

**R E P U B L I C O F B U L G A R I A**  
**F O U R T I E T H N A T I O N A L A S S E M B L Y**

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**I N S U R A N C E**  
**C O D E**

**P A R T O N E**  
**G E N E R A L P R O V I S I O N S**

Subject

**Art. 1.** (1) The present Code shall settle:

1. Insurance and reinsurance;
2. Insurance and reinsurance intermediation;
3. Terms and conditions for commencement, performance and termination of the activities under Item 1 and Item 2;
4. Insurance contract;
5. Obligatory insurance; and
6. Insurance supervision.

(2) The provisions of the present Code shall not apply to the activities on supplementary social insurance and voluntary health insurance insofar as not envisaged otherwise by law.

Objectives

**Art. 2.** The objectives of the present Code shall be:

1. Ensuring protection of the interests of insurance services consumers, and
2. Establishing conditions for the development of a stable, transparent and efficient insurance market.

Insurance

**Art. 3.** (1) Insurance shall be the activity of providing insurance cover against risks by virtue of a contract, comprising of raising and spending funds designated for indemnities and other cash amounts upon occurrence of contract- or law-envisaged events, or materialization of circumstances, as well as directly related activities such as:

1. Assessment of insurance risk;

2. Determination of insurance premium;
3. Establishment of the occurrence of an insured event;
4. Determination of the amount of damages incurred;
5. Management of own funds and assets, serving as cover of an insurer's technical reserves;
6. Transfer of all, or part, of insurance risks covered by an insurer to a reinsurer (outward reinsurance);
7. Provision of services on Travel Assistance Insurance under Section II, Letter "A", Item 18 of Annex No. 1 by an insurer, through persons engaged by the insurer and insurer's own technical means.

#### Reinsurance

**Art. 4.** Reinsurance shall be the activity of assuming, by virtue of a of a reinsurance contract, all, or part, of the risks covered by an insurer in exchange for ceding insurance premium (inward reinsurance) and the activities directly related to this.

#### Insurance and Reinsurance Intermediation

**Art. 5.** (1) Insurance and reinsurance intermediation shall be the self employed performance of activity, comprising the rendering of assistance when drawing up, concluding and executing insurance, reinsurance contracts respectively, in the conclusion of such contracts in the name of the insurer, upon assignment by an insurance services consumer of such contracts respectively, and in rendering assistance in connection with exercising the rights and performing the duties under such contracts including the cases upon occurrence of an insured event, as well as where providing consultations related to these contracts.

(2) The following shall not be considered insurance or reinsurance intermediation:

1. Performance of the activities under Para. 1 by an insurer, respectively a reinsurer or employees of the latter;
2. Incidental provision of information when performing another professional activity, whose subject is not assisting insurance services consumers when drawing up, concluding and executing insurance or reinsurance contracts;
3. The performance by way of occupation of activities on claims settlement; and
4. The performance of activities on preparation of expert appraisals.

#### Voluntary Nature of the Insurance Activities

**Art. 6.** (1) Insurance shall be performed on the principle of voluntary participation.

(2) Obligatory insurance shall be settled by an act or an international treaty ratified under the constitutional procedure, duly promulgated and enforced in the Republic of Bulgaria.

#### Insurance Supervision

**Art. 7.** (1) Regulation and supervision exercised over the activities under Art. 1, Para. 1 shall be preformed by the *Financial Supervision Commission*, hereinafter referred to as '*The Commission*', as well as by the Deputy Chairperson, Head of *Insurance Supervision Division*, hereinafter referred to as '*The Deputy Chairperson*'.

#### Persons Who May Perform the Activities under the Present Code

**Art. 8.** (1) An Insurer shall be:

1. A joint-stock company, a co-operative society, as well as an insurer from a third country through a branch, duly registered under the Commerce Act, and having been granted a licence under the terms and conditions, and the procedure set by the present Code;

2. An insurer from a Member State under the terms of the right of establishment or of the freedom to provide services.

(2) A reinsurer shall be a joint-stock company, having been granted a licence under the present Code, as well as a person that has obtained a licence to pursue inward reinsurance by the place of its legal seat.

(3) An insurance or reinsurance intermediary shall be:

1. An insurance broker or an insurance agent registered under the terms and by the procedure established under the present Code;

2. An insurance intermediary from a third country registered under the terms and by the procedure established under the present Code;

3. An insurance intermediary from a Member State, who performs activity under the terms of the right of establishment or of the freedom to provide services.

#### Restrictions on the Activity

**Art. 9.** (1) The performance by a single insurer of insurance by types of insurances under Section I and under Section II of Annex No. 1 shall not be allowed, except for *Accident Insurance*.

(2) An insurance joint-stock company may also pursue an inward reinsurance after being granted a separate licence.

(3) The pursuing by an insurer, or a reinsurer, of other business activities shall not be allowed.

(4) An insurer or reinsurer may not participate as a general partner in a commercial company.

(5) The pursuing of insurance intermediation as an insurance broker and insurance agent by a single person shall not be allowed.

## **PART TWO INSURANCE AND REINSURANCE**

### **TITLE ONE TERMS FOR PERFORMANCE OF ACTIVITY**

#### **Chapter One INSURERS AND REINSURERS HAVING A LEGAL SEAT IN THE REPUBLIC OF BULGARIA**

##### **Section I Insurance Joint-Stock Company**

###### General Requirements

**Art. 10.** (1) The insurance joint-stock company shall be a joint-stock company having been granted a licence to perform insurance under the present Code.

(2) The insurance joint-stock company shall be incorporated, perform its activity, be transformed and be dissolved under the procedure set by the Commerce Act insofar as the present Code does not envisage otherwise.

(3) The insurance joint-stock company may open more than one branch within the meaning of the Commerce Act in one and the same settlement, including the one per legal seat.

(4) The insurance joint-stock company shall have the right to perform insurance activities solely on the insurance types specified under the licence, except for the cases of covering ancillary risks under the terms and conditions set by Section II, Letter “C” of Annex No. 1.

#### Company name

**Art. 11.** (1) The company name of the insurance joint-stock company shall contain the word ‘insurance’ or derivatives of it in the Bulgarian language. The company name of the insurance joint-stock company may also contain the word ‘insurance’ or derivatives of it in a foreign language.

(2) A person who does not have a licence to perform activities as an insurer, may not use the word ‘insurance’ or derivatives of it in Bulgarian or in a foreign language with regard to their name, advertising or other activities.

#### Capital and Shares

**Art. 12.** (1) The amount of the insurance joint-stock company’s registered capital may not be less than the minimum amount of the guarantee capital under Art. 82, Para. 1 or Para. 3.

(2) The capital under Para. 1 above shall be fully subscribed and paid up as of the date of submission of an application for obtaining a licence.

(3) The contributions to the insurance joint-stock company’s capital shall be pecuniary only and may not be made by loan funds, funds of non-proved origin or by funds obtained as a result of illegal activity.

(4) The insurance joint-stock company shall issue only registered, dematerialized shares, giving the right to one vote each.

#### Requirements for Professional Qualifications, Experience and Good Reputation

**Art. 13.** (1) Any member of a managing or supervisory body of the insurance joint-stock company, as well as any person, empowered to manage or represent the insurance joint-stock company shall:

1. Hold a higher education degree and shall possess appropriate professional qualifications necessary to manage the insurance joint-stock company’s activities;

2. Possess professional experience in the field of economics or finance;

3. Not have been convicted of intentional crime of general character;

4. Not have been within the last three years, preceding the initial date of the insolvency set by the court, a member of a managing or a supervisory body or a general partner of a company, with regard to which insolvency proceedings have been initiated or which has been dissolved due to insolvency, where there have been unsatisfied creditors;

5. Not have been declared bankrupt and is not undergoing bankruptcy proceedings;

6. Not be a spouse or a relative of direct or collateral line of descent up to the fourth degree inclusive or connected by marriage up to the third degree inclusive to and with another member of a company’s managing or supervisory body;

7. Not have been debarred from the right to hold a property accountable office;

8. Not have been within the last one year immediately preceding the deed of the respective competent authority a member of a managing or a supervisory body or a general partner in a company, the business licence of which has been withdrawn and whose activity is a subject to licensing regime, except for the cases where the licence has been withdrawn at the request of the company, as well as where the deed on withdrawal of the issued licence has been repealed in due order;

9. Not have been dismissed from office in a managing or a supervisory body of a corporation on the basis of a coercive administrative measure imposed, except for the cases where the deed issued by the competent authority has been repealed in due order.

(2) The requirements under Para. 1 shall also refer to natural persons who represent legal entities – members of the managing and supervisory bodies of the insurance joint-stock company.

(3) A member of a managing or supervisory body of an insurance joint-stock company, as well as a person empowered to manage or represent it, is to be a person who enjoys good reputation and does not endanger the insurer's management, the consumers' interest, and does not impede the insurance supervision.

(4) Executive director or some other person empowered to manage or represent the insurance joint-stock company shall hold a higher degree of education, where s/he has acquired an educational and qualification master's degree or a Ph. D degree, and may not engage in other gainful employment under labour contract, except as an associate at a scientific institute or a lecturer in a higher educational institution. The natural persons – citizens of a third country are also to hold a permit for continuous residence in the Republic of Bulgaria.

(5) The circumstances under Para. 1, Item 3 for Bulgarian citizens shall be established by submitting a certificate of conviction and an affidavit on absence of conviction outside the Republic of Bulgaria, and for the persons who are not Bulgarian citizens – by an affidavit on absence of conviction in the cases where in the country of their habitual residence no official document is issued to attest the lack of previous conviction. The circumstances under Para. 1, Items 4-9 shall be certified by a declaration. The documentation under *Sentence One* and *Two* shall be recognized in the case where these have been submitted within a period of up to three months following the date of their issuance.

(6) The persons under Paras. 1 and 2 shall be subject to preliminary approval by the Deputy Chairperson prior to their entry into the Commercial Registry; or prior to the appointment to an office, for which entry is not required. The Deputy Chairperson shall pronounce an opinion within a one-month period following the filing of the application.

(7) Upon establishment of any incompleteness or discrepancies with the legal requirements in the documentation attached to the application under Para. 6, the Deputy Chairperson shall request from the applicant the removal of the inconsistencies within a one-month period. The term for the pronouncement of an opinion under Para. 6 shall cease to run within the period following the forwarding of the notification on the removal of the inconsistencies until the receipt of the additional documentation.

#### Professional Experience

**Art. 14.** (1) A person under Art. 13, Para. 4 has professional experience if:

1. They have held a position on a managing body of an insurer, reinsurer, health insurance or pension insurance company for a period of not less than three years;

2. They have held a position on a supervisory body or on another leading position in an insurer, reinsurer, health insurance company, pension insurance company or a bank for at least a five-year period;

3. They have held a position as a representative insurance broker, directly managing the activities of insurance intermediation for at least a five-year period, where the broker's activities under insurance transactions are commensurate with the activities of the insurer;

4. They have held a managerial position with a government institution in the field of economy and finance for at least a ten-year period, and where the person holds an educational degree in economics or law – for at least a five-year period;

5. They have attained academic rank in the field of economics or law.

(2) A member of a managing or supervisory body of an insurance joint-stock company other than in the cases under Para. 1 may be a person who has occupied for at least three years another managerial position in an insurer, reinsurer, health insurance company, pension insurance company, bank, government institution or as a representative insurance broker, directly engaged with the insurance intermediation activities.

