

THE TERRITORY OF NAURU

No. 6 of 1967

AN ORDINANCE

To require the Owners and Drivers of Motor Vehicles to insure against Liability in respect of the Death of or Bodily Injury to Persons caused by or arising out of the use of Motor Vehicles and for other purposes connected therewith.

(Assented to: 16 MAR 1967)

BE it ordained by the Legislative Council for the Territory of Nauru, in pursuance of the powers conferred by the Nauru Act 1965, as follows:-

PART I. - PRELIMINARY.

- Short title. 1. This Ordinance may be cited as the Motor Vehicles (Third-Party Insurance) Ordinance 1967.
- Commencement. 2. This Ordinance shall come into operation on a date to be fixed by the Administrator by notice in the Gazette.
- Parts. 3. This Ordinance is divided into Parts, as follows:-
Part I. - Preliminary (Sections 1-4).
Part II. - Licensed Insurers (Sections 5-9).
Part III. - Third-Party Insurance (Sections 10-19).
Part IV. - Duties, Rights and Liabilities of Owners, Drivers and Licensed Insurers (Sections 20-25).
Part V. - Miscellaneous (Sections 26-36).
- Interpretation. 4.-(1.) In this Ordinance, unless the contrary intention appears -
"certificate of insurance" means a certificate of insurance referred to in sub-section (5.) of section ten of this Ordinance;
"driver" has the same meaning as in the Motor Traffic Ordinance 1937-1967;

"insured motor vehicle" means a motor vehicle in relation to which there is in force a third party policy;

"licence" means a licence granted under section five of this Ordinance;

"licensed insurer" means a person to whom a licence is issued under section five of this Ordinance;

"motor vehicle" has the same meaning as in the Motor Traffic Ordinance 1937-1967;

"owner" in relation to a motor vehicle -

(a) means - in the case of a motor vehicle or of a visiting motor vehicle that is registered under the Motor Traffic Ordinance 1937-1967 - the person whose name is specified in the certificate of registration as the owner of the vehicle; and

(b) means - in the case of a motor vehicle or visiting motor vehicle the owner of which has died - the personal representative of the deceased owner whilst he is acting as the personal representative;

"public highway" has the same meaning as in the Motor Traffic Ordinance 1937-1967;

"register" means register under the Motor Traffic Ordinance 1937-1967 and "registered" and "registration" have a corresponding meaning;

"the Court" means the Central Court;

"the Registrar" means the person for the time being holding the office or performing the duties of Registrar of Motor Vehicles;

"third-party policy" means a policy of insurance that complies with the requirements of this Ordinance;

"this Ordinance" includes the Regulations made under this Ordinance;

"trader's plates" and "trailer" have the same respective meanings as in the Motor Traffic Ordinance 1937-1967;

"visiting motor vehicle" has the same meaning as in the Motor Traffic Ordinance 1937-1967.

(2.) Where there are two or more joint owners or part owners of a motor vehicle, each joint owner or part owner shall be deemed to be the owner of the vehicle.

(3.) A reference in this Ordinance to the issuing of a third-party policy includes the issuing of a renewal of that third-party policy.

(4.) A reference in this Ordinance to the registering of a motor vehicle includes the renewing of its registration.

(5.) A reference in this Ordinance to a motor vehicle shall, in a case where a trailer is drawn by a motor vehicle, be read as a reference to the motor vehicle and the trailer.

PART II. - LICENSED INSURERS

Licensed
insurers

5.- (1.) The Administrator in Council may grant a person a licence to be a licensed insurer for the purposes of this Ordinance.

(2.) A licence under this Ordinance -

(a) shall, subject to this Ordinance, remain in force for the period specified in the licence;

(b) shall be in the prescribed form; and

(c) shall be subject to such conditions (if any) as are prescribed.

(3.) Where the Administrator in Council grants a licence under this Ordinance, the Administrator shall cause a notice of the granting of the licence to be published in the Gazette and the licence shall take effect on a date to be specified in the notice.

Cancellation
of
licence.

6.- (1.) Subject to section eight of this Ordinance, a licence granted to a licensed insurer under this Ordinance may be cancelled.

