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REVISED EDITION

**MOTOR VEHICLE INSURANCE  
(THIRD PARTY RISKS) ACT**

**CHAPTER 309**

**Act No.  
4 of 2003**

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**CHAPTER 309****MOTOR VEHICLE INSURANCE (THIRD PARTY RISKS) ACT**

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## CHAPTER 309

## MOTOR VEHICLE INSURANCE (THIRD PARTY RISKS) ACT

An Act to repeal the Motor Vehicles Insurance (Third Party Risks) Act, Chapter 356 of the Revised Laws 1990 Edition, and to make special provisions for the protection of third parties against risks arising out of motor vehicle accidents, and related matters.

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly of Saint Vincent and the Grenadines and by the authority of the same as follows.

[Act No. 4 of 2003.]

[Date of commencement: 1st January, 2008.]

### 1. Short title and commencement

This Act may be cited as the Motor Vehicle Insurance (Third Party Risks) Act, 2003, and shall come into operation on a date to be determined by the Governor-General by order published in the *Gazette* and different days may be appointed for different provisions and different purposes.

### 2. Interpretation

In this Act—

“**Authority**” means the licensing Authority having the power to issue licences in respect of motor vehicles;

“**Commissioner**” means Commissioner of Police;

“**driver**”, includes—

- (a) a person driving a motor vehicle;
- (b) a person in charge of a motor vehicle for the purpose of driving where that vehicle is stationary on a public road; and
- (c) a person acting as steersman of a motor vehicle;

“**insurer**” means—

- (a) a company or an association of underwriters registered under the Insurance Act;
- (b) any person or body of persons who carries on in Saint Vincent and the Grenadines the business of giving security and has deposited and keeps deposited with the Accountant-General the sum of two hundred thousand dollars or approved securities to the like amount, in respect of that business, subject to the approval by the Minister;

“**Minister**” means the Minister responsible for finance;

“**motor vehicle**” means a mechanically propelled vehicle constructed or adapted for use on the road;

**“owner”**, in relation to a motor vehicle that 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”** includes a fee paying passenger or any person who enters a motor vehicle with or without the consent of the owner or the driver but remains therein with the consent or permission of the driver or owner but does not include an employee of the owner of the motor vehicle;

**“policy of insurance”** includes a covering note;

**“public road”** means any road to which the public has access and includes bridges over which a road passes;

**“Supervisor”** means Supervisor of Insurance.

### **3. User of a motor vehicle to be insured against third party risks**

(1) No person shall 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 person using the vehicle, a policy of insurance in respect of third party risks in compliance with the requirements of this Act.

(2) A person who contravenes this section is guilty of an offence and shall be liable on summary conviction to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding six months, or both; and, in addition thereto (unless the court for special reason thinks fit to order otherwise, and without limiting or affecting the power of the court to order a longer period of disqualification) shall be disqualified from holding or obtaining a driver's licence for a period of twelve months from the date of conviction.

(3) It shall be a defence to a charge under subsection (2) if the person charged proved that—

- (a) he is not the owner of the motor vehicle; and
- (b) he neither knew nor had reason to believe that the motor vehicle was not validly insured in accordance with the provisions of this Act.

(4) Notwithstanding any written law prescribing a time within which proceedings may be brought before a court of summary jurisdiction, proceedings for an offence under this section may be brought within a period which exceeds neither three months from the date on which it came to the knowledge of the prosecutor that the offence has been committed nor one year from the date of the commission of the offence, whichever period is the longer.

### **4. Requirements in respect of insurance policy**

(1) A policy of insurance that is issued by an issuer in accordance with this Act shall insure a person or categories of persons specified in the policy against—

- (a) liability for such death or bodily injury in respect of any sum not exceeding two hundred and fifty thousand dollars arising out of any one claim by any one person;

- (b) liability for such death or bodily injury in respect of any sum not exceeding one million dollars arising out of the total claims for any one accident for each vehicle concerned;
  - (c) liability for any damage to property in respect of any sum not exceeding two hundred thousand dollars arising out of any one claim by any one person;
  - (d) liability for any damage to property in respect of any sum not exceeding five hundred thousand dollars arising out of the total claims for any one accident for each vehicle concerned.
- (2) Notwithstanding subsection (1), a policy of insurance is not required to cover—
- (a) liability for the death of or bodily injury to a person that arises out of and in the course of his employment by the person or categories of persons insured;
  - (b) any liability that arises out of a contractual relationship; or
  - (c) damage to—
    - (i) the motor vehicle or any part thereof or property in or on the motor vehicle of the person insured,
    - (ii) property owned by or in the control of the persons or categories of persons insured, and
    - (iii) any public road, weighbridge or anything in or below the surface of the road due to the weight of or vibration caused by a motor vehicle.

