

2010 No. 1117

ROAD TRAFFIC

**The Motor Vehicles (Electronic Communication of Certificates
of Insurance) Order 2010**

<i>Made</i>	- - - -	<i>30th March 2010</i>
<i>Laid before Parliament</i>		<i>1st April 2010</i>
<i>Coming into force</i>	- -	<i>30th April 2010</i>

The Secretary of State for Transport, considering that the authorisation of the use of electronic communications by this order for any purpose is such that the extent (if any) to which records of things done for that purpose will be available will be no less satisfactory in cases where use is made of electronic communications than in other cases, makes the following order in exercise of the powers conferred by sections 8 and 9 of the Electronic Communications Act 2000(a).

Citation and commencement

1. This order may be cited as the Motor Vehicles (Electronic Communication of Certificates of Insurance) Order 2010 and shall come into force on 30th April 2010.

PART 1

Amendment of the Road Traffic Act 1988

Preliminary

2. The Road Traffic Act 1988(b) is amended as follows.

Delivery and surrender of certificates of insurance

3.—(1) Section 147 (issue and surrender of certificates of insurance and of security) is amended as follows.

(2) After subsection (1), insert—

“(1A) A certificate of insurance is to be treated for the purposes of this Part of this Act as having been delivered under subsection (1) above to the person by whom the policy is effected if—

(a) 2000 c.7 (“the 2000 Act”). The power in section 8 is vested in “the appropriate Minister”. By virtue of section 9(1)(a), the Secretary of State is “the appropriate Minister” in relation to any matter with which a department of the Secretary of State is concerned.

(b) 1988 c.52. Section 152(2) was amended by section 48 of, and paragraph 66 of Schedule 4 to, the Road Traffic Act 1991 (c.40). Section 165 was amended by section 7 of, and paragraph 19 of Schedule 3 to, the Road Traffic (Driver Licensing and Information Systems) Act 1989 (c.22), by section 48 of, and paragraph 69 of Schedule 4 to, the Road Traffic Act 1991, by section 83 of, and Schedule 8 to, that Act and by S.I. 2000/726.

- (a) it is transmitted electronically by the insurer to the person in accordance with subsection (1B) below, or
- (b) it is made available by the insurer to the person on a website in accordance with subsection (1C) below.

(1B) A certificate is transmitted electronically by an insurer to a person in accordance with this subsection if—

- (a) on effecting the policy to which the certificate relates, the person agreed to its electronic transmission for the purposes of subsection (1) above, and
- (b) the certificate is transmitted by the insurer to an electronic address specified by the person for this purpose.

(1C) A certificate is made available by an insurer to a person on a website in accordance with this subsection if—

- (a) on effecting the policy to which the certificate relates, the person agreed to its being made available on a website for the purposes of subsection (1) above,
- (b) the insurer makes the certificate available to the person by placing an electronic copy of it on a website, and
- (c) the person is notified by the insurer, in a manner agreed by the person, of—
 - (i) the certificate’s presence on the website,
 - (ii) the address of the website,
 - (iii) the place on the website where he may access the certificate, and
 - (iv) how he may access the certificate.

(1D) Where a certificate made available on a website is treated by virtue of subsection (1A)(b) above as having been delivered by an insurer to a person, the insurer must ensure that the certificate remains continuously accessible to the person on the website until the expiry of the last day on which the policy to which it relates has effect.

(1E) For the purposes of subsection (1D) above, a certificate is to be treated as remaining continuously accessible to a person on a website, despite its being temporarily inaccessible to him on the website, if the insurer has taken all reasonable steps to make it continuously accessible to him on the website (including steps to remedy any temporary inaccessibility).”.

(3) In subsection (4), after “delivered under this section” insert “, otherwise than as described in subsection (1A)(a) or (b) above,”.

(4) After subsection (4), insert—

“(4A) Where subsection (4) above applies in respect of a certificate of insurance that has not been lost or destroyed, the person to whom the certificate was delivered—

- (a) may, instead of surrendering the certificate under subsection (4)(a) above, transmit to the insurer, by means of an electronic communication to an electronic address specified by the insurer, a statement confirming that the policy to which the certificate relates has ceased to have effect, and
- (b) if he does so, is to be treated as having surrendered the certificate.

(4B) Where subsection (4) above applies in respect of a certificate of insurance that has been lost or destroyed, the person to whom the certificate was delivered—

- (a) may, instead of making a statutory declaration as described in subsection (4)(b) above, transmit to the insurer, by means of an electronic communication to an electronic address specified by the insurer, a statement confirming that the certificate has been lost or (as applicable) destroyed, and
- (b) if he does so, is to be treated as having made a statutory declaration as described in subsection (4)(b) above.

(4C) Subsection (4D) below applies where—

- (a) a certificate of insurance is treated, by virtue of subsection (1A) above, as having been delivered to a person under this section, and
- (b) the policy to which it relates is cancelled by mutual consent or by virtue of any provision in the policy.

