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**THE MOTOR VEHICLE INSURANCE  
(THIRD PARTY RISKS) LAW, 1990  
(LAW 12 OF 1990)**

(Price \$4.00)

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**Summary:**

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## ARRANGEMENT OF SECTIONS

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- (a) as to forms to be used for the purposes of this Law;
- (b) as to the applications for and the issue of certificates of insurance and any other documents which may be prescribed, and as to the keeping of records of documents, and the furnishing of particulars thereof, or the giving of information in respect thereto, to the Commissioner of Police;
- (c) as to the issue of copies of any certificates or other documents which are lost or destroyed;
- (d) as to the custody, production, cancellation and surrender of any such certificates or other documents;
- (e) for providing that any provision of this Law shall, in relation to vehicles brought into the Islands by persons making only a temporary stay therein, have effect, subject to such modifications and adaptations as may be prescribed.

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Repeal and saving.

20. The Motor Vehicles Insurance (Third Party Risks) Law, 1964, is hereby repealed but without prejudice to any right accrued or any liability incurred or anything done thereunder at or before the date of commencement of this Law.

Passed by the Legislative Assembly this 18th day of July, 1990.

( )

**ALAN SCOTT**  
President

**WENDY EBANKS-LAUER**  
Acting Clerk of the Legislative Assembly

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Forgery of certificate.

18. (1) If, with intent to deceive, any person -
- (a) alters or uses, or leads to or allows to be used, by any other person, a certificate of insurance under this Law; or
  - (b) makes or has in his possession any document so closely resembling such a certificate as to be calculated to deceive;

he shall be guilty of a misdemeanour and shall be liable on conviction on indictment to imprisonment for a term not exceeding two years.

(2) If any person for the purpose of obtaining the issue of a certificate of insurance under this Law knowingly makes any false statement or knowingly withholds any material information, he shall be liable on summary conviction thereof to imprisonment for a term not exceeding six months, or to a fine not exceeding two thousand dollars, and in default of payment thereof to imprisonment for a term not exceeding six months or to both such imprisonment and fine.

(3) If any person issues a certificate of insurance which to his knowledge is false in any material particular, he shall be liable, on summary conviction thereof to imprisonment for a term not exceeding six months, or to a fine not exceeding four thousand dollars and in default of payment thereof to imprisonment for a term not exceeding six months or to both such imprisonment and fine.

(4) If any member of the Royal Cayman Islands Police Force has reasonable cause to believe that any certificate of insurance produced to him in pursuance of the provisions of this Law by the driver of a motor vehicle is a document in relation to which an offence under this section has been committed, he may seize the document and when any document is seized under this section, the person from whom it was taken shall, unless the document has been previously returned to him or he has previously been charged with an offence under this section, be summoned before a summary court to account for his possession of the said document and the court shall make such order respecting the disposal of the said document and award such costs as the justice of the case may require.

(5) In this section the expression "certificate of insurance" includes any document issued under regulations made by the Governor in Executive Council in pursuance of the provisions of section 6 of this Law to prescribe evidence which may be produced in lieu of a certificate of insurance.

Regulations.

19. The Governor in Executive Council may make regulations for prescribing anything which may be prescribed under this Law and generally for the purpose of carrying this Law into effect, and in particular, but without prejudice to the generality of the foregoing, may make regulations-

CAYMAN ISLANDS

Law 12 of 1990

I Assent

**ALAN SCOTT**  
Governor

21st September 1990

**A LAW TO REPEAL AND RE-ENACT  
THE MOTOR VEHICLES INSURANCE  
(THIRD PARTY RISKS) LAW, 1964**

ENACTED by the Legislature of the Cayman Islands.

- Short Title. 1. This Law may be cited as the Motor Vehicle Insurance (Third Party Risks) Law, 1990.
- Interpretation. 2. In this Law -
- "driver" includes any person driving or in control of a motor vehicle;
  - "insurer" means the holder of a Class "A" licence granted under section 4 of the Insurance Law, 1979, to carry on "general business" as defined in section 2 of that Law;
- Law 24 of 1979.

Users of motor vehicles to be insured against third party risks.

