

SECTION 10 PASSENGER LIABILITY

Defined Events

Any accident caused by or through or in connection with any vehicle described in the schedule or in connection with the loading and/or unloading of such vehicles against all sums including claimant's costs and expenses which the insured shall become legally liable to in respect of death or bodily injury to any to any person being carried in or upon or entering or getting onto or alighting from a vehicle but excluding death of or bodily injury to any person in the employ of the insured arising from and in the course of such employment or being a member of the same household as the insured.

The company will also (in terms of and subject to the limitations of and for the purposes of this section).

1. Pay all costs and expenses incurred with their written consent and shall be entitled at their discretion to arrange for representation at any inquest or inquiry in respect of any death which may be the subject of indemnity under this section or for defending in any magistrate's court any criminal proceedings in respect of any act causing or relating to any event which may be the subject of indemnity under this section
2. Indemnify any person who is driving or using such vehicle on the insured's order or with the insured's permission provided that
 - (a) Such person shall as though he were the insured observe, fulfil and be subject to the terms, exceptions and conditions of this insurance in so far as they can apply
 - (b) Such person driving such vehicle has not been refused any motor insurance or continuance thereof by any insurer
 - (c) Indemnity shall not apply in respect of claims made by any member of the same household as such person
 - (d) Such person is not entitled to indemnity under any other policy except in respect of any amount not recoverable there under

Specific Exception

The company shall not be liable under this section in respect of

- (a) So much of any compensation or claim as falls within the scope of any compulsory motor vehicle insurance enactment. This exception shall apply notwithstanding that no insurance under such enactment is in force or has been effected.
- (b) Death of or bodily injury to any person not being carried in or upon or entering or getting onto or alighting from a permanently enclosed passenger carrying compartment of any vehicle.
- (c) Liability arising from the operation demonstration or use for purposes other than maintenance or repair of a vehicle (unless it is a fork lift truck) of any tool or plant forming part of or attached to or used in connection with a vehicle or anything manufactured by or contained in any such tool or plant
- (d) All and any costs incurred in connection with the cleaning up or removal of or otherwise handling of anything of whatsoever nature conveyed in or on the vehicle
- (e) Liability arising whilst the Vehicle or any trailer attached thereto is conveying Dangerous Goods as provided for by Section 54 of the National Road Traffic Act, 1996 (as amended) and the regulations issued there under.

Limits of indemnity

Unless otherwise stated the liability of the company under this section in respect of any one occurrence shall not exceed the limits of indemnity as stated in the schedule.

Definitions

1. Occurrence

The term occurrence shall mean an occurrence or series of occurrences arising from one cause in connection with any one vehicle or part of a combination of vehicles in respect of which indemnity is provided by this insurance.

2. Vehicle

The term vehicle shall mean

- a) Private type motor cars (including station wagons, safari vans, estate cars and the like or similar vehicles designed to seat not more than 9 persons including the driver) and commercial vehicles of which the gross vehicle mass does not exceed 2000 kg

- b) Commercial vehicles and special type vehicles as described in the schedule
- c) Motor cycles (including motor scooters and 3-wheeled vehicles
- d) Busses (including any vehicle used for business purposes and designed to seat more than 9 persons including the driver)
- e) Trailers i.e. any vehicle without means of self propulsion designed to be drawn by a self propelled vehicle, but excluding any parts or accessories not permanently fitted thereto any such vehicle stated in the schedule or for which the company has agreed to add to the schedule.

Extensions

1. Cross liabilities

Where more than one insured is named in the schedule the company will indemnify each insured separately and not jointly and any liability arising between such insured shall be treated as though separate policies had been issued to each, provided that the aggregate liability of the company shall not exceed the limit of indemnity stated in the schedule.

Memoranda

1. Premium adjustment clause

If this section is issued on a non-specified vehicle basis, the insured shall submit to the company at the end of each period of insurance a declaration of the total number of vehicles owned, hired or leased at such expiry dated. The company shall upon receipt of this declaration make premium adjustment of 50 per cent of the annual rate per vehicle applied to the difference in the number of vehicle at inception or renewal and the number declared.

2. Description of use clause

Use for social, domestic and pleasure purposes and use for the business or occupation of the insured excluding: hiring, racing speed or other contests, rallies, trails, carriage of explosives, carriage of liquid petroleum or gasoline products, carriage of or carriage of any load or passengers exceeding the capacity for which it is constructed or licensed to carry or use for any purpose in connection with the motor trade. The indemnity to the insured in connection with any vehicle shall operate while such vehicle is in the custody or control of a member of the motor trade for the purpose of its overhaul upkeep or repair.

3. First amount payable

In respect of each and every occurrence giving rise to a claim, under this policy, the insured shall be responsible for the first amounts payable stated in the schedule (according to the type of vehicle) of any expenditure (or any less expenditure which may be incurred) for which provision is made under this policy (including any payment in respect of costs, expenses and fees) and of any expenditure by the company in the exercise of any discretion it may have under this insurance. If the expenditure incurred by the company shall include any first amount payable for which the insured is responsible, such amount shall be paid by the insured to the company forthwith.

4. Jurisdiction Clause

The company shall not be liable for compensation for damages or costs and expenses of litigation recovered by any claimant from the insured in respect of judgements delivered or obtained in the first instance otherwise than by a court of competent jurisdiction within the Republic of South Africa, Namibia, Botswana, Lesotho or Swaziland