

Insurance: Conduct of Business

Chapter 8

Claims handling

8.2 Motor vehicle liability insurers

Application: who? what?

8.2.1

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- (1) This section applies to a *motor vehicle liability insurer*.
- (2) The *rules* in this section relating to the appointment of claims representatives apply:
 - (a) in relation to claims by *injured parties* resulting from accidents occurring in an *EEA State* other than the *injured party's EEA State* of residence which are caused by the use of *vehicles* insured through an establishment in, and normally based in, an *EEA State* other than the *injured party's EEA State* of residence; and
 - (b) in relation to claims arising out of events occurring, and risks situated, in the *United Kingdom*, and covered by an *incoming EEA firm* on a services basis.
- (3) The *rules* in this section relating to claims handling apply in respect of claims arising from any accident caused by a *vehicle normally based* in the *United Kingdom*.

[Note: article 20(1) of the *Consolidated Motor Insurance Directive* and article 152 of the *Solvency II Directive*]

Requirement to appoint claims representatives

8.2.2

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[deleted]

8.2.2A

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A *person* carrying on, or seeking to carry on, *motor vehicle liability insurance business* must have a claims representative in each *EEA state* other than the *United Kingdom*.

8.2.2B

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An *incoming EEA firm* carrying on motor vehicle liability insurance business and covering *UK risks* on a services basis must have a claims representative in the *United Kingdom* to deal with claims arising out of events occurring in the *United Kingdom*.

[Note: article 152 of the *Solvency II Directive*]

Conditions for appointing claims representatives

8.2.3

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A *firm* must ensure that each claims representative:

- (1) is responsible for handling and settling a claim by an *injured party*;
- (2) is resident or established in the *EEA State* where it is appointed;
- (3) collects all information necessary in connection with the settlement of a claim and takes the measures necessary to negotiate its settlement;
- (4) possesses sufficient powers to represent the *firm* in relation to an *injured party* and to meet an *injured party's* claim in full; and
- (5) is capable of examining cases in the official language(s) of the *EEA State* of residence of the *injured party*.

[Note: article 21(1), (4) and (5) of the *Consolidated Motor Insurance Directive* and article 152 of the *Solvency II Directive*]

8.2.4

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The requirement to possess sufficient powers does not prevent a claims representative from seeking additional authority or instructions if needed. It does prevent it from declining to deal with, or transferring responsibility for, claims properly referred to it by an *injured party*, or their representative.

Notifying the appointment of claims representatives

8.2.5

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(1) A *firm* must notify to the *information centres* of all *EEA States*:

- (a) the name and address of the claims representative which they have appointed in each of the *EEA States*;

[Note: article 23(2) of the *Consolidated Motor Insurance Directive*]

- (b) the telephone number and effective date of appointment; and
 - (c) any material change to information previously notified.
- (2) Notification must be made within ten *business days* of an appointment or of a material change.

Motor vehicle liability claims handling rules

8.2.6

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Within three *months* of the *injured party* presenting his *claim* for compensation:

- (1) the *firm* of the *person* who caused the accident or its claims representative must make a reasoned offer of compensation in cases where liability is not contested and the damages have been quantified; or
- (2) the *firm* to whom the claim for compensation has been addressed or its claims representative must provide a reasoned reply to the points made in the claim in cases where liability is denied or has not been clearly determined or the damages have not been fully quantified.

[Note: article 22 of the *Consolidated Motor Insurance Directive* and article 3 of the *Consolidated Motor Insurance Directive*]

- 8.2.7 **R**
- (1) If liability is initially denied, or not admitted, within three *months* of any subsequent admission of liability, the *firm* must (directly, or through a claims representative) make a reasoned offer of settlement, if, by that time, the relevant claim for damages has been fully quantified.
 - (2) If an *injured party's* claim for damages is not fully quantified when it is first made, within three *months* of the subsequent receipt of a fully quantified claim for damages, the *firm* must (directly, or through a claims representative) make a reasoned offer of damages, if liability is admitted at that time.

8.2.8 **R** A claim for damages will be fully quantified for the purpose of this section when the *injured party* provides written evidence which substantiates or supports the amounts claimed.

Interest on compensation

- 8.2.9 **R**
- (1) If the *firm*, or its claims representative, does not make an offer as required by this section, the *firm* must pay simple interest on the amount of compensation offered by it or awarded by the court to the *injured party*, unless interest is awarded by any tribunal.
 - (2) The interest calculation period begins when the offer should have been made and ends when the compensation is paid to the *injured party*, or his authorised representative.
 - (3) The interest rate is the Bank of England's base rate (from time to time), plus 4%.

[Note: article 22 of the *Consolidated Motor Insurance Directive*. Regulation 6 of the Financial Services and Markets Act 2000 (Rights of Action) Regulations 2001 makes this *rule* actionable under section 138D of the Act (Actions for damages) by any person who suffers loss as a result of its contravention]

8.2.10 **R** A *firm* will be taken to have received a claim, or a fully quantified claim, for damages when the claim is delivered to it, or a claims representative, by any *person* by any method of delivery which is lawful in the *firm's*, or its claims representative's, respective State of residence or establishment.

8.2.11 **G** The provisions in this section are not intended to, and do not, restrict any rights which the *injured party*, or its *motor vehicle liability insurer*, or any other *insurer* acting on its behalf, may have and which would enable any of them to begin legal proceedings against the *person* causing the accident or that *person's*, or the *vehicle's*, *insurers*.