(2.) Where the Administrator in Council intends to cancel a licence granted to a licensed insurer, he shall serve the

licensed insurer with a notice specifying -

- (a) the grounds; and
- (b) the date, being a date not earlier than fourteen days after the giving of the notice,

upon which the licence is cancelled.

Refusal to grant licence.

7. The Administrator in Council may refuse an application to grant a licence under this Ordinance.

Appeal against refusal to grant, or cancellation of, licence.

8.-(1.) Where the Administrator in Council -

- (a) has refused an application for the grant of a licence; or
- (b) has served notice of his intention to cancel a licence,

the person whose application has been refused or the licensed insurer to whom the notice of intention relates, as the case may be, may, within fourteen days after the refusal or cancellation, appeal to the Court.

(2.) Where an appeal is lodged against the cancellation of a licence granted to a licensed insurer, the licence shall be deemed not to be cancelled until the proposed cancellation is confirmed by the Court or the appeal is dismissed.

(3.) The decision of the Court on an appeal against the cancellation of a licence is final.

Withdrawal from insurance business.

9.-(1.) Subject to the next succeeding sub-section, a licensed insurer may, by notice in writing to the Administrator, withdraw from the business of a licensed insurer under this Ordinance.

(2.) Where a licensed insurer withdraws from the business of a licensed insurer under this Ordinance, the withdrawal shall not take effect until a date, being a date not later than three months after the date on which the notice of withdrawal was given, specified by the Administrator by notice in the Gazette.

(3.) Where a licence is cancelled or a notice of withdrawal from the business of a licensed insurer under this Ordinance is issued, the cancellation or withdrawal shall not affect -

- (a) a third-party policy in force at the date upon which the cancellation or notice of withdrawal takes effect; or
- (b) the liability of the licensed insurer under a third-party policy that was incurred before the date upon which the cancellation or notice of withdrawal takes effect.

PART III. - THIRD-PARTY INSURANCE.

Insurance by
owners of motor
vehicles.

- 10.-(1.) The owner of a motor vehicle shall -
- (a) before the registration of the vehicle, enter into a third-party policy with a licensed insurer against any liability that may be incurred by him or by any person who drives the vehicle in respect of the death of or bodily injury to a person where the death or bodily injury is caused by, or arises out of, the use of that vehicle; and
 - (b) during the period of the registration of the vehicle, maintain a third-party policy in respect of that vehicle.

Penalty: Two hundred dollars.

(2.) Subject to the next succeeding sub-section, where a person, other than the owner, is the driver of a motor vehicle that causes the death of or bodily injury to another person, the driver of the vehicle shall be deemed -

- (a) to be the authorized agent of the owner of the vehicle; and
- (b) to be acting within the scope of his agency, for the purposes of the third-party policy issued in respect of that vehicle notwithstanding the fact that he did not have the owner's permission to drive the vehicle.

(3.) Where, by virtue of the last preceding sub-section, the owner of a motor vehicle is liable to pay damages for the death of or bodily injury to a person, the liability of the owner of the vehicle in respect of those damages is limited to the amount to which he is entitled to be indemnified under the third-party policy.

(4.) A third-party policy issued in respect of a motor vehicle shall not be revoked during the period of registration of the vehicle unless the registration of that vehicle is cancelled.

(5.) Where a licensed insurer accepts the appropriate amount of insurance premium in respect of a motor vehicle, he shall forthwith issue to the owner of the motor vehicle a third-party insurance policy and a certificate of the kind referred to in whichever of sub-sections (1.) or (2.) of the next succeeding section is applicable.

(6.) The rates of premiums which may be charged by a licensed insurer in respect of third-party policies shall be subject to approval by the Administrator in Council.

Motor vehicle
not to be
registered,
&c., without
evidence of
insurance.

11.-(1.) The Registrar shall not register a motor vehicle unless there is lodged with him a certificate in accordance with the prescribed form issued by a licensed insurer that a third-party policy expressed to commence either on the date of issue of the certificate or a date not later than the date of commencement of the registration and to terminate on the date of expiration of such registration will be issued by that licensed insurer in relation to the use of the motor vehicle.

