

# **STATES OF JERSEY**



## **DRAFT MOTOR TRAFFIC (THIRD-PARTY INSURANCE) (AMENDMENT No. 12) (JERSEY) LAW 201-**

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**Lodged au Greffe on 8th August 2011  
by the Minister for Transport and Technical Services**

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**STATES GREFFE**





## **DRAFT MOTOR TRAFFIC (THIRD-PARTY INSURANCE) (AMENDMENT No. 12) (JERSEY) LAW 201-**

### **European Convention on Human Rights**

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000 the Minister for Transport and Technical Services has made the following statement –

In the view of the Minister for Transport and Technical Services the provisions of the Draft Motor Traffic (Third-Party Insurance) (Amendment No. 12) (Jersey) Law 201-are compatible with the Convention Rights.

(Signed) **Connétable M.K. Jackson of St. Brelade**

## **REPORT**

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This amending Law is required to enable cost recovery charges (“expenses”) for hospital and ambulance treatment resulting from road traffic accidents to be varied and more accurately reflect actual costs incurred by the Health and Social Services Department (“HSSD”).

By Regulations and Orders the Minister for Health and Social Services will, after consultation with the Minister for Transport and Technical Services, be able to alter these expenses.

The change also enables the States to make Regulations for the process of determining and recovering amounts due from motor insurers.

### **Manpower implications**

Manpower implications are negligible.

It is intended to establish for Jersey a complete process of verification and recovery of amounts due that is in keeping with current UK insurance industry practice, thereby placing no additional manpower burden on motor insurance underwriters, the States or HSSD.

HSSD project management resource is required to conduct insurance industry consultation, communicate changes with stakeholders and design and implement new processes. However, once processes are in place, the ongoing manpower requirement will be minimal and absorbed by existing staff.

### **Financial implications**

The financial benefit of cost recovery income for HSSD is expected to be in the region of £250,000 per annum if the Minister for Health and Social Services makes an Order to set the maximum amounts that may be recovered for in-patient treatment, out-patient treatment and ambulances services in line with current UK tariffs (£44,056, £600 and £181 respectively).

Processing set-up costs have yet to be determined in detail, but are unlikely to be excessive. Discussions with the UK’s Cost Recovery Unit reveal that only minor modifications to post code and national insurance validations will be required to accommodate Jersey cost recovery claims into a process that is an accepted way of doing business with insurers.

The Association of Insurance Brokers predicts that the financial impact on Jersey motor insurance policy-holders will be nil. Most UK insurance underwriters believe Jersey is part of the NHS Cost Recovery Scheme, and as such, Jersey premiums are already loaded for UK-level hospital and ambulance cost recovery expenses.

### **European Convention on Human Rights**

Article 16 of the Human Rights (Jersey) Law 2000 requires the Minister in charge of a Projet de Loi to make a statement about the compatibility of the provisions of the Projet with the Convention rights (as defined by Article 1 of the Law). On 5th August 2011 the Minister for Transport and Technical Services made the following statement before Second Reading of this Projet in the States Assembly –

In the view of the Minister for Transport and Technical Services the provisions of the Draft Motor Traffic (Third-Party Insurance) (Amendment No. 12) (Jersey) Law 201-are compatible with the Convention Rights.

## **Explanatory Note**

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This Law amends the Motor Traffic (Third-Party Insurance) (Jersey) Law 1948 (the “principal Law”).

*Article 1* defines the principal Law.

*Article 2* amends Article 3 of the principal Law.

Article 3(2) of the principal Law creates a liability for a motor insurer to pay hospital charges. The liability arises where the motor insurer makes a payment under a motor insurance policy for death or bodily injury of a person in a road traffic accident. Article 3(2) requires the motor insurer to pay the actual cost of treating the person in hospital. However, the amount to be paid is currently capped at £2,000.37 for the total cost of treating a person as an in-patient and at £200.04 for the total cost of treating a person as an out-patient. These amounts were last increased by the States in 1989.

The amendment of Article 3 of the principal Law by this draft Law –

- introduces an ability to charge for transporting a road traffic accident victim to hospital by ambulance;
- enables the Minister for Health and Social Services, after consultation with the Minister for Transport and Technical Services (who is responsible, under the principal Law, for the authorization of motor insurers), to make an Order setting maximum amounts that may be recovered for in-patient treatment, out-patient treatment and ambulance services, and an aggregate maximum amount for those services in respect of a road traffic accident victim; and
- enables the States to make Regulations establishing a complete process for the determining and recovery of amounts due from motor insurers.

*Article 3* amends Article 13 of the principal Law.

Article 13 of the principal Law enables any medical practitioner to recover the cost of administering emergency treatment to a person involved in a road traffic accident. This includes emergency treatment first administered in a hospital. The driver of the car is liable to pay the costs. However, if the driver did not cause the accident, he or she may recover the costs as damages from the person responsible for the accident. The fee for emergency treatment is currently set by Regulations made by the States in 1972 and is either £2.25 or £3.75 according to whether the treatment is given during the day or at night.

The amendment to Article 13 would enable the Minister for Health and Social Services to prescribe the fee for emergency treatment by Order. The fee currently set in Regulations would remain in force until such time as the first Ministerial Order was made.

*Article 4* amends Article 19 of the principal Law so as to make a contravention of Regulations made by the States under Article 3 of the principal Law as amended by this Law an offence punishable by a fine up to level 2 on the standard scale (£500).

*Article 5* amends Article 21 of the principal Law with the effect that fines imposed for offences against Regulations made by the States under the principal Law as amended form part of the annual income of the States.

*Article 6* provides for the citation and commencement of this Law.





