



MONGOLIA

Date: 06 Oct, 2011

Government House, Ulaanbaatar

THE LAW ON THE DRIVER'S INSURANCE

CHAPTER ONE. GENERAL PROVISIONS

Article 1. Purpose of the law

1.1. The purpose of this law is to regulate the enrolment of drivers in the mandatory insurance of liability compensation for damages caused to the lives, health and property of others as a result of traffic accidents and protection of the victims' rights.

Article 2. Legislation

2.1. The legislation on the mandatory insurance of the driver's liability (hereinafter referred to as "driver's insurance") shall comprise the Constitution of Mongolia, Civil Code, Law on the Legal Status of the Financial Regulatory Commission, Law on Insurance, Law on Professional Insurance Participants, Law on the Safety of the Road Traffic, Law on Auto Transportation, this law and other legislative acts issued in conformity with them.

2.2. Where an international treaty of Mongolia provides otherwise, the provisions of the international treaty shall prevail.

Article 3. Definitions of terms in the law

3.1. The definitions used in this law shall have the following meaning:

3.1.1. "driver" (hereinafter referred to as "driver") shall mean a person driving an auto transportation vehicle or a motorcycle;

3.1.2. "auto transportation vehicle" shall mean the definition specified in 3.1.1 of the Law on Auto Transportation;

3.1.3. "insurer" shall mean a legal entity permitted to engage in the activities of the driver's insurance by entering into insurance contracts with insurees and accepting the obligation to provide compensations to victims with the amount and conditions specified in such contracts;

3.1.4. “driver’s insurance fund” shall mean a fund established jointly by insurers in accordance with this law for the purpose of compensating the damages caused to other entities by drivers where there is no driver’s liability insurance, duration of the insurance contract has expired, the driver has escaped after making an insurance event or an insurer has bankrupted;

3.1.5. “emergency service of the driver’s insurance fund” (hereinafter referred to as “emergency service”) shall mean a service rendering assistance in the forms of receiving information on events of the driver’s insurance from insurers, insurees, drivers, victims and citizens and establishing possibilities to insurers, insurees and victims to accurately and swiftly determine the insurance events;

3.1.6. “insuree” shall mean a entity making a contract with an insurer and having insured the liability before other entities during the participation in the road traffic;

3.1.7. “insuree’s confidence history” shall mean information on an insuree maintained by an insurer;

3.1.8. “compensation of the driver’s insurance” (hereinafter referred to as “compensation”) shall mean monetary assets provided to a victim from an insurer in the case of occurrence of an insurance event as specified in an insurance contract and monetary assets provided to a victim from the insurance fund where an insurance compensation according to an insurance contract cannot be provided;

3.1.9. “driver’s insurance event” (hereinafter referred to as “insurance event”) shall mean an event made by a driver during the participation in the road traffic causing damages to lives, health and property of other entities and undertaking the liability;

3.1.10. “victim” shall mean an entity who has incurred damages to his or her health or property due to an insurance event or an entity with a right to demand compensations for damages where a person has died due to an insurance event.

Article 4. Principles of the insurance

4.1. The driver’s insurance shall adhere to the following principles:

4.1.1. mandatory enrolment in insurance by each owner of a transportation vehicle;

4.1.2. provision of compensations to victims;

4.1.3. prohibition to participate in the road traffic for drivers without enrolment in the driver’s insurance;

4.1.4. restoration of the rights of citizens breached by traffic accidents and creation of financial resources to compensate the damages incurred to them.

Article 5. Entities to be insured

5.1. Every owner of a transportation vehicle shall enroll in the driver's insurance on a mandatory basis.

5.2. Entities specified in 5.1 of this law without enrolment in the driver's insurance shall be prohibited to participate in the road traffic using transportation vehicles, submit their transportation vehicles for the technical inspection and register in the state registry.

5.3. Professional drivers specified in 3.1.15 of the Law on Auto Transportation and drivers participating in the road traffic using transportation vehicles with the classification "C" and "D" shall enroll in the driver's insurance regardless of the ownership of a transportation vehicle.