(2.) Except as provided by the next succeeding sub-section, the Registrar shall not issue a trader's plate unless there is lodged with him a certificate in accordance with the prescribed form issued by a licensed insurer that a third-party policy expressed to commence not later than the date of commencement of the period for which the trader's plate is issued and to terminate on the date of expiration of that period will be issued by that licensed insurer in relation to the use of any motor vehicle to which the trader's plate is affixed.

(3.) Where a third-party policy in relation to a motor vehicle to which a trader's plate is affixed is expressed to terminate on a specified date and before that date the Registrar issues, in lieu of the trader's plate

and for a period expiring upon that date, another trader's plate, the third-party policy shall enure in relation to the use of any motor vehicle to which the other trader's plate is attached.

Existing policies valid until renewal of registration.

12.--(1.) Where, at the date of commencement of this Ordinance, there is in force in relation to a motor vehicle or a motor vehicle to which a trader's plate is attached a third-party policy (in this section referred to as the "existing policy") that insures with a licensed insurer the owner of the motor vehicle or the trader against some or all of the liabilities against which he is required to insure under this Ordinance, the following provisions shall apply -

(a) the existing policy shall, as regards all liability against which the owner or trader is required to insure under this Ordinance, be deemed for the purposes of this Ordinance to be a third-party policy and the existing policy shall be deemed to have been varied, modified or amended in such manner and to such extent as may be necessary to give effect to this sub-section; and

(b) the provisions of this Ordinance apply in all respects as if the motor vehicle or the motor vehicle to which the trader's plate is attached were an insured motor vehicle and the insurer were a licensed insurer.

(2.) Nothing in the last preceding sub-section shall affect the operation of the existing policy in so far as the existing policy insures the owner or the trader or any other person against any liability other than the liability against which he is required to insure under this Ordinance.

Third-Party policy.

13.--(1.) For the purposes of this Ordinance, a third-party policy -

- (a) shall be issued by a licensed insurer;
- (b) shall insure the owner of the motor vehicle and any other person who at any time drives the vehicle, whether with the authority of the owner or not, jointly and severally against all liability incurred by virtue of death of or bodily injury to a person caused by or arising out of the use of the vehicle in the Territory;
- (c) shall, where the policy is issued in respect of the use of a motor vehicle to which a trader's plate is attached, insure the trader to whom the trader's plate is issued and any other person who at any time drives the vehicle, whether with or without the plate attached and whether with the authority of the trader or not, jointly and severally against all liability incurred by virtue of the death of or bodily injury to a person caused by or arising out of the use of the vehicle in the Territory; and
- (d) shall be in the prescribed form.

(2.) The amount of a licensed insurer's liability under a third-party policy may be limited to an amount specified in the policy, being an amount not less than -

- (a) Eight thousand dollars in respect of the death of or bodily injury to any one person in the case of any one accident; and
- (b) Forty thousand dollars in respect of any one accident or series of accidents arising out of the one event.

(3.) A third-party policy shall not extend to insure the owner or driver of the motor vehicle against -

- (a) a liability to pay compensation under the Workers' Compensation Ordinance 1956 to a worker employed by him; or
- (b) a liability incurred by him under an agreement unless the liability is one that would have

~~arisen in the absence of the agreement.~~

(4.) A third-party policy which complies with the requirements of paragraphs (a), (b) and (c) of sub-section (1.) of this section shall not be invalidated by reason of the fact that it contains any term, condition or warranty not contained in the prescribed form, but such a term, condition or warranty shall be void and of no effect.

Commencement and term of third-party policy.

14.-(1.) A third-party policy issued in respect of a motor vehicle -

(a) shall commence on the date on which it is expressed to commence; and

(b) unless it is sooner cancelled in accordance with this Ordinance, shall continue in force -

(i) where another third-party policy

that is issued by the same or another licensed insurer in respect of that vehicle commences during the period of fifteen days next following the date on which the first-mentioned policy is expressed to terminate until the commencement of the second-mentioned policy; or

(ii) in any other case - until fifteen days after the date on which it is expressed to terminate.

