

Motor Vehicles (Third-Party Risks and Compensation) (Amendment) Bill

Bill No. 18/2013.

Read the first time on 21st October 2013.

A BILL

intituled

An Act to amend the Motor Vehicles (Third-Party Risks and Compensation) Act (Chapter 189 of the 2000 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Motor Vehicles (Third-Party Risks and Compensation) (Amendment) Act 2013 and shall come into operation on such date as the Minister charged with the responsibility for the Public Trustee’s department may, by notification in the *Gazette*, appoint.

Amendment of section 2

2. Section 2 of the Motor Vehicles (Third-Party Risks and Compensation) Act (referred to in this Act as the principal Act) is amended —

(a) by inserting, immediately before the definition of “Deputy Commissioner of Police”, the following definition:

““appropriate Minister”, in relation to the exercise of powers under sections 20 and 24, means —

(a) the Minister charged with the responsibility for the Public Trustee’s department insofar as those powers are exercised in connection with the purposes of sections 5A, 6, 9(1), (2), (2A), (2B), (2C), (3), (8), (8A) and (9), 18, 18A and 19; and

(b) the Minister charged with the responsibility for land transport insofar as those powers are exercised in connection with the purposes of any other provision of this Act;”;

(b) by inserting, immediately after the definition of “Deputy Commissioner of Police”, the following definitions:

““detention barrack” means a building or any part thereof which is set apart by —

(a) the Armed Forces Council under the Singapore Armed Forces Act (Cap. 295);

(b) the Commissioner of Civil Defence under the Civil Defence Act (Cap. 42);

(c) the Commissioner of Police under the Police Force Act (Cap. 235); or

(d) the Commissioner of Police under the Vigilante Corps Act (Cap. 343), 5

for the purpose of persons serving sentences of detention under the respective Acts;

“Minister” means the Minister charged with the responsibility for land transport;” 10

(c) by inserting, immediately after the definition of “motor vehicle”, the following definition:

““place of detention” means any of the following places:

(a) a detention barrack; 15

(b) a disciplinary barrack within the meaning of section 2(1) of the Singapore Armed Forces Act;

(c) a military prison within the meaning of section 2(1) of the Singapore Armed Forces Act; 20

(d) a place or premises declared under section 18 of the Intoxicating Substances Act (Cap. 146A) to be an approved centre for the treatment and rehabilitation of persons who use or inhale intoxicating substances for the purpose of inducing or causing a state of intoxication; 25

(e) a prison within the meaning of section 2 of the Prisons Act (Cap. 247); 30

(f) a hospital or part thereof designated under section 3 of the Mental Health (Care and

Treatment) Act (Cap. 178A) to be a psychiatric institution;

(g) a welfare home within the meaning of section 2(1) of the Destitute Persons Act (Cap. 78);

(h) any other place as may be prescribed by the Minister charged with the responsibility for the Public Trustee's department;";

(d) by deleting the definition of "relevant amount" and substituting the following definition:

" "relevant amount" means \$5,000 or, where another amount has been prescribed under section 20 by the appropriate Minister for the purposes of sections 6(1), 9(1)(a) and (b) and 18(4), the prescribed amount;"; and

(e) by inserting, immediately after the definition of "road", the following definition:

" "specified person" means —

(a) for the purposes of section 6, a person who is entitled to the benefit of a payment, pursuant to a settlement agreement, referred to in section 6(1) and who —

(i) at the time the settlement agreement is made, is not represented by a public officer or an advocate and solicitor;

(ii) at the time of the making of the payment under section 6(2), is isolated in a hospital or other place under section 15(1) or (2) of the Infectious Diseases Act (Cap. 137); or

- (iii) at the time of the making of the payment under section 6(2), is under legal custody in a place of detention; and
- (b) for the purposes of section 9, a person who is entitled to the benefit of a judgment referred to in section 9(1)(b) and who, at the time the judgment is given —
 - (i) is below the age of 21 years;
 - (ii) lacks capacity within the meaning of section 4 of the Mental Capacity Act (Cap. 177A);
 - (iii) is not represented by a public officer or an advocate and solicitor;
 - (iv) is isolated in a hospital or other place under section 15(1) or (2) of the Infectious Diseases Act; or
 - (v) is under legal custody in a place of detention;”.