(3) Notwithstanding any provisions in any other law, a person issuing a policy of insurance shall be liable to indemnify the persons or categories of persons specified in the policy in respect of any liability that the policy purports to cover in respect of those persons or classes of persons.

(4) A policy of insurance is of no effect for the purposes of this Act unless there is issued by the insurer to the insured a certificate of insurance, in the prescribed form, and containing the particulars of any conditions subject to which the policy is issued and of any other matters as may be prescribed.

#### **5. Certain conditions of policy to be of no effect**

(1) A condition in a policy which provides that no liability shall arise under the policy or that any liability so arising ceases 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 shall be of no effect in connection with a claim mentioned in section 4.

(2) Nothing in this section operates to render void any provision in a policy requiring an insured to repay to the insurer any sums that the insurer is liable to pay under the policy and have been applied to the satisfaction of the claims of third parties.

#### **6. Production of evidence of insurance before registration**

(1) A person shall, at the time of registration of a motor vehicle and on every occasion that he is paying the licence in respect of that motor vehicle, produce to the Authority evidence—

- (a) of the expiry date of the policy of insurance in relation to that vehicle;

(b) to show that on the date on which the licence comes into operation, there will be in force a policy of insurance as required by this Act in relation to the user of the motor vehicle by the applicant or by other persons on his order or with his permission.

(2) A record of the information required by subsection (1) must be kept by the Authority and shall be made available upon the request of any member of the Police Force.

(3) A motor vehicle licence shall not be issued to any person who fails to comply with subsection (1).

#### **7. Requirements as to production of certificate of insurance**

(1) Any person who drives a motor vehicle on a public road shall, on being required to do so by a police officer, give his name and address, the name and address of the owner of the motor vehicle and produce the certificate of insurance of the motor vehicle.

(2) A driver of a motor vehicle who does not have with him his certificate of insurance at the time he is required to produce shall within five days from the date on which he was required to do so produce the certificate at a police station as directed by the police officer.

(3) Where, a motor vehicular accident involving personal injury to another person occurs on the road and the driver of the motor vehicle does not at the time produce his certificate of insurance to a police officer or to a person who, having reasonable grounds for so doing has required its production, the driver shall as soon as possible, within twenty-four hours of the occurrence of the accident, report the accident at a police station or to a member of the police force and shall thereupon produce the certificate of insurance.

(4) Notwithstanding subsection (1), a person does not commit an offence under this section by reason only of failure to produce a certificate of insurance if, within five days after the occurrence of the accident, he produces it at a police station specified by the police officer at the time when the accident was reported.

(5) An owner of a motor vehicle shall, on any occasion where he is required to produce his certificate of insurance, give to a police officer any information that he may require for the purpose of determining whether or not the motor vehicle was being driven in contravention of section 3.

(6) An owner of a motor vehicle who fails to comply with this section 5 commits an offence and shall be liable on conviction to a fine of three hundred dollars or to a term of imprisonment not exceeding one month.

#### **8. Duty of insurers to satisfy judgements against persons insured in respect of third party risks**

(1) Where, after a certificate of insurance has been issued in favour of the person by whom a policy has been effected, judgement in respect of any liability required to be covered by a policy, has been entered, then, notwithstanding that the insurer may be entitled to avoid, cancel, or may have avoided or cancelled the policy, the insurer shall, subject to this section and to any limitations on the total amount payable under the policy in

consequence of that subsection, pay to the persons entitled to the benefit of the judgement any sum payable thereunder in respect of the liability in addition to 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 judgements.

