

DETR Consultation
Motor Insurance Database Amendments to the Motor
Vehicles (Third Party Risk Regulations) 1972



Response from
The Motor Schools Association of Great Britain
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1 INTRODUCTION

- 1.1 The Motor Schools Association of Great Britain (MSA) makes the following response to the proposals concerning Motor Insurance Database Amendments to the Motor Vehicles (Third Party Risk Regulations) 1972
- 1.2 The MSA is the national trade association for driving instructors and schools founded in 1935. Members of the association are in the main Driving Standards Agency Approved Driving Instructors (ADI). Following our merger with the Institute of Large Goods Vehicle Driving Instructors (ILGVDI), in 2000, we also represent their interests together with those of prospective driving instructors (PDIs) and a number of bus/coach instructors and motorcycle instructors.

2 GENERAL COMMENTS

MSA DRAFT TO BE WRITTEN

CLOSING DATE 1 JUNE

**Department of the Environment,
Transport and the Regions**

***Motor Insurance Database
Amendments to the Motor Vehicles (Third Party Risk
Regulations) 1972***

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Our Ref: CDV 8/1/43

Dear Sir/Madam

In order to deal with the problem of the irresponsible minority of drivers who are uninsured the motor insurance industry with the support of the Government have decided to set up a computerised database of all motor insurance details and to provide access to the database for the police. The attached consultation paper seeks views on changes to Regulations which will allow insurers to keep records electronically and require them to pass information from those records to a computerised database. The changes will also allow the police, when they suspect a crime is being committed, to access the database in order to check whether an insurer has issued cover for a vehicle and whether the driver is covered for his use of that vehicle.

Estimates suggest that insurance evasion is running at 4% to 6% of vehicles in use; about 1m to 1¼m vehicles are uninsured at any one time. Compensation for victims of accidents for which uninsured drivers are found liable is provided from a fund set up by the insurance industry and funded by insurers in proportion to their policy income from motor insurance. Accidents for which uninsured drivers are responsible cost the industry about £400m in 1999 and this results in the honest motorist paying £15 to £30 extra for his annual insurance premium.

The main anti-evasion measures are an annual check on insurance certificates when vehicles are re-licensed each year and police powers to stop vehicles and require drivers to produce

evidence of valid insurance cover. The former can only ensure that insurance cover is in place at the time that the evidence is seen. The latter is costly and inefficient. As motorists are not required to carry their insurance certificate with them for practical reasons, the policeman who has stopped a vehicle requires the driver to produce his insurance certificate within seven days at a police station of his choice. He does this by issuing a form HORT1 (Home Office Traffic Reporting), he then sends another form HORT2 to the designated police station. When the driver turns up there, his certificate is checked and a third form HORT3 is filled out and sent back to the first constable. A decision as to whether or not a prosecution is necessary is then made based on the information in the HORT3. This system is cumbersome, resource intensive and subject to abuse. A significant minority of motorists simply fail to turn up and officer resources at the designated station allow only a single visit to the address given by the motorist. If he is not found there, the enquiry cannot be pursued. It is greatly to the credit of police that they managed to gain conviction of some 300,000 insurance evaders last year.

The Government is greatly concerned about the crime of insurance evasion and its effect on the honest motorist who buys his insurance policy each year. This is reflected in the penalties available to the courts who may impose fines up to a maximum of £5,000 with a mandatory 6-8 penalty points endorsed on an offenders licence. They also have the option to disqualify in particularly serious cases. However, the average fine imposed is much less at £201. It is likely that some motorists compare the average fine with the annual insurance premium and taking into account the likelihood of being prosecuted decide to "risk it". Since magistrates must take into account the offenders ability to pay when they set fines, there is little benefit to be gained from increasing maximum penalties. The proposed measures seek to attack the problem by increasing the certainty of being caught. In order to increase the perceived and actual risk of being caught the proposed measures will allow police to consult the database in real time so that decisions on whether a prosecution is necessary can be made on the spot rather than after a delay of seven days or more. The increased likelihood of being caught should persuade potential offenders not to "risk it".

The attached consultation paper sets out the proposed changes, includes a draft Statutory Instrument and gives details of the regulatory and other impacts. A list of those to whom it has been sent is included. It will also be placed on the Department's website at <http://www.detr.gov.uk>. Comments would be appreciated from all consultees who should write to Ms Jillian Smith, Licensing Roadworthiness and Insurance Division, Department of the Environment Transport and the Regions, Great Minster House, 76 Marsham Street, LONDON SW1P 4DR or e-mail to Jillian_Smith@detr.gsi.gov.uk. Comments, which should be sent to arrive by **1 June 2001**, may be made public; if you wish your comments to be held in confidence please say so when you write.