(2.) Where a licensed insurer renews a third-party policy issued in respect of a motor vehicle for a period expressed to terminate upon the date of expiration of the renewal of registration of the vehicle -

(a) the insurance premium shall be payable as if the renewal of the policy were expressed to commence from the date of commencement of the registration whether the renewal of the policy is so expressed or not; and

(b) the licensed insurer shall not be liable under the renewed policy for any liability caused by the death of or bodily injury to a person caused by

arising out of the use of the vehicle during the period (if any) between the date from which the renewed policy is expressed to commence and the date of payment of the amount of insurance premium in respect of the renewal of that policy.

(3.) Where -

(a) a licensed insurer is exempted under paragraph (b) of the last preceding sub-section from liability for the death of or bodily injury to a person caused by or arising out of the use of a motor vehicle; and

(b) a third-party policy is not in force in relation to the vehicle whether by reason of the operation of that sub-section or not,

the vehicle shall not be deemed to be an insured motor vehicle for the purposes of this Ordinance.

(4.) Notwithstanding any law in force in the Territory, a licensed insurer issuing a third-party policy shall, in respect of liability arising out of the death of or bodily injury to a person that the policy purports to cover in the case of the owner of the insured motor vehicle or any other person, be liable to indemnify that owner or person.

Cancellation
of third-party
policy.

15.--(1.) A third-party policy may be cancelled by the licensed insurer who issued the policy -

(a) if another third-party policy is in force in relation to the same motor vehicle; or

(b) if another third-party policy is in force in relation to a motor vehicle to which the same trader's plate is attached,

and the last-mentioned policy is expressed to terminate not earlier than the date upon which the first-mentioned policy was expressed to terminate.

(2.) Where -

(a) the registration of an insured motor vehicle is cancelled by the Registrar; or

(b) a trader's plate is returned by the trader to

Registrar before the date on which the third-party policy in relation to the use of that insured motor vehicle, or the use of any vehicle to which the plate is attached, is expressed to terminate,

the licensed insurer who issued the policy shall, upon the application of the owner of the vehicle or the trader, as the case may be, but subject to such conditions (if any) as are prescribed, cancel the policy.

(3.) Where the Registrar refuses to renew or cancels the registration of an insured motor vehicle that is not in a roadworthy condition or that does not comply with the provisions of the Motor Traffic Ordinance 1937-1967, the Registrar shall forthwith give to the licensed insurer who issued the third-party policy relating to the use of that vehicle notice in writing of the refusal or cancellation.

(4.) In any case not provided for by sub-section (1.) or (2.) of this section, a third-party policy may be cancelled by the licensed insurer serving -

(a) on the Registrar; and

(b) except where an owner of the motor vehicle or a trader has applied to the licensed insurer for cancellation of the policy, on the owner of the vehicle or the trader,

a notice specifying a date, not being a date earlier than thirty days after service of the notice, upon which he proposes to cancel the policy.

(5.) Where an appeal is made to the Administrator under the next succeeding section, the third-party policy shall not be cancelled by the licensed insurer until the proposed cancellation is approved of by the Administrator or the person appealing against the cancellation fails to comply with a direction of the Administrator.

(6.) Where a licensed insurer cancels a third-party policy under this section, he shall forthwith notify the Registrar of that fact.

(7.) During the currency of the registration of a motor vehicle or the grant of a trader's plate, the licensed insurer shall not, whether upon the application of the owner of the vehicle or of the trader, cancel the third-party policy issued by the licensed insurer in respect of that vehicle or that plate except -

- (a) in accordance with the requirements of this section; and
- (b) in accordance with such other conditions (if any) as are prescribed.

(8.) The cancellation of a third-party policy shall not exempt the licensed insurer from any liability, whether under the policy or under this Ordinance, that was incurred before the cancellation of the policy.

Appeal against refusal to issue, or against cancellation of, policy.

16.--(1.) Where a licensed insurer refuses to issue a third-party policy to a person or gives notice of intention to cancel a third-party policy issued to a person, the person aggrieved by the refusal or the intended cancellation, as the case may be, may appeal in writing to the Administrator.

(2.) Where an appeal is lodged under the last preceding sub-section, the Administrator may make such order as he thinks fit having regard to the merits of the case and to the public welfare.

(3.) Without prejudice to the generality of the last preceding sub-section, the Administrator may order that -

- (a) in a case where a licensed insurer has refused to issue a third-party policy - a policy be issued to the person aggrieved; or
- (b) in a case where the licensed insurer has served notice of intention to cancel a third-party policy-the notice be withdrawn,

on payment to the licensed insurer of such premium or such additional premium, as the case may be, as is specified in the order.

