

Green Card Bureau Compendium

P - Portugal

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General information

Please provide the official full name of your Bureau.

GABINETE PORTUGUÊS DE CARTA VERDE - GPCV

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

Non-profit organization

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

Controlled by all membrs equally 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 Law No. 408/79, September 25, 1979. Entry into force was January 1, 1980.

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

Decree Law No. 291/2007, August 21, 2007.

Question N° 2

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

Land motor vehicles and its trailers, for which a specific driving license is required, normally based in Portugal, except in situations where the vehicles are merely used for agricultural or industrial functions.

Question N° 3

3. Is the Law applicable to foreign visitors?

Yes.

Question N° 4

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

Yes. The law is also applicable in the cases of pecuniary or moral damages resulting from personal injury or material damages.

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.

Type of vehicle	Personal injuries		Material damage	
	Per accident (irrespective of the number of victims and nature of the damages)	Per victim	Per accident (irrespective of the number of victims and nature of the damages)	Per victim
All	6.070.000 €	N/A.	1.220.000 €	N/A.
Exceptions Racing Competitions	48.560.000 € (limit of 6.070.000 € per injured person)	N/A.	9.760.000 € (limit of 1.220.000 € per injured person)	N/A.
Exceptions public transport	€ 12.140.000 € (limit of 6.070.000 € per injured person)	N/A.	€ 2.440.000 € (limit of € 1.220.000 € per injured person)	N/A.
Date of effect: 01/06/2017				

Question N° 6

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

Yes.

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

According to Article 14 of Decree Law 291/2007:

- The bodily injuries suffered by the driver of the insured vehicle responsible for the accident, as well as the consequent damages.

- Any material damages caused to the following persons:

- a) Driver of the vehicle responsible for the accident;

- b) Policy-holder;

- c) All those whose responsibility is guaranteed under the terms of nr. 1 of the following article, mainly due to co-property of the insured vehicle;

- d) Companies or legal representatives of the legal persons responsible for the accident, when in performance of their duties;

- e) Spouse, relatives in the ascending or descending line or adopted children of the persons referred to in paragraphs a) and c), as well as other relatives or persons related to them, up to the 3rd degree, but in this last case, only if they live in cohabitation with them or in their care;

- f) Those who, under the terms of articles 495°, 496° and 499° of the Civil Code benefit from an indemnity claim arising from any bonds to any of the persons mentioned in the above paragraphs;

- g) To Passengers, when transported in misdemeanour with the passenger transportation rules of the Road Code.

In the case of death of any of the persons mentioned in paragraphs e) and f) above, as a result of the accident, any indemnity to the responsible for the accident is excluded.

Question N° 7

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

Apart from the exclusions referred to above, an insurer may reject a Third Party claim in the case of alienation of the vehicle (that occurs automatically after 24 h as of the day of alienation) and when the insurance contract has been cancelled or declared null on a date prior to the accident. Nevertheless, it should be mentioned that even though an Insurer cannot reject a Third Party claim when the driver responsible for the accident was under the influence of alcohol, drugs or something similar, the Insurer has the right to be reimbursed from the person responsible for the accident of the amounts paid to the victim and in other cases, such as intentional acts.

Question N° 8

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

Yes.

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?

The law does not distinguish between claimants resident in the country and claimants resident in foreign countries.

If the accident is caused by a Portuguese vehicle in Portugal and damages are caused to a foreign victim, there is no right of action against the Portuguese Bureau – only against the Insurer.

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.

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

The deadlines are applicable both to accidents with Material Damages and to accidents with Bodily Injuries.

10.2. What is the specific time-limit?

In the case of Material Damages, the insurance company is obliged to get in touch with the policy holder, the insured person or with the third person injured, within a two working days time period, booking up the surveyor's reports which have to take place and to communicate the assumption or non assumption of the responsibility within a 30 working days deadline, counting from the end of the above mentioned deadline, informing the policy holder, the insured person or the third person injured, in writing or by electronically transmitted document. This last deadline is reduced to the half if there is a European accident statement of the car accident.

In the case of Bodily Injuries, the insurance company is obliged to communicate the assumption or non assumption of the responsibility within a 45 days deadline, counting from the date of the claim submission, should meanwhile the discharge report from the hospital have been issued and the damage been totally quantifiable, informing the policy holder, the insured person or the third person injured of that fact, in writing or by electronically transmitted document.

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

Regulatory offence, punishable with an administrative fine of € 3 000 to € 44 890, when there is no civil penalty applicable.

10.4. Are there any similar stipulations for provisional payments?

In case of non-fulfilment of payment obligations, interests will be paid, corresponding to the double of the legal rate foreseen in the law which is applicable to this specific case, over the indemnity amount proposed beyond the deadline.

Question N° 11

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

Yes.

If yes, please specify.

The limitation period for legal proceedings against the Insured or the Insurer is of 3 years (as from the date when the injured party learns of his/her right to an indemnity).

Should the illicit fact be a crime for which the law establishes a prescription subject to a longer limitation period, this shall be the applicable limitation period.

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

Yes.

If yes, please specify.

As foreseen in the Portuguese Civil Code, Articles 323 and 327, the limitation period can be interrupted by a summons, a judicial notification or any other act that expresses the intention of exercising a right of action.

Question N° 12

12.1. Is your Bureau a VAT liable entity?

Yes.

12.2. If yes, please indicate the VAT number:

PT501799940

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

Yes.

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

Yes.

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

Is not exempt from VAT

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

Yes.

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

Is not exempt from VAT.

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?

Yes.

