

Chapter 8

Claims handling

		<div>8.2</div> <div>Motor vehicle liability insurers</div>
		<div>Application: who? what?</div>
8.2.1	R	<div><div>(1) This section applies to a <i>motor vehicle liability insurer</i>.</div><div>(2) The <i>rules</i> in this section relating to the appointment of claims representatives apply:<div><div>(a) [deleted]</div><div>(b) in relation to claims arising out of events occurring, and risks situated, in the <i>United Kingdom</i>, and covered by a <i>firm</i> operating from an establishment in the <i>European Economic Area</i>.</div></div></div><div>(3) The <i>rules</i> in this section relating to claims handling apply in respect of claims arising from any accident caused by a <i>vehicle normally based</i> in the <i>United Kingdom</i>.</div></div>
		<div>[Note: article 20(1) of the <i>Consolidated Motor Insurance Directive</i> and article 152 of the <i>Solvency II Directive</i>]</div>
		<div>Requirement to appoint claims representatives</div>
8.2.2	G	<div>[deleted]</div>
8.2.2A	R	<div>[deleted]</div>
8.2.2B	R	<div>A <i>firm</i> operating from an establishment in the <i>European Economic Area</i> carrying on motor vehicle liability insurance business and covering <i>UK</i> risks must have a claims representative in the <i>United Kingdom</i> to deal with claims arising out of events occurring in the <i>United Kingdom</i>.</div> <div>[Note: article 152 of the <i>Solvency II Directive</i>]</div>
		<div>Conditions for appointing claims representatives</div>
8.2.3	R	<div>A <i>firm</i> must ensure that each claims representative:<div><div>(1) is responsible for handling and settling a claim by an <i>injured party</i>;</div><div>(2) is resident or established in the <i>United Kingdom</i>;</div><div>(3) collects all information necessary in connection with the settlement of a claim and takes the measures necessary to negotiate its settlement;</div></div></div>

- (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 *United Kingdom*.

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

8.2.4

G

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

R

- (1) A *firm* must notify to the *Motor Insurers' Information Centre*:
 - (a) the name and address of the claims representative which they have appointed in the *United Kingdom*;

[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

R

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 <i>firm</i> 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 <i>injured party</i> provides written evidence which substantiates or supports the amounts claimed.
		Interest on compensation
8.2.9	R	<div><div>(1) If the <i>firm</i>, or its claims representative, does not make an offer as required by this section, the <i>firm</i> must pay simple interest on the amount of compensation offered by it or awarded by the court to the <i>injured party</i>, unless interest is awarded by any tribunal.</div><div>(2) The interest calculation period begins when the offer should have been made and ends when the compensation is paid to the <i>injured party</i>, or his authorised representative.</div><div>(3) The interest rate is the Bank of England's base rate (from time to time), plus 4%.</div></div> <div>[Note: article 22 of the <i>Consolidated Motor Insurance Directive</i>. Regulation 6 of the Financial Services and Markets Act 2000 (Rights of Action) Regulations 2001 makes this <i>rule</i> actionable under section 138D of the Act (Actions for damages) by any person who suffers loss as a result of its contravention]</div>
8.2.10	R	A <i>firm</i> 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 <i>person</i> by any method of delivery which is lawful in the <i>firm's</i> , 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 <i>injured party</i> , or its <i>motor vehicle liability insurer</i> , or any other <i>insurer</i> acting on its behalf, may have and which would enable any of them to begin legal proceedings against the <i>person</i> causing the accident or that <i>person's</i> , or the <i>vehicle's</i> , <i>insurers</i> .