Article 6. Conditions not covered by the insurance

6.1. Entities having been insured in an authorized insurance organization of a country member to an international mandatory insurance association which Mongolia has joined shall not be subject to the insurance stipulated in this law.

6.2. This law shall not apply to military transportation vehicles of the special purpose that do not participate in the road traffic.

6.3. This law shall not apply to the claims of victims to drivers or perpetrators exceeding the amount specified by this law and to such excess parts.

CHAPTER TWO. INSURANCE CONTRACT

Article 7. An insurance contract and its period

7.1. Drivers shall enter into insurance contracts with insurers according to conditions specified in this law for the purpose of compensating the potential damages to lives, health and property of others during the participation in the road traffic.

7.2. The insurees shall prepare and submit an application to insurers according to the approved sample.

7.3. Insurance contracts shall be made in a written form according to standard conditions specified in 7.4 of this law and shall be invalid where such requirements are not satisfied.

7.4. The Financial Regulatory Commission shall stipulate the sample of the insurance application and standard model of the contract.

7.5. The insurees shall have the right to freely and voluntarily select their insurers.

7.6. Insurance contracts shall be effective for the period of up to one year and insurance contracts shall enter into force with the payment by the insuree of the insurance fee.

7.7. The insurer shall have the duty to provide free of charge to insurees all information related to the contract that has formed during the period of the insurance contract.

Article 8. Insurance guarantee

8.1. The insurer shall immediately upon making an insurance contract provide the insuree with an insurance guarantee (hereinafter referred to as “guarantee”) certifying the conclusion of the contract.

8.2. Drivers shall place the guarantees in their auto transportation vehicles at all times and show them to authorized entities where required.

8.3. The chief of the Financial Regulatory Commission and member of the Government in charge of internal matters shall jointly adopt the regulation on the guarantee sample and procedure of its use.

CHAPTER THREE. ASSESSMENT AND FEES OF THE INSURANCE

Article 9. Insurance assessment

9.1. The amount of the driver’s insurance assessment or the compensation to be provided once on an insurance event shall have the following amount:

9.1.1. up to five million MNT for transportation vehicles specified in 10.1.1, 10.1.2 and 10.1.5 of this law;

9.1.2. up to ten million MNT for transportation vehicles specified in 10.1.3 and 10.1.4 of this law.

9.2. Insurers and insurees may mutually agree to set the insurance assessment higher than the assessment specified in 9.1 of this law and in this case may indicate in the insurance contract the amount of the insurance fee differently from that of this law.

Article 10. Base fee of the insurance

10.1. Insurees specified in 5.1 of this law shall pay the following base fees:

10.1.1. 12 500 MNT for transportation vehicles of the classification “A”;

10.1.2. 33 000 MNT for transportation vehicles of the classification “B”;

10.1.3. 42 500 MNT for transportation vehicles of the classification “C”;

10.1.4. 53 000 MNT for transportation vehicles of the classification “D”;

10.1.5. 12 500 MNT for transportation vehicles of the classification “mechanism”.

10.2. Insurees specified in 5.3 of this law shall pay 33 000 MNT as the base insurance fee.

Article 11. Insurance fee

11.1. The base insurance fee shall be calculated with an increase or depreciation by the following quotient in order to determine the insurance fees:

11.1.1. depending on the territorial location of using the transportation vehicle;

11.1.2. depending on the number of insurance events occurred through the fault of the insuree and amounts of the provided compensations during the period of previous contracts;

11.1.3. depending on the age of the insuree and experience of driving an auto transportation vehicle;

11.1.4. depending on the period of the insurance contract;

11.1.5. depending on whether false information is intentionally provided to affect the process to determine the insurance fee amount lower than the requirement in the regulation or to increase the insurance compensation;

11.1.6. the number of drivers using the transportation vehicle;

11.1.7. capacity of the transportation vehicle, number of passenger seats and power of the engine;

11.1.8. purpose of the transportation vehicle;

11.1.9. whether there is a trailer.

