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## STATUTORY INSTRUMENTS

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# 1981 No. 154

## Road Traffic (Northern Ireland) Order 1981

### PART VIII

#### INSURANCE AGAINST THIRD-PARTY LIABILITIES

##### Users of motor vehicles to be insured or secured against third-party risks

**90.**—(1) Subject to the provisions of this Part, it shall not be lawful for any person to use, or to cause or permit any other person to use, a motor vehicle on a road<sup>[F1]</sup> or other public place] unless there is in force in relation to the user of the 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 Part.

(2) This Article shall not apply to a motor vehicle owned by—

(a) the district council of the City of Belfast or the district council of the City of Londonderry or the Belfast Harbour Commissioners; or

[<sup>F2</sup>(aa) any subsidiary company of the Northern Ireland Transport Holding Company providing road passenger transport services;]

(b) a person who has deposited and keeps deposited with the Accountant-General of the Supreme Court of Northern Ireland, for and on behalf of the said Supreme Court, the sum of<sup>[F3]</sup> £500,000] or such other amount as the Department may by order specify,

at any time when the motor vehicle is being driven by the owner or by a servant of the owner in the course of his employment, or is otherwise subject to the control of the owner.

[<sup>F4</sup>(2A) This Article shall not apply to—

(a) a motor vehicle owned by a health and [<sup>F5</sup>social care] body, as defined in Article 7(6) of the Health and Personal Social Services (Northern Ireland) Order 1991; or

(b) an ambulance owned by a [<sup>F6</sup>Health and Social Care trust] established under that Order, at a time when the vehicle is being driven by a servant of the owner in the course of his employment, or is otherwise subject to the control of the owner.]

(3) This Part shall not extend to tramcars or trolley vehicles, the use of which is authorised or regulated by special Act of Parliament or by an order having the force of an Act, unless the special Act or order provides that this Part shall so extend.

(4) Any person who contravenes paragraph (1) shall be guilty of an offence under this Order.

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**F1** SR 2000/331

**F2** 1984 NI 15

**F3** SR 1994/18

**F4** 1991 NI 1

*Status: Point in time view as at 21/03/2011. This version of this part contains provisions that are prospective.  
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- F5** Words in art. 90(2A)(a) substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), [Sch. 6 para. 1\(1\)\(a\)](#) (with [Sch. 6 para. 1\(2\)\(3\)](#)); S.R. 2009/114, [art. 2](#)
- F6** Words in art. 90(2A)(b) substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), [Sch. 6 para. 1\(1\)\(c\)](#) (with [Sch. 6 para. 1\(3\)](#)); S.R. 2009/114, [art. 2](#)

## Defence to charge under Article 90

- 91.** A person charged with an offence under Article 90 shall not be convicted if he proves—
- (a) that the vehicle did not belong to him and was not in his possession under a contract of hiring or of loan;
  - (b) that he was using the vehicle in the course of his employment and with the authority of his employer; and
  - (c) that he neither knew nor had reason to believe that there was not in force in relation to the vehicle such a policy of insurance or security as complied with the requirements of this Part.

PROSPECTIVE

### [<sup>F7</sup> Offence of keeping vehicle which does not meet insurance requirements

**91A.—**(1) If a motor vehicle registered under the Vehicle Excise and Registration Act 1994 does not meet the insurance requirements, the person in whose name the vehicle is registered is guilty of an offence.

- (2) For the purposes of this Article a vehicle meets the insurance requirements if—
- (a) it is covered by a such a policy of insurance or such a security in respect of third party risks as complies with the requirements of this Part, and
  - (b) either of the following conditions is satisfied.
- (3) The first condition is that the policy or security, or the certificate of insurance or security which relates to it, identifies the vehicle by its registration mark as a vehicle which is covered by the policy or security.
- (4) The second condition is that the vehicle is covered by the policy or security because—
- (a) the policy or security covers any vehicle, or any vehicle of a particular description, the owner of which is a person named in the policy or security or in the certificate of insurance or security which relates to it, and
  - (b) the vehicle is owned by that person.
- (5) For the purposes of this Article a vehicle is covered by a policy of insurance or security if the policy of insurance or security is in force in relation to the use of the vehicle.

- F7** [Arts. 91A-91D](#) inserted (prosp.) by [Road Traffic \(Northern Ireland\) Order 2007 \(S.I. 2007/916 \(N.I. 10\)\)](#), arts. 1(3)(4), [25\(1\)](#)

### Exceptions to Article 91A offence

**91B.**—(1) A person (“the registered keeper”) in whose name a vehicle which does not meet the insurance requirements is registered at any particular time (“the relevant time”) does not commit an offence under Article 91A at that time if any of the following conditions are satisfied.