"Motor vehicle" means any mechanically propelled vehicle intended or adapted for use on roads and shall include agricultural or earth moving vehicles, motor cycles, scooters, wheeled trailers and autowheels;

"owner" in relation to a motor vehicle which is the subject of a hiring agreement or hire purchase agreement, means the person in possession of the vehicle under that agreement;

"policy of insurance" includes a covering note;

"road" has the meaning assigned to it in section 2 of the Traffic Law (Revised)".

3. (1) Subject to the provisions of this Law, it shall not be lawful for any person to use, or to cause or permit any other person to use, a motor vehicle on a road, unless there is in force in relation to the user of the vehicle by that person or that other person, as the case may be, such a policy of insurance in respect of third party risks as complies with the requirements of this Law.

(2) If any person acts in contravention of this section he shall be guilty of an offence and shall, on summary conviction thereof, be liable to a penalty not exceeding two thousand dollars or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment, and a person convicted of an offence under this section shall (unless the Court for special reasons thinks fit to order otherwise and without prejudice to the power of the Court to order a longer period of disqualification) be disqualified for holding or obtaining a licence under the laws for the time being in force relating to motor vehicles, for a period of twelve months from the date of the conviction.

(3) A person disqualified by virtue of a conviction under this section or of an order made thereunder for holding or obtaining a licence shall, for the purposes of any Law for the time being in force relating to motor vehicles, be deemed to be disqualified by virtue of a conviction under the provisions of that Law, or any Law amending or substituted for the same.

(4) Notwithstanding any Law prescribing a time within which proceedings may be brought before the Court, proceedings for an offence under this section may be brought -

- (a) within a period of six months from the date of the commission of the alleged offence; or
- (b) within a period which exceeds neither three months from the date on which it came to the knowledge of the prosecutor that the offence had been committed, nor one year from the date of the commission of the offence,

whichever period is the longer.

Law 32 of 1987(R).

Clerk of Court to give notice to insurer.

Limitation of actions.

from any provision contained in it:

PROVIDED that an insurer who has obtained such a declaration as aforesaid in an action shall not thereby become entitled to the benefits of this subsection as respects any judgment contained in proceedings commenced before the commencement of that action, unless before or within ten days after the commencement of that action he has given notice thereof to the person who is the plaintiff in the said proceedings specifying the non-disclosure or false representation on which he proposes to rely, and any person to whom notice of such an action is so given, shall be entitled, if he thinks fit, to be made a party thereto.

(4) If the amount for which an insurer becomes liable under this section to pay in respect of a liability of the person insured by a policy exceeds the amount for which he would, apart from the provisions of this section, be liable under the policy in respect of that liability, he shall be entitled to recover the excess from that person.

(5) In this section the expression "material" means of such a nature as to influence the judgment of a prudent insurer in determining whether he would take the risk, and if so, at what premium and on what conditions, and the expression "liability covered by the terms of the policy" means a liability which is covered by the policy or which would be covered but for the fact that the insurer is entitled to avoid or cancel, or has avoided or cancelled the policy, and the expression "judgment" does not include a judgment of any court which does not have jurisdiction in the Islands, or the judgment of a court having jurisdiction in the Islands enforcing or giving effect to such a judgment enforced under the Foreign Judgments Reciprocal Enforcement Law (Revised).

(6) In this Law reference to a certificate of insurance in any provision relating to the surrender or the loss or destruction of a certificate of insurance shall, in relation to policies under which more than one certificate is issued, be construed as reference to all the certificates and shall, where any copy has been issued of any certificate be construed as including a reference to that copy.

16. It shall be the duty of the Clerk of the Court, within ten days of the commencement by a third party injured, or whose property has been damaged by a motor vehicle required to be insured by this Law, of any proceedings in any such Court, to give notice to the insurer of such proceedings:

PROVIDED that every insurer shall notify the Clerk of the Court of his address and shall inform the Clerk of the Court of any change therein.

17. Notwithstanding anything contained in any other Law or in any rule of law or equity, no action shall be brought in any court by or on behalf of any person after the end of the period of three years from the date on which a cause of action accrued for any injury or damage against or in respect of which a motor vehicle is required to be insured under this Law.