Yours faithfully,
Mike Power

**MOTOR INSURANCE DATABASE – ENFORCEMENT OF THE
STATUTORY REQUIREMENT FOR MOTORISTS TO BE COVERED
BY INSURANCE IN RESPECT OF THEIR LIABILITY TO THIRD
PARTIES - AMENDMENTS TO THE MOTOR VEHICLE (THIRD
PARTY RISK) REGULATIONS 1972 : (1972 No. 1217)**

The Proposal

1. Motor insurers are required to keep information about policies and certificates and to supply on request that information to the Secretary of State or to any Chief Officer of Police. The amendments will allow insurers to keep the information electronically, to transmit it to a centrally managed database and to allow the police to access the information electronically in order to facilitate enforcement of the statutory motor insurance requirement.

The Background

2. Enforcement of the motor insurance requirement is currently done in two ways. Firstly, a motorist must produce evidence of valid insurance before he can re-licence his vehicle each year. This requirement will, for the time being, be unchanged. In the longer term, as experience with the use of the database is gained, it may be possible to make the annual check at re-licensing electronically. This would make things much easier for the individual motorist and would allow the system to offer re-licensing electronically.

3. Secondly, police have a statutory power to stop vehicles and inspect insurance documents. Since motorists are not required to carry insurance documents, such a check is usually done by issuing the motorists with a form (HORT1) which he must take, along with his documents for inspection at his local police station within seven days. Police at the local station then complete another form (HORT2) to report the result of the inspection. This system is labour intensive and costly. Police estimate that its operation costs £15m a year. It is also prone to failure. A substantial minority of motorist simply fail to turn up at the designated police station and prove to be untraceable upon investigation. Nevertheless, police secured over 300,000 convictions for motor insurance offences in England and Wales in 1999.

4. The offence is usually tried in the magistrates court. The maximum fine for insurance evasion is £5,000 with 6 to 8 penalty points endorsed on the offenders licence and the courts have discretion to disqualify. Magistrates are, of course, required to take social considerations such as an offenders ability to pay into consideration when calculating fines. The average fine is just £201. With insurance evasion estimated at between 1 and 1¼ million motorists and with average insurance premiums approaching £400 there must be a presumption that the possibility of being fined does not constitute a serious deterrent.

5. Increased and additional penalties are under consideration and a consultation including that issue has recently been completed by the Home Office. However, the proposed amendments will tackle the problem by increasing the likelihood of being caught. Police will no longer have to rely on the cumbersome and resource intensive HORT system of checking insurance but will be able to enter details of a suspect vehicle on the computer and discover immediately whether there is cover for the use of that vehicle. The greater prospect of being caught should lead to a significant reduction in the rate of insurance evasion.

The Current Legislation

6. The Motor Vehicles (Third Party Risk) Regulations 1972 were made under the enabling powers in the Road Traffic Act and the Vehicles (Excise) Act. Regulation 10 requires every company by whom a policy or a security is issued to keep a record of the particulars of the policy and of the certificate. Likewise specified bodies, mainly local authorities, police forces and transport authorities must keep records as must those who make a deposit as an earnest that they will meet their own liabilities. Companies, specified bodies or persons required to keep such records must, without charge, furnish to the Secretary of State or to any chief officer of police on request any particulars kept on the record.

Changes Under the Amendments

7. All those required to keep records currently will be authorised to keep them electronically and to provide copies to the database. The Motor Insurers' Information Centre, a subsidiary company of the Motor Insurers' Bureau, will be required to keep the information electronically and to provide it, as now, to the Secretary of State or to any chief officer of police upon request and without charge.

8. Police, when they have stopped a suspect vehicle, will be able to access the database, on-line in real time, to establish whether there is insurance cover for its use and whether the driver is one of those named as covered by the policy.

9. In the case of vehicles owned by a specified body or exempted because their owner has lodged a deposit, records will also show their status. The police will, therefore, have the information to hand to enable them to decide whether to prosecute a driver, whether to make further inquiries or whether no offence of insurance evasion was being committed.

Devolution

10. The statutory requirement to be insured for use of a motor vehicle is a reserved matter for the UK parliament. Enforcement and the control of police resources are devolved matters but in that context, these amendments are permissive, allowing police access to the insurance database rather than requiring them to use the system. It will be for chief officers of police in other parts of the United Kingdom to decide whether their officers should access the database or not.

Regulatory Impact

11. Insurers, including Lloyd's underwriters, made the decision that they wished to set up the database themselves. If even a 2% reduction in uninsured driving is achieved the database will pay for itself in reduced costs of the insurers' operation. Government has supported their plans. The proposed changes to regulations will facilitate the insurers' plans and can therefore be said not to have imposed any cost burden on insurers.

12. Police should make operational savings since the use of the HORT system will decline. It is difficult to quantify but a 50% reduction in issue of HORT1s should lead to savings of £7.5m.

13. Motorists in general should benefit over time as costs of uninsured driving are currently met from their premiums and reductions in insurers' costs should eventually feed through in a lesser need for premium increase.

Environmental Impact

14. There is no environmental impact.

Human Rights Act Compliance

15. Careful thought has been given to the provision of information from the database to the police. Safeguards, including security features agreed with the Data Protection Commissioner, have been incorporated into the system. The system complies with the provisions of the Human Rights Act