



# House of Commons

**Tuesday 11 September 2018**

## **PUBLIC BILL COMMITTEE**

---

*New Amendments handed in are marked thus ★*

☆ *Amendments which will comply with the required notice period at their next appearance*

### **CIVIL LIABILITY BILL [LORDS]**

---

#### **NOTE**

**This document includes all amendments tabled to date and includes any withdrawn amendments at the end. The amendments have been arranged in accordance with the Resolution of the Programming Sub-Committee.**

---

#### **RESOLUTION OF THE PROGRAMMING SUB-COMMITTEE**

*The Programming Sub-Committee appointed by the Speaker in respect of the Bill agreed the following Resolution at its meeting on Monday 10 September (Standing Order 83C):*

That—

- (1) the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 11 September) meet—
  - (a) at 2.00 pm on Tuesday 11 September;
  - (b) at 11.30 am and 2.00 pm on Thursday 13 September;
  - (c) at 4.30 pm and 7.00 pm on Tuesday 9 October;
- (2) the proceedings shall be taken in the following order: Clauses 1 to 10; new Clauses; new Schedules; Clauses 11 to 14; remaining proceedings on the Bill;
- (3) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 10.00 pm on Tuesday 9 October.

*Rory Stewart has given notice of his intention to move a motion in the terms of the Resolution of the Programming Sub-Committee [Standing Order No. 83C].*

---

---

 Civil Liability Bill [*Lords*], *continued*

Rory Stewart

That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.

---

Richard Burgon  
 Gloria De Piero  
 Imran Hussain  
 Yasmin Qureshi  
 Lloyd Russell-Moyle

8

Page 1, line 4, leave out Clause 1 and insert—

**“Definition of whiplash injury**

- (1) In this Part “whiplash injury” means an injury, or set of injuries, of soft tissue in the neck, back or shoulder that is of a description specified by the Chief Medical Officer of the Department of Health.
- (2) For the purposes of this Part a person suffers a whiplash injury because of driver negligence if—
  - (a) when the person suffers the injury, the person—
    - (i) is using a motor vehicle other than a motor cycle on a road or other public place in England or Wales, or
    - (ii) is being carried in or on a motor vehicle other than a motor cycle while another uses the vehicle on a road or other public place in England or Wales,
  - (b) the injury is caused—
    - (i) by the negligence of one or more other persons, or
    - (ii) partly by the negligence of one or more other persons and partly by the negligence of the person who suffers the injury, and
  - (c) where the negligence of the other person or persons consists in an act or acts done by the person or persons while using a motor vehicle on a road or other public place in England or Wales.
- (3) The fact that the act or acts constituting the negligence of the other person or persons is or are also sufficient to establish another cause of action does not prevent subsection (2)(b) being satisfied.
- (4) For the purposes of this section references to a person being carried in or on a vehicle include references to a person entering or getting on to, or alighting from, the vehicle.
- (5) In this section—
 

“act” includes omission;

“motor cycle” has the meaning given by section 185(1) of the Road Traffic Act 1988;

“motor vehicle” means a mechanically propelled vehicle intended or adapted for use on roads;

“road” means a highway or other road to which the public has access, and includes bridges over which a road passes.”

***Member’s explanatory statement***

*This amendment would require the Chief Medical Officer to define “whiplash injury”.*

---

**Civil Liability Bill [Lords], continued**

Richard Burgon  
Gloria De Piero  
Imran Hussain  
Yasmin Qureshi  
Lloyd Russell-Moyle

9

Clause 1, page 2, line 3, at end insert—

“(iii) unless in respect of 4(a)(i) or (ii) the person is in a motor vehicle during the course of their employment, in which case Clause 1 shall not apply.”

***Member’s explanatory statement***

*This amendment would exempt people suffering a whiplash injury during the course of their employment from this definition.*

---

Richard Burgon  
Gloria De Piero  
Imran Hussain  
Yasmin Qureshi  
Lloyd Russell-Moyle

10

Clause 3, page 3, line 21, leave out “two years” and insert “twelve months”

***Member’s explanatory statement***

*This amendment would limit the tariff to injuries lasting less than one year.*

Richard Burgon  
Gloria De Piero  
Imran Hussain  
Yasmin Qureshi  
Lloyd Russell-Moyle

11

Clause 3, page 3, line 22, leave out “two years” and insert “twelve months”

***Member’s explanatory statement***

*This amendment would limit the tariff to injuries lasting less than 1 year.*

Richard Burgon  
Gloria De Piero  
Imran Hussain  
Yasmin Qureshi  
Lloyd Russell-Moyle

12

Clause 3, page 3, line 26, leave out from “amount” to end of line 5 on page 4 and insert “determined in accordance with the 14th edition of the Judicial College Guidelines for the Assessment of General Damages in Personal Injury Cases or any subsequent revision to these guidelines.”

