



DEPARTMENT OF LOCAL GOVERNMENT

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## Motor Insurers' Bureau of Ireland

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Text of an Agreement dated 30th December, 1964, between the Minister for Local Government and the Motor Insurers' Bureau of Ireland, extending, with effect from 1st January, 1965, the scope of the Bureau's liability, with certain exceptions, for the compensation for victims of uninsured motorists to the full range of compulsory insurance in respect of injury to person under the Road Traffic Act, 1961, together with some notes on its scope and purpose.

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(PR. 8126).

MEMORANDUM OF AGREEMENT made the 30th day of December, One Thousand nine hundred and sixty-four between THE MINISTER FOR LOCAL GOVERNMENT (hereinafter referred to as "the Minister") of the one part and MOTOR INSURERS' BUREAU OF IRELAND whose registered office is at 4/5 Eustace Street in the city of Dublin of the other part SUPPLEMENTAL to an Agreement (hereinafter called "the Principal Agreement") made the Tenth day of March One Thousand nine hundred and fifty-five between the Minister for Local Government of the one part and Those Insurers Granting Compulsory Motor Vehicle Insurance in Ireland by or on behalf of whom the said Agreement was signed (thereinafter and hereinafter referred to as "the Insurers") of the other part.

WHEREAS in pursuance of the undertaking given by the Insurers in paragraph 1 of the Principal Agreement a Company stands incorporated under the Companies Act, 1963 with the name of Motor Insurers' Bureau of Ireland (being a party to these presents and hereinafter referred to as "M.I.B. of I.") :

AND WHEREAS a memorandum of Agreement (hereinafter referred to as "the Agreement of 1955") was made between the Minister and M.I.B. of I. on the 30th day of November 1955 :

AND WHEREAS the Agreement of 1955 was amended by an Addendum thereto made between the Minister and M.I.B. of I. on the 12th day of March 1962 :

NOW THEREFORE IT IS HEREBY AGREED between the parties hereto as follows :—

Determination  
of Agreement  
of 1955.

1. The Agreement of 1955 as amended by the above recited addendum is hereby determined but without prejudice to the continued operation of the said Agreement, as so amended, in respect of accidents occurring before the date of these presents.

Satisfaction of  
Judgments by  
M.I.B. of I.

2. If judgment in respect of any liability for injury to person which is required to be covered by an approved policy of insurance under Section 56 of the Act is obtained against any person or persons in any court established under the Courts (Establishment and Constitution) Act, 1961 (No. 38 of 1961) whether or not such person or persons be in fact covered by an approved policy of insurance and any such judgment is not satisfied in full within 28 days from the date upon which the person or persons in whose favour such judgment was given become entitled to enforce it then M.I.B. of I. will so far as such judgment relates to injury to person and subject to the provisions of these presents pay or cause to be paid to the person or persons in whose favour such judgment was given any sum payable or remaining payable thereunder in respect of the aforesaid liability including taxed costs (or such proportion thereof as is attributable only to injury to person) or satisfy or cause to be satisfied such judgment whatever may be the cause of the failure of the judgment debtor to satisfy the same.

3. (1) Where at the time of an accident a vehicle was being used without the consent of the owner of the vehicle the liability of M.I.B. of I. shall not extend to any judgment obtained against the owner or user of the vehicle in respect of injury to person sustained while the person injured or killed was in or on such vehicle.

Exclusion of certain passenger claims.

(2) Where at the time of an accident the person injured or killed knew, or should reasonably have known that there was not in force an approved policy of insurance in respect of the use of the vehicle the liability of M.I.B. of I. shall not extend to any judgment in respect of injury to person to such injured or killed person sustained while he was in or on such vehicle.

4. Where the liability of M.I.B. of I. would, but for paragraph (1) of Clause 3, extend to a judgment, M.I.B. of I. will make such payment, on an *ex gratia* basis, as they consider reasonable in respect of such judgment in any case where they are satisfied that the person injured or killed was not aware or should not reasonably have known that the vehicle was used without the consent of the owner of the vehicle.

*Ex gratia* payments in certain cases.

5. This Agreement shall be determinable by the Minister at any time or by M.I.B. of I. on two years' notice, without prejudice to the continued operation of the Agreement in respect of accidents occurring before the date of termination.

Period of Agreement.