(2) The first condition is that at the relevant time the vehicle is owned as described in paragraph (2) or (2A) of Article 90 (whether or not at the relevant time it is being driven as described in that provision).

(3) The second condition is that the registered keeper—

- (a) is not at the relevant time the person keeping the vehicle, and
- (b) if previously he was the person keeping the vehicle, he has by the relevant time complied with any requirements under paragraph (6)(a) that he is required to have complied with by the relevant or any earlier time.

(4) The third condition is that—

- (a) the registered keeper is at the relevant time the person keeping the vehicle,
- (b) at the relevant time the vehicle is not used on a road or other public place, and
- (c) the registered keeper has by the relevant time complied with any requirements under paragraph (6)(a) that he is required to have complied with by the relevant or any earlier time.

(5) The fourth condition is that—

- (a) the vehicle has been stolen before the relevant time,
- (b) the vehicle has not been recovered by the relevant time, and
- (c) any requirements under paragraph (6)(b) that, in connection with the theft, are required to have been complied with by the relevant or any earlier time have been complied with by the relevant time.

(6) Regulations may make provision—

- (a) for the purposes of paragraph (3)(b) and (4)(c), requiring a person in whose name a vehicle is registered to furnish such particulars and make such declarations as may be prescribed, and to do so at such times and in such manner as may be prescribed, and
- (b) for the purposes of paragraph (5)(c), as to the persons to whom, the times at which and the manner in which the theft of a vehicle is to be notified.

(7) Regulations may make provision amending this Article for the purpose of providing for further exceptions to Article 91A (or varying or revoking any such further exceptions).

(8) A person accused of an offence under Article 91A is not entitled to the benefit of an exception conferred by or under this Article unless evidence is adduced that is sufficient to raise an issue with respect to that exception; but where evidence is so adduced it is for the prosecution to prove beyond reasonable doubt that the exception does not apply.

**F7** Arts. 91A-91D inserted (prosp.) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), **25(1)**

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## PROSPECTIVE

**Fixed penalty notices**

**91C.**—(1) Where on any occasion the Department has reason to believe that a person has committed an offence under Article 91A, the Department may give the person a notice offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty to the Department.

(2) Where a person is given a notice under this Article in respect of an offence under Article 91A—

- (a) no proceedings may be instituted for that offence before the end of the period of 21 days following the date of the notice, and
- (b) he may not be convicted of that offence if he pays the fixed penalty before the end of that period.

(3) A notice under this Article must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence.

(4) A notice under this Article must also state—

- (a) the period during which, by virtue of paragraph (2), proceedings will not be taken for the offence,
- (b) the amount of the fixed penalty, and
- (c) the person to whom and the address at which the fixed penalty may be paid.

(5) Without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting a letter containing the amount of the penalty to the person mentioned in paragraph (4)(c) at the address so mentioned.

(6) Where a letter is sent in accordance with paragraph (5) payment is to be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(7) Regulations may make provision as to any matter incidental to the operation of this Article, and in particular—

- (a) as to the form of a notice under this Article,
- (b) as to the information to be provided in such a notice by virtue of this Article, and
- (c) as to any further information to be provided in a such notice.

(8) The fixed penalty payable under this Article is, subject to paragraph (9), £100.

(9) Regulations may substitute a different amount for the amount for the time being specified in paragraph (8).

(10) Regulations may make provision for treating a fixed penalty payable under this Article as having been paid if a lesser amount is paid before the end of a prescribed period.

(11) In any proceedings a certificate which—

- (a) purports to be signed on behalf of the Department, and
- (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

**F7** Arts. 91A-91D inserted (prosp.) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), 25(1)

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PROSPECTIVE

### Article 91A offence: supplementary

**91D.**—(1) Schedule 2A makes provision about the immobilisation of vehicles as regards which it appears that an offence under Article 91A is being committed and about their removal and disposal.

(2) A person authorised by the Department for the purposes of this paragraph may on behalf of the Department conduct and appear in any proceedings by or against the Department in any court of summary jurisdiction in connection with the enforcement of an offence under Article 91A or under regulations made under Article 103 by virtue of Schedule 2A.]