Civil Liability Bill [*Lords*], *continued*

Richard Burgon  
Gloria De Piero  
Imran Hussain  
Yasmin Qureshi  
Lloyd Russell-Moyle

13

Clause 3, page 3, line 33, leave out subsections (3) to (7)

***Member's explanatory statement***

*This amendment, together with Amendments 14 to 16, would replace the tariff with the Judicial College Guidelines for the assessment of damages.*

Richard Burgon  
Gloria De Piero  
Imran Hussain  
Yasmin Qureshi  
Lloyd Russell-Moyle

14

Clause 3, page 4, line 7, leave out “to which regulations under this section apply”

***Member's explanatory statement***

*See the explanatory statement for Amendment 13.*

Richard Burgon  
Gloria De Piero  
Imran Hussain  
Yasmin Qureshi  
Lloyd Russell-Moyle

15

Clause 3, page 4, line 9, leave out “(subject to the limits imposed by regulations under this section)”

***Member's explanatory statement***

*See the explanatory statement for Amendment 13.*

Rory Stewart

4

Clause 3, page 4, line 17, at end insert—

“( ) The Lord Chancellor must consult the Lord Chief Justice before making regulations under this section.”

***Member's explanatory statement***

*This amendment requires the Lord Chancellor to consult the Lord Chief Justice before making regulations about the amount of damages for whiplash injuries and minor psychological injuries suffered on the same occasion.*

Richard Burgon  
Gloria De Piero  
Imran Hussain  
Yasmin Qureshi  
Lloyd Russell-Moyle

16

Clause 3, page 4, line 18, leave out subsection (11)

***Member's explanatory statement***

*See the explanatory statement for Amendment 13.*

---

 Civil Liability Bill [*Lords*], *continued*

Richard Burgon  
 Gloria De Piero  
 Imran Hussain  
 Yasmin Qureshi  
 Lloyd Russell-Moyle

1

Page 3, line 14, leave out Clause 3

***Member's explanatory statement***

*This amendment would remove the creation of tariffs for whiplash injuries and retain the existing system where judges decide compensation levels with reference to Judicial College Guidelines.*

---

Richard Burgon  
 Gloria De Piero  
 Imran Hussain  
 Yasmin Qureshi  
 Lloyd Russell-Moyle

2

Page 4, line 20, leave out Clause 4

***Member's explanatory statement***

*See the explanatory statement for Amendment 1.*

---

Richard Burgon  
 Gloria De Piero  
 Imran Hussain  
 Yasmin Qureshi  
 Lloyd Russell-Moyle

18

Page 4, line 30, leave out Clause 5 and insert—

**“Power of court to uplift the amount of damages payable**

- (1) A court may—
  - (a) determine that the amount of damages payable for pain, suffering and loss of amenity in respect of a whiplash injury or a minor psychological injury is an amount greater than the tariff amount relating to that injury;
  - (b) determine that the amount of damages payable for pain, suffering and loss of amenity in respect of a whiplash injury and one or more minor psychological injuries, taken together, is an amount greater than the tariff amount relating to those injuries;
  - (c) in a case where the court considers the combined effect of—
    - (i) an injury or injuries in respect of which a tariff amount is specified by regulations under section 3(2) or (4), and
    - (ii) one or more other injuries, determine that an amount greater than the tariff amount is to be taken into account when deciding the amount of damages payable for pain, suffering and loss of amenity in respect of those injuries.
- (2) In this section “tariff amount” means—
  - (a) in relation to a whiplash injury, the amount specified in respect of the injury by regulations under section 3(2);

---

**Civil Liability Bill [Lords], continued**

- (b) in relation to a whiplash injury and one or more minor psychological injuries, the amount specified in respect of the injuries by regulations under section 3(4).”

***Member’s explanatory statement***

*This amendment would allow judges to increase the amount of damages payable where they determine the tariff amount to be insufficient compensation, rather than capping judges ability to increase compensation awards to a percentage specified by the Lord Chancellor as the Bill currently does.*

Richard Burgon  
Gloria De Piero  
Imran Hussain  
Yasmin Qureshi  
Lloyd Russell-Moyle

3

Page 4, line 30, leave out Clause 5

***Member’s explanatory statement***

*See the explanatory statement for Amendment 1.*

---

Richard Burgon  
Gloria De Piero  
Imran Hussain  
Yasmin Qureshi  
Lloyd Russell-Moyle

19

Clause 6, page 5, line 37, after “injuries” insert “provided by an accredited medical expert selected via the MedCo Portal”

***Member’s explanatory statement***

*This amendment, together with Amendments 20 and 21, would ensure that any medical evidence of a whiplash injury must in all cases be provided by a person registered on the MedCo portal website.*

Richard Burgon  
Gloria De Piero  
Imran Hussain  
Yasmin Qureshi  
Lloyd Russell-Moyle

20

Clause 6, page 6, line 1, leave out subsection (3)

***Member’s explanatory statement***

*See explanatory statement for Amendment 19.*

---

**Civil Liability Bill [Lords], continued**

Richard Burgon  
Gloria De Piero  
Imran Hussain  
Yasmin Qureshi  
Lloyd Russell-Moyle

21

Clause 6, page 6, line 22, at end insert—

“(7) In this section, the “MedCo Portal” means the website operated by Medco Registration Solutions (company number 09295557) which provides a system for the accreditation of medical experts.”

