

# The 6th Motor Insurance Directive: New Regulations in Force

February 2024

The 6th Motor Insurance Directive, Directive (EU) 2021/2118 ('**2021 Directive**'), was published in the Official Journal of the EU on 02 December 2021 and includes changes to legal definitions, minimum compulsory cover levels and provisions to compensate persons involved in road traffic accidents in cases where the relevant insurer is insolvent. The Irish government has indicated that the Motor Insurance Insolvency Compensation Bill, which will transpose part of the 2021 Directive, is a legislative priority for 2024.

In the meantime, [Statutory Instrument 643/2023](#) was published on 14 December 2023 and sets out the European Union (Motor Insurance) Regulations 2023 ('**2023**

**Regulations**'), pursuant to the 2021 Directive. These Regulations came into operation on 23 December 2023.

## Background

The first EU Directive on motor insurance was adopted in 1972. It included provisions to protect the position of persons involved in motor vehicle accidents and also, facilitated the free movement of motor vehicles between Member States. Additional motor insurance related Directives provided further regulation and these were consolidated in 2009 into Directive 2009/103/EC relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability ('**2009 Directive**').

## Key Changes in the 2021 Directive

The 2021 Directive amends the 2009 Directive and contains some important changes.





The 2021 Directive seeks to ensure that victims of motor vehicle accidents receive the full compensation they are due, even when the insurer is insolvent. Member States are required to appoint compensation bodies that will deal with claims arising from such accidents. For cross-border cases, these compensation bodies are to conclude an agreement on the obligations for reimbursement.

Pursuant to the 2021 Directive, an injured party in such a scenario would be compensated by the body in their Member State of residence. That body would be entitled to claim reimbursement from the body in the Member State where the insurance undertaking which produced the contract is established.

The new rules will also ensure that those who have a previous claims history in another EU Member State are treated equally to domestic policyholders, with any discounts that would be available to an otherwise identical domestic policy holder also applied. This will assist in ensuring equally favourable insurance conditions for such persons. Policyholders will have the right to request a statement relating to third party liability claims involving a vehicle for at least the preceding five years and Member States must ensure that, where an insurance undertaking takes into account claims-history statements when determining premiums, it shall treat those issued in other Member States as equal to domestic ones, including when applying any discounts.

In order to ensure the same minimum level of protection at EU level, the 2021 Directive includes minimum levels of compulsory cover for personal injury and damage to property, as follows:

- for personal injuries: €6,450,000 per accident, irrespective of the number of injured parties, or €1,300,000 per injured party; and
- for damage to property, €1,300,000 per accident, irrespective of the number of injured parties.

These amounts are without prejudice to any higher sums which Member States may prescribe.

## 2023 Regulations

As noted above, while the 2021 Directive has not yet been fully transposed into Irish law, the 2023 Regulations are now in operation and they provide for certain amendments to the Road Traffic Act 1961 and the Road Traffic Act 1968, as well as earlier regulations. The 2023 Regulations include:

- The replacement of the definition of vehicle for insurance purposes to be any motor vehicle propelled exclusively by mechanical power on land, subject to speed and weight conditions and any trailer to be used with such a vehicle, whether coupled or uncoupled;
- Introduces the term “use of a vehicle”, which clarifies that the use of such vehicles covers any use of a vehicle consistent with its normal function as a means of transport, irrespective of the terrain on which the motor vehicle is used and whether it is stationary or in motion;
- Increases the limit per claim for property damage;
- Excludes motorsports events and activities from certain requirements of the 2021 Directive;
- Includes provisions on the insurance of certain trailers towed by a vehicle, which is not normally based in the State; and
- Revokes the European Union (Motor Insurance)(Limitation of Insurance in relation to Injury to Property) Regulations 2015 (S.I. 655/2016).

## Conclusion

The European Union already had taken the first step in infringement proceedings against Ireland (and 16 other Member States) over transposition of the 2021 Directive



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and it has been indicated by the Minister for Finance that *"transposition of the Motor Insurance Directive through the Motor Insurance Insolvency Compensation Bill 2023 is a key priority in 2024."* As such, further developments on the 2021 Directive, in an Irish context, are expected in the short term.



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