(2) No sum shall be payable by an insurer under the foregoing provisions of this section -

- (a) liability for which is exempted from the cover granted by the policy pursuant to any of the provisos to subsection (1) of section 4 of this Law; or
- (b) in respect of any judgment, unless before or within thirty days after the commencement of the proceedings in which the judgment was given, the insurer had notice of the bringing of the proceedings; such notice to be deemed to be truly given by the posting of a registered prepaid envelope containing the notice, to the address of the insurer given in the certificate of insurance and such notice being deemed to have reached the insurer within 14 days of the time at which it was posted; or
- (c) in respect of any judgment, so long as execution thereof is stayed pending an appeal; or
- (d) in connection with any liability, if before the happening of the event which was the cause of the death, bodily injury or damage to property giving rise to the liability, the policy was cancelled by mutual consent or by virtue of any provision contained therein and either -
  - (i) before the happening of the said event the certificate was surrendered to the insurer or the person in whose favour the certificate was issued made a statutory declaration stating that the certificate had been lost or destroyed; or
  - (ii) after the happening of the said event, but before the expiration of a period of fourteen days from the taking effect of the cancellation of the policy the certificate was surrendered to the insurer or the person in whose favour the certificate was issued made such a statutory declaration as aforesaid; or
  - (iii) either before or after the happening of the said event, but within the said period of fourteen days, the insurer has commenced proceedings under this Law in respect of the failure to surrender the certificate.

(3) No sum shall be payable by an insurer under the foregoing provisions of this section, if, in an action commenced before, or within three months after, the commencement of the proceedings in which the judgment was given he has obtained a declaration that, apart from any provision contained in the policy, he is entitled to avoid it on the ground that it was obtained by the non-disclosure of a material fact or by a representation of fact which was false in some material particular, or if he has avoided the policy on that ground, that he was entitled so to do apart,

Requirements in respect of policies.

4. (1) In order to comply with the requirements of this Law the policy of insurance must be a policy which -

- (a) is issued by a person who is an insurer; and
- (b) insures such person, persons or classes of persons, as may be specified in the policy in respect of any liability which may be incurred by him or them in respect of the death of, or bodily injury to any person, or damage to any property caused by, or arising out of, the use of the motor vehicle on a road;

PROVIDED that such a policy shall not be required to cover -

- (i) liability in respect of the death arising out of, and in the course of his employment of a person in the employment of a person insured by the policy, or of bodily injury sustained by such a person arising out of, and in the course of his employment;
- (ii) any contractual liability;
- (iii) liability in respect of the first fifty dollars of any claim by any one person;
- (iv) liability exceeding in the aggregate one hundred thousand dollars in respect of the damage to any property arising out of any claim or claims in respect of any one event;
- (v) property in or on the motor vehicle insured by the policy;
- (vi) property belonging to, held in trust by, or in the custody or control of the person insured;
- (vii) liability in respect of damage to the motor vehicle insured by the policy;
- (viii) liability in respect of the death of or bodily injury to a passenger on a motor cycle arising out of the use on a road of the said motor cycle which is owned by an individual;
- (ix) liability in respect of the death of, or bodily injury to, the hirer or passenger in or on a motor vehicle which is let out on hire;
- (x) liability in respect of the death of or injury to any person being a passenger in a vehicle, except such passenger is seated in a seat fitted to the vehicle by the manufacturer thereof for the purpose of accommodating passengers.

(2) Notwithstanding any rule of law or anything in any enactment, or any other Law to the contrary, a person issuing a policy of insurance under this section shall be liable to indemnify the persons or classes of persons specified in the policy, in respect of any liability which the policy

purports to cover, in the case of these persons or classes of persons.

(3) A policy shall be of no effect for the purposes of this Law unless and until there is issued by the insurer in favour of the person by whom the policy is effected, a certificate (in this Law referred to as a "certificate of insurance") in the prescribed form and containing such particulars of any conditions subject to which the policy is issued and of any other matters as may be prescribed in relation to different cases or circumstances.

Certain conditions in policies to be of no effect.