**F7** Arts. 91A-91D inserted (prosp.) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), **25(1)**

### Requirements in respect of policies

**92.**—(1) In order to comply with the requirements of this Part a policy of insurance must be a policy which —

- (a) is issued by a person who is an authorised insurer within the meaning of this Part;
- (b) insures such person, persons or classes of persons as may be specified in the policy (in this Article referred to as the insured) and the personal representatives of the insured, during the period (in this Article referred to as the period of cover) specified in that behalf in the policy, in respect of any liability which may be incurred by the insured in respect of the death of or bodily injury to any person<sup>[F8]</sup> or damage to property] caused by or arising out of the use of the motor vehicle on a road<sup>[F9]</sup> or other public place] in Northern Ireland;
- <sup>[F10]</sup>(bb) in the case of a vehicle normally based in the territory of another member State, insures the insured in respect of any civil liability which may be incurred by the insured as a result of an event related to the use of the vehicle in Northern Ireland if—
  - (i) according to the law of that territory, the insured would be required to be insured in respect of a civil liability which would arise under that law as a result of that event if the place where the vehicle was used when the event occurred were in that territory, and
  - (ii) the cover required by that law would be higher than that required by subparagraph (b);]
- (c) <sup>[F10]</sup>in the case of a vehicle normally based in Northern Ireland] insures the insured in respect of any liability which may be incurred by the insured in respect of the use of the vehicle and of any trailer, whether or not coupled, in the territory other than Northern Ireland and Gibraltar of each of the member states of the Communities according to—
  - <sup>[F10]</sup>(i) the law on compulsory insurance against civil liability in respect of the use of vehicles, of the State in whose territory the event giving rise to the liability occurred; or
  - (ii) if it would give higher cover, the law which would be applicable under this Part if the place where the vehicle was used when that event occurred were in Northern Ireland;]

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- (d) is not subject to any condition, restriction or limitation which is prescribed as a condition, restriction or limitation, as the case may be, which shall not be inserted in a policy issued for the purposes of this Part; and
- (e) provides that the period of cover is not capable of being terminated before its expiration by effluxion of time by the insurer unless at least one week's notice of intention so to terminate the period of cover has been given by the insurer to the person by whom the policy is effected and to the Department.

[<sup>F8</sup>(2) The policy shall not be required—

- (a) to cover liability in respect of the death, arising out of and in the course of his employment, of a person in the employment of the insured or in respect of bodily injury or damage to property sustained by such a person arising out of and in the course of his employment;
- (b) to provide insurance for more than [<sup>F11</sup>£1,000,000] in respect of all such liabilities as may be incurred in respect of damage to property caused by, or arising out of, any one accident involving the vehicle;
- (c) to cover liability in respect of damage to the vehicle;
- (d) to cover liability in respect of damage to goods carried for hire or reward in or on the vehicle or in or on any trailer (whether or not coupled) drawn by the vehicle;
- (e) to cover any liability of a person in respect of damage to property in his custody or under his control; or
- (f) to cover any contractual liability.]

[<sup>F10</sup>(2A) In the case of a person—

- (a) carried in or upon a vehicle; or
- (b) entering or getting on to, or alighting from, a vehicle,

the provisions of paragraph (2)(a) relating to cover for liability in respect of death and bodily injury do not apply unless cover for such liability is in fact provided pursuant to a requirement of the Employers' Liability (Defective Equipment and Compulsory Insurance) (Northern Ireland) Order 1972.]

(3) Notwithstanding anything in any enactment, a person issuing a policy of insurance under this Article shall be liable to indemnify the insured and the personal representatives of the insured in respect of any liability which the policy purports to cover in the case of the insured or the personal representatives of the insured.

(4) A policy shall be of no effect for the purposes of this Part unless and until there is delivered by the insurer to the person by whom the policy is effected a certificate (in this Part 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 any other matters as may be prescribed.

[<sup>F12</sup>(4A) A certificate of insurance is to be treated for the purposes of this Part as having been delivered under paragraph (4) to the person by whom the policy is effected if—

- (a) it is transmitted electronically by the insurer to the person in accordance with paragraph (4B); or
- (b) it is made available by the insurer to the person on a website in accordance with paragraph (4C).