Trader's policy to apply

17. Where the death of or bodily injury to a person is caused by or arises out of the use of an insured motor vehicle whilst a trader's plate is attached to that vehicle, the third-party policy in relation to a motor vehicle to which that trader's plate is attached is, to the exclusion of any other third-party policy relating to the insured motor vehicle, the policy under which that person is insured.

Driving uninsured vehicle upon a public highway.

18.--(1.) Subject to this section, a person shall not -

(a) use; or

(b) cause, permit or suffer any other person to use, a motor vehicle upon a public highway unless there is in force in respect of that vehicle a third-party policy.

Penalty: Two hundred dollars or imprisonment for twelve months, or both.

(2.) In a prosecution for an offence against the last preceding sub-section, an averment that there was not in force in respect of the motor vehicle a third-party policy is evidence of the matter averred.

(3.) Where, at the date of commencement of this Ordinance a motor vehicle is registered, the provisions of sub-section (1.) of this section do not apply in respect to the use of that vehicle until -

(a) the expiration of its registration; or

(b) the expiration of thirty days after the date of commencement of this Ordinance,

whichever first occurs.

(4.) In any proceedings for an offence against sub-section (1.) of this section, it is a defence if the defendant proves to the satisfaction of the court that at the time the motor vehicle was used upon the public highway -

(a) he had reasonable grounds for believing; and

(b) he in fact believed, that the vehicle was insured.

Change of owner-
ship of motor
vehicle.

19.--(1.) Subject to the next succeeding sub-section, a third-party policy shall enure in favour of -
(a) the owner of the motor vehicle for the time being; and

(b) the driver of the vehicle,
notwithstanding a change in ownership of that vehicle.

(2.) A third-party policy issued in respect of a motor vehicle shall cease to have effect when another third-party policy in relation to that vehicle comes into force.

(3.) Where the owner of an insured motor vehicle sells the vehicle, he shall give notice in writing of the sale to the licensed insurer of that vehicle as soon as practicable after the sale.

Penalty: One hundred dollars.

PART IV. - DUTIES, RIGHTS AND LIABILITIES OF OWNERS, DRIVERS AND LICENSED INSURERS.

Duties of
owner and
driver.

20.--(1.) Where the death of or bodily injury to a person is caused by or arises out of the use of a motor vehicle in respect of which a third-party policy is in force, the owner of the vehicle shall -

- (a) where he was the driver of the vehicle - give notice in writing to the licensed insurer as soon as practicable after the accident; or
- (b) in any other case - give notice in writing to the licensed insurer as soon as practicable after he became aware of the accident,

of the date, nature and circumstances of the accident.

(2.) Where the death of or bodily injury to a person is caused by or arises out of the use of a motor vehicle in respect of which a third-party policy is in force, the driver of the vehicle shall, as soon as practicable after the accident, give notice in writing-

- (a) to the owner of the vehicle; or
- (b) to the licensed insurer of the vehicle,

of the date, nature and circumstances of the accident.

(3.) Where the owner and the driver of a motor vehicle are required to give information to a licensed insurer under this section, the owner and the driver shall give to the licensed insurer such information, in addition to the information referred to in sub-sections (1.) and (2.) of this section, as the licensed insurer may reasonably require whether an action or claim has been made in respect of the death or bodily injury or not.

Penalty: One hundred dollars.

(4.) Where the death of or bodily injury to a person is caused by or arises out of the use of a motor vehicle in respect of which a third-party policy is in force, neither the owner nor the driver of the vehicle shall -

(a) make any offer, promise, payment or settlement;

(b) make any admission of liability in respect of the death or bodily injury; or

(c) enter upon or incur any expense in respect of any liability against which the owner is insured under the policy,

without the consent in writing of the licensed insurer.

(5.) Where a notice of intention to make a claim is given or a claim is made in respect of the death of or bodily injury to a person that is caused by or arises out of the use of a motor vehicle in respect of which a third-party policy is in force, the owner of the vehicle or, where he was not the driver of the vehicle, the driver of the vehicle shall give notice in writing to the licensed insurer as soon as practicable of the intention to make the claim or of the claim, as the case may be.