11.2. The Financial Regulatory Commission shall adopt the regulation to use the quotient calculate the insurance fee.

CHAPTER FOUR. INSURANCE EVENT AND COMPENSATION

Article 12. Damages not pertaining to insurance events

12.1. The following damages shall not pertain to insurance events:

12.1.1. emotional damages;

12.1.2. damages occurring from the pollution of the environment;

12.1.3. damages incurred to the auto transportation vehicle and cargo of the insuree;

12.1.4. damages exceeding the amount specified in this law and insurance contract.

12.2. The compensations for damages specified in 12.1 of this law shall be resolved in accordance with the procedures stipulated in the relevant legislation of Mongolia.

Article 13. Duties undertaken by drivers

13.1. The insurees shall undertake the following duties in the occurrence of an insurance event:

13.1.1. informing the victim of their enrolment in the driver's insurance;

13.1.2. informing the insurer and police institution regarding the insurance event and allowing the inspection of the insurance guarantee;

13.1.3. providing the information required for determining the insurance event and amount of compensation within the period demanded by the insurer and authorized entities;

13.1.4. informing the emergency service and, where necessary, police institution if the insurer has bankrupted.

13.2. Uninsured drivers shall immediately undertake the following duties in the occurrence of an insurance event:

13.2.1. informing the victim of the absence of the driver's insurance;

13.2.2. informing the emergency service and police institution regarding the insurance event.

13.3. Entities specified in 13.1 and 13.2 of this law shall immediately fill in and sign the insurance event description form where an insurance event occurs.

13.4. The insurer shall be notified where the driver and victim have agreed to immediately compensate the damages incurred due to the insurance event where such insurance event occurs and the driver may compensate the damages according to the instruction of the insurer with the reimbursement by the insurer.

13.5. The insurer and the driver's insurance fund shall not bear any responsibility for consequences arising out of the insuree's unjustified failure to implement the duties specified in 13.1 and 13.4 of this law and the insuree shall be liable for the damages on his or her own.

13.6. The insurer and the driver's insurance fund shall not bear any responsibility for consequences arising out of the uninsured driver's unjustified failure to implement the duties specified in 13.2 of this law and the driver shall be liable for the damages on his or her own.

Article 14. Duties of a victim

14.1. Victims shall inform the emergency service and police institution where drivers make an insurance events and escape.

14.2. Victims shall undertake the duty provide every information proving the damages related to the life, health and property to the insurer, emergency service and insurance damage assessors.

Article 15. Rights and duties of insurers and the driver's insurance fund

15.1. Insurers and the driver's insurance fund shall have the right to demand from the insurees and victims the information required for determining the insurance compensation and damage amount.

15.2. Insurers and the emergency service shall have the duty to swiftly send their representatives to the place of an insurance event upon the immediate obtainment of the information on such insurance event.

15.3. Insurers shall exempt the insurees from obligations before the third parties in an amount specified in the insurance contract after determining the insurance compensation amount and fault of the insurees in instances other than those specified in 19.2 of this law.

Article 16. Inspection of insurance events

16.1. The representatives of the insurer and the driver's insurance fund shall have the duty to inspect the insurance event and appoint an insurance damage assessor within three days since the victim, its lawful representative or the insuree submit an application.

16.2. The representatives of the insurer and the driver's insurance fund may extend the period specified in 16.1 of this law for up to ten days depending on the territorial location of the insurance event with permission of the victim and the insuree.

16.3. Authorized entities specified in the law or insurance damage assessors may conduct a technical inspection to an auto transportation vehicle for the purpose of examining the insurance event and determining the damage amount.

16.4. Where the representatives of the insurer and the driver's insurance fund do not examine the insurance event or appoint a damage assessor within the period specified in 16.1 of this law, the insuree, driver and the victim shall have the right to refer to damage assessing entities specified in 3.2.4 of the Law on Professional Insurance Participants.

16.5. Unless the insurance contract provides otherwise, the insurer and the driver's insurance fund shall bear the expenses related to inspecting the insurance event, determining the compensation amount and evaluating the damage.

16.6. An insurance event shall be determined on the basis of a insurance event description specified in 16.6 of the Law on Road Traffic Safety.

