2002 No. 3061

ROAD TRAFFIC

The European Communities (Rights against Insurers) Regulations 2002

Made - - - - -	*10th December 2002*
Laid before Parliament	*12th December 2002*
Coming into force - -	*19th January 2003*

The Lord Chancellor, being a Minister designated(**a**) for the purpose of section 2(2) of the European Communities Act 1972(**b**) in relation to a direct right of action against the insurer of the person responsible by any person claiming compensation in respect of loss or injury caused by a motor vehicle or trailer, in exercise of the powers conferred by that section, makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the European Communities (Rights against Insurers) Regulations 2002 and shall come into force on 19th January 2003.

Interpretation

2.—(1) In these Regulations—

"the 1981 Order" means the Road Traffic (Northern Ireland) Order 1981(**c**);

"the 1988 Act" means the Road Traffic Act 1988(**d**);

"accident" means an accident on a road or other public place in the United Kingdom caused by, or arising out of, the use of any insured vehicle;

"entitled party" means any person who is—

(a) a resident of a Member State; or

(b) a resident of any other State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(**e**) and the Protocol adjusting the Agreement signed at Brussels on 17th March 1993;

"insured person" means a person insured under a policy of insurance satisfying the conditions set out in paragraph (3) of this regulation;

(**a**) S.I. 2002/1819.

(**b**) 1972 c. 68. By virtue of the amendment of section 1(2) of the European Communities Act 1972 by section 1 of the European Economic Area Act 1993 (c. 51) regulations may be made under section 2(2) of the European Communities Act 1972 to implement obligations of the United Kingdom created or arising by or under the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (Cm 2073) and the Protocol adjusting the Agreement signed at Brussels on 17th March 1993 (Cm 2183).

(**c**) S.I. 1981/154 (NI 1).

(**d**) 1988 c. 52.

(**e**) Directive 2000/26/EC was added to Annex IX of the European Economic Area Agreement by Decision No. 4/2001 of the European Economic Area Joint Committee which came into force on 1st September 2001 (OJ No. L66, 8/3/2001, p. 46).

"vehicle" means any motor vehicle intended for travel on land and propelled by mechanical power, but not running on rails, and any trailer whether or not coupled, which is normally based (within the meaning of paragraph (2) of this regulation) in the United Kingdom.

(2) The territory in which a vehicle is normally based is—

(a) the territory of the State of which the vehicle bears a registration plate; or

(b) in cases where no registration is required for the type of vehicle, but the vehicle bears an insurance plate or a distinguishing sign analogous to a registration plate, the territory of the State in which the insurance plate or the sign is issued; or

(c) in cases where neither registration plate nor insurance plate nor distinguishing sign is required for the type of vehicle, the territory of the State in which the keeper of the vehicle is permanently resident.

(3) For the purposes of these Regulations, a vehicle is insured if there is in force in relation to the use of that vehicle on a road or other public place in the United Kingdom by the insured person a policy of insurance (including a covering note) which fulfils the requirements of section 145 of the 1988 Act(**a**) or article 92 of the 1981 Order(**b**).

Right of action

3.—(1) Paragraph (2) of this regulation applies where an entitled party has a cause of action against an insured person in tort or (as the case may be) delict, and that cause of action arises out of an accident.

(2) Where this paragraph applies, the entitled party may, without prejudice to his right to issue proceedings against the insured person, issue proceedings against the insurer which issued the policy of insurance relating to the insured vehicle, and that insurer shall be directly liable to the entitled party to the extent that he is liable to the insured person.

Signed by authority of the Lord Chancellor

Scotland of Asthal QC
Parliamentary Secretary,
Lord Chancellor's Department

10th December 2002

(**a**) Section 145, the relevant amending instruments are S.I. 1992/3036, 2000/726 and 2001/3649.
(**b**) Article 92, the relevant amending instruments are SR 1989/84, 1993/57 and 2000/331.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which are made under section 2(2) of the European Communities Act 1972, give effect in part to Directive 2000/26/EC of the European Parliament and the Council of 16th May 2000 on the approximation of laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles and amending Council Directives 73/239/EEC and 88/357/EEC (Fourth Motor Insurance Directive) (OJ No. L181 20/07/2000 p. 65). The Fourth Motor Insurance Directive supplements the arrangements established by Directives 72/166/EEC, 84/5/EEC and 90/232/EEC.

These Regulations, giving effect to Article 3 of the Fourth Motor Insurance Directive, confer on residents of the 15 Member States a new right to issue proceedings against the insurer of the person responsible for an accident in the UK. This right is extended to residents of the European Free Trade Association States namely, Iceland, Norway and Liechtenstein.

As these Regulations give effect, in part, to the Fourth Motor Insurance Directive a Transposition Note has been prepared setting out how the Government will transpose into UK law the main elements of this Directive. The Transposition Note is available in the libraries of both Houses of Parliament, and is also available on the LCD website at *www.lcd.gov.uk*. A hard copy of the Transposition Note is available from the following address: Banking and General Insurance Team, HM Treasury, 1 Horse Guards Road, London SW1A 2HQ (Telephone number: 020 7270 1389).

STATUTORY INSTRUMENTS

2002 No. 3061

ROAD TRAFFIC

The European Communities (Rights against Insurers) Regulations 2002

ISBN 0-11-044242-3

9 780110 442426

£1.75

© Crown copyright 2002

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.
E1773 12/2002 121773 19585