Amendment of section 4

3. Section 4 of the principal Act is amended by deleting the words “approved insurer” wherever they appear in subsections (5) and (6) and substituting in each case the word “insurer”.

New section 5A

4. The principal Act is amended by inserting, immediately after section 5, the following section:

“Composite settlement agreements

5A. In every case where 2 or more persons are entitled to the benefit of any payment of compensation made by an insurer or the owner of a motor vehicle under section 6 pursuant to a settlement agreement, the insurer or the owner of the motor vehicle, as the case may be, shall ensure that the settlement

agreement states the amount of compensation and costs (where applicable) that each of the persons are entitled to.”.

Repeal and re-enactment of section 6

5 **5.** Section 6 of the principal Act is repealed and the following section substituted therefor:

“Payment of compensation under settlement agreements

6.—(1) This section applies to every payment (excluding any sum payable in respect of costs and interest) exceeding the relevant amount that —

10 (a) is made by way of compensation by an insurer or the owner of a motor vehicle pursuant to a settlement agreement in respect of the death or bodily injury to a person arising out of the use of a motor vehicle on a road in Singapore or in any territory specified in the Schedule;
15 and

(b) is not a liquidated sum specified in a policy of insurance.

(2) Subject to subsections (3) and (4), the insurer or the owner of a motor vehicle shall make the payment, together with any sum payable in respect of costs and interest under the settlement
20 agreement, directly to —

(a) the Public Trustee as trustee for the person entitled to the benefit of the payment if the person is a specified person;
or

25 (b) in any other case, the person entitled to the benefit of the payment in accordance with the law for the time being in force and with any rules made under this Act.

(3) Subject to subsection (5), no payment under subsection (2) shall be made until —

30 (a) in the case where the person entitled to the benefit of the payment is a person referred to in paragraph (a)(i) of the definition of “specified person” in section 2, the insurer or the owner of the motor vehicle obtains —

(i) the approval of the Public Trustee of the adequacy of the payment to be made; or

(ii) where the Public Trustee considers it to be manifestly inadequate, the approval of the court of its adequacy; and

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(b) the costs payable to any public officer or any advocate and solicitor who acts or has acted in respect of the claim for compensation on behalf of the person entitled to the benefit of the payment have been determined in accordance with section 18(3).

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(4) Before making any payment under subsection (2), the insurer or the owner of a motor vehicle shall deduct from it the costs referred to in subsection (3)(b) and pay the costs directly to the public officer or the advocate and solicitor entitled to it.

(5) Nothing in subsection (2)(a), (3) or (4) shall prevent an insurer or the owner of a motor vehicle from making any interim payment of compensation of any amount to any person entitled to the benefit thereof.

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(6) Every application to the Public Trustee for his approval under subsection (3)(a)(i) and every payment to the Public Trustee under subsection (2)(a) shall be made in such manner, and together with such documents and information, as the Public Trustee may require.

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(7) Subject to subsection (8), the Public Trustee shall, after deducting any fee payable to him for acting as trustee, distribute the moneys received by him under subsection (2)(a) directly to the persons entitled thereto in accordance with the law for the time being in force and with any rules made under this Act.

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(8) The Public Trustee may, where he receives moneys under subsection (2)(a) for a specified person who is below the age of 21 years, hold the moneys on trust for that person until that person attains the age of 21 years.”.