5. (1) Any condition in a policy issued or given for the purposes of this Law, providing that no liability shall arise under the policy or that any liability so arising shall cease, in the event of some specified thing being done or omitted to be done after the happening of the event giving rise to a claim under the policy, shall be of no effect in connection with such claims as are mentioned in paragraph (b) of subsection (1) of section 4 of this Law:

PROVIDED that nothing in this subsection shall be taken to render void any provision in a policy requiring the person insured to repay to the insurer any sums which the latter may have become liable to pay under the policy and which have been applied to the satisfaction of the claims of third parties.

(2) Where a certificate of insurance has been issued under subsection (3) of section 4 of this Law in favour of the person by whom a policy has been effected, so much of a policy as purports to restrict the insurance of the persons insured thereby by reference to any of the following matters -

- (a) the age or physical or mental condition of persons driving vehicles; or
- (b) the condition of the vehicle; or
- (c) the number of persons that the vehicle carries; or
- (d) the weight or physical characteristics of the goods that the vehicle carries; or
- (e) the times at which or the areas within which the vehicle is used; or
- (f) the horse-power or value of the vehicle; or
- (g) the carrying on the vehicle of any particular apparatus; or
- (h) the carrying on the vehicle of any particular means of identification other than any means of identification required to be carried by or under the Laws for the time being in force relating to motor vehicles,

shall, as respects such liabilities as are required to be covered by a policy

Settlement between insurers and insured persons.

Duty of persons against whom claims are made to give information as to insurance.

Duty to surrender certificate on cancellation of policy.

Duty of insurers to satisfy judgments against persons insured in respect of third party risks.

12. Where the insured has become bankrupt or where, in the case of the insured being a company, a winding up order has been made or a resolution for a voluntary winding up has been passed with respect to the company, no agreement made between the insurer and the insured after the liability has been incurred to a third party and after the commencement of the bankruptcy or winding up, as the case may be, nor any waiver, assignment, or other disposition made by, or payment made to the insured, after the commencement aforesaid shall be effective to defeat or affect the rights transferred to the third party under this Law, but those rights shall be the same as if no such agreement, waiver, assignment, disposition or payment has been made.

13. (1) Any person against whom a claim is made in respect of any such liability as is required to be covered by a policy under paragraph (b) of subsection (1) of Section 4 of this Law shall, on demand by or on behalf of the person making the claim, or by the Clerk of the Courts of any Court, state whether or not he was insured in respect of that liability by any policy having effect for the purposes of this Law, or would have been insured if the insurer had not avoided or cancelled the policy, and, if he was or would have been so insured, give such particulars with respect to that policy as were specified in the certificate of insurance delivered in respect thereof under subsection (3) of section 4 of this Law.

(2) If, without reasonable excuse, any person fails to comply with the provisions of this section, or wilfully makes any false statement in reply to any such demand as aforesaid, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one thousand dollars.

14. Where a certificate of insurance has been issued under subsection (3) of section 4 of this Law in favour of the person by whom a policy has been effected and the policy is cancelled by mutual consent or by virtue of any provision in the policy, the person in whose favour the certificate was issued shall, within seven days from the taking effect of the cancellation, surrender the certificate to the insurer or, if it has been lost or destroyed, make a statutory declaration to that effect, and if he fails to comply with the provisions of this section he shall be guilty of an offence and shall be liable on summary conviction thereof to a fine not exceeding one thousand dollars.

15. (1) If, after a certificate of insurance has been issued under subsection (3) of section 4 of this Law in favour of the person by whom a policy has been effected, judgment in respect of any such liability as is required to be covered by a policy under paragraph (b) of subsection (1) of the said section (being a liability covered by the terms of the policy) is obtained against any person insured by the policy, then, notwithstanding that the insurer may be entitled to avoid or cancel, or may have avoided or cancelled the policy, the insurer shall, subject to the provisions of this section, pay to the persons entitled to the benefit of the judgment any sum payable thereunder in respect of the liability, including any amount payable in respect of costs and any sum payable in respect of interest on that sum by virtue of any enactment relating to interest on judgments.



Bankruptcy, etc., of insured persons not to affect certain claims by third parties.

10. Where a certificate of insurance has been issued under subsection (3) of section 4 of this Law in favour of the person by whom a policy has been effected, the happening in relation to any person insured by the policy of any such event as is mentioned in subsection (1) or subsection (2) of section 9 of this Law shall, notwithstanding anything in this Law, not affect any such liability of that person as is required to be covered by a policy under paragraph (b) of subsection (1) of section 4 of this Law, but nothing in this section shall affect any rights against the insurer conferred by this Law on the person to whom the liability was incurred.

