

Green Card Bureau Compendium

BY - Belarus

General information

Please provide the official full name of your Bureau.

The Belarusian Transport Insurance Bureau

What is the legal status (form) of your Bureau (non-profit organisation, association of legal entities, limited liability company, etc.)?

The Bureau is a non-profit organization and by its organizational and legal form it is a republican association of insurance companies that perform the compulsory insurance of civil liability of the owners of vehicles.

How is the ownership/membership of your Bureau structured (e.g. owned/controlled by all members equally, part of state government, etc.)?

Members of the Bureau may be state insurance organizations and (or) insurance organizations, in the statutory funds of which more than 50 percent of the shares (common (ordinary) or other voting shares) are owned by the Republic of Belarus and (or) its administrative and territorial units, unless otherwise established by the acts of the President, having special permission (license) to perform insurance, including compulsory insurance of civil liability of the owners of vehicles.

Supervisory board is created by the decision of the Government of the Republic of Belarus to monitor the activities of the Bureau, which is composed of one representative of the Ministry of Finance of the Republic of Belarus, the State Traffic Inspection of the Ministry of Internal Affairs of the Republic of Belarus, the Ministry of Transport and Communications of the Republic of Belarus, the State Border Committee of the Republic of Belarus, the National Bank Republic of Belarus, four representatives of the insurers by the determination of the general meeting of the Bureau's members.

Question N° 1

1.1. What was the date of the original Law, which introduced Compulsory Third Party Motor Insurance and what was the date of its entry into force?

Decree of the President of the Republic of Belarus No. 8 dated February 19, 1999 "On compulsory civil liability insurance of the owners of vehicles". It came into force on July 1, 1999.

1.2. What is the date of the present Law and of its entry into force?

Decree of the President of the Republic of Belarus No.530 dated August 25, 2006 "On insurance activity" came into force on September 6, 2006 as amended in Decree of the President of the Republic of Belarus No. 165 dated April 14, 2014. Came into force on July 1, 2014.

Question N° 2

2. Which are the classes of motor vehicles for which insurance is compulsory?

Civil liability of the owners of the following vehicles is subject to compulsory insurance: lorries, cars and estate cars, trucks, buses, trolleybuses, trams, cycle-cars, motorcycles, scooters, special purpose vehicles (ambulance, fire-fighting and others), tractors (including vehicles based on the mentioned above ones), wheeled mechanically propelled tractor loaders, land graders, self-propelled vehicles for road keeping and maintaining (excluding excavating machines), vehicles of the Military forces of the Republic of Belarus used for economic activities according to the legal acts of the Ministry of Defense of the Republic of Belarus, trailers and semi-trailers to these motor vehicles, subject to state registration and used in road traffic on the territory of the Republic of Belarus, lorry chassis, trailers to them, estate cars, trucks, including those produced in the Republic of Belarus and delivered to consumer or to the place of state registration under its own power and also imported into the territory of the Republic of Belarus for temporary use.

Question N° 3

3. Is the Law applicable to foreign visitors?

The Law is applicable to vehicles mentioned in item 2 that are in operation on the territory of the Republic of Belarus, including foreign vehicles.

Question N° 4

4. Does the Law apply in respect of liability for both personal injury and damage to property?

Yes, it does.

Question N° 5

5. What is the minimum limit of cover required for personal injury damage? State the minimum value of sum insured, date with effect from and please indicate whether the limit is per accident or per victim.

It came into force on January 4, 2005.

1. Personal injury damage is 10 000 EUR per victim, **including not more than 4000 EUR for reimbursement of funeral costs of victim in favor of people that suffered the damage (from July 1, 2014).**

2. Property damage is 10 000 EUR per victim.

There are no limitations on the total reimbursement sum for several victims per accident.

Question N° 6

6.1. Does the Law require cover in respect of passengers carried in the vehicle?

Yes, it does.

6.2. Is there any category of passenger excluded from this cover?

No, there is not.