(6.) Where the owner or driver of a motor vehicle is required to give notice in writing under this section, it shall be a sufficient compliance with this section if the notice is given on behalf of the owner, or driver, as the case may be.

(7.) A notice in writing given by an owner or driver in pursuance of this section shall not -

(a) be subject to discovery; and

(b) be admissible in evidence in any proceedings, under a law in force in the Territory except in a prosecution for an offence against this section.

(8.) The requirements of this section do not apply where -

(a) the person suffering the death or bodily injury was the owner of the motor vehicle; and

(b) the motor vehicle was being driven by the owner at the time of the accident.

Liability of
licensed
insurer.

21.--(1.) Where the death of or bodily injury to a person has been caused by, or has arisen out-of the use of, a motor vehicle insured under this Ordinance but the owner of the vehicle -

(a) is dead; or

(b) cannot, after reasonable search and inquiry, be found,

a person who could have obtained a judgment against the owner in respect of the death or bodily injury so caused may recover in an action against the licensed insurer the amount of the judgment that he could have otherwise recovered against the owner.

(2.) A person shall not be entitled to recover moneys from a licensed insurer under the last preceding sub-section unless he gives the insurer a notice in writing containing a short statement of the grounds of the claim within one month or within such extended period as is allowed under the next succeeding sub-section after he became aware that the owner of the vehicle is dead or cannot be found, as the case may be.

(3.) Where sufficient cause is shown to the court in which it is proposed to institute proceedings, that court may extend the period within which a notice under the last preceding sub-section may be given.

Defences not
available to
licensed
insurer.

22. Where an action is brought against a licensed insurer in respect of a third-party policy issued under this Ordinance, the insurer shall not be entitled to plead that he is not liable under the policy be reason of the fact that -

(a) the policy was obtained by a false statement, misrepresentation or non-disclosure of a material fact, whether fraudulently or not; or

- (b) the owner of the motor vehicle has committed a breach of, or failed to comply with, a term, condition or warranty of the policy, or a provision of this Ordinance.

Additional rights of licensed insurer as against the owner.

23.--(1.) Subject to the next succeeding sub-section, a licensed insurer may, in addition to any other right or remedy he may have, recover from the owner of a motor vehicle who is liable for the death of or bodily injury to a person so much of -

- (a) any judgment entered or obtained against the licensed insurer; or
- (b) any sums which the licensed insurer has paid in payment, settlement or compromise of the claim of or the judgment against the owner and driver jointly or either of them severally or the judgment entered or obtained against the licensed insurer; and
- (c) the costs of and expenses reasonably incurred by the licensed insurer,

as the licensed insurer has paid under or in consequence of any third-party policy where there has been -

- (d) a false statement or misrepresentation or non-disclosure in obtaining the third-party policy; or
- (e) a breach by the owner of any term, condition or warranty of the third-party policy or any provision of this Ordinance or a failure by the owner to comply with any such term, condition, warranty or provision.

(2.) The licensed insurer shall not be entitled to recover any moneys under the last preceding sub-section unless the court in which the proceedings for the recovery of such moneys are taken is satisfied -

- (a) where there has been a false statement or misrepresentation or non-disclosure in obtaining the third-party policy - that the false statement, misrepresentation or non-disclosure, whether fraudulent or otherwise, was in relation to some fact or thing of such a nature as to influence a prudent insurer in determining whether or not to accept a proposal for insurance; or
- (b) where there has been a breach of or failure to comply with any term, condition, warranty or provision referred to in sub-paragraph (ii) of paragraph (c) of the last preceding subsection - that the breach or failure was such that it contributed in a material degree to the circumstances in which the licensed insurer agreed to pay or otherwise became liable to pay the moneys sought to be recovered.

Additional rights
of licensed in-
surer as against
the driver.

24.-(1.) Where the driver of a motor vehicle has committed a breach of or has failed to comply with a provision of this Ordinance, the licensed insurer may, in addition to any other right or remedy he may have, recover from the driver of the vehicle -

- (a) the amount of any judgment obtained against the licensed insurer; or
- (b) the amount of any sums of money that the licensed insurer has paid under a judgment, claim or settlement against the owner and the driver, or either of them, or against the licensed insurer,

together with the costs and expenses that the licensed insurer has paid under or by virtue of a third-party policy.