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Amendment of section 9

6. Section 9 of the principal Act is amended —

(a) by deleting subsections (1) and (2) and substituting the following subsections:

5 “(1) Subject to this section, if after a certificate of insurance has been issued under section 4(9) to the person by whom a policy has been effected, judgment in respect of any liability required to be covered by a policy under section 4(1)(b) (being a liability covered by the terms of the policy) is obtained against any person
10 insured by the policy, then, notwithstanding that the insurer may be entitled to avoid or cancel or may have avoided or cancelled the policy, the following shall apply to the insurer:

15 (a) where the sum payable (excluding any amount payable in respect of costs and interest by virtue of any written law relating to interest on judgments) under the judgment to any person entitled to the benefit of the judgment in respect
20 of the liability does not exceed the relevant amount, the insurer may pay that sum, together with any amount payable in respect of costs and interest on the sum by virtue of any written law relating to interest on judgments, to the
25 person; and

(b) where the sum payable (excluding any amount payable in respect of costs and interest by virtue of any written law relating to interest on judgments) under the judgment to any person
30 entitled to the benefit of the judgment in respect of the liability exceeds the relevant amount, the insurer shall —

(i) pay that sum, together with any amount payable in respect of costs and interest on the sum by virtue of any written law relating to interest on judgments, directly
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to the Public Trustee as trustee for the person if the person is a specified person and the judgment requires the sum to be paid to the Public Trustee as trustee for the person; or

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- (ii) in any other case, pay that sum, together with any amount payable in respect of costs and interest on the sum by virtue of any written law relating to interest on judgments, directly to the person in accordance with the judgment and with any rules made under this Act.

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(2) Notwithstanding subsection (1)(b)(i) providing for payment to the Public Trustee, the right of action created by the judgment referred to in that subsection shall vest in the person or persons entitled to the benefit of the judgment.

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(2A) Subject to subsection (2C), no payment shall be made under subsection (1)(b) until the costs payable to any public officer or any advocate and solicitor who acts or has acted in respect of the claim or action (relating to the judgment) on behalf of the person entitled to the benefit of the judgment have been determined in accordance with section 18(3).

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(2B) Before making any payment under subsection (1)(b), the insurer shall deduct from it the costs referred to in subsection (2A) and pay the costs directly to the public officer or the advocate and solicitor entitled to it.

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(2C) Nothing in subsection (1)(b)(i), (2A) or (2B) shall prevent the insurer from making any interim payment of compensation of any amount to any person entitled to the benefit thereof.”;

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- (b) by deleting the words “subsections (1) and (2)” in subsection (3) and substituting the words “subsections (1) and (2B)”;

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(c) by deleting the words “subsections (1), (2) and (3)” in subsection (4) and substituting the words “subsections (1), (2B) and (3)”;

(d) by deleting subsections (8) and (9) and substituting the following subsections:

“(8) Every judgment referred to in subsection (1)(b) —

(a) shall state the amount payable to each person entitled to the benefit of the judgment; and

(b) shall require the costs referred to in subsection (2A) to be paid directly to the public officer or the advocate and solicitor entitled to it.

(8A) Every payment to the Public Trustee under subsection (1)(b)(i) shall be made in such manner, and together with such documents and information, as the Public Trustee may require.

(9) The Public Trustee shall, after deducting any fee payable to him for acting as trustee, distribute the moneys received by him under a judgment in accordance with subsection (1)(b)(i) directly to the persons entitled in accordance with the judgment and with any rules made under this Act.”; and

(e) by inserting, immediately before the definition of “material” in subsection (10), the following definition:

““judgment” includes an approval of the court obtained under Order 76, Rule 10 or 11 of the Rules of Court (Cap. 322, R 5);”.

Amendment of section 18

7. Section 18 of the principal Act is amended —

(a) by inserting, immediately after subsection (3), the following subsection:

“(3A) For the purpose of subsection (3)(a), an application to the Public Trustee by a public officer or

an advocate and solicitor for an agreement on costs shall be made in such manner, and together with such documents and information, as the Public Trustee may require.”;

(b) by inserting, immediately after the word “sum” in subsection (4), the words “(excluding any amount payable in respect of costs and interest)”; and 5

(c) by deleting subsection (5) and substituting the following subsection:

“(5) For the purposes of subsection (3)(c), “relevant date” means — 10

(a) in relation to a settlement agreement referred to in section 6(1) —

(i) in the case where the quantum of the compensation payable under the settlement agreement requires the approval of the Public Trustee or the court under section 6(3)(a), the date of such approval; and 15

(ii) in any other case, the date of the settlement agreement; and 20

(b) in relation to a judgment referred to in section 9(1), the date the judgment is given.”.