### Assessment of the Professional Qualifications

**Art. 15.** The Deputy Chairperson shall also refuse to issue an approval in the cases where in spite of the formal availability of the requirements under Art. 13, Para. 1, Item 1 and Art. 14, s/he decides that the person does not have sufficient professional qualifications and experience requisite to participate efficiently in the management of the insurer, to which the application relates. The reasoned refusal shall be forwarded to the insurer, to which the application relates.

### Qualified Participation

**Art. 16.** (1) A person who directly, or together with, or through related parties, holds 10 or more than 10 per cent of the votes in the General Meeting of an insurance joint-stock company, or different participation enabling him/her to control it, shall have undisputably established identity and shall meet the requirements of:

1. Article 13, Para. 1, Items 3, 4, 5, 7, 8, and 9 and Para. 3, as well as s/he shall have suitable qualifications and experience, which are to guarantee the prudent management of the insurer – if it is a natural person;

2. Article 13, Para. 1, Items 4 and 5 – if it is a legal person.

(2) The requirements under Para. 1, Item 1 shall also refer to natural persons – members of a managing or supervisory body of a legal person under Para. 1, as well as to natural persons who represent a legal person under Para. 1.

(3) A person who intends to acquire participation in the equity capital of an insurance joint-stock company under the terms of Para. 1, as well as to subsequently increase their participating interest so as to acquire directly together with or through related parties 20, 33, 50 or more than 50 per cent of the votes in the General Meeting of an insurance joint-stock company, shall notify the Deputy Chairperson in writing prior to the acquisition.

(4) When the acquisition under Para. 1 and Para. 3 is realized where shares are traded on a stock exchange or on some other regulated securities market, the notification shall be given upon the transaction's conclusion. The acquirers may not exercise their voting right prior to the expiry of the term under Para. 6, unless earlier the Deputy Chairperson rules an entry of the amendment in the shareholding in the Commission's Registry. Prior to the expiry of the term under Para. 6, the shares acquired under the procedure of the present Paragraph shall not be taken into account in determining the quorum in the shareholders' General Meeting, unless the circumstance as defined under sentence two is present.

(5) The notification under Para. 1, Para. 3 and Para. 4 shall be made by submission of an application form, to which the following documents are to be attached:

1. A Declaration per sample endorsed by the Deputy Chairperson regarding the origin of the funds, with which the installments for subscribed shares have been made, and that these are not loan funds;

2. A Declaration of Related Parties within the meaning of § 1, Item 12 of the Additional Provisions;

3. A document stating the absence of previous conviction under Art. 13, Para. 5 with regard to the persons under Para. 1, Item 1 and under Para. 2;

4. A copy of an identification document in the case of a natural person, or of a Certificate of Actual Legal Status in the case of a legal person;

5. Proof of the professional qualifications and experience of the natural person or of the members of the legal person's managing body;

6. In the case of a legal person, Articles of Association or some other analogous constituent documents;

7. A certified transcript of the competent body's decision pursuant to the law, the articles of association or the constituent contract for the person's participating interest in the insurance joint-stock company's equity capital;

8. A declaration of absence of the circumstances under Art. 13, Para 1, Items 4, 5, 7, 8 and 9;

9. Proof of paid taxes for the last three years and for absence of liabilities toward the state and the municipalities by the relevant authorities at the person's permanent address, legal seat and place of business activity;

10. The audited financial statements for the last three years in the cases where the person was obligated to prepare them.

11. A reference by a competent authority, exercising financial supervision at the person's permanent address or legal seat.

(6) Within a three-month time period as of the notification under Para. 1, Para. 3 or Para. 4, the Deputy Chairperson shall issue a ban on the acquisition of the participation stated in the cases where s/he shall judge that the person endangers the stability of the insurer or the interests of the insured persons, or does not meet the requirements set under the present Code and the regulations on its implementation.

(7) Within the time limit set under Para. 6, the Deputy Chairperson may approve the execution of the amendment in the shareholding, as well as to fix a maximum time limit, within which the acquisition under Para. 3 is to be realized.

(8) The persons under Para. 1 and Para. 3, having acquired the interest stated by them without filing a notification, prior to the expiry of the time limit under Para. 6 or in violation of a ban issued by the Deputy Chairperson, may not exercise their voting right. The voting right of the persons under Sentence One shall not be considered where quorum presence for holding the General Meeting is established.

(9) In the case where the Deputy Chairperson does not issue a ban within the time limit under Para. 6, the person shall have the right to acquire the interest stated by him/her.

(10) A person who intends to decrease their interest below 50, 33, 20 or 10 per cent of the votes in the General Meeting of an insurance joint-stock company, or by some other reason discontinues exercising control over the insurance joint-stock company, shall notify the Deputy Chairperson about the above in advance.

(11) The insurance joint-stock company and the Central Depository shall notify the Deputy Chairperson of the acquisition of each interest in the capital under para. 3, or of any decrease in participation in the capital under para. 10 within a three-day time period following its coming to knowledge.

(12) A person who acquires 1 or more per cent of an insurance joint-stock company's shares, or who increases their participating interest so that the same exceeds 1 per cent of the company's shares, shall be obligated to identify themselves before the Deputy Chairperson and to present the declarations under Para. 5, Item 1 and Item 2, and a declaration of absence of liabilities toward the state and the municipalities.

(13) Yearly, the insurance joint-stock company shall submit to the Commission, no later than March 31 an information reference per sample approved with regard to the persons who own directly, together with or through related parties 10 or more than 10 per cent of the votes in the insurance company's General Meeting.

## **Section II**

### **Mutual Insurance Co-operative Society**

#### General Requirements

**Art. 17.** (1) A mutual insurance co-operative society shall be a co-operative society that has been granted a licence to perform insurance activities.

(2) The mutual insurance co-operative society shall be incorporated, shall perform its activities, shall be transformed and dissolved under the procedure established by the Co-operatives Act (CA) insofar as the present Code does not envisage otherwise.

(3) The subject of activity of a mutual insurance co-operative society shall cover one or more types of insurances under Section I of Annex No. 1, with or without an *Accident* Insurance.

(4) A mutual insurance co-operative society shall have the right to perform insurance only on the types of insurances stated under the licence.

#### Company Name

**Art. 18.** (1) The company name of a mutual insurance co-operative society may not contain the name of a member-cooperator.

(2) Art. 11 shall apply accordingly with regard to a mutual insurance co-operative society.

#### Founders and Member Co-operators

**Art. 19.** (1) A mutual insurance co-operative society shall be incorporated by at least 500 persons. Founder and Member of a mutual insurance co-operative society may be a natural person aged 18 or older that is not placed under judicial disability.

(2) The Founders shall take out insurance from the mutual insurance co-operative society after it has been granted a licence to perform insurance activities, and shall pay in an insurance contribution on an insurance selected by them under Section I of Annex No. 1 for the first year.

(3) Membership with a mutual insurance co-operative society shall arise or be terminated simultaneously with the conclusion or termination of the insurance contract in compliance with the general terms.

#### Installments and Payments of the Member-Cooperators

**Art. 20.** (1) Each member-cooperator shall make an initial and participating contribution, the amount of which shall be defined under the Articles of Association, and shall conclude an insurance contract of *Life* Insurance under Section I of Annex No. 1 with the mutual insurance co-operative society having a term of validity no shorter than three years. The participating contributions serve to replenish the minimum guarantee capital.

(2) The General Meeting may resolve by a simple majority of all member-cooperators to collect additional contributions and special-purpose installments from its member-cooperators in order to reach the minimum guarantee capital and the solvency margin. All installments in the cooperative society's capital shall be made in cash. The additional contributions and the special-purpose installments may be repaid to the member-cooperators only where by so doing the mutual insurance co-operative society's own funds will not diminish below the solvency margin amount or the minimum guarantee capital. Any repayment of additional contributions and special-purpose installments shall occur with a one-month written notification addressed to the Deputy Chairperson. Within the time limit set under the notification, the Deputy Chairperson shall ban the repayment in the case where, as a result of it, the mutual insurance co-operative society's own funds will diminish below the solvency margin amount or the minimum guarantee capital. Upon the mutual insurance co-operative society's termination, the participating contributions, the additional contributions and the special-purpose installments shall be subject to repayment only after all other liabilities have been redeemed.

(3) Art. 12, Para. 3 shall apply accordingly with regard to a mutual insurance co-operative society. Where the additional contribution or the special-purpose installment exceeds one per cent of the minimum guarantee capital of the co-operative society, Art. 16, Para. 12 shall apply accordingly.

(4) The premiums of member-cooperators and the liabilities of a mutual insurance co-operative society under insurance contracts shall be equal if the circumstances under the insurances are identical.



(5) Where a mutual insurance co-operative society concludes insurance contracts on several insurance types, a separate balance sheet shall be drawn up for each type. The funds accrued on each insurance type shall be utilized for payment of insurance amounts on this insurance type insofar as the Articles of Association does not envisage otherwise.

(6) The General Meeting of a mutual insurance co-operative society may resolve on the insurance payments' reduction by a two-thirds majority of all member-cooperators.

#### Articles of Association's Contents

**Art. 21.** Besides the data envisaged by the CA, the Articles of Association of a mutual insurance co-operative society shall also contain the following information:

1. The types of insurances;
2. The funds of the mutual insurance co-operative society, the type, method of payment and amount of the installments, the members' scope of responsibility and the mutual insurance co-operative society's liabilities.

#### Requirements for Professional Qualifications, Experience and Good Reputation

**Art. 22.** With regard to members of the managing and supervisory body of a mutual insurance co-operative society, as well as for all other persons empowered to manage or represent it, Art. 13, Art. 14 Para. 2, and Art. 15 shall apply accordingly.

### Section III Reinsurer

#### General Requirements

**Art. 23.** (1) A reinsurer shall be a joint-stock company that has been granted a licence to perform reinsurance activities.

(2) The reinsurer shall be incorporated, perform its activities, be transformed and dissolved under the procedure set under the Commerce Act insofar as the present Code does not envisage otherwise.

(3) A reinsurer may also pursue insurance activities in the cases where it has obtained a separate licence for that.

(4) With regard to a reinsurer, the provisions related to an insurance joint-stock company shall apply insofar as the present Code does not envisage otherwise.

#### Company Name

**Art. 24.** (1) The company name of a reinsurer shall compulsorily contain the word 'reinsurance' or derivatives of it in the Bulgarian language. The company name of a reinsurer may also contain the word 'reinsurance' or derivatives of it in a foreign language.

(2) A person who does not hold a licence to perform activities on inward reinsurance shall not have the right to use the word 'reinsurance' or its derivatives in Bulgarian or a foreign language with regard to their name, advertising or other activities.

#### Shares and Capital

**Art. 25.** (1) The amount of the reinsurer's registered capital may not be less than the minimum amount of the guarantee capital under Art. 82, Para. 3.

(2) With regard to a reinsurer, Art. 12, Paras. 2, 3 and 4, and Art. 16 shall apply accordingly.

#### Requirements for Professional Qualifications, Experience and Good Reputation

**Art. 26.** With regard to the members of the managing and supervisory body of a reinsurer, as well as to all other persons authorized to manage or represent it, Art. 13, Art. 14 and Art. 15 shall apply accordingly.