6. Nothing in this Agreement shall prevent vehicle insurers (or any of them) from providing by conditions in their contracts of insurance or by collateral agreements that all sums paid by them on behalf of M.I.B. of I. or by M.I.B. of I. by virtue of the Principal Agreement or of these presents in or towards the discharge of the liability of their policyholders shall be recoverable by them or by M.I.B. of I. from the policyholder or from any other person.

Recoveries.

7. The following shall be conditions precedent to M.I.B. of I.'s liability, and to the making of any *ex gratia* payment under Clause 4:

Conditions precedent to M.I.B. of I.'s liability.

- (a) That notice of proceedings be given by registered post before commencement of such proceedings:—
- (i) to the insurer in any case in which there was in force at the time the accident occurred an approved policy of insurance purporting to cover the use of the vehicle and the existence of which is known before the commencement of proceedings to the person bringing same;
  - (ii) to M.I.B. of I. in any other case.
- (b) That if so required by M.I.B. of I. and subject to full indemnity from M.I.B. of I. as to reasonable costs, the person bringing the proceedings (hereinafter called the Plaintiff) shall have taken or shall take all reasonable steps against any person against whom the Plaintiff might have a remedy in respect of or arising out of the injury or death of the Third Party provided that any dispute as to the reasonableness of a requirement by M.I.B. of I. that any particular step should be taken to obtain judgment against any such person shall be referred to the Minister whose decision shall be final.

Assignment of Judgment.

(c) That the judgment or judgments (including such judgments as may be obtained under paragraph (b) of this Clause and judgments of the class mentioned in Clause 4) be assigned to M.I.B. of I. or its nominee.

(d) That the Plaintiff shall give credit to M.I.B. of I. for any amounts paid to him by or on behalf of the defendant in respect of any liability for injury to person or property arising out of the event which occasioned the claim against M.I.B. of I.

Offers in Satisfaction.

8. When notice of proceedings has been given under Clause 7 it shall be competent for M.I.B. of I. not later than fourteen days after the closing of the pleadings to offer to the Plaintiff in full satisfaction of the obligation of M.I.B. of I. such sum as they consider sufficient in respect of damages together with the equivalent of the taxed costs to date and if in that action the Plaintiff is awarded in respect of damages for injury to person apart from injury to property not more than the sum offered under this Clause (exclusive of the sum for such costs) then in satisfaction of this Agreement M.I.B. of I. shall not be required to pay more than the total of such damages awarded and the sum offered in respect of costs and shall be entitled to set off any costs incurred by them after the date of the offer.

State Vehicles and Exempted Persons.

9. (a) M.I.B. of I.'s acceptance of liability under Clause 2 in respect of vehicles the use of which is required to be covered by an approved policy of insurance shall extend to vehicles owned by or in possession of the State or of an "exempted person" as defined in section 60 of the Act only so long as there is in force an approved policy of insurance purporting to cover the use of the vehicle.

(b) For the purpose of this Clause a vehicle which has been unlawfully removed from the possession of the State or from an "exempted person" shall be taken to continue in that possession whilst it is so removed.

Guarantors.

10. This Agreement shall not apply to a vehicle in respect of which there is in force an approved guarantee issued by a vehicle guarantor as defined in section 59 of the Act.

Domestic Agreement.

11. The Agreement entered into between M.I.B. of I. and the insurers of even date with the Agreement of 1955 and referred to in the Agreement of 1955 as "the Domestic Agreement" or any subsequent or amended agreement made in renewal or replacement of the said Domestic Agreement shall not discharge M.I.B. of I. from its liabilities or obligations under these presents.

Operation.

12. This Agreement shall come into operation on the first day of January, One Thousand Nine Hundred and Sixty-five in respect of claims arising out of the use of a vehicle in a public place on or after that date.

Definitions.

13. In this Agreement, "the Act" means the Road Traffic Act, 1961 (No. 24 of 1961);

"injury to person" does not include any injury by way of loss of services of the person injured.

IN WITNESS whereof the parties hereto have hereunto set their hands and affixed their seals the day and year first herein written.

L. S.

SIGNED by the Minister for Local Government in the presence of:—

Brendan Kiernan

Michael G. Murphy

Civil Servants,  
Custom House, Dublin.