***Member’s explanatory statement***

*See explanatory statement for Amendment 19.*

---

Richard Burgon  
Gloria De Piero  
Imran Hussain  
Yasmin Qureshi  
Lloyd Russell-Moyle

17

Clause 8, page 7, line 15, at end insert—

“(4A) The Treasury must, within one month of the passing of this Act, make regulations specifying that the Financial Conduct Authority is to require all insurers holding a licence to offer UK motor insurance to publish a report—

- (a) on the loss cost savings achieved as a result of the provisions of Part 1 of this Act; and
- (b) how, and the extent to which, such savings have been applied to reduce motor insurance premiums.

(4B) The first such report from insurers must cover the period of 12 months beginning with the first day of the month immediately after the commencement of Part 1 of this Act and must be sent to the Financial Conduct Authority by the end of the period of 15 months beginning with the commencement of Part 1 of this Act.

(4C) The Financial Conduct Authority will require further annual reports.

(4D) The Financial Conduct Authority, within the period of 18 months after the commencement of Part 1 of this Act, must make and publish a reasoned assessment of whether it is satisfied that every insurer covered by this section is passing on to customers any loss cost savings made by those insurers arising from Part 1 of this Act.

(4E) Regulations made under subsection (4A) must make provision for the Treasury to grant powers to the Financial Conduct Authority to enforce a requirement for insurers to pass on loss cost savings, achieved as a result of the provisions of Part 1, from insurers to consumers through a reduction in the cost of premiums if, after the period of 30 months following the commencement of this section, the Financial Conduct Authority advises the Treasury that such powers are necessary.”

***Member’s explanatory statement***

*This amendment would require the Financial Conduct Authority to require insurers to report on the savings they have made as a result of this Bill and the extent to which such savings have been passed on to insurance consumers.*

---

---

 Civil Liability Bill [*Lords*], *continued*

Richard Burgon  
 Gloria De Piero  
 Ellie Reeves  
 Imran Hussain  
 Yasmin Qureshi  
 Lloyd Russell-Moyle

24

Clause 10, page 9, line 20, leave out from “SCHEDULE A1” to end of page 14, and insert—

“SCHEDULE A1

ASSUMED RATE OF RETURN ON INVESTMENT OF DAMAGES: ENGLAND AND WALES

*Periodic reviews of the rate of return*

- 1
- (1) The Lord Chancellor must instruct the expert panel to review the rate of return periodically in accordance with this paragraph.
  - (2) The first review of the rate of return must be started within the 90 day period following commencement.
  - (3) Each subsequent review of the rate of return must be started within the 5 year period following the last review.
  - (4) It is for the Lord Chancellor to decide—
    - (a) when, within the 90 day period following commencement, a review under sub-paragraph (2) is to be started;
    - (b) when, within the 5 year period following the last review, a review under sub-paragraph (3) is to be started.
  - (5) In this paragraph—
 

“90 day period following commencement” means the period of 90 days beginning with the day on which this paragraph comes into force;

“5 year period following the last review” means the period of five years beginning with the day on which the last review under this paragraph is concluded.
  - (6) For the purposes of this paragraph a review is concluded on the day when the Lord Chancellor makes a determination under paragraph 2 as a result of the review.

*Conducting the review*

- 2
- (1) This paragraph applies when the Lord Chancellor is required by paragraph 1(2) or (3) to instruct the expert panel to conduct a review of the rate of return.
  - (2) The Lord Chancellor must instruct the expert panel to review the rate of return and determine whether it should be—
    - (a) changed to a different rate, or
    - (b) kept unchanged.
  - (3) The expert panel must conduct that review and make that determination within the 140 day review period.
  - (4) When deciding what response to give to the Lord Chancellor under this paragraph, the expert panel must take into account the duties imposed on the Lord Chancellor by paragraph 3.



*Civil Liability Bill [Lords], continued*

- (5) During any period when the office of Government Actuary is vacant, a reference in this paragraph to the Government Actuary is to be read as a reference to the Deputy Government Actuary.
- (6) In this paragraph “140 day review period” means the period of 140 days beginning with the day which the Lord Chancellor decides (under paragraph 1) should be the day on which the review is to start.

