STATUTORY RULES OF NORTHERN IRELAND

2011 No. 23

ROAD TRAFFIC AND VEHICLES

The Motor Vehicles (Electronic Communication of Certificates of Insurance) Order (Northern Ireland) 2011

Made - - - - *3rd February 2011*

Coming into operation *21st March 2011*

The Department of the Environment makes the following Order in exercise of the powers conferred by section 1(1) of the Electronic Communications Act (Northern Ireland) 2001(**1**).

In accordance with section 1(3) of that Act the Department considers 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 such 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.

Citation and commencement

1. This Order may be cited as the Motor Vehicles (Electronic Communication of Certificates of Insurance) Order (Northern Ireland) 2011 and shall come into operation on 21st March 2011.

Amendment of the Road Traffic Order

2.—(1) The Road Traffic (Northern Ireland) Order 1981(**2**) is amended in accordance with paragraphs (2) to (6).

(2) In Article 92 (requirements in respect of policies) after paragraph (4), insert—

"(4A) A certificate of insurance is to be treated for the purposes of this Part as having been delivered under paragraph (4) to the person by whom the policy is effected if—

(a) it is transmitted electronically by the insurer to the person in accordance with paragraph (4B); or

(b) it is made available by the insurer to the person on a website in accordance with paragraph (4C).

(4B) A certificate of insurance is transmitted electronically by an insurer to a person in accordance with this paragraph if—

(**1**) 2001 c.9 (N.I.)
(**2**) S.I. 1981/154 (N.I. 1)

(a) on effecting the policy to which the certificate relates, the person agreed to its electronic transmission for the purpose of paragraph (4); and

(b) the certificate is transmitted by the insurer to an electronic address specified by the person for this purpose.

(4C) A certificate of insurance is made available by an insurer to a person on a website in accordance with this paragraph 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 paragraph (4);

(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.

(4D) Where a certificate of insurance made available on a website is treated by virtue of paragraph (4A)(b) 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.

(4E) For the purposes of paragraph (4D), a certificate of insurance 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 Article 95 (duty to surrender certificate on cancellation of policy or security)—

(a) in paragraph (1) after "delivered under Article 92(4)" insert ", otherwise than as described in Article 92(4A),";

(b) after paragraph (1) insert—

"(1A) Where paragraph (1) applies, the person to whom the certificate of insurance was delivered—

(a) may, instead of surrendering the certificate under paragraph (1), 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.

(1B) Paragraph (1C) applies where—

(a) a certificate is treated, by virtue of Article 92(4A), as having been delivered to a person under that Article; and

(b) the policy to which it relates is cancelled by mutual consent or by virtue of any provision in the policy.

(1C) The person must, within 7 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.

(1D) A person who transmits a statement or delivers a copy of a certificate of insurance in accordance with paragraph (1C) is to be treated as having surrendered the certificate.

(1E) In this Article, "electronic communication" has the meaning given in the Electronic Communications Act (Northern Ireland) 2001.";

(c) in paragraph (2) after "paragraph (1)" insert "or (1C)".

(4) In Article 98A(1)(c)(i)(**3**) (exceptions to Article 98) after "the certificate was surrendered to the insurer" insert "(in the case of a certificate delivered otherwise than as described in Article 92(4A))".

(5) In Article 103(1) (regulations for the purposes of this Part) in sub-paragraph (b) after the word "records" omit "of documents".

(6) In Article 180 (enforcement powers of constable) after paragraph (2) insert—

"(2A) Paragraphs (2B) and (2C) apply where a certificate of insurance is treated as having been delivered to a person in accordance with Article 92(4A).

(2B) In the case of a certificate transmitted to a person as described in Article 92(4A)(a), the person is to be treated for the purposes of this Article as producing the relevant certificate of insurance if—

(a) using electronic equipment provided by him or made available to him by the constable, he provides the constable 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 Article 92(4A)(b), the person is to be treated for the purpose of this Article as producing the relevant certificate of insurance if—

(a) using electronic equipment provided by him or made available to him by the constable, he provides the constable 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 paragraph (2B) or (2C) requires a constable to provide a person with electronic equipment for the purpose of compliance with a requirement imposed on the person by this Article.".

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

3.—(1) The Motor Vehicles (Third-Party Risks) Regulations (Northern Ireland) 1994(**4**) are amended in accordance with paragraphs (2) to (7).

(2) In regulation 2 (interpretation)—

(a) in paragraph (1) before the definition of "company" insert—

""certificate delivered by electronic means" means a certificate delivered as described in Article 92(4A) of the Order;"; and

(b) after paragraph (2) insert—

(**3**) Article 98A was inserted by regulation 4 of S.R. 1989 No. 84
(**4**) S.R. 1994 No. 46; relevant amending Regulations are S.R. 2007 No. 460