Article 17. Determining the damage amount

17.1. Unless the law provides otherwise, the insurer, insurance damage assessor and authorized entities specified in the law shall determine the amount of damages incurred to lives, health and property of victims in the following way:

17.1.1. according to Article 508 of the Civil Code in case of a victim's death;

17.1.2. according to the amount mutually agreed to by parties where the victim, insuree and the insurer are unanimous regarding the amount of damages in case of the damage to the victim's health and property;

17.1.3. according to Article 505 of the Civil Code where the victim, insuree and the insurer do not agree on the amount of damages where they have occurred to the health of the victim;

17.1.4. according to Article 510 of the Civil Code where the victim, insuree and the insurer do not agree on the amount of damages where they have occurred to the property of the victim.

Article 18. Providing compensations from the driver's insurance fund

18.1. The driver's insurance fund shall provide compensations based on applications from victims according to any one of the following grounds:

18.1.1. an entity without insurance has committed an insurance event;

18.1.2. an entity whose period of the insurance contract is expired has committed an insurance event;

18.1.3. an entity causing the damages to the life and health of victims is unclear;

18.1.4. the insurer has bankrupted;

18.1.5. other grounds specified in the legislation.

Article 19. Provision of the insurance compensation

19.1. The insurer and the driver's insurance fund shall determine the compensation provided to the victim on the basis of opinions and conclusions of authorized entities specified in the law or insurance damage assessors and grounds stipulated in Article 17 of this law.

19.2. Where there is a damage incurred to the life and health of the victim, the insurer and the driver's insurance fund shall provide the compensation within ten business days since determining the amount of the compensation in accordance with the procedure specified in Articles 16 and 17 of this law regardless of whether the fault of the insuree is proven or not.

19.3. Where is a damage incurred to the property of the victim and the fault of the insuree is proven, the compensation shall be provided within one month after determining the amount of the compensation in accordance with the procedure specified in Articles 16 and 17 of this law.

19.4. The insurer and the driver's insurance fund may negotiate to repair the property within the scope of the insurance assessment through an agreement with the victim when compensating the damages incurred to the property of the victim.

19.5. The compensation may be partially provided on the basis of a request from the victim until the compensation amount is fully determined.

19.6. Where the compensation is to be partially provided by the request of several victims before the full determination of the compensation amount, they shall be provided to each victim in equal amounts and after the full determination of the compensation amount according to allotted percentages.

19.7. Where the amount of compensations provided to several victims exceeds the amount specified in Article 9 of this law, the compensation shall be provided to each victim according to the allotted percentage.

19.8. The insurer and the driver's insurance fund shall monthly deliver the police institution the information related to the provision of compensations to victims and the Financial Regulatory Commission and the central state administrative institution in charge of internal matters shall jointly adopt the regulation on delivery and use of the information.

19.9. Up to eighty percents of the compensation to the victim shall be provided for the damages to the life and health of the victim and up to twenty percents for the damages to the property of the victim.

19.10. The compensation for each insurance event occurring when the insuree specified in 5.3 of this law drives the insuree's transportation vehicle stipulated in 5.1 of this law shall be paid to the insurer according to the ratio of base fees paid by each insuree.

Article 20. Grounds to reclaim the compensations

20.1. The insurer shall exercise the right to reclaim the compensations provided to victims from the perpetrating entities on the following grounds:

20.1.1. from the perpetrating entity where the conclusion and decision of authorized entities specified in the law determine that the damages to the victim have not occurred due to the fault of the insuree;

20.1.2. from the insuree and the driver where the entities specified in 13.1 and 13.2 of this law have not been notified regarding the occurrence of insurance events;

20.1.3. from the insuree where the insuree has escaped from the place of the insurance event;

20.1.4. from the insuree where the insuree has committed the insurance event during the usage of alcoholic beverages or narcotic substances;

20.1.5. from the perpetrating entity in other instances specified in the law.

