

Following the Court of Appeal ruling in the court case of Byrne and the Secretary of State for Transport the government has asked the Motor Insurers' Bureau to reconsider those cases that were summarily rejected because the claim had not been made within the three years as required by the relevant Untraced Drivers Agreement and which fulfil certain conditions. The conditions are:

- The Claimant must have been the victim of an untraced driver in an accident occurring no earlier than 31 December 1988 (the deadline for the implementation of the Second Motor Insurance Directive – 84/5 EEC).
- The Claimant, the issue of limitation apart, must be entitled to an award under the relevant Untraced Drivers' Agreement.
- The Claimant must be or have been unable to claim compensation because of the 3 year time limit contained in the relevant Untraced Drivers' Agreement. For the avoidance of doubt, the MIB will not process a Claimant's application if any other exclusion applies or applied.
- Had the driver of the accident been traced, the limitation period (as provided for in the 1980 Act or in the 1973 Act as appropriate) for bringing a claim against that driver would have expired after 4 December 2003.
- The Claimant must be in time to bring a *Francovich* action against the Secretary of State, i.e. within 6 years from the date of accrual of the cause of action after the relevant limitation period under the 1980 Act or the 1973 Act as appropriate had expired. (For example, this would mean 6 years from age 21 in cases of personal injury sustained by a minor).

A formal arrangement has been entered into between the Department of Transport and the Motor Insurers' Bureau to reconsider those cases.

For more information please contact us.