of inquiries made to ascertain the identity of the vehicle and, in the case of an uninsured vehicle, the identity of the owner or driver; and
- (c) all other information in the possession of the claimant in relation to the proposed claim.

(3) Notwithstanding that notice under subsection (2) has not been given within the prescribed period, application may be made to the court, after notice to the Council, for leave to bring an action against the Council under this section; and the court may, if it thinks it just to do so, grant leave accordingly, upon such conditions as it deems fit to impose, where the court considers that failure to comply with subsection (2) was occasioned—

- (a) by mistake of fact;
- (b) by mistake of any matter of law other than the provisions of subsection (2);
- (c) by inability as a result of injuries sustained in the accident; or
- (d) by any other reasonable cause,

and that the Council was not prejudiced in its defence or otherwise by the failure to give the notice in time.

(4) Where, after the commencement of proceedings against the Council under this section, the identity of the vehicle or of the owner is established, the proceedings against the Council shall abate, but the Council shall be entitled to recover from the owner any expenses it may have incurred.

33. Liability where vehicle is uninsured

(1) Where liability has been incurred by the owner or driver of an uninsured vehicle, in respect of the death of or bodily injury to any person caused by the use of that vehicle on the road, and the liability is one for which the owner would have been indemnified if there had been a policy of insurance in force as required under this Act in respect of that vehicle, then subject to this section, the amount of any judgment obtained by any person against the owner or driver in respect of the liability shall be paid to that person by the Council.

(2) Subject to subsection (3), no such payment shall be made by the Council unless—

- (a) the person making the claim, after he or she first became aware that a policy of insurance under this Act was not in force in

respect of the vehicle, immediately gave notice in writing to the Council of his or her intention to make the claim stating the grounds of the claim; and

- (b) the Council had a reasonable opportunity of exercising its powers in relation to the claim under section 35 before judgment was entered in the proceedings.

(3) Notwithstanding that notice under subsection (2) has not been given or that the Council did not have reasonable opportunity to exercise its powers in relation to the claim as aforesaid, then, subject to section 34, application may be made to court for an order that the judgment obtained by the person making the claim be satisfied by the Council; and the court may, having regard to all the circumstances of the case, order that the person making the claim recover from the Council such amount as the court thinks just not exceeding an amount equal to the amount, including costs, for which judgment was obtained by the claimant against the owner or driver of the vehicle.

34. Limit of liability of Council

The liability of the Council in respect of any judgment under sections 32 and 33 shall be limited to one hundred fifty thousand shillings inclusive of costs incidental to the judgment or such higher amount as the Minister may, by statutory instrument, prescribe.

35. Council may settle claims

Where a claim is made against the owner or driver of an uninsured vehicle resulting in the death of or bodily injury to any person caused by the use of that vehicle on a road and the liability is one for which the owner would have been indemnified if there had been a policy of insurance in force in respect of that vehicle, section 12 shall apply, as if the Council were the insurer under a policy of insurance under this Act.

36. Recovery from owner

(1) Any amount including costs and expenses properly paid by the Council in satisfaction of a claim made or judgment obtained against it (being a claim or judgment obtained in respect of any accident affecting an uninsured vehicle) may be recovered by the Council as a debt from the person who at

the time of the accident was the owner of the vehicle, or, where at the time of the accident some other person was driving the vehicle, from the owner and driver jointly or from either of them severally; but—

- (a) it shall be a sufficient defence in any proceedings under this subsection against the owner if he or she establishes to the satisfaction of the court that at the time of the accident the person driving the vehicle was doing so without the express or implied authority of the owner;
- (b) it shall be a sufficient defence in any proceedings under this subsection against the driver of a vehicle if he or she establishes to the satisfaction of the court that at the time of the accident he or she was driving the vehicle with the express or implied authority of the owner and that he or she had reasonable grounds for believing and in fact believed that there was in force a policy of insurance under this Act in respect of the vehicle.

(2) Any amount recovered by the Council under this section shall form part of the capital of the Council.

PART IV—MISCELLANEOUS

37. Production of evidence of policy on licensing and transfer of vehicle

(1) A person who in respect of a vehicle applies under the Traffic and Road Safety Act, for a licence or renewal of a licence or for registration of a new owner consequent upon a transfer of ownership, shall produce to the licensing officer evidence to show that—

- (a) there is in force in relation to the use of the vehicle a policy of insurance in compliance with this Act; or
- (b) the vehicle is a vehicle to which section 2(2) applies.

(2) Any licensing officer who in respect of a vehicle issues a new licence or registers change of ownership without such evidence being produced to him or her commits an offence.

(3) Any person who produces false evidence for purposes of obtaining a licence or procuring registration of change of ownership commits an offence.

38. Insurance companies to underwrite third party insurance

Every insurance company issued with a licence under the Insurance Act shall be required to carry on the business of underwriting third party risks; and where the Authority is not satisfied that an insurance company is carrying on a reasonable amount of such business, he or she may refuse to issue or to renew a licence to that insurance company under section 84 of the Insurance Act.

39. Third party to sue insured, *etc.* and not insurer

In all third party claims in respect of damages to property of, the death of or bodily injury, to any person, arising from any accident, the third party shall proceed against the owner, or the driver or the Council, as the case may be, and not the insurer.

40. General penalty

Any person who commits an offence under this Act or any regulations made under this Act, for which no other penalty is specifically provided, is liable, on conviction, to a fine not exceeding 2.5 currency points or to imprisonment for a term not exceeding one year, or both.

41. Regulations

(1) The Minister may, by statutory instrument, make regulations, prescribing anything required by this Act to be prescribed and generally for better carrying out the provisions of this Act.

(2) Without prejudice to the general effect of subsection (1), the Minister may, after consultation with the Uganda Insurance Association and after taking into account the performance of the economy of Uganda, by regulations made under that subsection—

- (a) prescribe rates of premium to be paid under an insurance policy under this Act; and
- (b) prescribe the minimum amount to be insured in respect of liability under an insurance policy under this Act.

42. Suspension of application of Part III

The application of Part III is suspended and, accordingly, the definitions of “board” and “council” and any other provisions of the Act applicable to Part III are, to the extent of that application, also suspended.

43. Power to amend Schedule

The Minister responsible for finance may, by statutory instrument, with the approval of Cabinet, amend the Schedule to this Act.

SCHEDULE

Sections 1, 43

Currency Point

A currency point is equivalent to twenty thousand shillings.

History: Statute 11/1988; S.I. 16/1989; Statute 5/1991; Cap. 214 (Revised Edition, 2000); Act 17/2023

Cross References

Insolvency Act, Cap. 108

Insurance Act, Cap. 191

Traffic and Road Safety Act, Cap. 347