**Section IV**  
**Insurance Holding.**  
**Mixed-Activity Insurance Holding Company**

Insurance Holding

**Art. 27.** (1) An insurance holding is a controlling company whose main activity is the acquisition and holding of participating interest exceptionally or predominantly in controlled companies, which are insurers or reinsurers, including insurers or reinsurers from a Member State, or insurers from a third country, where at least one of the companies controlled by it is an insurer having a legal seat in the Republic of Bulgaria;

(2) A member of a managing or supervisory body, or another person who in substance participates in the management of the operation of an insurance holding having a legal seat in the country, is to meet the requirements set under Art. 13, Para. 1, Items 3-9. Art. 13, Paras. 3, 6 and 7, Art. 14, Para. 2, and Art. 15 shall apply accordingly.

Mixed-Activity Insurance Holding Company

**Art. 28.** A mixed-activity insurance holding company is a controlling company, other than an insurer, an insurer from a third country, a reinsurer or an insurance holding, and has at least one company controlled by it, which is an insurer.

**Chapter Two**  
**ISSUANCE AND WITHDRAWAL OF LICENCE OF INSURERS AND REINSURERS**  
**HAVING LEGAL SEAT IN THE REPUBLIC OF BULGARIA**

**Section I**  
**Issuance of Licences**

Licences

**Art. 29.** (1) A licence shall be issued for insurance, for reinsurance, or for insurance and reinsurance, as well as for the separate types of insurance policies.

(2) The licence of a mutual insurance co-operative society shall be issued for insurance only.

(3) The scope of the licence may be broadened with an additional licence for reinsurance activity, insurance activity or for a type of an insurance policy.

(4) The licence shall be in writing and shall comprehensively specify the types of insurance policies within the meaning of Annex No. 1, under which the person shall be entitled to perform insurance activities, except in the cases of covering ancillary risks under Section II, letter 'C' of Annex No. 1.

(5) The licences under Paras. 1 and 2, as well as the additional licence under Para. 3, shall be issued by the Commission on a proposal submitted by the Deputy Chairperson.

(6) The Commission shall refuse to issue a licence in the cases where the applicant does not satisfy the requirements set under the present Code and the regulations on its implementation.

(7) A licence or an additional licence for a type of insurance may be issued for a part of the risks within the meaning of Annex No. 1, which relate to the relevant type:

1. Where the applicant has requested to cover only a part of the risks within the meaning of Annex No. 1, relating to the type of insurance;
2. At the Commission's discretion, where it has been established under the documentation submitted for issuance of a licence that not all risks are covered.

#### Documents Necessary for Issuance of a Licence

**Art. 30.** (1) In order to issue a licence to perform insurance activity by a joint-stock company, an application shall be submitted, to which shall be attached the following:

1. The Articles of Association and the other constitutive documents;
2. A list of the shareholders and the amount of their shareholding;
3. A document issued by a bank entitled to perform bank activity in the territory of the Republic of Bulgaria, and attesting to the cash installments paid for the shares subscribed;
4. The declarations along with the appendices under Art. 16, Para. 5 on the persons acquiring shareholding under Art. 16, Para. 1;
5. The declarations under Art. 16, Para. 5, Items 1 and 2, and declaration on absence of liabilities toward the state and the municipalities for the persons, acquiring 1 or more than 1 per cent of the insurance joint-stock company's shares;
6. List of the persons under Art. 13, Para. 1 and Para. 2, along with evidence for compliance with the requirements set under Art. 13 and Art. 14;
7. Data on the responsible actuary and evidence for compliance with the requirements set under Art. 96, Para. 1;
8. Insurer's Activity Plan;
9. A document for paid fee for review of documents;

(2) Where issuing a licence to perform insurance on an insurance policy under Item 10.1 of Section II, letter 'A' of Annex No. 1, the insurer may commence to perform the activity on offering the said insurance upon submission to the Commission and the Guarantee Fund a list containing the names and addresses of the representatives for settlement of claims in each Member State;

(3) In order to issue a licence to perform insurance activity by a mutual insurance co-operative society, an application shall be submitted, to which shall be attached the following:

1. The Articles of Association and the other constitutive documents;
2. A list of the member-cooperators and the amount of their participating interest;
3. A document issued by a bank entitled to perform bank activity in the territory of the Republic of Bulgaria, attesting to the cash installments paid in the co-operative society's capital;
4. The declarations under Art. 16, Para. 12 on the persons, paying an additional or a special-purpose installment, which exceeds one per cent of the co-operative society's minimum guarantee capital;
5. A list of the members of the managing and supervisory bodies, and of the persons who represent the co-operative society with proof of compliance with the requirements introduced under Art. 22;
6. Data on the responsible actuary and evidence for compliance with the requirements introduced under Art. 96, Para. 1;
7. Insurer's Activity Plan;
8. A document for paid fee for review of documents;

(4) Para. 1 shall apply with regard to an application for the issuance of a licence for reinsurance.

#### Documents Required to Expand the Scope of a Licence

**Art. 31.** (1) In order to issue an additional licence to expand the scope of business activities of an insurance joint-stock company with activity on reinsurance, or of a reinsurance

company with activity on insurance, an application form shall be submitted, to which shall be attached the following:

1. A transcript of the General Meeting's minutes containing the decisions taken for supplementing the subject of business activities, increase in the amount of capital where necessary, and the method of the capital increase;

2. The Articles of Association;

3. In case of increase in capital:

a. Reference information on the amendments in the shareholding and on the changes in the shareholders' membership in the cases where such have occurred;

b. Documents evidencing that the increase in capital was paid in;

c. The documents and proofs under Art. 30, Para. 1, Item 4 and 5;

4. The amended and supplemented Activity Plan;

5. A document for paid fee for review of documents.

(2) In order to issue an additional licence for a new type of insurance or to supplement the licence by type of insurance with new risks within the meaning of Annex No. 1, an application form shall be filed, to which shall be attached the following:

1. The Activity Plan as amended and supplemented;

2. Evidence proving that the insurer has at its disposal own funds sufficient to cover the solvency margin and the minimum guarantee capital;

3. In case of increase in capital, where the minimum guarantee capital on the relevant type of insurance is higher than the company's own funds:

a. Reference information on the amendments in the shareholding and on the changes in the shareholders' membership in the cases where such have occurred;

b. Documents evidencing that the increase in capital was paid in;

c. The documents and proofs under Art. 30, Para. 1, Items 4 and 5;

4. A document of fee paid for review of documents;

(3) Where issuing an additional licence to perform insurance on an insurance policy under Item 10.1 of Section II, letter 'A' of Annex No. 1, the insurer may commence to perform the activity on offering the said insurance upon submission to the Commission and the Guarantee Fund a list containing the names and addresses of the representatives for settlement of claims in each Member State.

#### Scheme of Operations

**Art. 32.** (1) The Scheme of operations of an insurer shall contain the following:

1. The organizational structure envisaged, including the activities of the separate organizational units, the distribution of functions and powers amongst the executive directors and the other managerial positions, the organization and management of the insurer's information system and mechanisms for protection of the information;

2. The types of insurances, which the insurer intends to underwrite, and the risks under Annex No. 1, which it intends to cover;

3. The reinsurance policy and plan;

4. The methods on setting up technical reserves;

5. Forecast of the expenses requisite to organize and commence business activities, the financial resources needed to cover such expenses, and in case of an insurance under Item 18 of Section II, letter 'A' of Annex No. 1 – the financial and technical resources earmarked for the provision of assistance as well;

6. Financial projection on the insurer's activities for the first three years, containing:

a) Revenues and expenses forecast, including the expected amount of the premium income, the expected claims for insurance payments, as well as the expected expenses incurred for commissions paid to insurance and reinsurance intermediaries, acquisition, administrative and other costs;

b) Projected balance sheet, including technical reserves' expected amount and their cover with assets, as well as the solvency margin and its cover by own funds;

7. Source, amount and allocation of own funds, including ways of financing in case of deficit in the assets available to cover the solvency margin and the minimum guarantee capital;

8. Measures to forecast, avoid, and overcome unfavourable developments in the risks, to which the undertaking is exposed and which may be envisaged on the basis of a prudent assessment.

9. Description of the internal control system;

(2) The scheme of operations is to reflect realistically the specifics of the market and their influence over the operations undertaken, the volume of activities performed, financial, labour and other resources, as well as other factors, involved in its fulfillment within the time-limits set.

(3) In the cases under Art. 31, the scheme of operations shall only concern the new type of activity or insurance, through which an insurer seeks to expand its licence scope.

#### Issuance of and Refusal to Issue a Licence

**Art. 33.** (1) On a proposal submitted by the Deputy Chairperson, the Commission shall establish whether the requirements for issuance of the licence requested have been fulfilled and shall render its opinion on it no later than 4 months following the date of application's receipt.

(2) In the case where the documents submitted are irregular or additional information is needed, the Commission shall forward a notice to the applicant regarding the irregularities established and/or the additional information required, and shall fix for the applicant an adequate time limit for the removal of the named irregularities and/or for the submission of the additional information required that shall not be less than 1 month and more than 2 months. The term under Para. 1 shall cease to run until the expiry of the period given for removal of the irregularities and/or submission of additional information.

(3) Where an additional licence is issued to expand the scope of the insurer's licence with a new type of insurance, the term under Para. 1 may not be longer than one month, and under Para. 2 – not shorter than 7 days. The term for pronouncement to be rendered by the Commission ceases to run until the expiry of the period given for removal of the irregularities and/or submission of additional information.

(4) In the case where the notice under Para. 1 is not accepted at the mailing address as submitted by an applicant, the term set for the applicant shall commence to run as of placing the notice at a special spot, especially designated for that purpose on the Commission's premises. This last circumstance shall be ascertained under a Record drawn up by officials assigned by Order of the Commission's Deputy Chairperson.

(5) The Commission shall notify the applicant in writing of the Resolution adopted within a seven-day term.

#### Grounds for Refusal

**Art. 34.** (1) The Commission shall refuse to issue a licence, an additional licence for expanding the scope of the licence for activities on reinsurance, in the case where:

1. The capital of an applicant does not meet the requirements set under the present Code;

2. The members of the managing and supervisory body of an applicant or the persons authorized to manage and represent it do not fulfill the requirements set under the present Code;

3. The persons holding directly or through related parties 10 or more than 10 per cent of the votes in the General Meeting or the capital of an applicant or may control it:

a) Do not meet the requirements set under the present Code;

b) May injure the activity of an applicant by action or influence on decision-making; or

c) May not be identified;

4. In the case where the installments paid into the capital do not fulfill the requirements set under Art. 12, Para. 3;

5. The applicant has submitted erroneous data or documents containing false information;  
6. The applicant is a related party to a natural person or a legal person and that relation hampers the effective exercising of the Commission's or the Deputy Chairperson's supervisory functions;

7. There are impediments for the effective exercising of the Commission's or the Deputy Chairperson's functions, ensuing from or in connection with the application of a normative or administrative act of a third country, regulating the activities of one or more persons, to whom an applicant is a related party;

8. No scheme of operations has been submitted, or the scheme presented does not conform to the requirements set under Art. 32, or does not guarantee to a sufficient extent the interests of consumers of insurance services;

9. Other requirements set under the present Code and the regulations on its implementation have not been observed.

(2) In the cases under Para.1, Items 1, 2, 4, 5, 8, and 9, the Commission shall refuse issuance of a licence only if the applicant has not removed the inadequacies or has not submitted the additional information within the term specified.

(3) The Commission's refusal to issue a licence shall be justified in writing.

(4) New application form for issuance of a licence may be filed no earlier than six months as of entry into force of the Resolution of refusal.