Duty to give necessary information to third parties.

11. (1) In the event of any person becoming bankrupt or making a composition or arrangement with his creditors or in the event of an order being made under section 71 of the Bankruptcy Law (Revised), in respect of the estate of any person, or in the event of a winding up order being made, or a resolution for a voluntary winding up being passed, with respect to any company, or of a Receiver or Manager of the company's business or undertaking being duly appointed or of possession being taken by or on behalf of the holders of any debentures secured by a floating charge, of any property comprised in or subject to the charge, it shall be the duty of the bankrupt, debtor, personal representative of the deceased debtor or company, and, as the case may be, of the Trustee in Bankruptcy, Trustee, Liquidator, Receiver or Manager, or person in possession of the property to give at the request of any person claiming that the bankrupt, debtor, deceased debtor, or company, is under a liability to him, such information as may be reasonably required by him for the purpose of ascertaining whether any rights have been transferred to and vested in him by this Law and for the purpose of enforcing such rights if any, and any contract of insurance in so far as it purports, whether directly or indirectly, to avoid the contract or to alter the rights of the parties thereunder upon the giving of any such information in the events aforesaid or otherwise to prohibit or to prevent the giving thereof in the said events, shall be of no effect.

(2) If the information given to any person in pursuance of subsection (1) of this section discloses reasonable ground for supposing that there have or may have been transferred to him under this Law, rights against any particular insurer, that insurer shall be subject to the same duty as is imposed by the said subsection on the persons therein mentioned.

(3) The duty to give information imposed by this section shall include a duty to allow all contracts of insurance, receipts for premiums, and other relevant documents in the possession or power of the person on whom the duty is so imposed to be inspected and copies thereof to be taken.

(4) If, without reasonable excuse any person fails to comply with the provisions of this section, or wilfully makes any false statement in reply to any such request as aforesaid he shall be guilty of an offence and shall be liable on summary conviction thereof to a fine not exceeding one thousand dollars.

Production of certificate of insurance on application for motor vehicle licence.

Requirements as to production of certificate of insurance.

under paragraph (b) of subsection (1) of section 4 of this Law, be of no effect:

PROVIDED that nothing in this subsection shall require an insurer to pay any sum in respect of -

- (a) the liability of any person otherwise than in or towards the discharge of that liability, and any sum paid by an insurer in or towards the discharge of any liability of any person which is covered by the policy by virtue only of this section shall be recoverable by the insurer from that person;
- (b) a liability in respect of the death of, bodily injury, or damage to the property of, any person who, at the time the liability arose, was a willing passenger in or upon the motor vehicle and knew or had reason to believe that it was being driven without the permission of the owner, not being a person who first had such knowledge or belief after he entered in or upon the vehicle and who could not in the circumstances reasonably have been expected to have alighted therefrom.

6. A person applying for a licence in respect of a motor vehicle under the Laws for the time being in force relating to motor vehicles shall attach to the application a certificate of insurance or shall produce such evidence as may be prescribed that either -

- (a) on the date when the licence comes into operation there will be in force the necessary policy of insurance in relation to the user of the motor vehicle by the applicant or any other persons on his order or with his permission; or
- (b) the motor vehicle is a vehicle to which this Law does not apply.

7. (1) Any person driving a motor vehicle on a road shall, on being required by any member of the Royal Cayman Islands Police Force, give his name and address and the name and address of the owner of the vehicle and produce his certificate, and if he fails so to do he shall be guilty of an offence and shall on summary conviction be liable to a fine not exceeding five hundred dollars:

PROVIDED that such person shall not be prosecuted if he produces his Certificate of Insurance at a Police Station or Police Post within a period of two days.