*Determining the rate of return*

- 3 (1) The expert panel must comply with this paragraph when determining under paragraph 2 whether the rate of return should be changed or kept unchanged (“the rate determination”).
- (2) The expert panel must make the rate determination on the basis that the rate of return should be the rate that, in the opinion of the expert panel, a recipient of relevant damages could reasonably be expected to achieve if the recipient invested the relevant damages for the purpose of securing that—
  - (a) the relevant damages would meet the losses and costs for which they are awarded;
  - (b) the relevant damages would meet those losses and costs at the time or times when they fall to be met by the relevant damages; and
  - (c) the relevant damages would be exhausted at the end of the period for which they are awarded.
- (3) In making the rate determination as required by sub-paragraph (2), the expert panel must make the following assumptions—
  - (a) the assumption that the relevant damages are payable in a lump sum (rather than under an order for periodical payments);
  - (b) the assumption that the recipient of the relevant damages is properly advised on the investment of the relevant damages;
  - (c) the assumption that the recipient of the relevant damages invests the relevant damages in a diversified portfolio of investments;
  - (d) the assumption that the relevant damages are invested using an approach that involves—
    - (i) more risk than a very low level of risk, but
    - (ii) less risk than would ordinarily be accepted by a prudent and properly advised individual investor who has different financial aims.
- (4) That does not limit the assumptions which the expert panel may make.
- (5) In making the rate determination as required by sub-paragraph (2), the expert panel must—
  - (a) have regard to the actual returns that are available to investors;
  - (b) have regard to the actual investments made by investors of relevant damages; and
  - (c) make such allowances for taxation, inflation and investment management costs as the expert panel thinks appropriate.
- (6) That does not limit the factors which may inform the expert panel when making the rate determination.
- (7) In this paragraph “relevant damages” means a sum awarded as damages for future pecuniary loss in an action for personal injury.

*Determination*

- 4 When the expert panel makes a rate determination, the expert panel must give reasons for the rate determination made.

---

*Civil Liability Bill [Lords], continued**Expert panel*

- 5 (1) For each review of a rate of return, the Lord Chancellor is to establish a panel (referred to in this Schedule as an “expert panel”) consisting of—
- (a) the Government Actuary, who is to chair the panel; and
  - (b) four other members appointed by the Lord Chancellor.
- (2) The Lord Chancellor must exercise the power to appoint the appointed members to secure that—
- (a) one appointed member has experience as an actuary;
  - (b) one appointed member has experience of managing investments;
  - (c) one appointed member has experience as an economist;
  - (d) one appointed member has experience in consumer matters as relating to investments.
- (3) An expert panel established for a review of a rate of return ceases to exist once it has responded to the consultation relating to the review.
- (4) A person may be a member of more than one expert panel at any one time.
- (5) A person may not become an appointed member if the person is ineligible for membership.
- (6) A person who is an appointed member ceases to be a member if the person becomes ineligible for membership.
- (7) The Lord Chancellor may end an appointed member’s membership of the panel if the Lord Chancellor is satisfied that—
- (a) the person is unable or unwilling to take part in the panel’s activities on a review conducted under paragraph 1;
  - (b) it is no longer appropriate for the person to be a member of the panel because of gross misconduct or impropriety;
  - (c) the person has become bankrupt, a debt relief order (under Part 7A of the Insolvency Act 1986) has been made in respect of the person, the person’s estate has been sequestrated or the person has made an arrangement with or granted a trust deed for creditors.
- (8) During any period when the office of Government Actuary is vacant the Deputy Government Actuary is to be a member of the panel and is to chair it.
- (9) A person is “ineligible for membership” of an expert panel if the person is—
- (a) a Minister of the Crown, or
  - (b) a person serving in a government department in employment in respect of which remuneration is payable out of money provided by Parliament.
- (10) In this paragraph “appointed member” means a person appointed by the Lord Chancellor to be a member of an expert panel.

*Proceedings, powers and funding of an expert panel*

- 6 (1) The quorum of an expert panel is four members, one of whom must be the Government Actuary (or the Deputy Government Actuary when the office of Government Actuary is vacant).
- (2) In the event of a tied vote on any decision, the person chairing the panel is to have a second casting vote.
- (3) The panel may—
- (a) invite other persons to attend, or to attend and speak at, any meeting of the panel;

**Civil Liability Bill [Lords], continued**

- (b) when exercising any function, take into account information submitted by, or obtained from, any other person (whether or not the production of the information has been commissioned by the panel).
- (4) The Lord Chancellor must make arrangements for an expert panel to be provided with the resources which the Lord Chancellor considers to be appropriate for the panel to exercise its functions.
- (5) The Government Actuary's Department, or any other government department, may enter into arrangements made by the Lord Chancellor under subparagraph (4).
- (6) The Lord Chancellor must make arrangements for the appointed members of an expert panel to be paid any remuneration and expenses which the Lord Chancellor considers to be appropriate.

*Application of this Schedule where there are several rates of return*

- 7 (1) This paragraph applies if two or more rates of return are prescribed under section A1.
- (2) The requirements—
  - (a) under paragraph 1 for a review to be conducted, and
  - (b) under paragraph 2 relating to how a review is conducted, apply separately in relation to each rate of return.
- (3) As respects a review relating to a particular rate of return, a reference in this Schedule to the last review conducted under a particular provision is to be read as a reference to the last review relating to that rate of return.