(5) The Commission shall refuse the issuance of an additional licence for a new type of insurance on the grounds of Para. 1, Items 1, 3, 4, 5, 8, and 9. Paras. 2 and 3 shall apply accordingly.

#### Entry into the Commercial Registry

**Art. 35.** (1) The Court shall enter the company into the Commercial Registry, the co-operative society respectively, providing the operations of insurance and/or reinsurance upon submission of the licence issued by the Commission.

(2) An insurer shall be under the obligation to submit to the Commission a copy of the Court Decision on entry into the Registry within a seven-day period of the entry.

## Section II Withdrawal of Licences

### Withdrawal of a Licence

**Art. 36. (1)** The Commission withdraws a licence for insurance, reinsurance or insurance and reinsurance activity in the cases where:

1. An insurer has submitted erroneous data or documents with erroneous contents, which have served as grounds for the issuance of the licence;

2. An insurer does not commence activity within a period of 12 months as of issuance of the licence;

3. The number of members of a mutual insurance co-operative society falls below the set minimum and the membership is not completed within a six-month period or if Art. 19, Para. 2 or Art. 20, Para. 1 have been violated;

4. An insurer fails to meet the terms and conditions, under which its licence has been issued;

5. An insurer performs other trade activities in addition to the activities they have been granted a licence for;

6. The total amount of an insurer's liabilities, including the technical reserves, calculated in compliance with this Code and the regulations on its implementation, exceeds the total amount of its assets;

7. The insurer or a shareholder fails to fulfill a coercive administrative measure imposed under the present Code;

8. An insurer violates the principle of voluntary participation of the insurance operation;

9. There is a request submitted by an insurer and the requirements set under the present Code have been observed.

(2) The Commission may withdraw the licence for insurance, in the case where:

1. The insurer ceases to perform operations for more than six months;

2. The grounds for the winding up of the joint-stock company under Art. 252, Para. 1, Item 5 of the Commerce Act exist;

3. An insurer and/or the persons under Art. 13, or Art. 22 accordingly, have committed and/or have allowed gross or systematic offences of the present Code or of the regulation on its implementation;

4. The Plan under Art. 86, Para. 1 or 2 has not been submitted within the time limit specified, has not been approved or is not being performed;

5. An insurer wrongfully refuses a payment, delays payment or pays partially exigible and liquid money liabilities;

(3) In the case where the violations representing the grounds for withdrawal of a licence refer to a part of an insurer's activity, the Commission may separately withdraw the licence for insurance or for reinsurance, or for a separate type of insurance.

(4) The Commission shall deliver its judgment by a reasoned Decision and shall notify the insurer of the Decision made, in writing, within a seven-day term.

(5) Under the Decision on withdrawal of a licence, except for the cases under Para. 3, the Commission shall assign one or several questors until a liquidator or a trustee in bankruptcy is appointed.

#### Obligations of an Insurer upon Withdrawal of a Licence

**Art. 37.** (1) Upon the entry into force of a Decision on withdrawal of a licence, an insurer may not conclude new insurance and/or reinsurance contracts, and offer new terms and conditions on contracts, as well as amend terms thereof, including the term of the contract, insurance amount and cover under contracts concluded.

(2) Withdrawal of a licence shall not exempt an insurer from the obligations under contracts already concluded.

#### Powers of the Commission upon Withdrawal of a Licence

**Art. 38.** (1) Upon the entry into force of the Decision on withdrawal of a licence, the Commission shall forward a request to the relevant court to initiate liquidation proceedings, and in the cases under Art. 36, Para. 1, Item 6 and Para. 2, Items 4 and 5 – to initiate insolvency proceedings and shall undertake the requisite measures to inform the public.

(2) The Commission, the Deputy Chairperson respectively, may perform inspections and impose coercive administrative measures under Art. 302 until the company, or the co-operative society, is deleted from the Commercial Registry.

## Chapter Three

### PERFORMANCE OF OPERATIONS IN A THIRD COUNTRY BY AN INSURER HAVING LEGAL SEAT IN THE REPUBLIC OF BULGARIA. PERFORMANCE OF OPERATIONS IN THE REPUBLIC OF BULGARIA BY AN INSURER HAVING LEGAL SEAT IN A THIRD COUNTRY

#### Section I

## **Performance of Operations in a Third Country by Insurers Having Legal Seat in the Republic of Bulgaria**

### **Issuance of a Licence**

**Art. 39.** (1) In order to issue a licence to an insurer, having a legal seat in the Republic of Bulgaria, to perform insurance operations in a third country through a branch, an application form is to be submitted to the Commission, on which shall be specified the following:

1. The country in which an insurer intends to open a branch and its address;
2. Insurance types, on which the insurer shall perform operations in the third country.

(2) To the application form under Para. 1 there shall be enclosed:

1. An scheme of operations, including the amendments and supplements with regard to the opening of a branch;

2. Documents, certifying the observance of the requirements set under Art. 13 and 14 regarding the Manager of the branch;

(3) In the case where there is no signed agreement for co-operation and information exchange between the competent authority in the country of the branch's legal seat and the Commission, the latter may demand that an applicant certify the requirements laid down by the third country's legislation with regard to the performance of insurance activity through a branch.

(4) On the Deputy Chairperson's proposal, the Commission shall deliver a judgment within a two-month period as of the application form's receipt. In the case where inadequacies are established or should additional information be needed, Art. 33, Paras. 2, 4 and 5 shall apply accordingly, and the time limit for removing the inadequacies or providing additional information shall not be shorter than 15 days.

(5) The Commission shall refuse to issue a licence in the case where:

1. The opening of a branch in a third country would imperil the insurer's financial standing;

2. The Scheme of operations submitted envisages performance of insurance operations in the respective country, which are beyond the scope of the insurer's licence;

3. The organizational structure of the branch proposed does not ensure its reliable and stable management;

4. There exist legal or administrative impediments for performance of supervision over the activity of a branch on behalf of the Commission or of the Deputy Chairperson;

There exist legal or administrative impediments for the Commission or the Deputy Chairperson in the performance of supervision over the activity of a branch

5. An insurer is undergoing a procedure of implementation of a plan under Art. 86, Para. 1 or Para. 2, or under Art. 87;

6. Other requirements set under the present Code or under the regulations on its implementation have not been observed.

### **Notification to the Commission**

**Art. 40.** Within a seven-day period as of receipt of the licence to perform insurance activity issued by the competent authority in the respective third country, an insurer shall submit a copy thereof to the Commission.

The insurer shall submit a copy of the license to perform insurance operations in the respective third country to the Commission, within a seven-day period of its receipt.

## **Section II**

### **Performance of Operations in the Republic of Bulgaria by Insurers Having Legal Seat in a Third Country**



### Requirements Set for Performance of Operations

**Art. 41.** (1) An insurer having a legal seat in a third country (an insurer from a third country) shall have the right to perform operations on the territory of the Republic of Bulgaria through a branch duly incorporated under the Commerce Act upon obtaining a licence issued by the Commission under the terms and conditions of, and the procedure established by, the present Code and the regulations on its implementation. The licence may comprise insurance solely on the insurance types, for which the insurer has been granted a licence for performance of insurance operations in the country of its legal seat.

(2) The Commission may issue a licence under Para. 1 provided that:

1. The person has the right to perform insurance activity as per their national legislation;
2. The branch of the insurer holds assets in the Republic of Bulgaria at the amount of no less than half of the minimum guarantee capital under Art. 82, Para. 1 or Para. 3;
3. A deposit amounting to one-fourth of the minimum guarantee capital's amount under Art. 82, Para. 1, or Para. 3 has been deposited with a bank, performing bank activities in the Republic of Bulgaria;
4. A Manager of the branch has been elected, meeting the requirements set under Art. 13, Paras. 1, 3 and Art. 14, and having representative power of a scope, allowing him/her to assume obligations for an insurer toward third parties and to represent it before the public authorities and courts in the Republic of Bulgaria;
5. A Scheme of operations has been submitted, which contains the information under Art. 32 accordingly.

(3) Unless otherwise provided herein, an insurer from a third country shall have the rights and obligations of an insurer having a legal seat in the Republic of Bulgaria and, with regard to its operation within the country, it shall be subject to the state insurance supervision exercised by the Commission and by the Deputy Chairperson over the insurers having a legal seat in the country. Where an insurer from a third country has chosen the competent authorities of the Republic of Bulgaria under the procedure set by Art. 47, Para. 3, the Commission and the Deputy Chairperson shall exercise the solvency supervision in relation to the operation of all its branches, established within the European Union and the European Economic Area, and shall apply the coercive administrative measures provided for under the present Code.

(4) Where by an international treaty duly ratified, promulgated and effective in the Republic of Bulgaria, some other rules have been stipulated for taking up or pursuing operations by insurers from a third country in Bulgaria, the Commission shall apply these rules.

### Issuance of a Licence

**Art. 42.** (1) For the purpose of issuing a licence to perform insurance operations through a branch, an insurer from a third country shall submit an application form, to which the following is to be attached:

1. A certified copy of the insurer's Registration Act and a document issued by the registration body containing actual data on the legal seat and registered office, subject of operations, amount of subscribed capital, management system and persons authorized to represent and/or manage it;
2. A certified copy of the Licence for performance of insurance operations, issued by the competent authority as per legal seat of the insurer, also including description of the insurance types, for which it has been granted a licence;
3. A certified copy of the Act of the competent managing body of the insurer for opening a branch within the territory of the Republic of Bulgaria and for nominating a Manager of the branch;
4. A certificate issued by the body exercising insurance supervision in the country as per legal seat of the insurer, stating that a Bulgarian insurer may open a branch and carry out its activity in that country under the general procedure established for the foreign insurers;

5. A document issued by a bank performing banking operations in the Republic of Bulgaria, certifying payment of the deposit in compliance with Art. 41, Para. 2, Item 4, and documents proving the assets' amount in accordance with Art. 41, Para. 2, Item 2;

6. Data regarding the Branch Manager;

7. A Scheme of operations, as well as the rules related to the information system's structure and management, and to the Internal Control Department's structure and operations;

8. A written declaration submitted by the competent managing body of the insurer that it shall submit annual reports;

9. The insurer's annual financial statements for the last three years, or for the period of the insurer's existence in the case where it has existed for a shorter period;

10. Data on the persons holding directly or through related parties 10 or more than 10 per cent of the votes in the General Meeting or the capital of an insurer, or another participation enabling them to control it;

11. The name and address of the representative for claims settlement on insurance contracts under Section II, Letter "A", Item 10.1 of Annex No. 1 within each of the member-states, where an insurance licence is applied for, covering this type of insurance;

12. The technical bases for calculation of premium rates and insurance reserves;

13. A document for fee paid for review of documents;

(2) The Commission shall render its judgment within a four-month period as of receipt of the application form. In the case where inadequacies are established or should additional information be required, Art. 33, Paras. 2, 4 and 5 shall apply accordingly, where the time limit for removal of the said inadequacies or submission of the additional information shall not be shorter than 15 days.

(3) Upon issuance of a licence to perform insurance operations on an insurance under Item 10.1 of Section II, Letter "A" of Annex No. 1, the branch of the insurer from a third country may commence to perform the operations offering the said insurance upon also submitting a list containing the names and the addresses of the representatives for settlement of claims in each Member State to the Commission and the Guarantee Fund.