Neil T. Blaney,  
*Minister for Local Government.*

L. S.

PRESENT when the Common Seal of the Motor Insurers' Bureau of Ireland was affixed hereto:—

J. Killen

A. B. Johnston

T. H. Corrigan,  
*Chairman and Secretary.*

## NOTES

An agreement for a scheme of compensation in respect of injuries to persons by uninsured motorists was made in 1955 between the Minister for Local Government and the Motor Insurers' Bureau of Ireland. The text of the agreement with notes on its scope and purpose was published by the Stationery Office (PR. 3296). The scheme was designed to secure compensation in respect of injury to person to third party victims of road accidents, in cases where, notwithstanding the provisions of the Road Traffic Act, 1933, relating to compulsory insurance, the victim was deprived of compensation by the absence of insurance, or of effective insurance. For this purpose, the Motor Insurers' Bureau of Ireland undertook to pay the amount of an unsatisfied judgment against a motorist who was not effectively insured, so far as it related to injury to person coming within the compulsory insurance sections of the Road Traffic Act.

Under the 1955 agreement the liability of the Bureau extended only to cases where insurance cover was compulsory under the 1933 Act. The range of compulsory insurance was extended in various respects under the Road Traffic Act, 1961, with effect from 1st May, 1962. An addendum to the 1955 agreement was executed in March, 1962. The text was published by the Stationery Office (PR. 6444). In effect, the addendum provided for the continuance in force of the 1955 agreement for the time being, the scope of the agreement to be confined to cases coming within the categories which the Bureau dealt with already under the 1933 Act.

A new agreement to replace the 1955 agreement has now been executed in the terms set out in this document to cover accidents occurring on or after 1st January, 1965. With certain exceptions the new agreement extends the scope of the liability of the Bureau to the full range of compulsory insurance in respect of injury to person under the 1961 Act. The Bureau's liability will accordingly relate to the "use" (rather than simply the "driving") of a vehicle. It will with certain exceptions extend to persons travelling in the vehicle against the driver or owner of which judgment has been obtained (in cases where passenger cover is compulsory under the 1961 Act).

It should be noted that vehicles owned by the State and "exempted persons", vehicles the subject of an "approved guarantee" under the 1961 Act and visiting vehicles in respect of which the Irish Visiting Motorists' Bureau Limited accepts liability, will be dealt with, not by the Motor Insurers' Bureau of Ireland, but by the State, the "exempted person", the guarantor, the Irish Visiting Motorists' Bureau Limited respectively.

The following notes are for the guidance of those who may have a claim on the Motor Insurers' Bureau of Ireland, but the notes must not be taken as qualifying the agreement, which must be studied carefully. Communications on any matters connected with the scheme should be addressed to Motor Insurers' Bureau of Ireland, 4/5 Eustace Street, Dublin 2.

1. The Bureau's liability under the new agreement dates from 1st January, 1965. Claims arising out of accidents which occurred before that date are excluded and fall to be dealt with under the previous agreement.

2. If damages are awarded by a Court in respect of death or personal injury (but not in respect of property) arising out of the use of a mechanically propelled vehicle in a public place in circumstances where the liability is required to be covered by insurance under the Road Traffic Act, 1961, and such damages, or any part of them, remain unpaid twenty-eight days after the judgment becomes enforceable, the Bureau will pay the unrecovered amount of such damages (including such taxed costs as are attributable to proceedings in relation to injury to person) to the person in whose favour the judgment has been given against an assignment of the judgment debt. The word "judgment" in this paragraph means the nett amount recoverable after the deduction of any sum which may have been allowed by way of counter claim or set-off. Payment in respect of loss of service of an injured person is specifically excluded from the liability of the Bureau.

Where at the time of an accident a vehicle was being used without the consent of the owner, the Bureau will not accept liability for judgments against the owner or driver of the vehicle in favour of persons travelling in the vehicle. (The Bureau will however consider awarding an *ex gratia* payment if satisfied that the passenger was not aware or should not have reasonably known that the vehicle was being used without the owner's consent). Furthermore the Bureau will not accept liability in cases where the passenger knew or should reasonably have known that the vehicle was either uninsured or not properly insured.

3. Nothing in the agreement affects the position at law of the parties to an action for damages arising out of the use of a motor vehicle. The Bureau's liability under the agreement can only arise when the plaintiff has successfully established his case against the tort-feasor or tort-feasors in the usual manner and judgment has been given in his favour. It is, of course, always open to the plaintiff to negotiate a settlement with the alleged tort-feasor or the Bureau.