*Interpretation*

- 8 (1) In this Schedule—
  - “expert panel” means a panel established in accordance with paragraph 5;
  - “rate determination” has the meaning given by paragraph 3;
  - “rate of return” means a rate of return for the purposes of section A1.
- (2) A provision of this Schedule that refers to the rate of return being changed is to be read as also referring to—
  - (a) the existing rate of return being replaced with no rate;
  - (b) a rate of return being introduced where there is no existing rate;
  - (c) the existing rate of return for a particular class of case being replaced with no rate;
  - (d) a rate of return being introduced for a particular class of case for which there is no existing rate.
- (3) A provision of this Schedule that refers to the rate of return being kept unchanged is to be read as also referring to—
  - (a) the position that there is no rate of return being kept unchanged;
  - (b) the position that there is no rate of return for a particular class of case being kept unchanged.
- (4) A provision of this Schedule that refers to a review of the rate of return is to be read as also referring to—
  - (a) a review of the position that no rate of return is prescribed;
  - (b) a review of the position that no rate of return is prescribed for a particular class of case.”

***Member's explanatory statement***

*This amendment would require that the discount rate was set by the expert panel, not the Lord Chancellor.*

---

 Civil Liability Bill [*Lords*], *continued*

Richard Burgon  
 Gloria De Piero  
 Imran Hussain  
 Yasmin Qureshi  
 Lloyd Russell-Moyle

22

Clause 10, page 10, line 13, at end insert—

“( ) the expert panel established for the review;”

***Member’s explanatory statement***

*This amendment, together with Amendment 23, would require the Lord Chancellor to consult the expert panel before the initial discount rate determination, rather than just the subsequent ones as currently required.*

Richard Burgon  
 Gloria De Piero  
 Imran Hussain  
 Yasmin Qureshi  
 Lloyd Russell-Moyle

23

Clause 10, page 10, line 21, at end insert—

“( ) The expert panel must respond to the consultation within the period of 90 days beginning with the day on which its response to the consultation is requested.”

***Member’s explanatory statement***

*See explanatory statement for Amendment 22.*

---

Rory Stewart

NC2

To move the following Clause—

**“Report on effect of Parts 1 and 2**

- (1) Regulations made by the Treasury may require an insurer to provide information to the FCA about the effect of Parts 1 and 2 of this Act on individuals who hold policies of insurance with the insurer.
- (2) The regulations may provide that an insurer is required to provide information only if it has issued third party personal injury policies of insurance on or after 1 April 2020 to individuals domiciled in England and Wales.
- (3) The regulations may—
  - (a) specify the information or descriptions of information to be provided;
  - (b) specify how information is to be provided;
  - (c) specify when information is to be provided;
  - (d) require that information or specified descriptions of information be audited by a qualified auditor before being provided;
  - (e) make provision about the audit;
  - (f) require that details of the auditor be provided to the FCA.
- (4) Regulations under subsection (3)(a) may in particular require an insurer to provide information, by reference to each of the report years, about—
  - (a) the amount paid by the insurer during the report period under its relevant third party personal injury policies of insurance in respect of personal injuries sustained by third parties, where the amount of damages for the injury is governed by the law of England and Wales;

---

**Civil Liability Bill [Lords], continued**

- (b) the amount that the insurer might reasonably have been expected to pay in respect of those injuries if this Act had not been passed;
  - (c) the mean of the amounts paid during the report period under those policies in respect of those injuries;
  - (d) what might reasonably have been expected to be the mean of the amounts paid in respect of those injuries if this Act had not been passed;
  - (e) the amounts described in paragraphs (a) to (d), determined by reference only to cases where—
    - (i) the amount paid by an insurer under a policy, or
    - (ii) the amount that an insurer might reasonably have been expected to pay under a policy,falls within one of the bands specified in the regulations;
  - (f) the amount charged by the insurer by way of premiums for relevant third party personal injury policies of insurance where the cover starts in the report period;
  - (g) the amount that the insurer might reasonably have been expected to charge by way of premiums for those policies if this Act had not been passed;
  - (h) the mean of the premiums charged for those policies;
  - (i) what might reasonably have been expected to be the mean of the premiums charged for those policies if this Act had not been passed;
  - (j) the amounts described in paragraphs (f) to (i), determined as if the references to a premium charged for a relevant third party personal injury policy of insurance were references to so much of the premium as is charged in order to cover the risk of causing a third party to sustain personal injury;
  - (k) if any reduction in the amounts referred to in paragraph (a) has been used to confer benefits other than reduced premiums on individuals, information about those benefits.
- (5) The regulations may make provision about the methods to be used in determining the amounts described in subsection (4)(b), (d), (g) and (i), including provision about factors to be taken into account.
- (6) The regulations may provide for exceptions, including but not limited to—
- (a) exceptions relating to policies of insurance obtained wholly or partly for purposes relating to a business, trade or profession;
  - (b) exceptions relating to policies of insurance of a specified description;
  - (c) exceptions for cases where the value or number of policies of insurance issued by an insurer is below a level specified by or determined in accordance with the regulations, and
  - (d) exceptions relating to insurers who, during the report period, issue policies of insurance only within a period that does not exceed a specified duration.
- (7) Before the end of a period of one year beginning with 1 April 2024, the Treasury must prepare and lay before Parliament a report that—
- (a) summarises the information provided about the effect of Parts 1 and 2 of this Act, and
  - (b) gives a view on whether and how individuals who are policy holders have benefited from any reductions in costs for insurers.
- (8) If insurers provide additional information to the FCA about the effect of Parts 1 and 2 of this Act, the report may relate also to that information.
- (9) The FCA must assist the Treasury in the preparation of the report.
- (10) In the Financial Services and Markets Act 2000—