- (2) No amount shall be payable by an insurer under subsection (1) or section 9—
- (a) in respect of any judgement, unless before or within ten days from the date of commencement of the proceedings in which the judgement was given or some other period as the court thinks fit, the insurer had notice of the bringing of the proceedings;
  - (b) in respect of any judgement, so long as execution of the judgement is stayed pending an appeal; or
  - (c) in connection with any liability, if before the happening of the event that was the cause of the death, bodily injury or damage to property giving rise to the liability, the policy was cancelled by mutual consent or by virtue of any provision contained therein, and—
    - (i) before the happening of the event, the certificate was surrendered to the insurer, or the person to whom the certificate was issued has sworn an affidavit before a Magistrate, Registrar or Notary Public stating that the certificate had been lost or destroyed,
    - (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 to whom the certificate was issued swore an affidavit as referred to in subparagraph (i), or
    - (iii) either before or after the happening of the event, but within a 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 subsection (1) or section 9 if, in an action commenced before or within three months after the commencement of the proceedings in which the judgement was given, he has obtained a declaration that, apart from any provisions 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 a fact that was false in some material particular or if he has avoided the policy on that ground, that he was entitled to do so apart from any provision contained in it.

(4) Notwithstanding subsection (3), an insurer who has obtained a declaration in an action does not become entitled to the benefit of this section with respect to any judgement obtained in proceedings that began before the commencement of the action, unless before or within ten days from the commencement of that action he has given notice thereof to the person who is the claimant in the proceedings specifying the non-disclosure or false representation on which he proposes to rely, and any person to whom notice of an action is so given may be made a party to the action.

(5) If the amount that an insurer becomes liable under this section to pay to any person exceeds the amount that he would, apart from this section, be liable under the policy in respect of that liability, he is entitled to recover the excess from that person.

(6) For the purposes of this section—

- (a) **“liability covered by the terms of the policy”** means a liability covered by the policy of insurance or which would be covered but for the fact that the insurer is entitled to avoid or cancel, or has avoided or cancelled, the policy;
- (b) **“material”** means of such a nature as to influence the judgement of a prudent insurer in determining whether he will take the risk and, if so, at what premium and on which conditions; and
- (c) any reference in this Act 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 a reference to all the certificates and shall, where any copy has been issued of any certificate, be construed as including a reference to that copy.

(7) Any excess on a policy that is due and payable by an insured to an insurer shall not preclude any settlement of a claim on that policy by an insurer with respect to a third party.

#### **9. Right of third parties to recover from insurer**

Notwithstanding any provision of any other Act, a third party who has obtained judgement against a person to whom a policy of insurance has been issued under this Act may, subject to section 8, recover the full amount of the judgement from the insurer even though the third party is not a party to the contract and the liability covered by the policy is not required to be covered under this Act.

#### **10. Rights of third parties against insurers**

(1) Where under any contract of insurance, a person is insured against liability to a third party—

- (a) in the event of the insured becoming bankrupt or making a composition or arrangement with his creditors; or
- (b) where the insured is a company, then in the event of—
  - (i) a winding-up order being made,
  - (ii) a resolution for a voluntary winding-up being passed,
  - (iii) a receiver or manager of the company’s business or undertaking being duly appointed, or
  - (iv) possession being taken, by or on behalf of the holders of any debentures secured by a floating charge, of any property comprised in or subject to the charge,

then, if either before or after any of those events, any liability is incurred by the insured, his rights against the insurer under the contract in respect of the liability are, notwithstanding any other law, transferred to and vested in the third party in respect of whom the liability was so incurred.

(2) Where an order is made in bankruptcy proceedings for the administration of the estate of a deceased debtor according to the law of bankruptcy, then, if any debt payable

in bankruptcy is owing by the deceased in respect of a liability against which he was insured under a contract of insurance as being a liability to a third party, the deceased debtor's rights against the insurer under the contract in respect of that liability shall, notwithstanding anything in that Act, be transferred to and shall vest in the person to whom the debt is owing.

(3) A contract of insurance respecting the liability of an insured to third parties that purports, whether directly or indirectly, to avoid the contract or to alter the rights of the parties under the contract of insurance 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 in bankruptcy proceedings in respect of his estate, shall be void.

(4) Upon a transfer under subsection (1) or (2), an insurer shall be, subject to section 12, under the same liability to a third party as he would have been under 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 Act affects the rights of the insured 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 Act affects the rights of the third party against the insured in respect of the balance.

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

(6) This Act does not apply—

- (a) where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company; or
- (b) in a case where a person is entitled to compensation under any law for the time being in force with respect to workmen's compensation.