(2.) A licensed insurer shall not be entitled to recover, under this section, from both the driver and the owner of the motor vehicle in respect of the same act or omission or in respect of the same breach of or failure to comply with a provision of this Ordinance.

Licensed insurer may take over proceedings.

25.-(1.) A licensed insurer who issues a third-party policy to the owner of a motor vehicle -

(a) may undertake the settlement of a claim against any person in respect of a liability against which the licensed insurer is insured under the policy;

(b) may take over during such period as the licensed insurer thinks fit the conduct on behalf of that person of proceedings taken to enforce a claim or for the settlement of any question arising out of the claim; and

(c) may, subject to the next succeeding sub-section, defend or conduct those proceedings in the name and on behalf of that person.

(2.) Where a licensed insurer defends or conducts proceedings in the name and on behalf of a person, the licensed insurer shall, subject to this Ordinance, indemnify that person against all costs and expenses arising out of those proceedings during the time the licensed insurer retains his defence or conduct.

(3.) A person to whom sub-section (1.) of this section applies shall sign and execute all deeds or documents that are required by the licensed insurer for the defence or institution of any proceedings under this section.

(4.) Where a person refuses or neglects to sign or execute a deed or document required by the licensed insurer for the defence or institution of any proceedings, the court in which the proceedings have been instituted or in which it is proposed to institute the proceedings may order that the deed or document be executed or signed

by the licensed insurer on behalf of that person.

(5.) Nothing said or done by or on behalf of a licensed insurer in connexion with the settlement of any claim or the defence or conduct of any proceedings under this section shall -

- (a) be deemed to be an admission of liability; or
- (b) prejudice in any way any other claim, action or proceeding arising out of the same accident.

PART V. - MISCELLANEOUS.

Soliciting
instructions,
etc.

26.--(1.) Subject to the next succeeding sub-section, a person shall not, directly or indirectly, for personal gain -

- (a) solicit instructions to act on behalf of any other person in respect of the making or commencement of a claim or action for damages for the death of or bodily injury to a person caused by or arising out of the use of a motor vehicle or in respect of the negotiation or settlement of the claim or action;
- (b) institute or cause to be instituted on behalf of any other person a claim or action for damages referred to in the last preceding paragraph; or
- (c) negotiate or settle any claim where a claim is made.

Penalty: One hundred dollars.

(2.) Paragraph (b) of the last preceding sub-section does not apply to a barrister or solicitor properly acting in the course of his profession.

(3.) An agreement made in contravention of the provisions of sub-section (1.) of this section is void and any moneys paid under or by virtue of the agreement are recoverable by action brought in a court of competent jurisdiction by the person who has paid them.

Conviction not to affect civil remedy.

27. The -

- (a) institution of proceedings against; or
- (b) conviction of a person for,

an offence against this Ordinance shall not affect the rights of a person who is aggrieved by the act or omission in respect of which the proceedings or conviction, as the case may be, relates.

Avoidance of contracts.

28.--(1.) A contract for the conveyance of a passenger in a public motor vehicle is void in so far as it -

- (a) purports to negative or restrict the liability of a person in respect of a claim that may be made against him arising out of the death of or bodily injury to a passenger while being carried in, entering or alighting from the vehicle; or
- (b) purports to impose a condition with respect to the enforcement of any such liability,

(2.) In this section, "public motor vehicle" means a motor vehicle used for carrying passengers for hire or reward.

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

29.--(1.) Where a person making a claim under this Ordinance so requires, the person against whom the claim is made in respect of any liability required to be covered under this Ordinance shall -

- (a) state whether or not he was insured in respect of that liability by a third-party policy; and
- (b) give such particulars concerning the policy as are specified in the certificate of insurance issued in respect of that policy.

(2.) A person who -

- (a) without reasonable excuse, fails to comply with the provisions of the last preceding sub-section; or

(b) makes a false statement under that sub-section, is guilty of an offence.

Penalty: Two hundred dollars.

Cancellation,
loss or des-
truction of
third-party
policy.