**Civil Liability Bill [Lords], continued**

- (a) in section 1A (functions of the Financial Conduct Authority), in subsection (6), after paragraph (cza) insert—  
“(czb) the Civil Liability Act 2018,”;
- (b) in section 204A (meaning of “relevant requirement” and “appropriate regulator”)—
- (i) in subsection (2), after paragraph (a) insert—  
“(aa) by regulations under section (*Report on effect of Parts 1 and 2*) of the Civil Liability Act 2018,”;
- (ii) in subsection (6), after paragraph (a) insert—  
“(aa) by regulations under section (*Report on effect of Parts 1 and 2*) of the Civil Liability Act 2018,”.
- (11) A statutory instrument containing regulations under this section is subject to affirmative resolution procedure.
- (12) In this section—
- “the FCA” means the Financial Conduct Authority;
- “insurer” means an institution which is authorised under the Financial Services and Markets Act 2000 to carry on the regulated activity of—
- (a) effecting or carrying out contracts of insurance as principal, or
- (b) managing the underwriting capacity of a Lloyd’s syndicate as a managing agent at Lloyd’s;
- “qualified auditor” means a person who is eligible for appointment as a statutory auditor under Part 42 of the Companies Act 2006;
- “relevant third party personal injury policy of insurance” means a third party personal injury policy of insurance issued by an insurer to an individual domiciled in England and Wales;
- “report period” means the period of three years beginning with 1 April 2020;
- “report year” means a year beginning with 1 April 2020, 2021 or 2022;
- “third party personal injury policy of insurance” means a policy of insurance issued by an insurer which provides cover against the risk, or risks that include the risk, of causing a third party to sustain personal injury.”

**Member’s explanatory statement**

*This new clause provides for regulations requiring insurers to supply information about the effect of Parts 1 and 2 of the Bill and requires a report based on that information to be provided to Parliament.*

---

Richard Burgon  
Gloria De Piero  
Imran Hussain  
Yasmin Qureshi  
Lloyd Russell-Moyle

NC1

To move the following Clause—

**“Restriction on increase in small claims limit for relevant personal injuries**

- (1) In this section, the “PI small claims limit” refers to the maximum value (currently £1,000) of a claim for damages for personal injuries for which, in accordance with Civil Procedure Rules, the small claims track is the normal track.

*Civil Liability Bill [Lords], continued*

- (2) Civil Procedure Rules may not increase the PI small claims limit in respect of relevant injury claims to an amount above £1,000 for the first time unless—
- (a) the Lord Chancellor is satisfied, and has certified in writing, that on the day the rules are to come into force, the value of £1,000 on 1 April 1999 adjusted for inflation, computed by reference to CPI, would be at least £1,500, and
  - (b) the rules increase the PI small claims limit to no more than £1,500.
- (3) Civil Procedure Rules may not increase the PI small claims limit in respect of relevant injury claims on any subsequent occasion unless—
- (a) the Lord Chancellor is satisfied, and has certified in writing, that on the day the rules are to come into force, the value of £1,000 on 1 April 1999 adjusted for inflation, computed by reference to CPI, would be at least £500 greater than on the day on which the rules effecting the previous increase were made, and
  - (b) the rules increase the PI small claims limit by no more than £500.
- (4) In this section—
- “CPI” means the all items consumer prices index published by the Statistics Board;
- “relevant injury” means an injury which is an injury of soft tissue in the neck, back, or shoulder and which is caused as described in paragraphs (b) and (c) of section 1(4) (negligence while using a motor vehicle on a road, etc.);
- “relevant injury claim” means a claim for personal injury that consists only of, or so much of a claim for personal injury as consists of, a claim for damages for pain, suffering and loss of amenity caused by a relevant injury, and which is not a claim for an injury in respect of which a tariff amount is for the time being prescribed under section 2.”