(4B) A certificate of insurance is transmitted electronically by an insurer to a person in accordance with this paragraph if—

- (a) on effecting the policy to which the certificate relates, the person agreed to its electronic transmission for the purpose of paragraph (4); and

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- (b) the certificate is transmitted by the insurer to an electronic address specified by the person for this purpose.
- (4C) A certificate of insurance is made available by an insurer to a person on a website in accordance with this paragraph if—
  - (a) on effecting the policy to which the certificate relates, the person agreed to its being made available on a website for the purposes of paragraph (4);
  - (b) the insurer makes the certificate available to the person by placing an electronic copy of it on a website; and
  - (c) the person is notified by the insurer, in a manner agreed by the person, of—
    - (i) the certificate's presence on the website;
    - (ii) the address of the website;
    - (iii) the place on the website where he may access the certificate; and
    - (iv) how he may access the certificate.
- (4D) Where a certificate of insurance made available on a website is treated by virtue of paragraph (4A)(b) as having been delivered by an insurer to a person, the insurer must ensure that the certificate remains continuously accessible to the person on the website until the expiry of the last day on which the policy to which it relates has effect.
- (4E) For the purposes of paragraph (4D), a certificate of insurance is to be treated as remaining continuously accessible to a person on a website, despite its being temporarily inaccessible to him on the website, if the insurer has taken all reasonable steps to make it continuously accessible to him on the website (including steps to remedy any temporary inaccessibility).]
- (5) In this Part the expression ““policy of insurance”” includes a covering note<sup>F8</sup> and the expression ““accident”” includes two or more causally related accidents.]

<b>F8</b>	SR 1989/84
<b>F9</b>	SR 2000/331
<b>F10</b>	SR 1993/57
<b>F11</b>	Word in <a href="#">art. 92(2)(b)</a> substituted (11.12.2007) by <a href="#">Motor Vehicles (Compulsory Insurance) Regulations (Northern Ireland) 2007 (S.R. 2007/455)</a> , <a href="#">reg. 3(2)</a>
<b>F12</b>	<a href="#">Art. 92(4A)-(4E)</a> inserted (21.3.2011) by <a href="#">Motor Vehicles (Electronic Communication of Certificates of Insurance) Order (Northern Ireland) 2011 (S.R. 2011/23)</a> , <a href="#">art. 2(2)</a>

### Requirements in respect of securities

- 93.**—(1) In order to comply with the requirements of this Part a security must—
- (a) be given either by an authorised insurer or by some body of persons, approved by the Department, which carries on in the United Kingdom the business of giving securities of a like kind and which has deposited and keeps deposited with the Accountant-General of the Supreme Court of Northern Ireland, for and on behalf of the said Supreme Court, the sum of £15,000, or such other amount as the Department may by order specify, in respect of that business, or has deposited and keeps deposited a sum in respect of that business in accordance with section 146 of the Road Traffic Act 1972 ; and
  - (b) consist of an undertaking by the giver of the security to make good, subject to any conditions specified in the security (not being conditions prescribed as conditions which shall not be inserted in a security issued for the purposes of this Part), any failure by the owner of the motor vehicle or such other persons 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 Article 92 which may be incurred by him or them,

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but, until the appointed day, in the case of liabilities arising out of the use of a motor vehicle on a road<sup>F13</sup> or other public place] in Northern Ireland the amount secured need not exceed in the case of an undertaking relating to the use of public service vehicles £25,000 and in any other case £5,000.

(2) A security shall be of no effect for the purposes of this Part unless and until there is issued by the person giving the security to the person to whom it is given a certificate (in this Part 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.

**F13** SR 2000/331

### **Certain conditions in policies or securities to be of no effect**

**94.—**(1) If, in any policy or security issued or given for the purposes of this Part, there is inserted—

- (a) a condition 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; or
- (b) any condition, restriction or limitation which is prescribed as a condition, restriction or limitation, as the case may be, which shall not be inserted in such a policy or security,

such condition, restriction or limitation shall, subject to paragraph (2), be of no effect in connection with such liabilities as are required to be covered by a policy under Article 92 or by a security under Article 93.

(2) Nothing in this Article shall be taken to render void any provision in a policy or security requiring the person insured or secured to repay to the insurer or giver of the security 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

<sup>F14</sup>(3) To the extent that a policy or security issued or given for the purposes of this Part—

- (a) restricts, as the case may be, the insurance of the persons insured by the policy or the operation of the security to use of the vehicle for specified purposes (for example, social, domestic and pleasure purposes) of a non-commercial character; or
- (b) excludes from, as the case may be, that insurance or the operation of the security—
  - (i) use of the vehicle for hire or reward;
  - (ii) business or commercial use of the vehicle; or
  - (iii) use of the vehicle for specified purposes of a business or commercial character,

then, for the purposes of that policy or security so far as it relates to such liabilities as are required to be covered by a policy under Article 92, the use of a vehicle on a journey in the course of which one or more passengers are carried for payment shall<sup>F15</sup> if the motor vehicle is used under a permit granted under section 10A of the Transport Act (Northern Ireland) 1967 or], if the conditions set out in Article 66A (2) are satisfied and the vehicle is not a motor cycle, be treated as falling within that restriction or not falling within that exclusion, as the case may be.