(4D) The person must, within seven days from the taking effect of the cancellation, either—

- (a) transmit to the insurer, by means of an electronic communication to an electronic address specified by the insurer, a statement confirming that the policy to which the certificate relates has ceased to have effect, or
- (b) deliver to the insurer a legible printed copy of the certificate endorsed with a statement made and signed by him to that effect.

(4E) A person who transmits a statement or delivers a copy of a certificate as described in paragraph (a) or (b) of subsection (4D) above is to be treated as having surrendered the certificate in question.

(4F) In this section, “electronic communication” has the meaning given in the Electronic Communications Act 2000.”.

(5) In subsection (5), after “A person who fails to comply with subsection (4)” insert “or (4D)”.

Duty of insurers to satisfy judgment against persons insured against third-party risks

4. In section 152 (exceptions to section 151)—

- (a) in subsection (1)(c)(i), after “the certificate was surrendered to the insurer, or” insert “(in the case of a certificate delivered otherwise than as described in section 147(1A) above)”; and
- (b) in subsection (1)(c)(ii), after “the certificate was surrendered to the insurer, or” insert “(in the case of a certificate delivered otherwise than as described in section 147(1A) above)”.

Regulations

5. In section 160 (regulations), in subsection (2)—

- (a) in paragraph (b), omit “of documents”; and
- (b) after paragraph (d)—
 - (i) omit “and”, and
 - (ii) insert—

“(da) for or in connection with the transmission or making available of certificates of insurance as described in section 147(1A)(a) or (b) of this Act, and”.

Power of constables and vehicle examiners to require production of evidence of insurance

6. In section 165 (power of constables to obtain names and addresses of drivers and others, and to require production of evidence of insurance or security and test certificates), after subsection (2), insert—

“(2A) Subsections (2B) and (2C) below apply where a certificate of insurance is treated as having been delivered to a person under section 147(1) of this Act by virtue of section 147(1A) of this Act.

(2B) In the case of a certificate transmitted to a person as described in section 147(1A)(a) of this Act, the person is to be treated for the purposes of this section as producing the relevant certificate of insurance if—

- (a) using electronic equipment provided by him or made available to him by the constable or examiner, he provides the constable or examiner with electronic access to a copy of the certificate, or

(b) he produces a legible printed copy of the certificate.

(2C) In the case of a certificate made available to a person as described in section 147(1A)(b) of this Act, the person is to be treated for the purposes of this section as producing the relevant certificate of insurance if—

(a) using electronic equipment provided by him or made available to him by the constable or examiner, he provides the constable or examiner with electronic access on the website in question to a copy of the certificate, or

(b) he produces a legible printed copy of the certificate.

(2D) Nothing in subsection (2B) or (2C) above requires a constable or examiner to provide a person with electronic equipment for the purpose of compliance with a requirement imposed on the person by this section.”.

PART 2

Amendment of the Motor Vehicles (Third Party Risks) Regulations 1972

Preliminary

7. The Motor Vehicles (Third Party Risks) Regulations 1972(a) are amended as follows.

Issue of certificates of insurance

8. In regulation 4 (interpretation)—

(a) in paragraph (1), after the definition of “the Act”, insert—

““a certificate delivered by electronic means” means a certificate delivered as described in section 147(1A)(a) or (b) of the Road Traffic Act 1988;”;

(b) after paragraph (4), add—

“(5) Any reference in these Regulations to the issue of a certificate of insurance shall be construed, in the case of a certificate delivered by electronic means, as a reference—

(a) in the case of a certificate transmitted as described in section 147(1A)(a) of the Road Traffic Act 1988, to its transmission in accordance with section 147(1B) of that Act;

(b) in the case of a certificate made available as described in section 147(1A)(b) of that Act, to its being made available in accordance with section 147(1C) of that Act.”.

9. In regulation 5 (issue of certificates of insurance or security), in paragraph (3), for “have printed thereon or on the back thereof” substitute “contain”.

Production of evidence of insurance on application for excise licences

10. In regulation 9 (production of evidence of insurance or security on application for excise licences), in paragraph (1)—

(a) in sub-paragraph (a), for “a certificate of insurance, certificate of security or duplicate copy of a certificate of security” substitute “a certificate of insurance, other than one delivered by electronic means, a certificate of security, or a duplicate copy of a certificate of security;”;

(b) before sub-paragraph (b), insert—

(a) S.I. 1972/1217; relevant amending instruments are S.I. 1973/1821, 1974/792, 1974/2187, 1981/1567, 1992/1283, 1997/97, 1999/2392 and 2001/2266.

“(aa) a legible printed copy of a certificate of insurance delivered by electronic means;
or”.