Question N° 7

7. Under what conditions is an insurer permitted by Law to reject a third party claim? Please specify.

The legislation determines the list of cases of damage, which are not insurance cases and where no insurance compensation is envisaged:

- to life, health and (or) property of a person due to force majeure circumstances or deliberate actions of the victim;
- to life, health and (or) property of the owner of a motor vehicle (driver), who, in the established order, is acknowledged as a party, causing damage in this road-traffic accident, except damage caused to the owner of the vehicle, resident of the Republic of Belarus, who concluded complex domestic insurance contract;
- to vehicle and equipment set, cargo carried or property placed on it by person driving this vehicle, except damage caused to the vehicle of the resident of the Republic of Belarus, who concluded complex domestic insurance contract;
- to property in the form of cash money, jewellery, securities, documents and collection units;
- as a result of a road-traffic accident not registered in the State Traffic Inspection of the Ministry of Internal Affairs of the Republic of Belarus, except the cases of processing documents about the road-traffic accident without the State Traffic Inspection officers participation within an order determined by the legislation;
- while using motor vehicles in sport competitions, races, trainings and also in places not meant for road traffic;
- as a result of all kinds of military actions and measures, their consequences, civil war, people disorders and strikes;

- due to environmental pollution or by damaging its objects as a result of the road-traffic accident;
- through the fault of the owners of motor vehicles whose civil liability is not subject to compulsory insurance (railway transport and cartage, bicycles, motor cultivators, agricultural, land reclamation, construction machinery, and other vehicles not mentioned in the item 2. also the vehicles of the Military Forces of the Republic of Belarus not used for economic activity, according to the legal acts of the Ministry of Defense of the Republic of Belarus;
- by cargo fallen from vehicle, an object coming from under a wheel or by a mechanism mounted on the vehicle while operation (operation of lifting crane, sand sprayer, etc.);
- to the Third Party who failed to keep the vehicle and (or) other damaged (destroyed) property in the post-accident state until the damage is estimated by an expert, in case it does not allow to determine authentically the presence of the insured case and (or) the amount of damage recoverable;
- by owners of vehicles to each other or to one of them, whose vehicles were coupled or otherwise connected with each other;
- as a result of interaction in one and the same road-traffic accident several vehicles, owned by one and the same person, and when this owner is both a tortfeasor and a victim;
- as a result of interaction in one and the same road-traffic accident a vehicle and other property, owned by one and the same person, and when this owner is both a tortfeasor and a victim

In the above-mentioned cases the victim or his heir may bring a suit for the compensation against person who caused damage in accordance with the legislation.

Question N° 8

8. Is there a direct right of action by a third party against an insurer?

Third Party can use direct action right against the Insurer. At that, before taking legal action the Third Party must first contact the Insurer.

Question N° 9

9. Does a claimant resident in a foreign country have a direct right of action against the local Bureau or the insurer representing the Bureau?

See Question 8.

Question N° 10

10.1. Does the Law require the insurer and/or Bureau to make an offer of compensation to a claimant within a specified time?

Yes, it does.

If yes, what is the nature of the damages to which the time-limit applies?

The time-limit are applied both to bodily injury and (or) to material damage and the damage caused to the vehicle whose owner is the resident of the Republic of Belarus, who concluded complex domestic insurance contract.

10.2. What is the specific time-limit?

The following order of insurance compensation payment is in force.

Person claiming insurance compensation should report a road-traffic accident to the Insurer he concluded a MTPL contract with or to the Insurer the person who caused damage concluded the MTPL contract with or the Belarusian Bureau (in cases envisaged by the Charter of the Belarusian Bureau) in writing within five working days from the day of the accident. The application of a person claiming insurance compensation can be accepted by the Insurer (Belarusian Bureau) after the specified time if the person proves that he had not have a possibility to report a road-traffic accident in time for valid reasons.

Person claiming insurance compensation has to keep the vehicle or other destroyed (crashed) or damaged property in the post-accident state until it is examined by a specialist on determining the cost of vehicles.

The insurance compensation is paid within three working days, in the cases when non-residents of the Republic of Belarus participate in the accident the compensation is paid within five days, which follow the day when the Insurer (Belarusian Bureau) draws up an insurance case statement, excluding the cases when the disputes on reimbursement are considered by court. At the same time the compensation is paid within twenty working days and in cases of processing documents concerning the road-traffic accident without the State Traffic Inspection officers participation –within five working days from the day of receiving an application on a road-traffic accident by Insurer (Belarusian Bureau), excluding cases of absence of documents necessary to make a decision on insurance compensation payment through no fault of Insurer (Belarusian Bureau), and also when disputes connected with insurance compensation payment are considered by court.