(4) Paragraph (3) shall have effect however the restrictions or exclusions described in that paragraph are framed or worded.

(5) In paragraph (3) ““payment”” has the same meaning as in Article 66A (3).]

**F14** 1981 NI 24



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**F15** 1990 NI 7

### **Duty to surrender certificate on cancellation of policy or security**

**95.**—(1) Where a certificate has been delivered under Article 92(4) [<sup>F16</sup>, otherwise than as described in Article 92(4A),] or issued under Article 93(2) and the policy or security to which it relates is cancelled by mutual consent or by virtue of any provision in the policy or security, the person to whom the certificate was delivered shall, within 7 days from the taking effect of the cancellation, surrender the certificate to the person by whom the policy was issued or the certificate was given.

[<sup>F17</sup>(1A) Where paragraph (1) applies, the person to whom the certificate of insurance was delivered—

- (a) may, instead of surrendering the certificate under paragraph (1), transmit to the insurer, by means of an electronic communication to an electronic address specified by the insurer, a statement confirming that the policy to which the certificate relates has ceased to have effect; and
- (b) if he does so, is to be treated as having surrendered the certificate.

(1B) Paragraph (1C) applies where—

- (a) a certificate is treated, by virtue of Article 92(4A), as having been delivered to a person under that Article; and
- (b) the policy to which it relates is cancelled by mutual consent or by virtue of any provision in the policy.

(1C) The person must, within 7 days from the taking effect of the cancellation, either—

- (a) transmit to the insurer, by means of an electronic communication to an electronic address specified by the insurer, a statement confirming that the policy to which the certificate relates has ceased to have effect; or
- (b) deliver to the insurer a legible printed copy of the certificate endorsed with a statement made and signed by him to that effect.

(1D) A person who transmits a statement or delivers a copy of a certificate of insurance in accordance with paragraph (1C) is to be treated as having surrendered the certificate.

(1E) In this Article, “electronic communication” has the meaning given in the Electronic Communications Act (Northern Ireland) 2001.]

(2) Any person who without reasonable excuse fails to comply with paragraph (1) [<sup>F18</sup>or (1C)] shall be guilty of an offence under this Order.

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| <p><b>F16</b> Words in art. 95(1) inserted (21.3.2011) by Motor Vehicles (Electronic Communication of Certificates of Insurance) Order (Northern Ireland) 2011 (S.R. 2011/23), <b>art. 2(3)(a)</b></p> <p><b>F17</b> Art. 95(1A)-(1E) inserted (21.3.2011) by Motor Vehicles (Electronic Communication of Certificates of Insurance) Order (Northern Ireland) 2011 (S.R. 2011/23), <b>art. 2(3)(b)</b></p> <p><b>F18</b> Words in art. 95(2) inserted (21.3.2011) by Motor Vehicles (Electronic Communication of Certificates of Insurance) Order (Northern Ireland) 2011 (S.R. 2011/23), <b>art. 2(3)(c)</b></p> |
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### **Duty of persons against whom claims are made to give information as to insurance**

**96.**—(1) A person against whom a claim is made in respect of any such liability as is required to be covered by a policy of insurance under Article 92(1)(b) or by a security under Article 93(1)(b) shall, on demand by or on behalf of the person making the claim,—

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- (a) state whether or not, in respect of that liability, he was insured by a policy issued for the purposes of this Part or whether or not he was secured by a security given for those purposes, or would have been so insured or would have had in force such a security if the insurer or, as the case may be, the giver of the security had not avoided or cancelled the policy or security; and
- (b) if he was or would have been so insured, or was or would have been so secured, give such particulars with respect to that policy or security as were specified in any certificate of insurance or security delivered in respect of that policy or security, as the case may be, under Article 92(4) or 93(2), or where no such certificate was delivered under the said Article such particulars, that is to say,—
- (i) the registration mark or other identifying particulars of the vehicle concerned;
  - (ii) the number or other identifying particulars of the insurance policy issued in respect of the vehicle;
  - (iii) the name of the insurer; and
  - (iv) the period of the insurance cover.
- (2) Any person who, without reasonable excuse, contravenes paragraph (1) shall be guilty of an offence under this Order.