***Member’s explanatory statement***

*This new clause would limit increases in the whiplash small claims limit to inflation (CPI), and allow the limit to increase only when inflation had increased the existing rate by £500 since it was last set.*

---

Richard Burgon  
Gloria De Piero  
Imran Hussain  
Yasmin Qureshi  
Lloyd Russell-Moyle

NC3

To move the following Clause—

**“Recoverability of costs in respect of advice on medical report, etc.**

- (1) For the purposes of civil procedure rules, the costs recoverable by a claimant who recovers damages in a claim for a relevant injury which is (or would be if proceedings were issued) allocated to the small claims track include the costs of the items set out in subsection (2).
- (2) The items are—
  - (a) legal advice and assistance (including in respect of an act referred to in paragraph (a) or (d) of section 6(2)) in relation to the quantum of damages in the light of a medical report or other appropriate evidence of injury; and

---

**Civil Liability Bill [Lords], continued**

- (b) in a case where liability for the injury is not admitted within the time allowed by any relevant protocol, legal advice and representation in relation to establishing liability.
- (3) For the purpose of ascertaining the amounts recoverable in respect of those items, the claim is to be treated as if it were allocated to the fast track.
- (4) In this section “relevant injury” means an injury which is an injury of soft tissue in the neck, back, or shoulder, and which is caused as described in paragraphs (b) and (c) of section 1(4) (negligence while using a motor vehicle on a road, etc.), but does not include an injury in respect of which a tariff amount is for the time being prescribed under section 2.”

***Member’s explanatory statement***

*This new clause would ensure that a successful claimant is able to recover costs incurred for legal costs in respect of advice sought in relation to determining the quantum of damages following a medical report or the establishment of liability where it is in dispute.*

---

Richard Burgon  
Gloria De Piero  
Ellie Reeves  
Imran Hussain  
Yasmin Qureshi  
Lloyd Russell-Moyle

**NC4**

To move the following Clause—

**“Periodical payment orders**

- (1) Within 18 months from the coming into force of this Act, the Civil Justice Council must undertake a review of the impact of Part 2 and the setting of a new rate of return on the extent to which periodical payment orders are made by the courts in personal injury actions.
- (2) A report setting out the results of the review must be laid before each House of Parliament by the Civil Justice Council within two years of the coming into force of this Act.”

***Member’s explanatory statement***

*This new clause would require the Civil Justice Council to undertake a review and report to Parliament on the impact that the changes this Bill makes to the Discount Rate assumptions and mechanism has on the use of periodic payment orders.*

---



---

 Civil Liability Bill [*Lords*], *continued*

Richard Burgon  
 Gloria De Piero  
 Ellie Reeves  
 Imran Hussain  
 Yasmin Qureshi  
 Lloyd Russell-Moyle

NC5

To move the following Clause—

**“Review of assumptions on which calculation of the personal injury discount rate is based**

- (1) Within 3 years from the date on which this Schedule comes into force, the Lord Chancellor must arrange for the expert panel to review the assumptions on which the personal injury discount rate is based, and review how investors of relevant damages are investing such damages.
- (2) The review must report to the Lord Chancellor whether the assumptions on which the personal injury discount rate is based should be changed and set out recommendations.”

***Member’s explanatory statement***

*This new clause would require the Lord Chancellor to arrange for the expert panel to conduct a review of the assumptions on which the discount rate is based in light of how claimants are in practice investing their compensation.*

---

Richard Burgon  
 Gloria De Piero  
 Ellie Reeves  
 Imran Hussain  
 Yasmin Qureshi  
 Lloyd Russell-Moyle

NC6

To move the following Clause—

**“Passing on savings made by insurers**

- (1) Any savings made by any insurer as a result of anything in this Act or associated changes by regulation shall be passed to policyholders by way of reduced premium.
- (2) The Financial Conduct Authority shall require all such insurers to submit an annual report detailing the savings they have made and how all those savings have been used to reduce policyholder premiums.
- (3) In this section—

“savings” means any reduction in an insurer’s outlays in damages or costs paid in personal injury claims from the time this Act receives Royal Assent;

“insurer” means any insurer holding a licence to offer UK motor insurance;

“policyholder” means the holder of a policy of motor insurance with the insurer;

---

**Civil Liability Bill [*Lords*], *continued***

“premium reduction” means a reduction in the annual cost of a policy of motor insurance taken out by a policyholder.”

***Member’s explanatory statement***

*This new clause would require insurers to pass on to insurance consumers all savings made as a result of these changes.*

---

Richard Burgon  
Gloria De Piero  
Ellie Reeves  
Imran Hussain  
Yasmin Qureshi  
Lloyd Russell-Moyle

NC7

To move the following Clause—

**“Small Claims Track: vulnerable road users**

- (1) The Small Claims Track Limit in relation to claims made by vulnerable road users for whiplash injuries may not be increased unless the increase is to an amount which is not more than the value of £1,000 on 1 April 1999 adjusted for inflation, computed by reference to the consumer prices index.
- (2) In subsection (1)—
  - “vulnerable road users” means any person other than a person—
    - (a) using a motor vehicle other than a motor cycle on a road or other public place in England or Wales, or
    - (b) being carried in or on a motor vehicle other than a motor cycle while another uses the vehicle on a road or other public place in England or Wales.”