20.2. The driver's insurance fund shall exercise the right to reclaim the compensations to victims from the perpetrating entities on the following grounds:

20.2.1. from the perpetrating entity where the conclusion and decision of authorized entities specified in the law determine that the damages to the victim have not occurred due to the fault of the driver;

20.2.2. from the specific driver where the conclusion and decision of authorized entities specified in the law determine that the damages to the victim have occurred due to the fault of the driver without insurance;

20.2.3. from the specific driver regarding the damages caused by the driver who has committed an insurance event and escaped;

20.2.4. from the entity inheriting the rights according to the law where the insurer has bankrupted;

20.2.5. other grounds specified in the legislation.

CHAPTER FIVE. FORMATION AND EXPENDITURE OF THE DRIVER'S INSURANCE FUND

Article 21. Driver's insurance fund

21.1. The driver's insurance fund (hereinafter referred to as "fund") shall be an integral part of the mandatory insurance fund specified in 12¹.3.3 of the Law on Insurance and shall possess an independent account and a registration separate from other forms of the mandatory insurance funds.

21.2. The Association of Mandatory Insurers specified in Article 12¹ of the Law on Insurance shall annually produce statements on the formation and expenditure of the fund and the Financial Regulatory Commission shall impose supervision on activities and statements of the fund.

21.3. The Financial Regulatory Commission shall adopt the regulation on the placement of the fund account, concentration of the financing, transfer and expenditure of the fund assets.

Article 22. Formation of the driver's insurance fund

22.1. The fund shall form from the following sources:

22.1.1. capital accumulated from each insurer rendering activities of the driver's insurance;

22.1.2. fifty percent of the income specified in 28.1 of this law;

22.1.3. compensations reclaimed according to 20.2 of this law;

22.1.4. ten percent of the tax on auto transportation and self-moving vehicles;

22.1.5. income from allowing the paid use of the database specified in 24.6 of this law;

22.1.6. income from loans, aid and donations.

22.2. The Financial Regulatory Commission and the central state administrative institution in charge of finance and budget matters shall jointly adopt on an annual basis the amount of the capital accumulated in accordance with 22.1.1 of this law.

22.3. The members of the Government in charge of finance and auto road matters shall jointly adopt the regulation on transferring the financing specified in 22.1.2 and 22.1.4 of this law to the account of the fund.

22.4. Where the assets of the fund have become insufficient for implementation of the primary objectives, the governing board of the Association of Mandatory Insurers may issue a decision to draw funds from the association members.

Article 23. Expenditure of the driver's insurance fund

23.1. The assets of the fund may be expended for the following purposes:

23.1.1. the provision of compensations specified in 18.1 of this law;

23.1.2. the maintenance of the database;

23.1.3. the financing of the emergency service and the fund;

23.1.4. the financing of training and advertisement aimed at reducing traffic accidents.

23.2. The assets of the fund shall be prohibited to be used for purposes other than those specified in 23.1 of this law.

23.3. The Association of Mandatory Insurers shall specify the percentage and amount of assets from the fund intended to spend for activities stipulated in 23.1.4 of this law.

CHAPTER SIX. DATABASE AND EMERGENCY SERVICE

Article 24. Database

24.1. The database of the driver's insurance (hereinafter referred to as "database") shall be an integral part of the consolidated mandatory insurance database specified in 12¹.3.1 of the Law on Insurance and shall possess an independent account and a registration separate from other mandatory insurance databases.

24.2. The database shall include the information on insurance contracts, insurance events, compensations provided to victims, insurers, insureds and victims and other statistical information related to the driver's insurance.

24.3. The information in the database shall be open and publicly accessible.

24.4. Members of the Association of Mandatory Insurers specified in Article 12¹ of the Law on Insurance, insurers and insureds shall have the right to use free of charge the information related to themselves and the state institutions and officials in relation to the resolution of cases and disputes of the driver's insurance shall exercise the right to use the information of the database free of charge.

24.5. The information of the database shall be used on a paid basis in instances other than those specified in 24.4 of this law.

24.6. The Association of Mandatory Insurers shall specify the amount of fees for services to use the information of the database and the procedure of such use and the income shall be expended for financing the activities of the database.

Article 25. Emergency service

25.1. The emergency service shall be an integral part of the emergency service specified in 12¹.3.2 of the Law on Insurance and may be separate from other types of mandatory insurance emergency services.