10.3. Which are the other provisions of the Law in this respect? (e.g. sanctions)

If Insurer (Belarusian Bureau) fails to arrange documents for insurance compensation payment to the suffered party as well as the owner of the vehicle, resident of the Republic of Belarus, who concluded a complex domestic insurance contract within two months from the day following a road-traffic accident, it is obliged to make recalculation of the damage amount, based on official exchange rate of the Belarusian ruble in respect to euro, set by the National Bank on the date of insurance case statement. The recalculation for the mentioned above term is not made by increase (revaluation) of the official rate of the Belarusian ruble in respect to euro.

In case the suffered party, resident of the Republic of Belarus, who concluded a complex domestic insurance contract had a possibility and nevertheless failed to send his application to the Insurer (Belarusian Bureau) within 5 working days following the accident, the recalculation of the damage amount is made if the Insurer (Belarusian Bureau) fails to arrange insurance compensation payment within two months from the date of the suffered party's application.

Moreover, for each day of the delay in insurance compensation payment through the fault of Insurer or the Belarusian Bureau the suffered party or his heir will be paid an interest: legal entity at the rate of 0.1 percent, natural person – 0.5 percent from the amount due to payment.

10.4. Are there any similar stipulations for provisional payments?

No provisional payments are envisaged by the Belarusian legislation.

Question N° 11

11.1. Is there a limitation period for legal proceedings against the insured or the insurer?

Yes, there is.

If yes, please specify.

The legislation determines the period for a person to start legal proceedings of protection of rights – 3 years (limitation period).

The limitation period is not applied to claims for compensation of bodily injury damage caused to a person. Still the claims put forward after expiry of three years from the moment of origin of right for damage compensation are satisfied not more than three years prior to legal proceedings.

11.2. Are there any provisions in the Law which allow for the suspension or extension of that limitation period?

Yes, there are.

If yes, please specify.

As an exceptional case the limitation period can be recovered by court.

Question N° 12

12.1. Is your Bureau a VAT liable entity?

No, it is not, because the Belarusian Bureau does not carry out operations involving the realization of goods (works, services), property rights on the territory of the Republic of Belarus.

12.2. If yes, please indicate the VAT number:

N/A.

In this case is the service of claims handling by the Bureau VAT exempted?

Yes, it is. The amounts of insurance compensation paid by the Belarusian Bureau are not object to taxation, and they are not included in the tax base when calculating VAT.

12.3. Is an MTPL insurer in your market a VAT liable entity?

No, it is not.

If yes, is the service of claims handling by an MTPL insurer VAT exempted?

N/A.

12.4. Is a specialised claims handling office a VAT liable entity?

The Belarusian legislation on compulsory insurance of civil liability of the owners of vehicles does not provide the creation of a specialised claims handling office.

If yes, is the service of claims handling by this entity VAT exempted?

N/A.

Question N° 13

[Note: Questions addressed to non-EEA Bureaux only. For EEA Bureaux, see Section 2 & 3]

13.1. Is there a Guarantee Fund in your Country?

In the Republic of Belarus there is a Protection Fund for victims of road-traffic accidents dealing with payments to suffered parties within domestic insurance and also Insurance Guarantee Fund dealing with payments within the frames of the Green Card System.

If yes, what are the conditions and limits of intervention of the Guarantee Fund?

Payments from Protection Fund for victims of road-traffic accidents are made:

- on termination of membership of the Insurer in the Bureau;
- to suffered parties (their heirs) in cases of damage caused to life and (or) health of the suffered party by a non-identified vehicle;
- to suffered parties (their heirs) in cases of causing damage:
 - by a vehicle which owner did not conclude an insurance contract (damage caused to vehicle is compensated in case the suffered party possesses compulsory civil liability insurance of the owners of vehicles);
 - by a vehicle no longer in possession of the owner without his guilt as a result of illegal actions of other persons;
 - under insurance contracts of insolvent Insurers, recognized insolvent on conclusion of the Ministry of Finance of the Republic of Belarus.

Payments from Insurance Guarantee Fund are made:

- under obligations implied from insurance contracts in case the owner of vehicle insured his civil liability in the state which empowered organization concluded a Treaty with the Bureau on mutual acceptance of insurance contracts, and when entering the territory of the Republic of Belarus no insurance contract was concluded.

13.2. Are these conditions and limits applicable to non-residents whether they are the cause of, or victims of, accidents?

Yes, they are.