

Motor Insurance Regulation Bill

CONTENTS

- 1 Prohibition of referral fees
- 2 Whiplash
- 3 Road Traffic Accident Pre-Action Protocol
- 4 Motor insurance risk pricing
- 5 Short title, commencement and extent

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TO

Reform the regulation and operation of the market in motor insurance; and, specifically, to ban the payment of referral fees; to establish new standards relating to the evidence required and damages payable for whiplash; to reform the Pre-Action Protocol for Personal Injury Claims in Road Traffic Accidents; to set requirements in respect of risk pricing for personal injury claims; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Prohibition of referral fees

- (1) It shall be unlawful for any person to solicit, offer, or pay any referral fee relating to a personal injury road traffic claim, and no such fee may be recoverable as costs of any legal advice, assistance, or actions.
- (2) In this Act—
- “referral fee” means any payment for the introduction of a potential client, for information which might assist in the identification of potential clients, or of any road traffic accidents in which they may have been involved, or of any sharing of fees arising from an action, or threatened action, for the recovery of damages;
- “personal injury road traffic claim” means any claim for damages for personal injury arising from a road traffic accident.
- (3) An offence under this section shall be punishable on summary conviction by a fine not exceeding the statutory maximum or on indictment by imprisonment for a term not exceeding two years, or a fine, or both.

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2 Whiplash

- (1) This section applies to any personal injury claim for whiplash.

- (2) The onus shall be on the claimant to satisfy the court that there is independent, objective evidence that the claimant has suffered harm, and of the extent of that harm.
- (3) No damages shall be recoverable if the only evidence is the subjective description of symptoms by, or behalf of, the claimant. 5
- (4) There shall be a rebuttable presumption that no harm or injury to the claimant has been suffered where either or both of the following conditions applies –
- (a) the collision giving rise to the accident took place at a relative speed of 15 miles per hour or less;
 - (b) there are no musculoskeletal signs of any injury, including fracture and dislocation. 10
- (5) In this section “whiplash” means a neck injury caused by a sudden movement of the head forwards, backwards or sideways.

3 Road Traffic Accident Pre-Action Protocol

- (1) The Table in Rule 45.29 of the Civil Procedure Rules 1998 (SI 1998/3132) (Amount of fixed costs under the Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents) is amended as follows. 15
- (2) The figure for Stage 1 shall be £200.
- (3) The figure for Stage 2 shall be £400.
- (4) The figure for Stage 3 for Type A fixed costs shall be £125. 20
- (5) The figure for Stage 3 for Type B fixed costs shall be £125.
- (6) Any further amendment to the Table shall not be made by the Civil Procedure Rule Committee but may be made by the Lord Chancellor by rules made by statutory instrument and may not be made until a draft of the rules has been laid before and approved by resolution of both Houses of Parliament. 25

4 Motor insurance risk pricing

- (1) In determining whether to provide motor insurance cover, and in setting the relevant premium, it shall be unlawful and discriminatory for any insurer to seek to isolate the level of risk arising from the incidence of personal injury road traffic claims in an area smaller than the standard English region, or Wales, in which the applicant for motor insurance resides. 30
- (2) Nothing in this section shall prevent an insurer from taking into account in determining whether to provide cover, and the relevant premium –
- (a) the applicant’s personal circumstances, namely their age, occupation, and record of claims, accidents, and convictions; or 35
 - (b) the place where the insured vehicle is to be kept;
- but the place where the insured vehicle is to be kept may be taken into account only for the purpose of assessing the level of risk of thefts of or from a vehicle.
- (3) An applicant who is disadvantaged by a breach by an insurer of the provisions of this section shall be entitled to recover damages. 40

5 Short title, commencement and extent

- (1) This Act may be cited as the Motor Insurance Regulation Act 2011.
- (2) This Act shall come into force six months after the day on which it is passed, or on such earlier date as the Lord Chancellor may, by order made by statutory instrument, appoint.
- (3) This Act extends to England and Wales only.

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*Ordered to be brought in by Mr Jack Straw,
Sir Alan Beith, Sir Peter Bottomley,
Steve McCabe, Graham Jones,
Penny Mordaunt and Mr David Ward.*

*Ordered, by The House of Commons,
to be Printed, 13 September 2011.*

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