

Notification of the Insurance Commission

Re: Criteria for Recourse of Preliminary Compensation, Exemption and Reduction of Surcharge Payable to the Victims Compensation Fund, B.E. 2560 (2017)

By virtue of Section 26, paragraph two, of the Protection for Motor Vehicle Victims Act B.E. 2535 (1992), as amended by the Protection for Motor Vehicle Victims Act (No. 4) B.E. 2550 (2007), and Section 3 (3) of the Insurance Commission Act B.E. 2550 (2007), together with the resolution adopted at the Insurance Commission's Meeting No. 5/2017 on 26 May 2017, the Insurance Commission prescribes this Notification as follows:

Clause 1: This Notification shall be called the "Notification of the Insurance Commission Re: Criteria for Recourse of Preliminary Compensation, Exemption and Reduction of Surcharge Payable to the Victims Compensation Fund, B.E. 2560 (2017)."

Clause 2: This Notification shall take effect from the date following its publication in the Government Gazette onwards.

Clause 3: In this Notification,

"Secretary-General" means the Secretary-General of the Insurance Commission;

"Reimbursing Party" means either a vehicle owner or an insurance company required by an administrative order to make a reimbursement to the Victims Compensation Fund under the law on protection for motor vehicle victims;

"Order" means an administrative order under the law on administrative procedure.

Clause 4: The Secretary-General shall be in charge of ensuring due compliance with this Notification.

Clause 5: After having paid the preliminary compensation to the victim, the Registrar shall issue an Order demanding the vehicle owner or the insurance company, as the case may be, to make a reimbursement thereof to the Victims Compensation Fund, together with a

surcharge at the rate of 20 percent of the preliminary compensation amount paid from the Victims Compensation Fund, and shall take any other actions in compliance with the regulations of the Office of the Insurance Commission on the application of administrative measures, or the relevant laws and regulations on administrative measures.

Clause 6: Where a Reimbursing Party presents clear evidence in any of the following cases, the surcharge under Clause 5 shall be exempted:

(1) In a case where a vehicle owner holds an insurance policy which has expired for no more than 30 days without an intention to avoid a renewal of the insurance. For example, in a case where an owner of a vehicle being hire-purchased has made payment of relevant insurance premiums along with vehicle tax to the lessor prior to the expiry date of the insurance contract, etc.; or, in a case of force majeure preventing the vehicle owner from attaining insurance coverage, such as the Great 2011 Flood of Thailand whereby insurance companies in some areas were forced to temporarily close their offices due to the flood, etc.

(2) The victim suffers loss due to any cause pursuant to Section 23 (4), and the vehicle owner is not, in good faith, aware of such cause;

(3) The Reimbursing Party is a low-income person who has registered with a government agency.

Clause 7: In a case of a Reimbursing Party being a vehicle owner, and intending to make a reimbursement of the preliminary compensation in installments due to his/her incapability of fulfilling the payment obligation all at once, a written request to that effect shall be submitted to the Registrar.

The criteria, procedures, and conditions in relation to the request for making a reimbursement of the preliminary compensation in installments shall be in accordance with the regulations of the Office of the Insurance Commission as prescribed by the Secretary-General.

[Translation]

In a case where the Reimbursing Party, being a vehicle owner and having failed to make a reimbursement of the preliminary compensation as specified in paragraph two, actions shall be taken in accordance with the regulations of the Office of the Insurance Commission on the application of administrative measures by seizure or attachment and auction sale of property in accordance with the Protection for Motor Vehicle Victims Act B.E. 2535 (1992).

Clause 8: When the Registrar's action claiming a recourse of the preliminary compensation together with the twenty percent surcharge thereon from the Reimbursing Party has reached its finality, the Registrar shall propose to the Secretary-General a discontinuation of any further action.

Any one of the following circumstances shall be regarded as an indication of the finality of such action:

(1) A reimbursement of the amount paid by the Victims Compensation Fund together with a surcharge thereon has been made in full;

(2) A person being legally liable is untraceable, or an approval for writing off such reimbursable amount as bad debt is granted in accordance with the regulations of the Office of the Insurance Commission on disbursement, maintenance, and management of the fund and expenses in the operation of the Victims Compensation Fund.

Notified on this 23rd day of August B.E. 2560 (2017).

Somchai Sajjapong

Permanent Secretary, Ministry of Finance

Chairman of the Insurance Commission