#### **Requirements as to production of certificate of insurance or of security**

**97.**—(1) Without prejudice to the requirements of Article 175 as to duties on the occurrence of an accident, a person driving a motor vehicle on a road shall, on being so required by a member of the Royal Ulster Constabulary, give his name and address and the name and address of the owner of the vehicle and produce his certificate.

(2) The owner of a motor vehicle shall give such information as may be required of him by or on behalf of a superintendent or chief superintendent of the Royal Ulster Constabulary for the purpose of determining whether the vehicle was or was not being driven in contravention of Article 90 on any occasion when the driver of the vehicle was required under this Article to produce his certificate.

(3) Any person who fails to comply with a requirement made of him under paragraph (1) or (2) or who wilfully makes a false statement in reply to such a requirement, shall be guilty of an offence under this Order, but a person shall not be so guilty by reason only of his failure forthwith to produce his certificate on being so required under paragraph (1) if, within<sup>[F19]</sup> 7 days] from the date of the requirement to produce the certificate, he produces it in person at such police station as may have been specified by him at the time when the production of the certificate was required.

(4) In this Article ““produce his certificate”” means produce for examination the relevant certificate of insurance or security or such other evidence as may be prescribed that the vehicle is not or was not being driven in contravention of Article 90.

<b>F19</b> 1996 NI 10
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#### **[F20] Regulations prohibiting the grant of excise licences unless evidence of insurance or security**

**97A.** The Department may by regulations provide that where an application is made in Northern Ireland for a licence under the Vehicle Excise and Registration Act 1994 the licence shall not be granted unless the applicant produces such evidence as may be prescribed that either—

- (a) on the date when the licence comes into operation there will be in force the necessary policy of insurance or the necessary security in relation to the use of the vehicle by the applicant or by other persons on his order or with his permission; or

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- (b) the vehicle is a vehicle to which Article 90 does not apply at a time when it is being driven by the owner or by a servant of the owner in the course of his employment, or is otherwise subject to the control of the owner.]

**F20** Art. 97A inserted (27.6.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), **83**; S.R. 2007/302, **art. 2**, Sch.

**[<sup>F21</sup>Duty of insurers or persons giving security to satisfy judgment against persons insured or secured against third-party risks**

**98.**—(1) This Article applies where, after—

- (a) a certificate of insurance has been delivered under Article 92(4) to the person by whom a policy has been effected, or
- (b) a certificate of security has been issued under Article 93(2) to the person to whom a security has been given,

a judgment to which this paragraph applies is obtained.

(2) Paragraph (1) applies to judgments relating to a liability with respect to any matter where liability with respect to that matter is required to be covered by a policy of insurance under Article 92 and either—

- (a) it is a liability covered by the terms of the policy or security to which the certificate relates, and the judgment is obtained against any person who is insured by the policy or whose liability is covered by the security, as the case may be; or
- (b) it is a liability, other than an excluded liability, which would be so covered if the policy insured all persons or, as the case may be, the security covered the liability of all persons, and the judgment is obtained against any person other than one who is insured by the policy or, as the case may be, whose liability is covered by the security.

(3) In deciding for the purposes of paragraph (2) whether a liability is or would be covered by the terms of a policy or security, so much of the policy or security as purports to restrict, as the case may be, the insurance of the persons insured by the policy or the operation of the security by reference to the holding by the driver of the vehicle of a licence authorising him to drive it shall be treated as of no effect.

(4) In sub-paragraph (2)(b), ““excluded liability”” means a liability in respect of the death of, bodily injury to, or damage to the property of any person who, at the time of the use which gave rise to the liability, was allowing himself to be carried in or upon the vehicle and knew or had reason to believe that the vehicle had been stolen or unlawfully taken, not being a person who—

- (a) did not know and had no reason to believe that the vehicle had been stolen or unlawfully taken until after the commencement of his journey; and
- (b) could not reasonably have been expected to have alighted from the vehicle.

In this paragraph the reference to a person being carried in or upon a vehicle includes a reference to a person entering or getting on to, or alighting from, the vehicle.