New section 18A

8. The principal Act is amended by inserting, immediately after section 18, the following section: 25

“Power of Public Trustee to obtain information

18A.—(1) The Public Trustee may by notice in writing require a person to furnish, within such period and in such manner specified in the notice, any document or information that the Public Trustee may reasonably require for the discharge of his duties or functions, or the exercise of his powers, under this Act. 30

(2) The Public Trustee shall be entitled without payment to keep any copy of or extract from a document furnished under subsection (1).

(3) Any person who —

5 (a) without reasonable excuse, fails to comply with any requirement under subsection (1); or

 (b) in purported compliance with any requirement under subsection (1), knowingly or recklessly furnishes to the Public Trustee any document or information that is false
10 or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$500 and, in the case of a second or subsequent conviction, to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 6 months.”.

15 **Amendment of section 20**

9. Section 20 of the principal Act is amended —

(a) by deleting the words “The Minister” and substituting the words “The appropriate Minister”; and

20 (b) by deleting the words “9(2)(a) and (8)” and substituting the words “9(1)(a) and (b)”.

Amendment of section 24

10. Section 24(1) of the principal Act is amended —

(a) by deleting the words “The Minister” and substituting the words “The appropriate Minister”; and

25 (b) by inserting, immediately after paragraph (b), the following paragraph:

 “(ba) as to the fees to be paid to the Public Trustee for anything to be done under this Act;”.

Amendment of Schedule

11. The Schedule to the principal Act is amended by deleting the Schedule reference and substituting the following Schedule reference:

“Sections 3(1)(b) and (9), 4(1)(b), (2)(b) and (5) and 6(1)(a)”.

Saving and transitional provisions

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12.—(1) The principal Act in force immediately before the appointed day shall continue to apply to the following as if this Act had not been enacted:

(a) a payment made to the Public Trustee as trustee for the person entitled to the benefit of the payment by an insurer or the owner of a motor vehicle (in respect of the death or bodily injury to any person arising out of the use of a motor vehicle on a road in Singapore or in any territory specified in the Schedule to the principal Act in force immediately before the appointed day) pursuant to a settlement agreement made before the appointed day; and

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(b) a judgment of the court made before the appointed day which is referred to in section 9(1) of the principal Act in force immediately before the appointed day.

(2) For a period of 2 years after the appointed day, the Minister charged with the responsibility for the Public Trustee’s department may, by rules, prescribe such provisions of a saving or transitional nature consequent on the enactment of any provision of this Act as he may consider necessary or expedient.

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(3) In this section, “appointed day” means the date of commencement of this Act.

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EXPLANATORY STATEMENT

This Bill seeks to amend the Motor Vehicles (Third-Party Risks and Compensation) Act (Cap. 189) for the following main purposes:

- (a) to modify the functions and duties of the Public Trustee under the Act;
- (b) to provide for the direct payment of compensation in respect of personal injury or death arising from a motor accident to the person entitled to the benefit of the compensation in certain cases;
- (c) to empower the Public Trustee to obtain information for the purposes of discharging his functions under the Act; and
- (d) to place certain provisions of the Act under the responsibility of the Minister charged with the responsibility for the Public Trustee's department instead of the Minister charged with the responsibility for land transport.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 —

- (a) to define the terms “appropriate Minister” and “Minister” to divide the responsibility for the Act between the Minister charged with the responsibility for the Public Trustee's department and the Minister charged with the responsibility for land transport;
- (b) to define the terms “detention barrack” and “place of detention”, which are used in the new definition of “specified person”;
- (c) to make consequential amendments to the definition of “relevant amount” arising from the new section 6, the amendments to section 9 and the new definition of the term “appropriate Minister”; and
- (d) to define the term “specified person”, which is used in the new section 6 and the amended section 9.

Clause 3 amends section 4 to replace the term “approved insurer” wherever it appears in subsections (5) and (6) with the term “insurer” since the section no longer requires motor insurance policies to be issued by insurers approved by the Minister.