## **DRAFT MOTOR TRAFFIC (THIRD-PARTY INSURANCE) (AMENDMENT No. 12) (JERSEY) LAW 201-**

**A LAW** to amend further the Motor Traffic (Third-Party Insurance) (Jersey) Law 1948

*Adopted by the States*

*[date to be inserted]*

*Sanctioned by Order of Her Majesty in Council*

*[date to be inserted]*

*Registered by the Royal Court*

*[date to be inserted]*

**THE STATES**, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

### **1 Interpretation**

In this Law “principal Law” means the Motor Traffic (Third-Party Insurance) (Jersey) Law 1948<sup>1</sup>.

### **2 Article 3 amended**

In Article 3 of the principal Law –

- (a) in paragraph (2), for all of the words following the words “there shall also be paid by the authorized insurer or such owner to such hospital” there shall be substituted the words “the expenses described in paragraph (2A)”;
- (b) after paragraph (2) there shall be inserted the following paragraphs –
  - “(2A) Subject to paragraphs (2B) and (2C), the expenses to be paid by the authorized insurer or owner to the hospital are –
    - (a) the expenses reasonably incurred by the hospital in treating the person for bodily injury arising out of the use of the motor vehicle on the road; and

- (b) the expenses (if any) reasonably incurred by the hospital in transporting the person, by ambulance, to the hospital for such treatment,
- after deducting from such expenses any moneys actually received by the hospital in payment of a specific charge for such treatment, not being moneys received by the hospital under any contributory scheme.
- (2B) The Minister for Health and Social Services, after consultation with the Minister for Transport and Technical Services, may by Order prescribe limits on the amounts of expenses to be paid in respect of a person who dies or is bodily injured, being –
- (a) a maximum amount of expenses for each day, or part of a day, that the person is an in-patient;
  - (b) a maximum amount of expenses for treatment of the person as an out-patient;
  - (c) a maximum amount of expenses for transportation of the person, by ambulance, to a hospital; and
  - (d) a maximum amount for the aggregate of the expenses referred to in sub-paragraphs (a) to (c).
- (2C) Until the Minister for Health and Social Services first makes an Order under paragraph (2B) –
- (a) the maximum amount to be paid for each person treated as an in-patient shall be £2,000.37; and
  - (b) the maximum amount to be paid for each person treated as an out-patient shall be £200.04.”.
- (c) in paragraph (3) for the words “paragraph (2),”, in each place that they appear, there shall be substituted the words “this Article,”;
- (d) after paragraph (3) there shall be added the following paragraph –
- “(4) The States may by Regulations –
- (a) impose a requirement for an authorized insurer or an owner described in paragraph (2)(b) to notify the Minister for Health and Social Services of a claim for a payment described in paragraph (2), and specify the information to be contained in the notice and the time by which the notice must be given;
  - (b) specify expenses or, in the case of the expenses of treating a person as an in-patient, days, that are to be disregarded in determining an amount to be paid to a hospital under paragraph (2);
  - (c) entitle or require a person to apply, in such manner and within such period as may be specified, to the Minister for Health and Social Services for a certificate of the amount of expenses that the person is liable to pay to a hospital under paragraph (2);
  - (d) provide for a proportionate reduction in the amount of the expenses that an authorized insurer or an owner described in

- paragraph (2)(b) is required to pay to a hospital under that paragraph where the death or bodily injury of a person arising out of the use of a motor vehicle on a road is attributable to the negligence of more than one person;
- (e) require the Minister for Health and Social Services, on an application for a certificate described in sub-paragraph (c), to issue a certificate containing such information as is specified;
  - (f) establish procedures for the recovery of expenses due to a hospital under paragraph (2), including provision for a demand for payment issued in accordance with such procedures to be enforceable as if it were an order of a court in Jersey;
  - (g) confer a right, in specified circumstances, for an authorized insurer or an owner described in paragraph (2)(b) to request a review of a certificate issued by the Minister for Health and Social Services;
  - (h) require the Minister for Health and Social Services to review a certificate upon a request made pursuant to a right conferred under sub-paragraph (g);
  - (i) confer a right for the Minister for Health and Social Services to review a certificate on his or her own motion;
  - (j) empower the Minister for Health and Social Services, on a review of a certificate, to confirm, vary or revoke it;
  - (k) confer a right of appeal to the Royal Court against a certificate on specified grounds and specify the time within which an appeal must be brought;
  - (l) require specified persons to provide such information to the Minister for Health and Social Services as may be specified concerning the use of a motor vehicle on a road that has given rise to the death of or bodily injury to a person; and
  - (m) empower the Minister for Health and Social Services to appoint a person to discharge all or any of the Minister's functions under the Regulations and provide that, where such a person is appointed, all or any of the references in the Regulations to the Minister for Health and Social Services are to be construed as a reference to the person so appointed.”.

### 3 Article 13 amended and saving

- (1) In Article 13(1) of the principal Law for the words “such fee as the States may by Regulations prescribe” there shall be substituted the words “such fee as the Minister for Health and Social Services prescribes by Order”.
- (2) Regulations made under Article 13(1) of the principal Law that are in force immediately before this Law comes into force shall remain in force until the first Order made under Article 13(1) as amended by this Law comes into force, and shall then expire.

**4 Article 19 amended**

In Article 19(1) of the principal Law after the words “any provision of” there shall be inserted the words “Regulations made by the States or”.

**5 Article 21 amended**

In Article 21 of the principal Law for the words “or any Order made under the Law” there shall be substituted the words “or any Regulations or Order made under this Law”.

**6 Citation and commencement**

This Law may be cited as the Motor Traffic (Third-Party Insurance) (Amendment No. 12) (Jersey) Law 201- and shall come into force 7 days after it is registered.

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<sup>1</sup>

*chapter 25.250*