4. **Where there is a policy.**—In those cases where it is known to the claimant, or those acting on his behalf, that there was at the time the accident occurred an approved Policy of Insurance purporting to cover the use of the vehicle, the insurer who issued the policy should be notified. The claim will then be handled by the insurer concerned in a similar manner to a claim arising in connection with the use of an uninsured vehicle but without prejudice to any rights which that insurer may have against the policyholder. It must, however, be emphasised that there is nothing in the scheme affecting any obligations imposed on a policyholder by his policy. Policyholders are not released from their contractual obligations to their insurers, although the scheme protects third party claimants from the consequences of failure to observe them.

Attention is drawn to the fact that in such cases it is a condition of the agreement that notice of proceedings must be given to the insurer by registered post before proceedings are commenced.

**Where there is no policy.**—In cases where there is no policy, or for any reason the existence of a policy is in doubt, the claimant or those acting on his behalf must notify the Bureau of the claim. It is a condition of the Bureau's liability that it should receive notification by registered post before the commencement of proceedings against the alleged tort-feasor.

5. Claims arising out of the use of uninsured vehicles owned by or in the possession of the State will, in the majority of cases, be outside the scope of the Bureau's liability (see Clause 9 of the agreement). In such cases the approach should be made to the responsible authority in the usual way.

The following is a precise statement of the circumstances in which the State will, subject always to the overriding authority of the Oireachtas, make payments under this paragraph. It will make payments only in the case of a motor vehicle in its ownership or possession (as defined in Clause 9 (b) of the agreement), provided that there is not in force any approved policy of insurance purporting to cover the use of the vehicle. It will meet, on an *ex gratia* basis, any personal injury claim arising out of the unauthorised use of such a vehicle in circumstances similar to those in which the Bureau, under the agreement, would meet a claim or make an *ex gratia* payment. In any case, however, in which a claim is made by or in respect of a State employee, there shall be offset against the amount which would otherwise be paid any sum(s) payable under any code of law or administrative arrangement providing for payments out of State funds to or in respect of him as a result of the injury. The State's undertaking to make payments will be subject to the conditions, etc., set out in the agreement in relation to the Bureau, including those regarding notice (which should be given to the responsible authority before the commencement of proceedings), assignment of judgments, and offers in satisfaction.

6. Under the Road Traffic Act, 1961, a "person" who makes an appropriate deposit with the Courts can be exempted from the requirement of insurance under the Act (see Clause 9 of the agreement). C oras Iompair  ireann, the only "person" at present so exempted, will meet claims in respect of its vehicles on the same terms and subject to the same conditions as the State will meet claims in respect of State-owned vehicles (see paragraph 5 above). In any such case notice should be served on C oras Iompair  ireann before commencement of proceedings.

7. In lieu of insuring against third-party risks, a person can obtain a guarantee from an authorised guarantor who has made an appropriate deposit with the Courts (see Clause 10 of the agreement). In fact, however, no guarantor is now operating.

8. In addition to making *ex gratia* payments under Clause 4 of the agreement, the Bureau will be prepared to consider the making of *ex gratia* payments in the following circumstances under the agreement. The liability of the Bureau does not extend to the compensation of any person who may suffer injury resulting from the use of a vehicle the owner or driver of which cannot be traced. The Bureau will not, however, necessarily refuse to act in those cases. Where a person has sustained serious and permanent disablement or has died as a result of injury and there is, in the view of the Bureau, reasonable certainty that the disablement or death was caused by the negligent use of a mechanically propelled vehicle the owner or driver of which cannot be traced, then the Bureau will at their discretion, give sympathetic consideration to making some *ex gratia* payment. Applications will only be considered, however, where it is reasonably certain that if the



owner or driver had been traced he would have been found by a Court to be under a liability to the applicant, in respect of which he was required by the Road Traffic Act to be covered by insurance and that failure of the applicant to secure judgment against him in respect of such injury was solely due to the applicant's inability to find him and serve him with legal process. Moreover, the Bureau will take into consideration the question of whether the owner or driver was the only person who might be under any liability in respect of such injury.

9. Should a claim arise in connection with the use of a vehicle, the user of which is protected by a valid International Motor Insurance Card (Green Card) as defined in Statutory Instrument No. 269 of 1961, such claim should be addressed to the Irish Visiting Motorists' Bureau Limited, 5/9 South Frederick Street, Dublin. 2.