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

Geographic scope and relevant vehicles:

The Motor Insurance Guarantee Fund satisfies the compensation resulting from road accidents in Portugal and caused:

- a) By a vehicle for which the person responsible for its use requires compulsory insurance and is normally based in Portugal, and registered in countries that do not have a national insurers' bureaux, or whose bureau has not signed the agreement between the national insurers' bureaux;
- b) By a vehicle for which the person responsible for its use requires compulsory insurance without a registration plate or with a registration plate that does not correspond or no longer corresponds to the vehicle, regardless of this being the Portuguese plate;
- c) By a vehicle for which the person responsible for its use is exempted from compulsory insurance because of the vehicle itself, even when normally based abroad.

Material scope

1 — The Motor Guarantee Fund guarantees compensation, pursuant to paragraph 1 of the preceding article, to the level of minimum cover of motor vehicle liability of compulsory insurance, for the following:

- a) Bodily injury, when the person responsible is unknown or does not hold valid and effective insurance, or the insurance company is declared insolvent;
- b) Damage to property, when the person responsible is known but does not hold valid and effective insurance;
- c) Damage to property, when the person responsible is unknown and the Fund must satisfy compensation for significant bodily harm, or the vehicle which caused the accident was been abandoned at the scene but did not hold valid and effective insurance, and the police authority has issued the respective police report confirming the presence of the vehicle at the scene of the accident.

2 — For the purposes envisaged in the first part of sub-paragraph c) of the preceding paragraph, significant bodily harm is deemed to be bodily injury that causes death or hospitalisation of seven or more days, or total temporary disability for a period of 60 or more days, or partial permanent disability equal to or greater than 15%.

3 — For the purposes envisaged in the second part of sub-paragraph c) of paragraph 1, the exclusion provided for in sub-paragraph a) of paragraph 4 of Article 14 is considered to apply to the abandoned vehicle.

Special limits of liability of the Fund

1 — If the accident is also an occupational or employment accident, the Fund is only liable for damage to property and, in relation to bodily injury, it is only liable for personal injury and damage to property not covered by the law on remedying such accidents. The insurance companies, the employer or the Occupational Accidents Fund are, as appropriate, responsible for the payment of any other compensation to the injured parties pursuant to specific occupational accident or employment laws, except where occupational accident

insurance does not exist, in which case the FGA is only not liable for compensation payable for permanent disability.

2 — If the injured party of an accident is covered by a collision damage motor insurance contract, the insurance companies are responsible for the payment of the damages covered by the respective contracts. The liability of the Fund is limited to the payment of the excess value.

3 — When the injured party of an accident is entitled to benefits under the Social Security welfare system, the Fund is only liable for payment of the part of the damages that exceeds those benefits.

4 — The entities that make the payments envisaged in the preceding paragraphs have the right of recourse against the person civilly liable for the accident and the person required to contract the compulsory insurance, and these are joint and severally liable.

5 — The injured party of an accident cannot accrue the compensation to which it is entitled in terms of motor insurance liability and as beneficiary of compensatory payments under insurance cover for persons carried.

6 — The payment by the insurance company of the compensation referred to in paragraph 2 does not, by itself, entail an alteration to the respective insurance premium when the intervening party without insurance is solely liable for payment of the damages.

Exclusions

1 — The exclusions established for compulsory motor liability insurance apply to the Motor Insurance Guarantee Fund.

2 — Also excluded from the guarantees of the Motor Insurance Guarantee Fund are:

a) Damage to property caused to those not complying with the obligation of contracting motor liability insurance;

b) Damage caused to passengers who are voluntarily travelling in the vehicle which caused the accident, whenever the Fund proves that they were aware that the vehicle was not insured;

c) The damages suffered by the person who intentionally caused the accident, by the person who caused the accident, by accomplices, by any person covering up and any person handling the stolen vehicle, the theft of or joyriding in the vehicle involved in the accident, as well as any passenger travelling in the vehicle who was aware of the unlawful possession of the vehicle and was travelling in the vehicle of their own free will.

Accidents occurred abroad – 4th Directive

The Motor Insurance Guarantee Fund shall, as the compensating body, satisfy the claims and reimburse the compensation bodies of other Member States.

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

Yes, in the terms referred above.

Question N° 14 – For countries concerned by Section III of the Internal Regulations

14.1. Are there natural or legal persons (public or private) exempted from the obligation of compulsory MTPL insurance in your country? (Article 12.2 of the Internal Regulations)

Yes.

If yes, please list the persons exempt from compulsory MTPL insurance:

Vehicles belonging to foreign States and to International Organisations of which Portugal is a Member State.

Vehicles belonging to the Portuguese State.

In this case please also indicate the authorities or bodies responsible for compensation:

The Guarantee Fund

14.2. Are there certain types of vehicles or certain vehicles bearing a special plate exempted from the obligation of compulsory MTPL insurance in your country? (Article 12.3. of the Internal Regulations)

Yes.

If yes, please list those vehicles:

- Agricultural machines for which a registration plate is not required.
- Railway Vehicles except trams circulating on rails or in the case of liability for accidents occurred in the intersection of the rails with the public road, the vehicles integrated in the Subway systems being considered as railway vehicles.
- State vehicles.
- Foreign States and International Organizations vehicles (to which Portugal belongs, according to a reciprocity principle (an exemption certificate is required).

Question N° 15

15.1. Any other special features?

As to special features that should be referred, the Civil Code sets forth in Article 506, for the situations of No Fault, that the responsibility will be divided according to the risk of each vehicle and in case of doubt, the responsibility of the accident will be divided into equal parts.