

Law 2/2003 of 21 January

Amends the Road Traffic Code with respect to Motor Insurance

With the growth in road traffic, the increasing number of vehicles in circulation without any type of insurance and the rising rate of road accidents, there is a pressing need to revise the Road Traffic Code in force in respect of motor vehicle insurance, in order to adapt it to the current situation.

In these terms, pursuant to article 135 (1) of the Constitution, the Assembly of the Republic determines as follows.

Article 1 (Obligation to insure)

1. Insurance against civil liability in respect of the use of motor vehicles in the Republic of Mozambique shall be compulsory
2. Article 57 of the Road Traffic Code shall forthwith read as follows:

"Article 57 Insurance

1. "Motor vehicles and their trailers are prohibited from circulating on the public highway without having, in the terms of this Law, the respective insurance against civil liability, contracted with an insurance company authorised to carry out its activity in the Republic of Mozambique, and which guarantees the liability of natural or legal persons having civil liability for material loss or personal injury caused to third parties as a result of traffic accidents.
2. "The obligation to have insurance falls on the owner of the vehicle, except in the case of usufruct, conditional sale and finance leasing schemes, in which case the said obligation falls on the respective user, purchaser or lessee.
3. "If any other person takes insurance cover in respect of the vehicle that satisfies the provisions of this Law, the obligations of the persons referred to in the preceding sub-paragraph shall be met while the contract is in effect.
4. "Garage operators, as well as any other person or entity who normally conducts the business of vehicle manufacture, assembly or processing, selling or buying, repair, panel beating or control of operating standards, shall also be obliged to have insurance cover against risks of civil liability that may be incurred in the use, by virtue of their functions, of the said vehicles within the scope of their professional activity.
5. "The obligation referred to in article 1 (1) of this law shall not apply to persons responsible for the circulation of railway vehicles, as well as for agricultural machines not subject to registration.

6. "No licence shall be issued or renewed for the operation of public transport unless the respective owner presents the insurance policy referred to in article 1 (1) of this law."

**Article 2
(Exemptions)**

Motor vehicles and their trailers that enter national territory from neighbouring countries shall be exempt from insurance contracted in the terms of article 1 (1) of this law, provided that, in respect of such vehicles, their drivers show proof of the existence of insurance against third party material loss or personal injury contracted in their respective country, with which the Republic of Mozambique has made an agreement establishing reciprocity of treatment.

**Article 3
(Scope and guarantee of cover)**

1. The compulsory insurance against civil liability in respect of the use of motor vehicles provided for in article 1 (1) of this Law shall include the duty to compensate established in the civil law, up to the amount of the minimum sum compulsorily assured per accident and per vehicle causing an accident, and in respect of loss arising from accidents not excluded in this law.
2. The insurance contract shall guarantee the civil liability of the policy holder, of those subject to the obligation to insure provided for in article 57 of the Road Traffic Code, as amended by article 2 (1) of this Law, and of persons in lawful possession of or lawfully driving the vehicle.

**Article 4
(Exclusions)**

- 1 Losses arising from injuries suffered by the driver of the insured vehicle and by persons transported free of charge shall be excluded from the insurance guarantee.
- 2 Any losses arising from material damage caused to the following persons shall also be excluded from the insurance guarantee:
 - a) The driver of the vehicle and the policy holder;
 - b) All persons whose liability is guaranteed, in the terms of article 3 (2), specifically as a result of co-ownership of the insured vehicle;
 - c) The legal representatives of corporate persons and commercial companies, responsible for the accident in the course of their duties;
 - d) The spouse, ascendants, descendants and adopted children of the persons referred to in sub-paragraphs a) and b), as well as other relatives or in-laws to the third degree of the same persons, but in this last case, only when they cohabit with them or live under their care;

- e) Persons who, in the terms of articles 495 and 496 of the Civil Code, benefit from a claim to compensation arising from ties to any of the persons referred to in the preceding sub-paragraph;
 - f) Passengers when transported in contravention of the rules relating to passenger transport;
 - g) Any person wilfully causing the accident, the perpetrator, accomplice or receiver of the theft or aggravated theft of any vehicle involved in the accident, as well as passengers transported in such vehicle who are aware of the unlawful possession of the vehicle and travel in it of their own free will.
- 3 In the case of the death of any of the persons referred to in sub-paragraphs d) and e) of the preceding paragraph as a result of the accident, the payment of any compensation in respect of material loss to the person guilty of causing the accident shall be excluded.
- 4 Insurance guarantee shall likewise be excluded in respect of:
- a) Damage to the vehicle insured;
 - b) Damage to goods transported in the vehicle insured, either during the transport or in loading and unloading operations;
 - c) Any damage caused to third parties as a result of loading and unloading operations;
 - d) Damage due directly or indirectly to explosions, the release of heat or radiation resulting from the splitting or fusion of atoms, the artificial acceleration of particles or radioactivity;
 - e) Any damage occurring during sporting events or official training for them, except where insurance cover has been taken out for that purpose;
 - f) Damage caused by an unidentified third party;
 - g) Damage caused by stolen vehicles.

**Article 5
(Right of recovery of the insurer)**

Once a claim for compensation has been satisfied, the insurer shall only have the right of recovery against:

- a) The party that caused the accident, where the party did so wilfully;
- b) The driver, where the driver was not legally qualified or acted under the influence of alcohol, narcotics or any other drug or toxic substance, or where the driver abandoned the scene of the accident;
- c) The party having civil liability in respect of loss or damage caused to third parties by freight falling as a result of defective packing;

- d) The party responsible for failure to submit the vehicle for periodic inspection, as provided for in article 36 (2) of the Road Traffic Code and its regulatory instruments, except where the party responsible proves that the accident was not caused or aggravated by malfunction of the vehicle.

**Article 6
(Offences)**

1. A person under the obligation to insure a vehicle, who puts such vehicle into circulation or consents to its being put into circulation while the vehicle is not covered by the compulsory insurance provided for in this law, shall be guilty of an offence punishable by a fine corresponding to twice the minimum wage.
2. Infringements by insurance companies of the legal and regulatory provisions on compulsory insurance against civil liability in respect of the use of vehicles shall be punishable in terms of the rules applicable to infringements relating to the pursuit of insurance activity.

**Article 7
(Regulatory powers)**

1. The Government shall set the minimum sums assured, taking into consideration the class of vehicle and the activity for which it is intended.
2. The Government shall approve and publish the regulations of this Law immediately after it comes into force.

**Article 8
(Entry into force)**

This Law shall enter into force one hundred and eighty days after its publication.

Approved by the Assembly of the Republic,

24 October 2002

The Speaker of the Assembly of the Republic

Eduardo Joaquim Mulembwè

Promulgated on 21 January 2003

Let it be published

The President of the Republic

Joaquim Alberto Chissano