

Press release

LCQ9: Motor vehicles insurance

Wednesday, April 22, 2009

Following is a question by the Hon Cyd Ho and a written reply by the Secretary for Financial Services and the Treasury, Professor K C Chan, in the Legislative Council today (April 22):

Question:

It is learnt that at present, motor vehicles insurance policies in respect of third party risks generally have a "Drink Driving Exclusion Clause" stating that the insurer will not incur any contractual obligation to indemnify (or compensate) the policyholder for any damages or losses suffered by him in relation to his liability arising from a traffic accident involving drink driving. In this connection, will the Government inform this Council:

(a) whether third party victims, who have been injured or died in traffic accidents involving drink driving, or their families, need to seek compensation personally from the drivers who caused the accidents or the vehicle owners concerned by instituting legal proceedings; if so, what support the Government will provide to assist them in making compensation claims; in the event that the drivers who caused the accidents and the vehicle owners concerned are incapable of making compensation or are declared bankrupt, whether such victims or their families will receive reasonable compensation; and

(b) whether it has assessed if the above exclusion clause violates the principle that the rights of third party victims in traffic accidents should be protected; if it has, of the outcome; and whether the authorities have any plan to review and amend the relevant legislation to ensure that insurers will discharge, upon collection of insurance premiums, their obligations to compensate third party victims who have been injured or died in traffic accidents; if there is no plan to review and amend legislation, whether the procedures for claiming compensation by such victims or their families will be delayed because the traffic accidents involve drink driving, and how the existing legislation ensures that the insurers will give them reasonable compensation?

Reply:

President,

Under section 4 of the Motor Vehicles Insurance (Third Party Risks) Ordinance (the Ordinance), any person who uses or permits any other person to use a motor vehicle on a road shall take out an insurance policy covering the injury or death of third party. Sections 10 and 12 of the Ordinance also provide that upon determination by the court that a person who drives or owns a vehicle shall be liable to the injury or death of a third party in a traffic accident, the insurer shall make compensation in respect of claims arising from the injury or death of the third party victims no matter whether or not the insured has violated the terms set out in the insurance policy (including the Drink Driving Exclusion Clause). Therefore, the victims and their families do not need to seek compensation from the drivers who caused the accidents or the vehicle owners concerned.

Ends