Motor Vehicles (Compulsory Insurance) Bill

Briefing for the House of Commons Report Stage on 28 January 2022

1. Overview

A 2014 ruling by the European Court of Justice – known as Vnuk – extended the requirement for compulsory motor insurance to cover accidents on private land as well as a wide variety of new vehicles including golf buggies, lawnmowers and quad bikes.

This expanded the scope of the insurance requirements beyond what was set out in the Road Traffic Act (RTA) 1998, which only applies to vehicles constructed or adapted for use on roads – motor vehicles – and accidents on roads or other public places, not including private land.

It is British motorists who are picking up the costs for this and according to the Government, this ruling risks adding £50 to the average insurance premium in the UK.

When Britain left the EU, this ruling was retained in UK law at that point. The EU has since taken steps to address the Vnuk ruling by an amendment to the Motor Insurance Directive. This leaves the UK in the perverse situation in which it is stuck with a snapshot of EU law at the end of the transition period, all while the EU itself is enacting reforms to address this “absurd overregulation”.

The Motor Vehicles (Compulsory Insurance) Bill makes provisions to remove Vnuk from UK law – excluding Northern Ireland where this is a devolved matter – and to return the scope of the insurance requirement to its original shape in the RTA, saving motorists from unnecessary and substantial increases in their premiums.

2. What is the problem?

In 2014, the European Court of Justice issued a judgment in the Vnuk – Damijan Vnuk v Zavarovalnica Trigalev (C-162/13) – case concerning a farmer in Slovenia who was knocked off his ladder on a private farm by a reversing tractor and trailer unit. The ruling extended the insurance requirements in the EU Motor Insurance Directive to cover (amongst other things):

- Accidents on private land, including in gardens, on golf courses and at motor sports events.
- Accidents involving many types of new vehicles, for example: golf buggies, lawnmowers, quad bikes, mobility scooters, agricultural machinery and classic cars in museums.

A subsequent 2018 decision by the UK Supreme Court (Lewis vs Tindale) put the Vnuk ruling into UK case law.

These rulings, taken together, greatly expanded the Motor Insurers’ Bureau’s (MIB) liabilities as the body which compensates victims of uninsured and hit-and-run road traffic accidents, as part of an agreement with the Government. This is because the MIB is now required to compensate victims of uninsured and untraced motor accidents that (i) occur on private land (rather than just on roads and public places), and/or (ii) involve the wide variety of new vehicles.

This is manifestly different to the scope of the MIB’s liabilities as set out in the RTA 1998, which applies the requirement for compulsory third-party insurance only to vehicles used on roads and other public places, and to motor vehicles, defined as “a mechanically propelled vehicle intended or adapted for use on roads.” As a result, even though the MIB is funded by all motorists who pay an insurance premium, it is now responsible for covering claims for a much wider variety of vehicles in a range of different settings, putting a financial burden on law-abiding motorists and creating an unfair and inequitable situation.

Boris Johnson himself criticised Vnuk as Foreign Secretary in 2017, writing for The Telegraph that there was “no need, no call, no demand, no appetite, no reason, no justification, not even the shred of the beginnings of a case – in the United Kingdom – for this kind of pointless and expensive burden on millions of people.”
The implementation of the Vnuk ruling into UK law has been widely unpopular, to the extent that when the Department for Transport undertook a technical consultation on the issue in 2016, 94% of 902 respondents thought that the Vnuk judgement would be worse than the existing position on motor insurance in the UK. This view was confirmed by independent focus groups and polling commissioned by the MIB, with the research showing that a compulsory insurance requirement on private land was seen as a “ridiculous” burden that could not be enforced properly and would divert police time unnecessarily.

In February 2021, the Government announced that it was planning to remove Vnuk from UK law, calculating that it would lead to an estimated £50 annual increase in insurance premiums for motorists and £2 billion in extra overall costs for the insurance industry.

The Government also noted at the time that the rules would have a decimating impact on the UK’s motorsports industry, as any motorsports collision involving vehicles from go-karting to F1 would have been treated as regular road traffic incidents requiring insurance. This would lead to additional annual cost of £458 million for the sector. There are several other sectors which are also impacted including farming and construction.

The Government’s commitment was later confirmed in a Written Ministerial Statement on 29 June 2021.

The EU itself is also rolling back Vnuk, with the European Parliament and Council having passed Directive 2021/2118 on the subject in November 2021, to address what the European Parliament Rapporteur referred to as this “absurd overregulation.”

Not only has the Vnuk ruling resulted in a ridiculous and disproportionate motor insurance obligation in the UK, it’s also unnecessary and unenforceable. In many cases there is insurance already in place to cover accidents – for example businesses would have employer’s liability and public liability insurance in place. It is also completely unenforceable and would require mass registration of millions of new vehicles and would leave the police with the impossible situation where they needed to go on to private land to check registrations. When accidents occurred on private land, the police would find it extremely difficult to avoid fraud with limited witnesses and CCTV, unlike on public roads.

3. How does the Bill address this issue?

The Bill meets the Government’s public commitment to remove Vnuk from the law in the England, Scotland and Wales.

The Bill will save motorists from costs they are facing today and will bring back a common-sense approach to the UK’s motor insurance regime.

The Bill will also address the perverse situation where the UK is stuck with a snapshot of outdated EU law from the end of the transition period and is still required to adhere to Vnuk even after the EU itself has moved away from it.

Clause 1 of the Bill limits the requirement for compulsory third-party motor insurance to roads or other public places and to motor vehicles, as set out in the RTA, and removes the section 4 rights against the MIB created by Lewis. The Bill also removes any retained case law that is inconsistent with these provisions.

Clause 2 of the Bill defines the geographical scope of the Bill which will apply to England and Wales, and Scotland. In Northern Ireland – where motor insurance is a devolved matter – this issue is being considered by the Northern Ireland Executive and steps are being taken to replicate steps being taken in Westminster on this issue.

The Bill would come into effect two months after receiving royal assent.