#### Refusal to Issue a Licence

**Art. 43.** (1) The Commission shall refuse to issue a licence in the case where the relevant grounds under Art. 34, Para. 1 are present, as well as where the legislative framework at the legal seat of the insurer from a third country or the supervision exercised over it by the respective competent authority prevent the exercising of the state insurance supervision under the present Code and under the Financial Supervision Commission Act or in some other way jeopardize the interests of the consumers of insurance services.

(2) The Commission may also refuse to issue a licence in the case where it establishes that the competent supervisory body in the country of the insurer's legal seat does not apply the principle of reciprocity upon providing Bulgarian insurers with access to the respective foreign insurance market, as well as where an insurer from a third country poses a threat to the national security of the Republic of Bulgaria.

(3) The Commission's refusal to issue a licence shall be justified in writing.

(4) A new application form for issuance of a licence may be submitted no earlier than six months from the Resolution on refusal's entry into force.

#### Entry into the Commercial Registry

**Art. 44.** (1) The Court shall enter into the Commercial Registry the branch of the insurer from a third country providing insurance and/or reinsurance services upon presentation of the licence issued by the Commission.

(2) The branch of the insurer from a third country shall be obligated to submit to the Commission a copy of the Court Decision on entry within a five-day period as of its receipt, but no later than 7 days as of the entry's pronouncement.

(3) An insurer from a third country shall duly notify the Commission of each amendment introduced into the documentation or the circumstances under Art. 42, Para. 1 within a 7-day period as of Resolution's adoption, of amendment's coming to knowledge, or of circumstance's entry, where it is subject to entry, into the Commercial Registry, but not later than fourteen (14) days following the said entry.

#### Withdrawal of a Licence

**Art. 45. (1)** The Commission shall withdraw the licence of an insurer from a third country under the terms and conditions and following the procedure of Arts. 36. Articles 37 and 38 shall also apply.

(2) The Commission shall also withdraw the licence of an insurer from a third country in compliance with Para. 1 in the case where its licence to perform insurance operations has been repealed by the competent authority in the country of its legal seat, as well as by the competent authority under Art. 47, Para. 3 on the grounds of failure to fulfill the solvency requirements. Where the authority under Art. 47, Para. 3 has notified the Commission of the withdrawal of the licence of the insurer from a third country on different grounds, the Commission shall undertake the necessary actions in order to protect the interests of the consumers of insurance services.

(3) Where the Commission in its capacity as an authority under Art. 47, Para. 3 has withdrawn the licence of an insurer from a third country, it shall immediately notify the competent authorities of the Member States that have consented under the procedure of Art. 47, Para. 4, stating the considerations for the resolution adopted.

#### Requirements from Operations

**Art. 46. (1)** The branch within the meaning of the Commerce Act, of an insurer from a third country shall keep its commercial books in Bulgarian in compliance with the legislation of the Republic of Bulgaria and preserve at its address all the available documentation related to the operations performed by it in the Republic of Bulgaria.

(2) Within a seven-day period as of the winding up of the insurer from a third country, the Branch Manager shall submit the Resolution of the competent authority to the Commission.

#### Preferences Given to Foreign Insurers

**Art. 47. (1)** An insurer from a third country, wishing or having obtained a licence to perform insurance operations in the Republic of Bulgaria and in one or more Member States, may request from the Commission to utilize the following preferences that may be provided in their entirety only:

1. Its solvency margin to be calculated with regard to its full volume of operations performed in the Member States;

2. The deposit under Art. 41, Para. 2, Item 3 to be paid in only one of the Member States, in which it performs operations;

3. The assets representing the funds to the amount of the guarantee capital to be located in one of the Member States, in which the insurer performs operations.

(2) In order to utilize the preferences under Para. 1, an insurer from a third country shall submit an application form to the Commission and to the competent authorities of the other Member States, in which it wishes to perform operations or has obtained a licence to perform operations.

(3) In the above application form, the insurer shall explicitly specify the competent authority of one of the Member States, in which it wishes to perform operations or has obtained a licence to perform operations, which authority is to exercise supervision over its solvency with

regard to the operation of all its branches established within the European Union and the European Economic Area, as well as the arguments for the selection of that authority. The deposit under Para. 1, Item 2 shall be paid up in the country under Sentence One.

(4) The preferences under Para. 1 shall be provided only upon consent granted by the competent authorities of all Member States, to which an application form under Para. 2 has been submitted. The Commission shall give its consent under a Resolution upon appraisal of the financial standing of the insurer from a third country, including its solvency.

(5) An insurer from a third country may utilize the preferences under Para. 1 after the competent authority under Para. 3 has informed the other competent authorities that it shall exercise supervision over the solvency of the insurer with regard to the activities of all its branches established within the European Union and the European Economic Area.

(6) The Commission shall provide the relevant competent authority under Para. 3 with the complete information necessary to the latter to exercise supervision, which the Commission has at its disposal.

(7) The preferences granted shall be simultaneously repealed in each of the Member States, in which an insurer from a third country performs operations, upon a proposal submitted by the competent authority of any of these Member States.

## **Chapter Four**

### **PERFORMANCE OF INSURANCE OPERATIONS IN ANOTHER MEMBER STATE BY AN INSURER HAVING A LEGAL SEAT IN THE REPUBLIC OF BULGARIA. PERFORMANCE OF INSURANCE OPERATIONS IN THE REPUBLIC OF BULGARIA BY AN INSURER HAVING A LEGAL SEAT IN ANOTHER MEMBER STATE**

#### **Section I**

#### **Performance of Insurance Operations in another Member State by an Insurer Having a Legal Seat in the Republic of Bulgaria**

##### Right of Establishment and Freedom to Provide Services

**Art. 48.** (1) An insurer having a legal seat in the Republic of Bulgaria, upon obtaining a licence to perform insurance operations under the terms and conditions and following the procedure established by the present Code, may perform the activities for which the licence has been issued within the territory of another Member State under the terms and conditions of the right of establishment or of the freedom to provide services.

(2) A mutual insurance co-operative society may perform operations pursuant to Para.1 only in the case where it has a sufficient amount of own funds to cover the minimum guarantee capital under Art. 82, Para. 1.

##### Performance of Insurance Operations under the Terms and Conditions of the Right of Establishment

**Art. 49.** (1) An insurer having a seat in the Republic of Bulgaria who intends to establish a branch within the territory of another Member State shall submit an advance notification to the Commission of this.

(2) The Notification under Para. 1 shall contain:

1. Indication of the Member State, in which the insurer intends to establish a branch, as well as its address;

2. A Scheme of operations including information about the insurance types on which the insurer is to perform operations in the Member State by branch, as well as the branch's organizational structure;

3. Name of the authorized branch representative, whose representative power scope shall allow him/her to assume obligations for the insurer toward third parties and to represent it before the public authorities and the courts of the branch in the Member State;

4. Evidences of membership with the respective National Bureau and National Guarantee Fund of the branch's Member State, in the case where the insurer intends to carry out activities on insurances under Section II, Item 10.1, Letter "A" of Annex No. 1.

(3) The Commission shall provide the respective competent authority of the Member State where the branch is based with the information under Para. 2 within a period of up to three months as of the Notification under Para. 1, and in the case where additional documentation and information have been requested – within a period of one month as of their receipt, as well as a certificate proving that the insurer has at its disposal sufficient own funds to cover the solvency margin and the minimum guarantee capital. The Commission shall immediately notify the insurer of any provision of information under Sentence One.

(4) The Commission may refuse to provide the respective competent authority in the Member State with the information under Para. 2 within the time limit set under Para. 3 under a justified Resolution in the case where the administrative structure of an insurer, its financial standing, or the professional qualifications and experience of the persons who manage and represent it, or if the branch's authorized representative are inadequate or insufficient with a view to the insurances on which the insurer intends to perform operations in the Member State, as well as in the cases where an insurer implements a reorganisation scheme and, in this connection, the interests of the insured are endangered. The Commission shall immediately notify the insurer of the Resolution under Sentence One.

(5) An insurer may establish a branch and commence performing operations within the territory of the Member State upon receipt of notification issued by the relevant competent authority of that country, or upon expiry of two months as of the notification under Para. 3 of the Member State's relevant competent authority, in the case where no notification has been received within the aforesaid period.

(6) An insurer shall notify the Commission, as well as the relevant competent authority of the Member State where the branch is based, in writing of each amendment to the data and the documents under Para. 2 within a time period no shorter than one month prior to the amendment's realization. Paragraph 4 shall apply accordingly.

(7) The Commission shall immediately notify the relevant competent authority of the Member State where the branch is based of withdrawal of the insurer's licence. In the case where it has imposed a coercive administrative measure under Art. 302, Para. 2, Item 11, the Commission shall propose to the relevant competent authority of the Member State to impose the same measure.

#### Performance of Insurance Operations under the Terms and Conditions of the Freedom to Provide Services

**Art. 50.** (1) An insurer having a seat in the Republic of Bulgaria who intends to perform insurance operations in another Member State under the terms and conditions of the freedom to provide services without opening a branch within its territory, shall notify the Commission in advance of its intention, specifying the insurance types it intends to cover in that Member State.

(2) The Commission shall provide the relevant competent authority of the Member State under Para. 1 within a one-month period as of the notification under Para. 1 with information regarding the insurance types, on which an insurer has the right to perform operations in the Republic of Bulgaria, the insurance types which it intends to cover in the Member State by provision of services, as well as a certificate proving that the insurer has at its disposal sufficient own funds to cover the solvency margin and the minimum guarantee capital. The Commission shall immediately notify the insurer of any provision of information under Sentence One.

(3) The Commission may refuse to provide the respective competent authority in the Member State under Para. 1 with the information under Para. 2 within the time limit set under Para. 2 by a justified Resolution in the case where the insurer's own funds do not meet the solvency margin or in the case where an insurer implements a reorganisation scheme and, in this connection, the interests of the insured are endangered.

(4) An insurer may commence performing operations within the territory of the respective Member State as of the date, on which it has been notified of the provision of information under Para. 2 by the Commission to the relevant competent authority of the Member State.

(5) An insurer shall notify the Commission in writing of each amendment to the data and the documentation under Para. 2 at least one month prior to the amendment's realization. The Commission shall notify the relevant competent authority in the Member State of the amendments under Sentence One.

(6) The Commission shall immediately notify the respective competent authority of the Member State by provision of services of withdrawal of the insurer's licence. In the case where it has imposed a coercive administrative measure under Art. 302, Para. 2, Item 11, the Commission shall propose to the relevant competent authority of the Member State by provision of services to impose the same measure.

#### Provision of Information

**Art. 51.** (1) An insurer having a seat in the Republic of Bulgaria who performs operations in another Member State under the terms and conditions of the right of establishment or freedom to provide services shall submit to the Commission quarterly and annual reports separately on the transactions concluded and on the amount of the insurance premiums, including the part of the reinsurer specified per Member State and per insurance types under the procedure set by Art. 99.

(2) The Commission shall provide the information submitted under Para. 1 in a summarized form to the competent authorities of the respective Member States upon their request.

## Section II

### **Performance of Operations in the Republic of Bulgaria by an Insurer Having a Legal Seat in another Member State**

#### Right of Establishment and Freedom to Provide Services

**Art. 52.** (1) An insurer whose legal seat is in another Member State, having obtained a licence to perform insurance operations, may perform the activity it has been granted a licence for within the territory of the Republic of Bulgaria under the terms and conditions of the right of establishment and freedom to provide services.