Clause 4 inserts a new section 5A to provide that, where pursuant to a settlement agreement 2 or more persons are to be compensated by an insurer or the owner of a motor vehicle for any personal injury or death arising from a motor accident, the insurer or the owner of the motor vehicle, as the case may be, must ensure that the settlement agreement states the amount of compensation and costs (where applicable) that each of the persons are entitled to.

Clause 5 repeals and re-enacts section 6 (which concerns motor accident compensation under a settlement agreement made by an insurer or the owner of the motor vehicle for personal injury or death) mainly to modify the functions and duties of the Public Trustee under the section, and to clarify how the relevant amount referred to in the section is calculated.

Section 6 only applies to motor accident compensations which exceed \$5,000 (the relevant amount). Clause 5 clarifies that any costs and interest payable in respect of the compensation will not be taken into account when calculating the relevant amount.

Currently, all motor accident compensations referred to in section 6 must be paid to the Public Trustee. Under the new section 6, a compensation is required to be paid to the Public Trustee only if the person entitled to it (the claimant) is a specified person (as defined in clause 2). In all other cases, the compensation must be paid directly to the claimant. The new section also requires the insurer or the owner of the motor vehicle to pay to the claimant's lawyer the solicitor and client costs due to him, before paying the balance of the compensation to the Public Trustee or the claimant.

Currently, the Public Trustee assesses the adequacy of all compensations received under section 6. Under the new section 6, the Public Trustee will only assess the adequacy of a compensation in cases where the claimant is not represented by a lawyer at the time the settlement agreement for the compensation is made. In such cases, the insurer or the owner of the motor vehicle must obtain the approval of the Public Trustee or the court (if the Public Trustee considers the compensation to be manifestly inadequate) of the compensation before paying the compensation to the Public Trustee.

Clause 5 also clarifies that the Public Trustee may, where a compensation is paid to him under the new section 6 as trustee for a person who is below 21 years old, hold the compensation on trust for the person until the person attains 21 years of age.

Clause 6 amends section 9 to modify the functions and duties of the Public Trustee under that section, and to clarify how the relevant amount referred to in that section is calculated.

Section 9 refers to judgment sums in excess of the relevant amount. Clause 6 clarifies that any costs and interest payable under the judgment will not be taken into account when calculating the relevant amount.

Currently, insurers are required to pay to the Public Trustee all judgment sums in excess of the relevant amount in motor accident cases. Under the amended section 9, an insurer is only required to pay the judgment sum to the Public Trustee if the claimant is a specified person (as defined in clause 2) and the court orders the sum to be paid to the Public Trustee. In all other cases, the judgment sum must be paid to the claimant. The insurer is also required to pay to the claimant's lawyer the

solicitor and client costs due to him, before paying the balance of the judgment sum to the Public Trustee or the claimant.

The amended section 9 also clarifies that the term “judgment” includes an approval by the court of a settlement made by or on behalf of a person who is a minor or who is lacking mental capacity.

Clause 7 amends section 18 (on solicitor and client costs payable to lawyers of claimants of motor accident compensation) to provide that an application to the Public Trustee by a claimant’s lawyer for the Public Trustee’s agreement on the solicitor and client costs payable to that lawyer must be made in such manner, and together with such documents and information, as the Public Trustee may require. The clause also makes consequential amendments arising from the amendments to sections 6 and 9.

Clause 8 inserts a new section 18A to empower the Public Trustee to obtain any document or information for the purposes of his duties, functions and powers under the Act.

Clause 9 makes consequential amendments to section 20 arising from the amendments to section 9 and the new definition of the term “appropriate Minister” inserted by clause 2.

Clause 10 amends section 24 to empower the appropriate Minister to make rules as to the fees to be paid to the Public Trustee for anything done by the Public Trustee under the Act, and to make consequential amendments to the section in light of the new definition of the term “appropriate Minister” inserted by clause 2.

Clause 11 makes a consequential amendment to the Schedule arising from the repeal and re-enactment of section 6.

Clause 12 relates to the saving and transitional provisions required by the above amendments to the Act, and provides for the making of such saving and transitional provisions as the Minister charged with the responsibility for the Public Trustee’s department considers necessary or expedient.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