(5) Notwithstanding that the insurer may be entitled to avoid or cancel, or may have avoided or cancelled, the policy or security, he shall, subject to the provisions of this Article, pay to the persons entitled to the benefit of the judgment—

- (a) as regards liability in respect of death or bodily injury, any sum payable under the judgment in respect of the liability, together with any sum which is payable in respect of interest on that sum;

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- (b) as regards liability in respect of damage to property, any sum required to be paid under paragraph (6); and
- (c) any amount payable in respect of costs.
- (6) This paragraph requires—
- (a) where the total of any amounts paid, payable or likely to be payable under the policy or security in respect of damage to property caused by, or arising out of, the accident in question does not exceed [F<sup>22</sup>£1,000,000], the payment of any sum payable under the judgment in respect of the liability, together with any sum which is payable in respect of interest on that sum;
- (b) where that total exceeds [F<sup>22</sup>£1,000,000], the payment of either—
- (i) such proportion of any sum payable under the judgment in respect of the liability as [F<sup>23</sup>£1,000,000] bears to that total, together with the same proportion of any sum which is payable in respect of interest on that sum; or
- (ii) the difference between the total of any amounts already paid under the policy or security in respect of such damage and [F<sup>22</sup>£1,000,000] together with such proportion of any sum which is payable in respect of interest on any sum payable under the judgment in respect of the liability as the difference bears to that sum,
- whichever is less, unless not less than [F<sup>22</sup>£1,000,000] has already been paid under the policy or security in respect of such damage (in which case nothing is payable).
- (7) Where as insurer becomes liable under this Article to pay an amount in respect of a liability of a person who is insured by a policy or whose liability is covered by a security, he shall be entitled to recover from that person—
- (a) that amount, in a case where he became liable to pay it by virtue only of paragraph(3); or
- (b) in a case where that amount exceeds the amount for which he would, apart from the provisions of this Article, be liable under the policy or security in respect of that liability, the excess.
- (8) Where an insurer becomes liable under this Article to pay an amount in respect of a liability of a person who is not insured by a policy or whose liability is not covered by a security, he shall be entitled to recover the amount from that person or from any person who—
- (a) is insured by the policy, or whose liability is covered by the security, by the terms of which the liability would be covered if the policy insured all persons or, as the case may be, the security covered the liability of all persons; and
- (b) caused or permitted the use of the vehicle which gave rise to the liability.
- (9) In this Article and Article 98A—
- “insurer” includes a person giving a security;
- “liability covered by the terms of the policy or security” means a liability which is covered by the policy or security 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 or security; and
- “material” means of such a nature as to influence the judgment of a prudent insurer in determining whether he will take risk and, if so, at what premium and on what conditions.

**F21** SR 1989/84

**F22** Word in art. 98(6) substituted (11.12.2007) by [Motor Vehicles \(Compulsory Insurance\) Regulations \(Northern Ireland\) 2007 \(S.R. 2007/455\)](#), **reg. 3(3)**

**F23** Word in art. 98(6) substituted (11.12.2007) by [Motor Vehicles \(Compulsory Insurance\) Regulations \(Northern Ireland\) 2007 \(S.R. 2007/455\)](#), **reg. 3(3)**

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## Exceptions to Article 98

**98A.**—(1) No sum shall be payable by an insurer under Article 98—

- (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;
- (b) in respect of any judgment so long as enforcement of the judgment 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 or damage to property giving rise to the liability, the policy or security was cancelled by mutual consent or by virtue of any provision contained in it, and also either before or after the happening of that event but before the expiration of the period of 14 days from the taking effect of the cancellation of the policy or security—
  - (i) the certificate was surrendered to the insurer [<sup>F24</sup>(in the case of a certificate delivered otherwise than as described in Article 92(4A))]; or
  - (ii) the insurer has commenced proceedings under this Order in respect of the failure to surrender the certificate.

(2) Subject to paragraph (3), no sum shall be payable by an insurer under Article 98 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—

- (a) that, apart from any provision contained in the policy or security, he is entitled to avoid it on the ground that it was obtained—
  - (i) by the non-disclosure of a material fact; or
  - (ii) by a representation of fact which was false in some material particular; or
- (b) if he has avoided the policy or security on that ground, that he was entitled so to do apart from any provision contained in it.

(3) An insurer who has obtained such a declaration as is mentioned in paragraph (2) in an action shall not by reason of that become entitled to the benefit of that paragraph as respects any judgment obtained in proceedings commenced before the commencement of that action unless before, or within 7 days after, the commencement of that action he has given notice of it to the person who is the plaintiff in those proceedings specifying the non-disclosure or false representation on which he proposes to rely.

(4) A person to whom notice of such an action is so given shall be entitled, if he thinks fit, to be made a party to it.]