#### Performance of Operations under the Terms and Conditions of the Right of Establishment

**Art. 53.** (1) Within a two-month term as of receipt of the information under Art. 49, Para. 2 forwarded by the relevant competent authority regarding an insurer from another Member State who intends to establish a branch within the territory of the Republic of Bulgaria, the Commission shall notify the insurer of the information received.

(2) Within the term under Para. 1, the Commission, if necessary, shall provide the relevant competent authority of the insurer's Member State of origin, with information on the conditions, under which insurance operations in the Republic of Bulgaria are performed, with a view to protect the interests of the consumers of insurance services.

(3) An insurer may establish a branch and commence performing operations within the territory of the Republic of Bulgaria upon receipt of the Commission's notification pursuant to

Para. 1; or upon expiry of the time limit under Para. 1 in the case where the notification has not been received within the above term.

(4) An insurer shall notify the Commission in writing of each amendment to the information under Para. 1 within a time period no shorter than one month prior to the amendment's realization. Para. 3 shall apply respectively.

#### Performance of Operations under the Terms and Conditions of Freedom to Provide Services

**Art. 54.** (1) An insurer from another Member State who intends to perform insurance operations within the territory of the Republic of Bulgaria under the terms and conditions of freedom to provide services without opening a branch, may commence performing operations as of the date, on which it has been notified by the relevant competent authority of the Member State of origin to the effect that the Commission has been provided with information regarding the risks, which the insurer intends to cover in the Republic of Bulgaria, the insurance types on which the insurer has the right to perform operations in the Member State of origin, as well as a certificate proving that the insurer has sufficient own funds to cover the solvency margin and the guarantee capital.

(2) An insurer who performs insurance operations within the territory of the Republic of Bulgaria under the terms and conditions of freedom to provide services shall notify the Commission in writing of each amendment to the information under Para. 1 within a time period no shorter than one month prior to the amendment's realization.

#### Requirements from Insurers Having a Legal Seat in another Member State

**Art. 55.** (1) An insurer who performs operations in the Republic of Bulgaria under the terms and conditions of the right of establishment or of the freedom to provide services shall be under the obligation to:

1. Submit to the Commission and to publish in the Bulgarian language in the Republic of Bulgaria all documents and information within the time frames, in which it publishes them in the Member State of origin;

2. Publish some other information required under the present Code and the regulations on its implementation.

(2) An insurer under Para. 1 who covers risks on an insurance policy under Section II, Item 10.1, Letter "A" of Annex No. 1 shall be obligated to hold membership in the National Bureau of Bulgarian Motor Insurers and to participate in the funding of the Guarantee Fund.

(3) An insurer who performs operations in the Republic of Bulgaria under the terms and conditions of the right of establishment or freedom to provide services shall appoint a person which has a permanent address or seat in the Republic of Bulgaria who is to represent the insurer in its relations with insured persons or injured persons under the compulsory *Motor Third Party Liability Insurance of Motorists* who sojourn or have a seat in the country. The above agent shall have sufficient powers to collect all information necessary to settle claims of such persons, as well as to effect payments and to represent the insurer in court or administrative proceedings in connection with the claims' settlement. The agent shall be obligated to certify before the Commission and other competent authorities the availability and validity of insurance policies of the compulsory *Motor Third Party Liability Insurance of Motorists*.

(4) The agent under Para. 3 shall not be regarded as an establishment of the insurer from the Member State. However, where such insurer has also established a branch within the territory of the Republic of Bulgaria, that branch may perform the functions of agency in connection with the compulsory *Motor Third Party Liability Insurances of Motorists* taken out under the terms and conditions of freedom to provide services.

(5) Upon the Commission's approval, an insurer who offers the compulsory *Motor Third Party Liability Insurances of Motorists* in the country under the terms and conditions of freedom

to provide services may assign the operations under Para. 3 to the agent for settlement of claims in the Republic of Bulgaria under the procedure established by Art. 269,.

### **Section III**

#### **Provision of Information to the European Commission**

##### Information Provided to the European Commission

**Art. 56.** (1) The Commission shall notify the European Commission of:

1. A licence issued to a legal person, over which control is exercised directly or through related persons, by one or more controlling persons, where at least for one of these the law of a third country is applicable; the notification shall also specify the structure of the group, to which the persons under Sentence One belong;

2. Participation acquired by a controlling person under Item 1 in an insurer having its legal seat in the Republic of Bulgaria, which participation allows such person to exercise control over the insurer;

3. The existence of hindrances to pursue operations in a third country, by an insurer having a legal seat in the Republic of Bulgaria.

(2) At the request of the European Commission, the Commission shall suspend for a period of up to three months the proceedings on applications filed by an insurer from a third country to pursue operations in the Republic of Bulgaria, as well as the proceedings in relation to the acquisition, directly or through related persons, of participation by a controlling person, for whom the law of such third country is applicable.

(3) Under a European Community's Council Resolution, the time limit set under Para. 2 may be extended.

(4) Paras. 2 and 3 shall not apply where insurers from a third country or insurers controlled by these persons that have obtained a licence to carry out insurance operations within the European Union, acquire control or participation in an insurer having its legal seat in the Republic of Bulgaria.

(5) Upon a request submitted by the European Commission, in the cases where a competent body in a third country does not apply the principle of reciprocity in ensuring access of an insurer having a legal seat in the Republic of Bulgaria or in some other Member State to the relevant foreign insurance market; or where, in pursuing operations within the territory of a third country by an insurer having a legal seat in the Republic of Bulgaria or in some other Member State, the insurer has not been provided with a national treatment regime, the Commission shall inform the EC of:

1. Applications received for the issuance of a licence submitted by a person under Para. 1, Item 1;

2. A notification submitted by a controlling person under Para. 1, Item 1 of his/her intent to acquire participation under Para. 1, Item 2.

(6) The notification shall be discontinued upon reaching an agreement between the authorities of the European Union and the third country on reinstatement of the national treatment of the insurers having a legal seat in the European Union.

## **TITLE TWO**

### **REQUIREMENTS OF THE OPERATIONS OF INSURERS AND REINSURERS**



**Chapter Five**  
**MANAGEMENT, STRUCTURE AND ORGANIZATION OF THE OPERATIONS.**  
**INTERNAL CONTROL**

**Section I**

**Management, Structure and Organization of the Operations of an Insurer and a Reinsurer**

General Requirements

**Art. 57** (1) The managing body of an insurer or a reinsurer shall approve:

1. Management and organizational structure of the insurer or reinsurer, including specification of the managerial positions, outside of the positions under Art. 13, Para. 1, and their functions and powers;

2. A Scheme of Operations of the insurer or reinsurer for a period of three years, which is updated by it on an annual basis;

3. Organisational rules of the operating control, including rules and procedures for performance and reporting the activity of the separate organisational units.

(2) The managing body of the insurer or reinsurer shall submit an annual report on the implementation of the plans, rules and procedures under the preceding Paragraph to the General Meeting of the Shareholders or the Member-Cooperators.

(3) Within a seven-day period following their adoption, the insurer or reinsurer shall submit to the Commission the documentation under Art. 1, any subsequent amendments thereof, as well as the report under Para. 2.

Requirements of the Persons Occupying Managerial Positions

**Art. 58.** (1) Persons, occupying managerial positions under Art. 57, Para. 1, Item 1, shall satisfy the requirements specified under Art. 13, Para. 1, Items 3 and 4, and shall possess appropriate qualifications and experience.

Information System

**Art. 59.** (1) An insurer or reinsurer shall set up and maintain a regularly updated information system, into which the information may be processed, formatted, stored and archived on a paper and/or on another long-lasting carrier in compliance with the insurer's internal acts, and which information shall contain:

1. The Articles of Association and the other internal normative acts;

2. The Book of Member-Cooperators;

3. Minutes of the proceedings of the sessions of the General Meeting of Shareholders, the General Meeting of Member-Cooperators respectively, and of the managing bodies;

4. Accounting information, accurately and clearly recording the type, amount and grounds for the transactions closed, their effect on the results and the financial standing of an insurer;

5. Actuarial information, accurately and clearly recording the methods and the source of the data, used to determine the amount of premiums, the technical reserves and the solvency margin, with the exception of the premiums on high risks insurance;

(2) The insurers that are subject to additional supervision under the procedure established by Art. 299, Para. 1 shall maintain an information system, which allows them to provide the entire information necessary to exercise the supplementary supervision. In the cases where exchange of information is effected between insurers that are subject to supplementary supervision under Art. 299, Para. 1 and the companies related to them and the participating companies in them, the restrictions on information exchange stipulated by a law, a subdelegated legislative act or a contract, shall not apply in the cases where such exchange of data is necessary for the purposes of the supplementary supervision and at least one of these undertakings has its

legal seat in a Member State. The Commission may limit the exchange of information with persons having a legal seat in a third country.

## **Section II Transfer of Operations by an Insurer to Third Persons**

### Definition

**Art. 60.** (1) The transfer of operations by an insurer is a permanent assignment of separate operations, included in the scope of insurance operations, to be performed by third persons who are not insurers, and whose operations by occupation include operations under Art. 3, Items 1-7.

(2) The insurer shall be held liable for the operations of the persons, to whom it has assigned part of its operation under Art. 3, Items 1-7 as if the above operations have been performed by the insurer himself.

(3) The transfer of operations shall be effected on the basis of a written contract.

### Performance of the Operations Transferred.

#### Control. State Supervision

**Art. 61.** (1) The operations transferred shall be performed according to the requirements established for the insurer.

(2) The operations transferred and the persons to whom these have been assigned shall be encompassed by the insurer's management and internal control systems.

(3) The contracts for transfer of operations shall be submitted to the Deputy Chairperson upon request. The Deputy Chairperson may order that an inspection be carried out on a third person to whom an operation has been transferred by an insurer – with regard to the operations transferred, which inspection is to establish compliance with the law, following warnings submitted on the part of consumers of insurance services or in connection with inspections done at the insurer.

(4) Where during a person's operations, to whom an insurer has transferred operations, breaches of the law or a practice have been established, which imperil the insurer's stability, the rights and interests of the consumers of insurance services, or prevents the exercise of the state insurance supervision, the Deputy Chairperson shall order their removal within a term specified by him/her. Where the order has not been fulfilled, or even though fulfilled, the person continues to offend the law, to threaten the insurer's stability, the consumers' rights, or to prevent the supervision over the insurance, the Deputy Chairperson shall order the insurer to terminate his relations with such person.

(5) The insurer shall not owe penalties and other indemnities for damages upon pre-termination of a contract for transfer of operations in fulfillment of an Order under Para. 4.

## **Section III Internal Control**

### **Specialized Internal Control Department**

**Art. 62.** (1) An insurer shall establish a Specialized Internal Control Department, whose head shall be elected by the General Meeting of Shareholders, or by the General Meeting of Member-Cooperators respectively. The Head of the Specialized Internal Control Department of a branch within the meaning of the Commerce Act for Insurers from a Third Country shall be appointed by the authority which is competent to appoint the Manager of the branch.

(2) The Internal Control Department shall provide assistance to the insurers' management bodies where decisions are taken with regard to their operations and shall observe their implementation.

(3) In carrying out its operations, the Internal Control Department shall inspect and appraise:

1. Compliance with the law and the internal normative acts in the performance of the insurer's operations;
2. The accounting and information system;
3. The accuracy, completeness and timeliness of the accounting and other documents and reports prepared;
4. The management systems and the risk assessment methods;
5. The protection of the insurer's assets against negligence and misappropriations;
6. The adequacy and observance of the internal procedures for conclusion of insurance and reinsurance contracts, for acceptance and consideration of claims and for determination of the payments thereof;
7. The execution of, and accounting for, all operations transferred by the insurer.