30.--(1.) Where a third-party policy issued to the owner of a motor vehicle is cancelled -

(a) by mutual consent; or

(b) by virtue of a provision contained in the policy, the owner of the vehicle shall, within seven days after the cancellation takes effect, surrender the policy to the licensed insurer, or, if the policy cannot be surrendered because it has been lost or destroyed, a declaration by the owner setting out such facts as are necessary to show that it has been lost or destroyed.

Penalty: Two hundred dollars.

Bankruptcy,
&c., of
insured owner.

31.--(1.) Subject to sub-section (3.) of this section, where the owner of a motor vehicle to whom a third-party policy is issued under sub-section (15) of section ten of this Ordinance -

(a) becomes bankrupt;

(b) enters into a composition or arrangement with his creditors; or

(c) dies and his estate is being administered in pursuance of sub-section (1.) of section sixty of the Probate and Administration Ordinance 1913-1915 of the Territory of Papua in its application to the Territory,

the happening in relation to him or his estate of such an event shall not, subject to any other law in force in the Territory, affect his liability or the liability of his estate, as the case may be, under the third-party policy.

(2.) Subject to the next succeeding sub-section, where the owner of a motor vehicle to whom a third-party policy is issued under sub-section (5) of section ten of this Ordinance is a body corporate and -

(a) a resolution is passed for its voluntary winding up;

(b) a winding up order is made against it by a court of competent jurisdiction;

- (c) a manager or receiver of its assets or business is appointed; or
- (d) property that has been secured by it to debenture holders by means of a floating charge is taken into possession by or on behalf of those debenture holders,

the happening of such an event shall not, subject to any other law in force in the Territory, affect the liability of the body corporate under a third-party policy.

(3.) Nothing in this section affects a right against the licensed insurer conferred by this Ordinance on the person to whom the liability was incurred.

Court to apportion &c., damages.

32. Where a judgment is obtained in a court for payment of damages in respect of the death of or bodily injury to a person caused by or arising out of the use of an insured motor vehicle, the court may -

- (a) in a case where there is more than one person claiming damages - determine the order of priority in which claims are to be paid out of the damages awarded; and
- (b) in a case where there is more than one person claiming damages and the total amount of the damages awarded to those persons exceeds the amount of the licensed insurer's liability under the third-party policy - determine the manner of apportioning those damages between the several persons claiming.

False statement.

33. A person who wilfully makes a false or misleading statement with regard to any material fact or thing or fails to disclose any material fact or thing in connexion with a proposal for a third-party policy under this Ordinance or a claim under a third-party policy under this Ordinance is guilty of an offence.

Penalty: Two hundred dollars.

Recovery of money from licensed insurers.

34.--(1.) Where judgment has been obtained in a court in respect of the death of or bodily injury to any person caused by or arising out of the use of an insured motor vehicle, and the third-party policy insures the judgment debtor against liability in respect of that death or bodily injury and the judgment is not satisfied in full within a period of thirty days after judgment has been entered, the court shall, upon the application of the judgment creditor and on being satisfied that notice of intention to make the application has been served on the licensed insurer, direct that the judgment be entered against the licensed insurer.

(2.) Where execution on a judgment is stayed pending appeal, the time during which execution is so stayed shall be excluded in calculating the period of thirty days referred to in the last preceding sub-section.

(3.) Where a court gives a direction under this section, the judgment shall be entered and may thereupon be enforced as a judgment against the licensed insurer to the extent to which it had not already been satisfied at the time it was so entered.

Licensed insurer to keep office in Nauru.

35.--(1.) A licensed insurer shall maintain an office or agency in Nauru.

(2.) The office or agency shall be kept open to the public for not less than three hours between the hours of nine o'clock in the morning and five o'clock in the afternoon on each day other than a Saturday, a Sunday or a public holiday.

(3.) A notice, claim or other document may be given to, or served on, a licensed insurer by delivering it to the office or agency of the licensed insurer at any time when it is open to the public.

Regulations.

36. The Administrator in Council may make regulations, not inconsistent with this Ordinance, prescribing all matters that are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance and, in particular, prescribing penalties not exceeding a fine of two hundred dollars for offences against the regulations.