**F21** SR 1989/84

**F24** Words in art. 98A(1)(c)(i) inserted (21.3.2011) by [Motor Vehicles \(Electronic Communication of Certificates of Insurance\) Order \(Northern Ireland\) 2011 \(S.R. 2011/23\)](#), art. 2(4)

*Art. 99 rep. by 2001 c. 3 (NI)*

## Bankruptcy, etc., of insured persons not to affect certain claims by third-parties

**100.** When a certificate of insurance has been delivered under Article 92(4), to 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 section 1(1) of the Third Parties (Rights Against Insurers) Act (Northern Ireland) 1930, shall, notwithstanding anything in that Act, not affect any such liability of that person as is, by virtue of Article 92(1)(b), required to be covered by a policy, but nothing

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in this Article shall affect any rights against the insurer conferred by the said Act of 1930 on the person to whom the liability was incurred.

### Meaning of authorised insurer for purposes of this Part

**101.**—<sup>F25</sup>(1) In this Part “authorised insurer” has the same meaning as in Article 12.]

(2) If any person or body of persons ceases to be a member of the Motor Insurers' Bureau<sup>F25</sup> . . . , that person or body shall not thereby cease to be treated as an authorised insurer for the purposes of this Part<sup>F26</sup> . . .

- (a) in relation to any policy issued by the insurer before ceasing to be such a member; or
- (b) in relation to any obligation (whether arising before or after the insurer ceased to be such a member) which the insurer may be called upon to meet under or in consequence of any such policy<sup>F27</sup> . . . by virtue of making a payment in pursuance of such an obligation.

**F25** SI 2001/3649

**F26** Words in art. 101(2) repealed (29.1.2007) by [Recovery of Health Services Charges \(Northern Ireland\) Order 2006 \(S.I. 2006/1944 \(N.I. 13\)\)](#), arts. 1(2), 21(1), [Sch. 2](#) (with art. 18); S.R. 2006/484, [art. 2](#)

**F27** Words in art. 101(2)(b) repealed (29.1.2007) by [Recovery of Health Services Charges \(Northern Ireland\) Order 2006 \(S.I. 2006/1944 \(N.I. 13\)\)](#), arts. 1(2), 21(1), [Sch. 2](#) (with art. 18); S.R. 2006/484, [art. 2](#)

### Deposits under this Part

**102.** No part of any sum deposited by any person with the Accountant-General of the Supreme Court under Article 90(2)( *b*) or 93(1)( *a*) shall, so long as any liabilities, being such liabilities as are required to be covered by a policy of insurance under this Part, which have been incurred by that person have not been discharged or otherwise provided for, be applicable in discharge of any other liabilities incurred by him.

PROSPECTIVE

### <sup>F28</sup>Disclosure of information

**102A.**—(1) Regulations may make provision for an in connection with requiring MIIC to make information available to any prescribed person for the purposes of the exercise of any of that person's functions in connection with the enforcement of an offence under this Part or under regulations made under Article 103.

(2) In this Article—

“information” means information held in any form;

“MIIC” means the Motor Insurers' Information Centre (a company limited by guarantee and incorporated under the Companies Act 1985 (c. 6) on 8th December 1998).]

**F28** [Art. 102A](#) inserted (prosp.) by [Road Traffic \(Northern Ireland\) Order 2007 \(S.I. 2007/916 \(N.I. 10\)\)](#), arts.1(3)(4), [25\(2\)](#)

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### Regulations for purposes of this Part

**103.**—(1) Subject to paragraph (2), the Department may make regulations for prescribing anything which may be prescribed under this Part, and generally for the purpose of carrying this Part into effect, and in particular, but without prejudice to the generality of the foregoing provisions, may make regulations—

- (a) as to the forms to be used for the purposes of this Part;
- (b) as to applications 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<sup>F29</sup> . . . and the furnishing of particulars thereof or the giving of information with respect thereto to the Department or a superintendent or chief superintendent of the Royal Ulster Constabulary;
- (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 Part shall, in relation to vehicles brought into Northern Ireland by a person making only a temporary stay in Northern Ireland, have effect subject to such modifications and adaptations as may be prescribed.

*Para. (2) rep. by SR 1989/84*

<p><b>F29</b> Words in art. 103(1) omitted (21.3.2011) by virtue of Motor Vehicles (Electronic Communication of Certificates of Insurance) Order (Northern Ireland) 2011 (S.R. 2011/23), art. 2(5)</p>
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