(4) The Head of the Internal Control Department shall meet the requirements under Art. 13, Para. 1 and Para. 3, and under Art. 14, Para. 2. Art. 13, Paras. 6 and 7 shall also apply.

(5) The Head of the Internal Control Department shall immediately inform the managing bodies of the violations in the operations of an insurer established by him/her.

(6) The Head of the Internal Control Department shall draw up an annual report on the Department's operation and shall submit it to the managing body and to the General Meeting of the Shareholders, or to the member-cooperators accordingly.

(7) The Head of the Internal Control Department shall immediately inform the Deputy Chairperson in the cases where as a result of an inspection carried out, violations and weaknesses have been established in the management of an insurer, which have resulted or may result in material damages, and for which the Head considers that no sufficient measures have been undertaken for their removal by the managing body.

(8) Insurers shall adopt internal regulations on the structure and activity of the Internal Control Department. The regulations and any amendments thereof shall be submitted to the Commission within a seven-day time period following their adoption.

(9) The Commission shall adopt an Ordinance, specifying the requirements for the structure and operation of the Internal Control Department of an insurer and of the persons included in an insurance group.

## **Chapter Six** **REQUIREMENTS FOR THE FINANCIAL STATUS**

### **Section I** **Solvency Requirements for an Insurer** **and a Reinsurer**

#### **General Provisions**

**Art. 63.** With a view to guaranteeing the possibility for specific performance of the obligations under the insurance and reinsurance contracts concluded, an insurer shall be, at all times, under the obligation to:

1. Set and apply in their operations, premiums corresponding to the degree of the risk undertaken and their expenses;
2. Set up adequate technical reserves in terms of type and amount pursuant to the requirements of the law;

3. Cover the technical reserves with adequate assets;
4. Have at their disposal sufficient own funds, which are to cover the solvency margin and the guarantee capital.

#### Recalculation of Financial Indicators for Supervisory Purposes

**Art. 64.** (1) Where an insurer has calculated the amount of the technical reserves; the value of the assets, liabilities, income and expenses' and other indicators specified under the reports and the reference information as submitted to the Commission is in breach of a law or a subdelegated normative act, the Deputy Chairperson may, for the purposes of the insurance supervision exercised, reevaluate each and any of these indicators.

(2) In the case where as a result of the said revaluation any offences under the present Code are established, the measures envisaged herein shall be applied.

#### Insurance Premiums

**Art. 65.** (1) The insurance premiums shall be sufficient, calculated on the basis of a reasonable actuarial assumption, so as to ensure fulfillment of all obligations of an insurer, the set-up of adequate technical reserves included.

(2) In order to perform the requirement set under Para. 1, the insurer's financial status and its solvency in a long-term plan shall be projected solely on the basis of the premiums, being an only source of income.

#### Types of Reserves

**Art. 66.** (1) An insurer shall be under the obligation to set up general and technical reserves.

(2) The general reserves shall consist of:

1. A *Reserve Fund* under Art. 246 of the Commerce Act, or Art. 34 of the Co-operatives Act respectively;

2. Other funds if envisaged by the insurer's Articles of Association.

(3) An insurer shall, at all times, maintain technical reserves sufficient in terms of amount, that correspond to its overall operations, by which it is to guarantee cover of the insurance risks undertaken.

(4) The types of technical reserves, which the insurers shall maintain, are to be specified pursuant to Art. 68.

(5) The increase in technical reserves shall be included into the incremental costs, and the decrease – into the insurer's incremental income when forming the financial result.

## Section II Technical Reserves

#### Definition

**Art. 67.** The amount of the technical reserves shall be calculated on the basis of the value of the obligations assumed by an insurer, which are expected to be fulfilled in the future by virtue of insurance or reinsurance contracts having entered into force, the expenses related to fulfillment of these obligations, as well as the value of the possible unfavourable deviation from that expectation.

#### Types of Technical Provisions

**Art. 68.** (1) An insurer who has obtained a licence to perform insurance operations on types of insurance policies under Section I of Annex No. 1, shall set up technical provisions as follows:

1. An Equalization Provision;
2. An Outstanding Claims Provision;
3. An Unearned Premium Provision;
4. A Mathematical Provision;
5. Capitalized Value of Pensions;
6. A Provision for Future Income Participation;
7. Unit-Linked Life Insurance Provisions;
8. A Bonuses and Rebates Provision;
9. Other provisions approved by the Deputy Chairperson or created under his/her prescription.

(2) An insurer who has obtained a licence to perform insurance that covers insurance policies under Section II of Annex No. 1 shall be obligated to set up technical provisions as follows:

1. An Equalization Provision;
2. An Outstanding Claims Provision;
3. An Unearned Premium Provision;
4. Unexpired Risks Provisions;
5. A Bonuses and Rebates Provision;
6. Other provisions approved by the Deputy Chairperson or created under his/her prescription.

(3) A branch of an insurer from a third country who has obtained a licence to pursue insurance operations within the territory of the Republic of Bulgaria shall set up technical provisions under Para. 1 or Para. 2, which reserves are to cover its obligations under insurance and reinsurance contracts concluded in the Republic of Bulgaria.

(4) The procedure and methods for setting up the technical provisions, the principles that are applied to calculating their amount, rules for determining and evaluating the assets needed to cover the technical provisions, as well as the maximum rate of the technical interest for the insurances under Section I of Annex No. 1 shall be set under an ordinance.

#### General Rules on Setting Up the Technical Provisions

**Art. 69.** (1) The technical provisions shall be calculated for each insurance type, for which a licence has been granted, where the reinsurer's share shall not be deducted.

(2) Insurers shall maintain the technical provisions under Art. 68 sufficient in terms of amount in accordance with the general volume of their operations and the obligations assumed under the insurance contracts concluded by them insofar as the said obligations' reasonable prediction is possible.

(3) The basis of and methods for calculation of the technical provisions on the insurances under Section I of Annex No. 1 shall be public. The insurer shall be obligated to submit these to any interested person upon request.

#### Technical Provisions in the Case of Reinsurance and Coinsurance

**Art. 70.** (1) Where performing inward reinsurance, the technical provisions under Art. 68 shall be set up in compliance with the terms and conditions of the reinsurance contract.

(2) Where performing outward reinsurance, an insurer shall account for the reinsurers' share in the technical provisions set up in compliance with the terms and conditions of the reinsurance contracts.

(3) Where performing coinsurance, an insurer shall set up the types of reserves under Art. 68 while accounting for their share in compliance with the terms and conditions of the coinsurance contract.

#### Currency of the Technical Provisions Being Set-Up

**Art. 71.** (1) In the case where the liabilities under insurance or reinsurance contracts are set in a foreign currency, or the contract contains a provision for indexation in a foreign currency, the technical provisions shall be set up in the same currency.

(2) In the case where the liabilities under Para. 1 are not fixed in a specific currency, the provisions shall be set up in the currency of the Member State where the risk is located. In the aforesaid case, an insurer may set up the reserves in the currency into which the premium has been agreed upon if a grounded conclusion may be made that the indemnity payment shall be effected in that same currency.

(3) In the case where a claim for payment in a particular currency has been raised, which currency differs from the currency defined under the procedure of Para. 1 or Para. 2, the Outstanding Claims Provision shall be set up in the currency into which the claim has been raised.

(4) In the case where coinsurance within the European Union is undertaken, the Outstanding Claims Provision may not be less than the amount pursuant to the legislation and the practices established in the Member State of the leading reinsurer's legal seat.

(5) In the case where a claim amount has been set in a currency, different from the one specified under Paras. 1-3, and this is known to an insurer, the insurer may set the Outstanding Claims Provision in that same currency.

### **Section III Cover of Technical Provisions**

#### General Provisions

**Art. 72.** (1) An insurer, or a reinsurer shall be obligated to cover the gross amount of the technical provisions by adequate assets under the correlations as specified under Art. 74. An insurer from a third country shall cover the technical provisions formed under the procedure established under Art. 68, Para. 3 for their branch under the terms and conditions of the present Section.

(2) The Deputy Chairperson may prohibit the free disposal of assets of an insurer or reinsurer who fails to fulfill the obligation under Para. 1 upon advising the competent authorities of the Member States where the risk is situated of his/her intention.

(3) The assets under Para. 1 shall reflect the specifics of the insurer or reinsurer's operations in such a way as to guarantee security, profitability and liquidity by means of diversification and appropriate allocation.

#### Types of Assets Eligible for Coverage of Technical Provisions

**Art. 73.** (1) Only the following assets may be utilized to cover the technical provisions:

1. Securities admitted to trading on a regulated securities market in the Republic of Bulgaria or in a Member State, as well as shares, qualified bonds and other qualified debt securities, admitted to be traded on internationally recognized and liquid regulated securities markets in a third state;

2. Securities issued or guaranteed by the Republic of Bulgaria or by a member-state, as well as qualified debt securities issued or guaranteed by third states, their central banks or international organizations a member of which is the Republic of Bulgaria or a Member State;

3. Shares and units issued by investment companies and contractual funds that perform operations under the terms and conditions and following the procedure of the Public Offering of Securities Act, as well as shares and units of collective investment schemes whose legal seat is located in a Member State;

4. Property rights over land and buildings;

5. Receivables from reinsurers, including reinsurers' share in the technical reserves;

6. Deposits and receivables from assignors;
  7. Receivables from insured persons and intermediaries ensuing from insurance and reinsurance contracts;
  8. Receivables on loans against *Life Insurance* Policies;
  9. Cash in hand and payment accounts or deposits with banks having the right to pursue bank activity in the Republic of Bulgaria or in a Member State;
  10. Deferred acquisition costs;
  11. Indisputably established receivables in relation to tax refunding.
- (2) Qualified debt securities within the meaning of Para. 1 shall be debt securities having an investment rating by an internationally recognized rating agency.
- (3) All assets shall be valued in compliance with the prudence concept, where accounting for the risk of their impossibility to be encashed. The amount of the receivables recognized as technical provisions cover shall be calculated where observing the prudence concept, accounting for the risk of their possible unsettlement.
- (4) Security derivatives, including options, futures and swaps related to activities covering the technical provisions shall be recognized as technical provisions cover only in the case where these contribute to the decrease of the investment risk or facilitate the effective portfolio management. These shall be valued where observing the prudence concept and may be taken into consideration in the valuation of the underlying assets.
- (5) Receivables from third persons are recognized as technical provisions cover upon deduction of all counter-obligations towards the said third parties.
- (6) The following shall not be recognized as technical provisions cover:
1. Property rights encumbered by pledge, mortgage or other burdens;
  2. Investments in a controlled company;
  3. Receivables that have remained outstanding for more than three months after the maturity date.
- (7) In the case of extraordinary circumstances, and upon an advance reasoned request submitted by an insurer, the Commission may temporarily allow the utilization of some other types of assets in order to cover the technical provisions provided that the requirements set under Art. 72, para 3 have been observed.