## 11. Duty to give information to third parties

(1) In the event of—

- (a) a person becoming bankrupt or making a composition or arrangement with his creditors;
- (b) an order being made in bankruptcy proceedings in respect of the estate of any person; or
- (c) a winding-up order being made, or a resolution for a voluntary winding-up being passed, with respect to any company, or of a receiver or manager of the company's business or undertaking being duly appointed, or of possession being taken by or on behalf of the holders of any debentures secured by a floating charge of any property comprised in or subject to the charge,

the bankrupt, debtor, personal representative of the deceased debtor or company and, as the case may be, of the trustee in bankruptcy, trustee, liquidator, receiver or manager or person in possession of the property shall give, at the request of any person claiming that

the bankrupt, debtor, deceased debtor or company is under liability to him, any information that may reasonably be required by him for the purpose of ascertaining whether any rights have been transferred to and vested in him by this Act, and for the purpose of enforcing those rights, if any.

(2) A contract of insurance is void in so far as it purports, whether directly or indirectly, to avoid the contract or to alter the rights of the parties under the contract of insurance upon the giving of information in the events specified in subsection (1) or to prohibit or prevent the giving of information.

(3) If the information given to any person in pursuance of subsection (1) discloses reasonable grounds for supposing that there have or may have been transferred to him under this Act rights against any particular insurer, that insurer is subject to the same duty as is imposed by subsection (1) on the persons mentioned in that subsection.

(4) The duty to give information imposed by this section includes a duty to allow all contracts of insurance, receipts for premiums and other relevant documents in the possession or power of the person on whom the duty is imposed to be inspected and to make copies of them.

## **12. Settlement between insurers and insured person**

If the insured has become bankrupt or, in the case of the insured being a company, a winding-up order has been made or a resolution for a voluntary winding-up has been passed with respect to the company, no agreement made between the insurer and the insured after liability has been incurred to a third party and after the commencement of the bankruptcy or winding-up, as the case may be, nor any waiver, assignment or other disposition made by, or payment made to the insured after that commencement operates to defeat or affect the rights transferred to the third party under this Act, but those rights shall be the same as if no such agreement, waiver assignment, disposition or payment had been made.

## **13. Bankruptcy of insured persons not to affect certain claims by third parties**

Notwithstanding anything contained in sections 10, 11 and 12, where a certificate of insurance has been issued in favour of the person by whom a policy has been effected, the happening in relation to the insured of an event specified in subsections (1) and (2) of section 10 does not affect the liability of that person as is required to be covered by a policy under section 4, save however that nothing in this section affects any right against the insurer conferred by this Act on the person to whom the liability was incurred.

## **14. Avoidance of restriction on scope of policies covering third party risks**

(1) Where a certificate of insurance has been issued under subsection (4) 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 by reference to any of the following matters—

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

- (d) the times that or the areas within which the motor vehicle is used;
- (e) the horse-power or cubic capacity rating of the motor vehicle;
- (f) the carrying on the motor vehicle of any particular apparatus;
- (g) the carrying on the motor vehicle of any particular means of identification other than any means of identification required to be carried by this Act; or
- (h) persons named in the policy who may or may not drive a motor vehicle,

is void with respect to the liabilities required to be covered by a policy under section 4(1).

(2) Subsection (1)(i) shall not apply where the vehicle was being driven while it was stolen and a report has been made to the police station by the owner within forty-eight hours of the time that the owner knew or ought to have known that the vehicle was stolen.

(3) Nothing in this section requires an insurer to pay any amount in respect of the liability of any person otherwise than in or towards the discharge of that liability, and any amount paid by an insurer in or towards the discharge of any liability of a person covered by the policy by virtue only of this section is recoverable by the insurer from that person.

#### **15. Avoidance of contracts so far as restrictive in respect of death or injury to passengers**

Any contract of insurance for the conveyance of a passenger in a motor vehicle in which passengers are carried for hire or reward and which purports to negative or restrict the liability of any person in respect to any claim that may be made against that person in respect of the death of, or bodily injury to the passenger being carried in the motor vehicle, or purports to impose any conditions with respect to the enforcement of any such liability, shall be void.

#### **16. Duty of persons against whom claims are made to give information as to insurance**

(1) A person against whom a claim is made in respect of any liability and who is required to be covered by a policy under section 5(1) shall, on demand by or on behalf of a person making a claim, state whether or not he is 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, shall give the particulars with respect to that policy as were specified in the certificate of insurance issued in respect of it.

