

EXPLANATORY MEMORANDUM TO

THE MOTOR VEHICLES (COMPULSORY INSURANCE) REGULATIONS 2016

2016 No. 1193

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 These Regulations increase the minimum mandatory insurance cover for motor insurance policies in Great Britain, in relation to damage to property, to the sum of £1.2million for any one accident. It replaces the previous cover of £1million for any one accident.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 Part VI of the Road Traffic Act 1988 (third-party liabilities), sections 143 to 156, make provision for compulsory insurance or security against third-party risks in relation to motor vehicles in Great Britain.
- 4.2 In particular section 145(4)(b) sets the minimum mandatory insurance cover for motor insurance policies, in relation to damage to property. The minimum derives from Article 9(1) of Directive 2009/103/EC of the European Parliament and of the Council of the 16th September 2009 relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability (“the Motor Insurance Directive”).
- 4.3 The proposal that resulted in the Motor Insurance Directive was the subject of EM 7395/08, considered by the House of Commons European Scrutiny Committee on 23 April 2008. The Committee recommended that the document was not legally or politically important and cleared it (Report 21, Session 2007- 08, 29540). The House of Lords Select Committee on the European Union cleared the EM at the 1319th sif on 22 April 2008.
- 4.4 Article 9(1) of the Motor Insurance Directive set a European wide minimum cover. However Article 9(2) provided for it to be index linked and adjusted every 5 years in line with the European Index of Consumer Prices established pursuant to Regulation (EC) No 2494/95.

- 4.5 The Commission has published a communication (COM (2016) 246 final, issued 10th May 2016) it has made to the European Parliament and to the Council indicating that following a review, in order to take account of the changes in the European Index of Consumer Prices comprising all Member States, as published by Eurostat, the minimum cover for material damage is, in accordance with Article 9(2), increased to €1.220million per claim.
- 4.6 In accordance with the standard approach to implementation adopted by the European Insurance and Occupational Pensions Committee (EIOPC) (established by Commission Decision 2004/9/EC of 5th November 2003) the revised minimum amount should be implemented by Member States before 1st January 2017.
- 4.7 These Regulations give effect to the new minimum cover.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is Great Britain.
- 5.2 The territorial application of this instrument is Great Britain.

6. European Convention on Human Rights

- 6.1 Andrew Jones MP, Parliamentary Under Secretary of State for Transport, has made the following statement regarding Human Rights:
- “In my view the provisions of The Motor Vehicles (Compulsory Insurance) Regulations 2016 are compatible with the Convention Rights.”.

7. Policy background

What is being done and why

- 7.1 UK legislation implements the EU minimum property damage cover requirement for motor vehicle insurance. Sections 145 and 151 of the Road Traffic Act 1988 implement the requirement in Great Britain.
- 7.2 The Commission has now adjusted the EU property damage minimum to €1.22million per claim whatever the number of victims, and exchange rate fluctuations mean that there is a clear risk that the UK might become non-compliant unless the minimum guaranteed cover is raised in domestic law.
- 7.3 The new EU property damage minimum will be valid for the next 5 years so the equivalent sterling sum in domestic legislation needs to be able to withstand the expected the exchange rate fluctuations in that period. Any period of non-compliance with EU law, whether for a few days or longer periods of time represents an infraction risk which brings with it associated significant daily financial penalties for the UK Government.
- 7.4 This minimum level was chosen as it will give us a very small amount of leeway within the Office of Budget Responsibility’s latest forecast exchange rates dated November 2016. The forecast covers the period up to Q1 2021, which has the lowest forecast exchange rate of €1.08 to the pound.
- 7.5 With regard to personal injury, policies in the UK must provide unlimited liability cover so there is no need to make changes to domestic law as a result of the rise in the EU minimum cover levels for personal injury.

Consolidation

7.6 There are no plans to consolidate the legislation amended by these Regulations.

8. Consultation outcome

8.1 The Government sought the views of the main insurance industry stakeholder bodies (the Association of British Insurers, Motor Insurers Bureau, British Insurance Brokers Association and Lloyds Market Association) in October 2015. We asked whether an increase of the minimum guaranteed cover for property damage to £1.2 million, would have a potential impact on the cost of insurance, or whether it would be absorbed. All four bodies replied and no significant concerns were expressed.

8.2 We then, in August 2016, undertook a further targeted consultation of the same industry stakeholder bodies, when we provided a copy of our draft Regulations. We explained that these would increase the property damage guaranteed minimum cover for motor vehicles to £1.2 million to ensure that, taking into account exchange rate fluctuations, the minimum set in domestic legislation is not lower than that set by the EU. This consultation did not produce any opposition. Stakeholders did not think that there would be any significant increase in insurance premiums as in practice, few £1 million property damage claims are made, and most insurance policies already provide more than the minimum cover required by law.

9. Guidance

9.1 The insurance industry has been informed of the increase in minimum guaranteed cover to £1.2million with effect from 31st December 2016.

10. Impact

10.1 The impact on businesses is that authorised insurers who sell motor vehicle insurance policies that do not already provide £1.2million cover to the vehicle user in respect of third party property damage, must increase this cover by up to £200,000 from 31st December 2016. Stakeholders tell us that most policies already provide more than the minimum cover required by law.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation applies to activities that are undertaken by small businesses.

11.2 No specific action is proposed to minimise regulatory burdens on small businesses.

11.3 The basis for the final decision on what action to take to assist small businesses is that the consultations did not produce any opposition to the proposed increase, or indications that there would be any significant increase in insurance premiums. Those consulted represent small as well as larger businesses. We understand that in practice, it is rare for a motor vehicle insurance claim in relation to property to exceed the present limit of £1million, as it would be unusual for property damage greater than £1million to be incurred. In addition, only a small number of policies limit their minimum cover to £1million.

12. Monitoring & review

- 12.1 The legislation will be reviewed in the light of any significant changes in the exchange rate between the pound and the euro which might affect the UK's compliance with Article 9(1) of the Motor Insurance Directive.
- 12.2 A review clause is not appropriate because these Regulations amend primary legislation.

13. Contact

- 13.1 John Doyle, Department for Transport. Telephone: 0207 944 2026, email: john.doyle@dft.gsi.gov.uk can answer any queries regarding the instrument.