(2) In any case where owing to the presence of a motor vehicle on a road an accident occurs involving personal injury to another person, or damage to any property, the driver of the vehicle shall at the time produce his certificate to any member of the Royal Cayman Islands Police Force on demand and to any other person who, having reasonable grounds for so doing, has required its production; and the driver shall also as soon as possible, and in any case within twenty-four hours of the occurrence of the accident, report the accident to a Police Station and thereupon produce

his certificate, and if he fails to do so he shall be guilty of an offence and shall, on summary conviction thereof be liable to a fine not exceeding five hundred dollars:

PROVIDED that a person shall not be convicted of an offence under this subsection by reason only of failure to produce his certificate if, within five days after the occurrence of the accident, he produces the certificate in person at such Police Station or at one of such Police Stations as may have been specified by him at the time its production was demanded or required or at the time the accident was reported.

(3) It shall be the duty of the owner of a motor vehicle to give such information as he may be required, by or on behalf of an officer of the Royal Cayman Islands Police Force above the rank of Inspector, for the purposes of determining whether the vehicle is not or was not being driven in contravention of section 3 of this Law, on any occasion when the driver was required under this section to produce his certificate, and if the owner fails to do so he shall be guilty of an offence and shall, on summary conviction thereof be liable to a fine not exceeding one thousand dollars.

(4) In this section the expression "produce his certificate" means produce for examination the relevant certificate of insurance or such other evidence that the vehicle is not or was not being driven in contravention of section 3 of this Law as may be prescribed.

Saving of rights in case of death of person insured.

8. (1) The rights of any person in respect of any liability incurred by an insured shall, in the event of the death of the insured, and notwithstanding any enactment, or any other law to the contrary, be preserved to and be enforceable by such person against the personal representatives of the insured in the same manner and to the same extent as such rights would have been enforceable against the insured if he had survived, and the provisions of subsection (2) of section 4 of this Law shall apply accordingly.

(2) For the purposes of this section the word "insured" means a person who is insured under a contract of insurance against liabilities to third parties in accordance with the provisions of this Law.

Transfer of rights of insured against insurer on bankruptcy.

9. (1) Where under any contract of insurance a person (hereinafter referred to as "the insured") is insured against liabilities to third parties which he may incur, then -

- (a) in the event of the insured becoming bankrupt or making a composition or arrangement with his creditors; or
- (b) in the case of the insured being a company, in the event of a winding up order being made, or a resolution for voluntary winding up being passed, with respect to the company, or of a Receiver or Manager of the company's business or undertaking being duly appointed, or of possession being taken by or on behalf of the holders of any debentures secured by a floating charge, of any property comprised in

or subject to the charge;

if either before or after that event any such liability as aforesaid is incurred by the insured, his rights against the insurer under the contract in respect of the liability shall, notwithstanding anything in any enactment or other law to the contrary, be transferred to and vest in the third party to whom the liability was so incurred.

Cap. 7(R).

(2) Where an order is made under section 71 of the Bankruptcy Law (Revised), for the administration of the estate of a deceased debtor according to the Law of bankruptcy then, if any debt provable in bankruptcy is owing by the deceased in respect of a liability against which he was insured under a contract of insurance as being liability to a third party, the deceased debtor's rights against the insurer under the contract in respect of that liability shall, notwithstanding anything in the said Law, be transferred to and vest in the person to whom the debt is owing.

Cap. 7(R).

(3) In so far as any contract of insurance made after the commencement of this Law in respect of any liability of the insured to third party purports, whether directly or indirectly, to avoid the contract or to alter the rights of the parties thereunder upon the happening to the insured of any of the events specified in paragraph (a) or (b) of subsection (1) of this section, or upon the making of an order under section 71 of the Bankruptcy Law (Revised) in respect of his estate, the contract shall be of no effect.

(4) Upon a transfer under subsection (1) or subsection (2) of this section, the insurer shall, subject to the provisions of section 12 of this Law be under the same liability to the third party as he would have been under to the insured, but -

- (a) if the liability of the insurer to the insured exceeds the liability of the insured to the third party, nothing in this Law shall affect the rights of the insured against the insurer in respect of the excess; and
- (b) if the liability of the insurer to the insured is less than the liability of the insured to the third party, nothing in this Law shall affect the rights of the third party against the insured in respect of the balance.

(5) For the purposes of this Law the expression "liability to the third party", in relation to a person insured under any contract of insurance shall not include any liability of that person in the capacity of the insurer under some other contract of insurance.

(6) The provisions of this section and of sections 11 and 12 of this Law shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or amalgamation with another company.