(2) An insurer, who has issued a policy of insurance to a person who is required to be insured under a policy of insurance by virtue of section 3(1), shall on demand by or on behalf of a person making a claim, supply to the person making a claim a copy of the policy or of the certificate of insurance.

(3) Any person who, without reasonable excuse, fails to comply with this section or wilfully makes any false statement in reply to a demand made under subsection (1), commits an offence.

#### **17. Duty to surrender certificate of cancellation of policy**

(1) If a certificate of insurance is issued 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 to whom the certificate of insurance is issued shall, within seven days from the taking effect of the cancellation, surrender it to the insurer or, if it has been lost or destroyed, make and deliver to the insurer an affidavit sworn before a Magistrate, Registrar or Notary Public.

(2) If a certificate of insurance is not surrendered in accordance with subsection (1), the insurer shall immediately give notification of that fact to the Supervisor, the Commissioner and the Authority.

(3) An insurer who without reasonable excuse fails or refuses to comply with subsections (1) and (2) commits an offence and shall be liable on summary conviction to a fine of three hundred dollars.

#### **18. Special duties of insurer**

(1) Where a policy of insurance issued by an insurer under this Act expires, is cancelled or ceases to have effect, the insurer shall within seven days of the expiration, cancellation or the ceasing to have effect of the policy, notify the Commissioner and the Authority that the policy has expired, is cancelled or has ceased to have effect and until the insurer has so notified the Commissioner and Authority, the policy shall remain in full force and effect.

(2) An owner of a motor vehicle shall notify the Authority, the Commissioner and the Supervisor of Insurance of any change in respect of the insurance of that vehicle within seven days of that change if the change relates to any legal requirements in respect of a policy insurance under this Act.

(3) An insurer who fails to comply with the requirements of this section commits an offence.

#### **19. Certificate of road worthiness**

No vehicle that has been accepted by an insurer as a total loss may be licensed by the Authority unless a certificate of road worthiness is issued in respect of that vehicle by a person approved by the Commissioner or any person duly authorised by the Commissioner to do so.

#### **20. General liability**

Notwithstanding any provision in any other law and without prejudice to any claim or action for damages made as a result of negligence, the insurer of a person who was using a motor vehicle at the time of an accident involving the said vehicle out of which any bodily injury arose, shall pay to the injured third party all reasonable expenses incurred as a result of that injury for necessary medical, surgical, dental, hospital and nursing services up to an amount not exceeding ten thousand dollars per person.

#### **21. Refusal to give name and address or giving false name or address**

A driver of a motor vehicle who on commission of an offence fails to give his name and address or gives a false name and address to a police officer commits an offence and upon conviction is liable to a fine not exceeding one thousand dollars or to a term of imprisonment not exceeding two months.

**22. Offences and general penalty**

(1) Any person who contravenes any provision of this Act for which there is no stated penalty commits an offence and upon conviction is liable to a fine not exceeding two thousand dollars or to a term of imprisonment not exceeding three months.

(2) Where a person is required under this Act or any regulations made under it to do or to abstain from doing any act or thing and fails to comply with the requirement, a Magistrate may, on convicting that person, in addition to any other penalty which he imposes, order the person to comply with the requirement and may annex to the order such conditions as to time or mode of action as he considers necessary to enforce compliance therewith.

(3) A person who fails to comply with an order of a court made under this section may be ordered to pay a sum not exceeding ten dollars for each day during which he fails to comply with the order, or to be imprisoned until he complies with the order.

(4) A person shall not, for the purposes of subsection (3), be liable to the payment of any sum amounting in the aggregate to more than five hundred dollars or to imprisonment for any periods amounting in the aggregate to more than three months in addition to any other fine or term of imprisonment to which he may otherwise be liable.

**23. Administration**

The Supervisor of Insurance shall be responsible for the administration of this Act and may in the exercise of his functions request information from an insurer.

**24. Offences triable summarily**

Save as otherwise expressly provided, all offences under this Act shall be triable summarily.

**25. Regulations**

The Minister may make regulations to give effect to the provisions of the Act.

**26. Repeal**

The Motor Vehicles Insurance (Third Party Risks) Act is repealed.

[Chapter 356 of the Revised Laws 1990 Edition.]

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