



# Road Traffic Act 1972

## 1972 CHAPTER 20

### PART VI

#### THIRD-PARTY LIABILITIES

##### *Compulsory insurance or security against third-party risks*

#### **149 Duty of insurers or persons giving security to satisfy judgment against persons insured or secured against third-party risks**

- (1) If, after a certificate of insurance or certificate of security has been delivered under section 147 of this Act to the person by whom a policy has been effected or to whom a security has been given, judgment in respect of any such liability as is required to be covered by a policy of insurance under section 145 of this Act (being a liability covered by the terms of the policy or security to which the certificate relates) is obtained against any person who is insured by the policy or whose liability is covered by the security, as the case may be, then, 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 section, pay to the persons entitled to the benefit of the judgment any sum payable thereunder in respect of the liability, including any amount payable in respect of costs and any sum payable in respect of interest on that sum by virtue of any enactment relating to interest on judgments.
- (2) No sum shall be payable by an insurer under the foregoing provisions of this section—
  - (a) in respect of any judgment, unless before or within seven days after the commencement of the proceedings in which the judgment was given, the insurer had notice of the bringing of the proceedings; or
  - (b) in respect of any judgment, so long as execution thereon is stayed pending an appeal; or
  - (c) in connection with any liability, if before the happening of the event which was the cause of the death or bodily injury giving rise to the liability, the policy or security was cancelled by mutual consent or by virtue of any provision contained therein, and either—

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*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

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- (i) before the happening of the said event the certificate was surrendered to the insurer, or the person to whom the certificate was delivered made a statutory declaration stating that the certificate had been lost or destroyed, or
  - (ii) after the happening of the said event, but before the expiration of a period of fourteen days from the taking effect of the cancellation of the policy or security, the certificate was surrendered to the insurer, or the person to whom it was delivered made such a statutory declaration as aforesaid ; or
  - (iii) either before or after the happening of the said event, but within the said period of fourteen days, the insurer has commenced proceedings under this Act in respect of the failure to surrender the certificate.
- (3) No sum shall be payable by an insurer under the foregoing provisions of this section if, in an action commenced before, or within three months after, the commencement of the proceedings in which the judgment was given, he has obtained a declaration that, apart from any provision contained in the policy or security, he is entitled to avoid it on the ground that it was obtained by the non-disclosure of a material fact, or by a representation of fact which was false in some material particular, or, if he has avoided the policy or security on that ground, that he was entitled so to do apart from any provision contained in it:
- Provided that an insurer who has obtained such a declaration as aforesaid in an action shall not thereby become entitled to the benefit of this subsection as respects any judgment obtained in proceedings commenced before the commencement of that action unless before, or within seven days after, the commencement of that action he has given notice thereof to the person who is the plaintiff in the said proceedings specifying the non-disclosure or false representation on which he proposes to rely; and a person to whom notice of such an action is so given shall be entitled, if he thinks fit, to be made a party thereto.
- (4) If the amount which an insurer becomes liable under this section to pay in respect of a liability of a person who is insured by a policy or whose liability is covered by a security exceeds the amount for which he would, apart from the provisions of this section, be liable under the policy or security in respect of that liability, he shall be entitled to recover the excess from that person.
- (5) In this section—
- (a) " insurer " includes a person giving a security.
  - (b) " material" means of such a nature as to influence the judgment of a prudent insurer in determining whether he will take the risk and, if so, at what premium and on what conditions; and
  - (c) " 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.
- (6) In the application of this section to Scotland, the words " by virtue of any enactment relating to interest on judgments " in subsection (1) shall be omitted and for the reference in the proviso to subsection (3) to a plaintiff there shall be substituted a reference to a pursuer.