***Member’s explanatory statement***

*This new clause would limit increases in the small claims track limit in relation to vulnerable road users (cyclists, pedestrians, horse riders, etc) suffering whiplash injuries to inflationary rises only.*

---

Richard Burgon  
Gloria De Piero  
Imran Hussain  
Yasmin Qureshi  
Lloyd Russell-Moyle

NC8

To move the following Clause—

**“Restriction on increase in small claims limit for relevant personal injuries suffered by people during the course of employment**

- (1) In this section, the “PI small claims limit” refers to the maximum value (currently £1,000) of a claim for damages for personal injuries, specifically general damages, for which, in accordance with Civil Procedure Rules, the small claims track is the normal track.
- (2) Civil Procedure Rules may not increase the PI small claims limit in respect of relevant injury claims to an amount above £1,000 for the first time unless—

**Civil Liability Bill [Lords], continued**

- (a) the Lord Chancellor is satisfied, and has certified in writing, that on the day the rules are to come into force, the value of £1,000 on 1 April 1999 adjusted for inflation, computed by reference to CPI, would be at least £1,500, and
  - (b) the rules increase the PI small claims limit to no more than £1,500.
- (3) Civil Procedure Rules may not increase the PI small claims limit in respect of relevant injury claims on any subsequent occasion unless—
- (a) the Lord Chancellor is satisfied, and has certified in writing, that on the day the rules are to come into force, the value of £1,000 on 1 April 1999 adjusted for inflation, computed by reference to CPI, would be at least £500 greater than on the day on which the rules affecting the previous increase were made, and
  - (b) the rules increase the PI small claims limit by no more than £500.
- (4) In this section—
- “CPI” means the all items consumer prices index published by the Statistics Board;
  - “relevant injury” means an injury which is an injury of soft tissue in the neck, back, or shoulder suffered during the course of employment which is caused as described in paragraphs (b) and (c) of section 1(4) (negligence while using a motor vehicle on a road, etc.);
  - “relevant injury claim” means a claim for personal injury that consists only of, or so much of a claim for personal injury as consists of, a claim for damages for pain, suffering and loss of amenity caused by a relevant injury, and which is not a claim for an injury in respect of which a tariff amount is for the time being prescribed under section 2;
  - “general damages” shall mean damages for pain, suffering and loss of amenity.”

**Member’s explanatory statement**

*This new clause would limit increases in the small claims track limit in relation to people who have suffered a whiplash injury during the course of their employment to inflationary rises in increments of £500 only.*

---

Richard Burgon  
Gloria De Piero  
Imran Hussain  
Yasmin Qureshi  
Lloyd Russell-Moyle

NC9

To move the following Clause—

**“Exemption for vulnerable road users and people injured during the course of their employment**

- (1) Nothing in Part 1 of this Act other than Clauses 6 and 7 shall apply to a claim made by—
- (a) a pedestrian, cyclist or horse rider; or
  - (b) a person injured in the course of their employment.”

---

 Civil Liability Bill [*Lords*], *continued*
**Member's explanatory statement**

*This new clause would exempt vulnerable road users and people injured in the course of their employment from the provisions of Part 1 of the Bill, except Clauses 6 and 7.*

---

Rory Stewart

5

Clause 12, page 15, line 30, leave out subsection (1) and insert—

“( ) This Act extends to England and Wales only, subject to the following subsections.”

**Member's explanatory statement**

*This amendment and Amendment 6 provide for NC2 to have England and Wales extent.*

Rory Stewart

6

Clause 12, page 15, line 35, leave out “This Part extends” and insert “Sections (*Report on effect of Parts 1 and 2*)(13) and 11 to 14 extend”

**Member's explanatory statement**

*See the explanatory statement for Amendment 5.*

---

Rory Stewart

7

Clause 14, page 16, line 6, leave out subsection (2)

**Member's explanatory statement**

*This amendment removes the privilege amendment inserted by the Lords.*

---

## ORDER OF THE HOUSE [4 SEPTEMBER 2018]

That the following provisions shall apply to the Civil Liability Bill [*Lords*]:

*Committal*

1. The Bill shall be committed to a Public Bill Committee.

*Proceedings in Public Bill Committee*

2. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on Tuesday 9 October.
3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

*Proceedings on Consideration and up to and including Third Reading*

4. Proceedings on Consideration and any proceedings in legislative grand committee shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which proceedings on Consideration are commenced.
5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.

**Civil Liability Bill [*Lords*], *continued***

6. Standing Order No. 83B (Programming committees) shall not apply to proceedings on Consideration and up to and including Third Reading.

*Other proceedings*

7. Any other proceedings on the Bill may be programmed.
-