Return of non-electronically-delivered certificates to issuing company

- 11.** In regulation 12 (return of certificates to issuing company)—
- (a) in paragraph (1), for “The following provisions shall apply” substitute “Except in the case of a certificate of insurance delivered by electronic means, the following provisions shall apply”; and
 - (b) in paragraph (2), for “In any case where” substitute “Except in the case of a certificate of insurance delivered by electronic means, in any case where”.

Issue of fresh (non-electronically-delivered) certificates

12. In regulation 13 (issue of fresh certificates), after “certificate of insurance” insert “(other than a certificate of insurance delivered by electronic means)”.

Printing of certificates

- 13.**—(1) Part 2 of the schedule is amended as follows.
- (2) In paragraph 1, after “Every certificate” insert “(except a certificate delivered by electronic means)”.
 - (3) In paragraph 2, omit “, either on the face or on the back thereof”.
 - (4) In paragraph 3, for “The whole of each form” substitute “Except in the case of a certificate of insurance delivered by electronic means, the whole of each form”.
 - (5) After paragraph 3, insert—

“3A. In the case of a certificate of insurance delivered by electronic means, the items in each form as set out in Part 1 of this Schedule shall in each case appear in the order so set out and the certification shall be set out at the end of the form.”
 - (6) In paragraph 4, for “The particulars to be inserted” substitute “Except in the case of a certificate of insurance delivered by electronic means, the particulars to be inserted”.
 - (7) In paragraph 6(2), omit “either on the face or on the back of the certificate”.

Signed by authority of the Secretary of State

30th March 2010

Paul Clark
Parliamentary Under Secretary of State
Department for Transport

EXPLANATORY NOTE

(This note is not part of the order)

Part 1 of this order amends the Road Traffic Act 1988 (“the 1988 Act”). Part 2 of the order makes consequential amendments to the Motor Vehicles (Third Party Risks) Regulations 1972 (S.I. 1972/1217, “the 1972 regulations”).

The amendments in this order relate only to certificates of insurance and not to securities or to certificates of security.

The amendments to the 1988 Act are as follows.

Article 3(2) inserts into section 147 (issue and surrender of certificates) new subsections (1A), (1B), (1C), (1D) and (1E). These permit certificates of motor insurance to be delivered by electronic means and impose conditions to be met.

Article 3(3) amends section 147(4) (requirement for surrender of certificate, or statutory declaration, on cancellation of policy) to exclude from it certificates delivered as described in the new subsection (1A)(a) and (b).

Article 3(4) inserts into section 147 new subsections (4A) to (4F) (optional alternatives to subsection (4) requirements). The new subsection (4A) permits a person to send an electronic communication to the insurer as a means of surrendering his certificate of insurance. The new subsection (4B) permits a person to send an electronic communication to the insurer instead of making a statutory declaration where the certificate has been lost or destroyed. The new subsections (4C) and (4D) impose requirements on the person by whom the policy was effected where the certificate is treated by the new subsection (1A) as having been delivered to him under section 147. If he complies with those requirements, he is to be treated by virtue of the new subsection (4E) as having surrendered the certificate.

Article 3(5) amends section 147(5) (offence of failing to surrender a certificate or make a statutory declaration) so that failure to comply with the new subsection (4D) is also an offence.

Article 4 amends section 152 (exceptions to duty of insurers or persons giving security to satisfy judgment against persons insured or secured against third-party risks) to exclude from the references to a statutory declaration, certificates which are delivered as described in the new subsection (1A).

Article 5 amends section 160(2) (power to make regulations) so that the reference to “records” is not restricted to “records of documents” and to ensure that the power to make regulations applies in relation to the new permitted modes of delivery mentioned in subsection (1A).

Article 6 makes consequential amendments to section 165. This sets out what may be produced to the police as evidence that a motor vehicle is not or was not being driven in contravention of section 143 of the 1988 Act (formerly section 143 of the 1972 Act).

The amendments to the 1972 regulations are as follows.

Article 8 makes consequential amendments to the interpretation provisions in regulation 4.

Articles 9 and 13 amend regulation 5, and Part 2 of the schedule, to provide for content of certificates of insurance delivered by electronic means.

Article 10 amends regulation 9 so that paragraph (1)(a) (production of the certificate to the Secretary of State on an application for a vehicle excise licence) does not apply in the case of a certificate of insurance delivered by electronic means. Provision is made instead (new subparagraph (aa)) for a legible printed copy of the electronically-delivered certificate to be produced to the Secretary of State.

Article 11 amends regulation 12(1) and (2) so that provisions relating to return and to loss and destruction of certificates of insurance do not apply in the case of a certificate delivered by electronic means.

Article 12 amends regulation 13 so that the requirement to issue a fresh certificate where the certificate has been defaced, lost or destroyed does not apply in the case of a certificate of insurance delivered by electronic means.

An impact assessment has not been produced as no adverse impact on the costs of the private or voluntary sectors is foreseen.

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STATUTORY INSTRUMENTS

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£5.75