25.2. The emergency service shall receive information on traffic accidents due to the driver from insureds, insurers, drivers, victims and citizens and work to establish for insurers, insureds, drivers and victims the possibility to accurately and swiftly determine the compensation to be provided to victims due to insurance events.

25.3. The Financial Regulatory Commission shall adopt the regulation on the work, structure and composition of the emergency service based on the opinion of the Association of Mandatory Insurers.

CHAPTER SEVEN. MISCELLANEOUS

Article 26. Supervision of insurance activities

26.1. The Financial Regulatory Commission shall ensure the consolidated coordination of activities by the insurers engaging in the driver's insurance and impose supervision on them:

26.2. The Financial Regulatory Commission shall adopt the regulation to allocate to insurers the drivers failing to enter into insurance contracts on the grounds of their frequent incidences of insurance events.

26.3. The state inspection service for the road traffic safety and the central state administrative institution in charge of auto transportation matters shall separately impose supervision on the implementation of provisions specified in 5.1 and 5.2 of this law.

26.4. The member of the Government in charge of border protection matters shall jointly with the Financial Regulatory Commission adopt the regulation on enrolling the transportation vehicles entering the territory of Mongolia on a transit or short term basis in the driver's insurance at the border area.

Article 27. Procedure of dispute resolution

27.1. The procedure specified in Article 82 of the Law on Insurance shall resolve disputes related to the driver's insurance.

Article 28. Liabilities to perpetrators of the legislation

28.1. State inspectors for the insurance supervision specified in Article 24 of the Law on the Legal Status of the Financial Regulatory Commission and state inspectors for the road traffic safety supervision shall impose the following administrative liabilities on perpetrating entities where the breach of the legislation on the driver's insurance does not constitute a criminal offence:

28.1.1. entities breaching the procedures specified in 5.1, 5.2 and 8.2 of this law shall be subject to a MNT fine equivalent to the minimum labour wage, the transportation vehicles shall be impounded in a special fenced area (square) until the enrolment in the driver's insurance and perpetrating entities shall pay the expenses;

28.1.2. insurees failing to provide the information required for determining the insurance event and amount of compensations within the period demanded by the insurer shall be subject to a MNT fine equivalent to the minimum labour wage;

28.1.3. insurers and the driver's insurance fund failing to fulfill the duties specified in 16.1 of this law shall be subject to a MNT fine equivalent to the minimum labour wage increased thrice;

28.1.4. entities using the assets of the driver's insurance fund for purposes other than those specified in 23.1 of this law shall be subject to a MNT fine equivalent to the minimum labour wage increased by five times;

28.1.5. officials breaching or failing to comply with the legislation on the driver's insurance by admitting to the technical supervision inspection and registering in the state registry shall be subject to a MNT fine equivalent to the minimum labour wage increased twice;

28.1.6. insurers and the driver's insurance fund failing to provide compensations in conformity with conditions, procedures and period specified in Articles 15, 16, 17 and 19 of this law or failing to provide responses of refusal to victims based on definitive grounds shall be subject to a MNT fine equivalent to the minimum labour wage increased by five times;

28.1.7. legal entities engaging in the activities of the mandatory insurance of the driver's liability without permission shall be subject to a MNT fine equivalent to the minimum labour wage increased by ten times with the confiscation of the illegally obtained income;

28.1.8. insurers transferring the insurance contract or merging the activities without permission of the Financial Regulatory Commission shall be subject to a MNT fine equivalent to the minimum labour wage increased by ten times;

28.1.9. insurers failing to allocate capital into the driver's insurance fund as specified in 22.1.1 of this law shall be subject to a MNT fine equivalent to the minimum labour wage increased by ten times;

28.1.10. other grounds specified in the legislation.

Article 29. Entry into force

29.1. This law shall become effective since January 1st, 2012.

29.2. Article 18 of this law concerning the provision of compensations from the driver's insurance fund shall be effective on the next day after one year since the period specified in 29.1 of same law.

29.3. 28.1.1 of this law shall become effective since October 1st, 2012.

PARLIAMENT SPEAKER OF
MONGOLIA

D.DEMBEREL