

Seychelles

Insurance (Compensation) Fund Act Act 10 of 1988

Legislation as at 30 June 2012

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Insurance (Compensation) Fund Act
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Seychelles

Insurance (Compensation) Fund Act Act 10 of 1988

Commenced on 1 October 1989

[This is the version of this document at 30 June 2012 and includes any amendments published up to 30 June 2014.]

1. Short title

This Act may be cited as the Insurance (Compensation) Fund Act.

2. Interpretation

In this Act—

"**Board**" means the Board of Trustees appointed under [section 10](#);

"**Chairman**" means the Chairman of the Board;

"**Corporation**" means the State Assurance Corporation of Seychelles established by section 3 of the State Assurance Corporation of Seychelles Act;

"**Fund**" means the Insurance (Compensation) Fund established by [section 3](#);

"**motor vehicle**" means a mechanically propelled vehicle intended or adapted for use on roads for conveyance of persons or goods;

"**natural disaster**" includes drought, excessive rainfall, storm or any other event occurring without the intervention of mankind;

"**owner**", in relation to a motor vehicle which is subject to a hiring agreement or a hire purchase agreement, means the person in possession of the motor vehicle under the agreement;

"**road**" includes any place on which motor vehicles are capable of being driven.

3. Establishment of the Fund

There is hereby established a fund to be called the Insurance (Compensation) Fund.

4. Objects of the Fund

The objects of the Fund shall be—

- (a) subject to [section 5](#), to compensate persons in respect of damage arising out of the use of a motor vehicle on a road, whether or not such use is required to be covered by a policy of insurance in respect of third party risks under the Motor Vehicles Insurance (Third Party Risks) Act; and
- (b) subject to [section 6](#), to compensate persons in respect of damage caused by a natural disaster.

5. Limitation of liability in respect of motor vehicles

No compensation shall be paid out of the Fund in the case of damage arising out of the use of a motor vehicle on a road, the use of which is covered by a policy of insurance in respect of third party risks under the Motor Vehicle Insurance (Third Party Risks) Act, where the owner or driver of the motor vehicle at the time of such use—

- (a) has been identified; and
- (b) is resident in Seychelles; and

- (c) would, on the balance of probabilities, be liable in damages in proceedings instituted against him in a court in respect of the damage arising out of such user; and
- (d) would be covered in respect of the liability by the policy of insurance.

6. Limitation of liability in respect of natural disasters

No compensation shall be paid out of the Fund in the case of damage caused by a natural disaster where the liability to pay the damage is covered by a policy of insurance.

7. Requirements of a claim for compensation

- (1) Every claimant for compensation out of the Fund shall—
 - (a) inform the Board the event giving rise to any damage liable to be compensated out of the Fund within 14 days of the happening of the event;
 - (b) provide such information relating to the event as may be required by the Board;
 - (c) if so required by the Board, take all reasonable steps to institute proceedings in a court against the person responsible for the event which gave rise to the damage;
 - (d) assign to the Board any judgment obtained in proceedings instituted under paragraph (c).
- (2) The Board may, notwithstanding subsection (1)(a), entertain a claim for compensation out of the Fund where, having regard to all the circumstances of the case, the Board considers it reasonable to do so.

8. Determination of liability and amount of compensation

- (1) The liability to pay compensation out of the Fund under this Act shall be determined by the Board, having regard to all matters before it including the means of the person making the claim and his failure to cover such liability by a policy of insurance.
- (2) The amount of compensation payable under this Act out of the Fund in respect of any liability shall be determined by the Board.
- (3) Any determination of the Board under subsections (1) and (2) shall be final.

9. Moneys of the Fund

- (1) The Fund shall consist of—
 - (a) such contributions, as may be specified by the Minister, paid, notwithstanding anything to the contrary in the Insurance Act, out of the premiums received in respect of insurance policies issued by the Corporation, whether such policies are issued before or after the commencement of this Act;
 - (b) moneys provided by the Government;
 - (c) moneys accruing from investments by the Board;
 - (d) moneys received by the Board in execution of any judgment assigned to the Board;
 - (e) voluntary contributions paid to the Fund.
- (2) The moneys of the Fund may be applied—
 - (a) for carrying out the objects of the Fund;
 - (b) for meeting the expenses in administering the Fund.

- (3) Regulations may provide for—
 - (a) the manner of making applications for compensation out of the Fund;
 - (b) any other matters in respect of such applications.

10. Administration of the Fund

- (1) The Fund shall be administered by a Board of Trustees appointed by the Minister for such term as may be specified on appointment.
- (2) The Board shall be a body corporate by the name of the Board of Trustees of the Insurance (Compensation) Fund.
- (3) The Minister shall appoint to the Board as its members at least one person—
 - (a) who, in his opinion, represents the Corporation;
 - (b) who, in his opinion, represents the Department of Finance.
- (4) The Minister shall appoint one of the members of the Board to be its Chairman.
- (5) The Corporation shall, in consultation with the Minister, provide the Board with necessary staff, office accommodation and office equipment required for the administration of the Fund.
- (6) The Board may delegate to one of its members or to any member of its staff the day to day administration of the Fund subject to such conditions as the Board may impose.

11. Meetings of the Board

- (1) The Board shall meet at such time and at such place as the Chairman may determine.
- (2) The Chairman, or in his absence, any member nominated by the Minister shall preside at any meetings of the Board.
- (3) Three members shall constitute a quorum.
- (4) Subject to the preceding provisions of this section, the Board shall regulate its own proceedings.

12. Investment of moneys of the Fund

Moneys of the Fund not immediately required for carrying out the objects of the Fund may be invested by the Board in any manner, the Board, in consultation with the Minister, thinks fit.

13. Accounts of the Fund

- (1) The Board shall keep proper accounts of the Fund and shall prepare in respect of each financial year a statement of accounts.
- (2) The accounts and the statement of accounts shall be audited by an auditor appointed by the Minister.
- (3) As soon as the accounts have been audited pursuant to subsection (2) the Board shall send to the Minister a copy of the report made by the auditor on the accounts together with the statement of accounts.

14. Offence

A person who, in any application for compensation out of the Fund, makes any statement which he knows to be false in a material particular is guilty of an offence and liable on conviction to a fine of R.10,000.

15. Regulations

The Minister may make regulations for carrying into effect the provisions of this Act and for any matters required or necessary to be prescribed by regulations

16. Act not to affect duty to insure

Nothing in this Act shall exempt any person from the provisions of the Motor Vehicles Insurance (Third Party Risks) Act or of any other law requiring a liability to be covered by a policy of insurance.