#### General Rules for Diversification

- Art. 74.** (1) An insurer invests the gross amount of the technical provisions set up in the assets under Art. 73 where observing the following restrictions:
1. Up to 20 per cent in real estate, but not more than 10 per cent in a single property or in a group of properties that may be regarded as one investment due to their location;
  2. Up to 80 per cent in securities under Art. 73, Para. 1, Items 1 and 3, but not more than 30 per cent in other assets, different from qualified bonds and other qualified debt securities;
  3. Without any restriction whatsoever in assets under Art. 73, Para. 1, Item 2;
  4. Up to 5 per cent in securities issued by a single issuer; where the restriction shall not apply to the assets under Art. 73, Para. 1, Item 2;
  5. Up to 50 per cent in bank deposits, but not more than 25 per cent of the gross amount with one bank;
  6. Up to 3 per cent in cash in hand and on payment accounts;
- (2) The maximum amount of investments in real estate under Para. 1, Item 1 may not exceed 30 per cent of the difference between the gross amount of the technical provisions set up and the receivables from reinsurers transformed under the procedure established by Art. 75, Paras. 1 and 2.
- (3) The maximum amount under Para. 1, Item 4 may be 10 per cent in the case where an insurer invests not more than 40 per cent of the technical provisions' gross amount in securities of issuers, the above insurer's exposure to each of which exceeds 5 per cent of its assets. The

maximum amount under Para. 1, Item 4 may be 20 per cent in the case where an insurer invests the technical provisions in debt securities issued by a credit institution having a legal seat in a Member State, and subject to special supervision within the meaning of the law for the purpose of protecting the holders of such securities. More specifically, the contributions received in return for issuance of securities under Sentence Two shall be invested pursuant to the provisions of the law in assets that throughout the whole validity period of the securities may cover the receivables on these securities and that in the case of issuer's insolvency shall be utilized for preferential satisfaction of the receivables on the principle and the interest accrued.

(4) The assets under Para. 1 may not be pledged, mortgaged or encumbered with any other burdens.

(5) The assets needed to cover the technical provisions shall be diversified and allocated in such a way as to ensure that no category of assets, investment market or a separate investment has a significant share.

(6) Investment in categories of assets, having a high degree of risk due to their nature or the issuer's characteristics, as well as the assets' share needed to cover the technical provisions which have low liquidity are to be limited to reasonable levels.

#### Investment in Receivables

**Art. 75.** (1) A receivable from a reinsurer, including the reinsurer's share in the technical provisions, may be acknowledged as cover of the technical provisions upon deduction of the deposits retained and the liabilities towards the relevant reinsurer.

(2) A receivable, or a share under Para. 1 respectively, shall be acknowledged as cover of technical provisions up to:

1. 100 per cent of the value transformed under Para. 1 in the case where a reinsurer has an investment credit rating awarded by at least one of the rating agencies specified under a Resolution of the Commission;

2. 50 per cent of the value transformed under Para. 1 in the case where a reinsurer has a credit rating awarded by at least one of the rating agencies under Item 1 outside of the investment class;

3. 20 per cent of the value transformed under Para. 1 in the case where a reinsurer has no credit rating awarded by at least one of the rating agencies under Item 1.

(3) The insurers shall declare to the Deputy Chairperson the reinsurers with which they have concluded reinsurance contracts as well as information of their credit rating within a seven day term after the contract has been concluded. The Vice Chairman has the right to fix lower amounts than the ones set out in paragraph 2 for acknowledgement of a receivable from a certain reinsurer or of a share of certain reinsurer in the technical provision for cover of the technical provisions provided that there are circumstances that call the stability of the reinsurer in question.

(4) Deposits with assignors and receivables from assignors shall be acknowledged as cover of the technical provisions up to the amount of the technical provisions set up in connection with reinsurance contracts concluded with the respective assignor.

(4) Receivables from insured, or insurance and reinsurance intermediaries, ensuing from insurance and reinsurance contracts, shall be acknowledged as cover of the technical provisions to the value of up to 20 per cent of the difference between the gross amount of the outstanding claims provision set up, the mathematical provision and the capitalized value of the pensions, and the insurer's share in these transformed under the procedure established by Paras. 1 and 2.

(5) Receivables on loans granted with regard to *Life Insurance* policies shall be acknowledged as cover of the technical provisions up to the amount of the redemption value of the relevant policies on which the loans have been granted.

#### Deferred Acquisition Costs



**Art. 76.** The deferred acquisition costs, less the related reinsurance commissions, deferred for a future period shall be acknowledged as cover of the gross amount of the technical provisions set up.

#### Territorial Allocation Rules

**Art. 77.** (1) The technical provisions under insurance contracts, covering risks in the Republic of Bulgaria or in a Member State, shall be covered by assets located within the territory of the Republic of Bulgaria or within the territory of a Member State. By licence of the Deputy Chairperson, issued for each specific case, the technical provisions under contracts under Sentence One may also be covered by assets, located within the territory of a third country.

(2) The requirement for territorial allocation of the assets under Para. 1 shall not refer to the cases where the technical provisions are covered by investments in receivables from reinsurers in the correlation set under Art. 75.

(3) The assets covering technical provisions set up by a branch of an insurer from a third country who does not make use of the advantages under Art. 47, Para. 1, covering risks in the country are to be located within the territory of the Republic of Bulgaria.

(4) The assets' location shall be:

1. For ownership interest in real estate – the real estate's location;

2. For securities:

a) The issuing enterprise's legal seat;

b) The bank's legal seat – in the case where the securities are guaranteed by a bank;

c) The Depository's legal seat – in the case of dematerialized securities;

3. For deposits – the place where the deposit contract has been concluded;

4. For any other receivables – the debtor's legal seat;

5. For shares in investment funds – the location of the assets included in the fund having a predominant share, fixed pursuant to the terms and conditions under Items 1-4;

(5) In the case of coinsurance, an insurer may invest the technical provisions set up under coinsurance contracts concluded with insurers who have been granted a licence to perform insurance operations by the competent body of the Member State in assets under Art. 73 located in the Republic of Bulgaria or in the Member State of the leading coinsurer's legal seat.

#### Currency Conformity Rules

**Art. 78.** (1) In the case where the cover under an insurance contract has been fixed in a particular currency, the insurer's liabilities shall be reported as payable in the same currency. The assets covering the technical provisions shall be in the same currency as the liabilities ensuing from contracts under which the technical provisions have been set up.

(2) An insurer may not apply the rule under Para. 1 upon cover of the technical provisions, including the mathematical reserve, by assets, if the application of this rule would lead to maintenance of the assets in this currency to an amount of not more than 7 per cent of the assets in other currencies.

(3) Paragraph 1 shall not apply to cover of technical provisions in a currency different from the BGN or the currency of one of the Member States if investments in that currency are regulated, if it is subject to transfer restrictions, or it is not adequate for cover of the technical provisions due to other similar reasons.

(4) Up to 20 per cent of the technical provisions' total amount may be covered by assets in a currency different from the one in which they have been set up, provided that the assets' total amount for technical provisions' cover in all currencies is at least equal to the liabilities' total amount in all currencies.

(5) In the case where the technical provisions have been set up in BGN, EUR or another currency of a Member State, the assets for their cover may be in EUR.

### Special Rules for Cover of Unit-Linked *Life* Insurance Provisions

**Art. 79** (1) In the cases where the investment risk is borne by the insured persons, the Unit-Linked *Life* Insurance Provisions shall be covered by the assets, agreed upon under the insurance contract. In the case where an insurer's liabilities under such contract are bound to an index value, the reserves shall be covered by assets that reflect the value of such index to the fullest possible extent and have appropriate security and liquidity levels.

(2) Articles 72, Para. 3, 74, 75 and 78 shall not apply to the assets under Para. 1.

(3) In the cases where under Unit-Linked *Life* Insurance a part of the insurer's liabilities are guaranteed, the technical provisions which represent their amount, shall be covered by assets in compliance with the general rules.

## **Section IV Own Funds. Solvency Margin. Guarantee Capital**

### Own Funds

**Art. 80.** (1) The own funds of an insurer, reduced by the intangible assets, shall be at any time at least equal to the solvency margin or to the minimum amount of the guarantee capital in the case where it is higher than the solvency margin.

(2) An insurer's own funds shall consist of its assets, reduced by the foreseeable liabilities. The elements included in the calculation of the own funds' amount shall be determined by an Ordinance.

(3) A mutual insurance co-operative society, whose annual gross premium income does not exceed BGN 10,000,000, shall be obligated to maintain own funds to an amount equal to the solvency margin or to the minimum guarantee capital under Art. 82, Para. 4, in the cases where the latter is higher than the former.

(4) In the cases where in the course of three consecutive years a mutual insurance co-operative society has annually exceeded the amount of the premium income under Para. 3, it shall be under the obligation to maintain own funds to the amount under Art. 82, Para. 1, Item 2, provided that its solvency margin does not exceed that amount.

(5) The own funds of a branch of an insurer from a third country to the amount of the minimum required guarantee capital shall be invested in the Republic of Bulgaria, and over that amount – in the Republic of Bulgaria or in another Member State.

### Solvency Margin

**Art. 81.** (1) The solvency margin shall be the minimum amount, to which an insurer's own funds are to be equal, reduced by the intangible assets, requisite for ensuring performance of the insurer's contractual obligations in the long-term aspect, in accordance with the total volume of its operations.

(2) Each insurer shall be under the obligation to maintain adequate own funds necessary for ensuring performance of its contractual obligations in the long-term aspect in accordance with the total volume of its operations.

(3) The solvency margin and the methods for its calculation shall be specified by the Ordinance under Art. 80, Para. 2.

(4) For the purposes of solvency margin calculation of a branch of an insurer from a third country, only the operations performed by the branch shall be considered.

### Guarantee Capital

**Art. 82.** (1) The guarantee capital shall be one third of the solvency margin, but may not be less than:

1. Four mln. Bulgarian levs - for an insurer who has obtained a licence for performance of insurance operations which comprises insurance types under Section II, Letter 'A', Items 1-9, and Items 16-18 of Annex No. 1;

2. Six mln. Bulgarian levs - for an insurer who has obtained a licence for performance of insurance operations which comprises insurance types under Section I and Section II, Letter 'A', Items 10-15 of Annex No. 1.

(2) In the case where an insurer performs insurance operations on several insurance types under Section II of Annex No. 1, for the amount of the guarantee capital shall be adopted the higher value.

(3) In the case where an insurer has been granted a licence to perform inward reinsurance operations, as well as in the case where a reinsurer has been granted a licence to perform insurance operations, the relevant minimum amount of the guarantee capital specified in compliance with Para. 1 shall be increased by one third.

(4) The mutual insurance co-operative society under Art. 80, Para. 3 shall maintain a minimum guarantee capital in accordance with Annex No. 2.

(5) The guarantee capital of a branch of an insurer from a third country shall constitute one third of the solvency margin. However, it may not be less than half the amount under Para. 1, Item 1 or 2, in conformity with the licence granted by the Commission. The deposit under Art. 41, Para. 2, Item 3 shall be part of the guarantee capital.

## **Section V**

### **Additional Solvency Requirements of Insurers from an Insurance Group**

#### Information on the Transactions Undertaken within Insurance Group

**Art. 83.** (1) An insurer's transactions under Art. 299, Para. 1 with the following persons shall be subject to supervision:

1. A company related to it;
2. A company holding a share in it;
3. A company related to a company holding a share in it;
4. A natural person holding a share in the insurer or in a company related to the latter;
5. A natural person holding a share in a company that has a share in an insurer;
6. A natural person holding a share in a company related to a company that has a share in an insurer;

(2) The transactions under Para. 1 shall cover:

1. Loans and other forms of lending;
2. Guarantees and off-balance sheet operations;
3. Transactions in own funds, which transactions serve to cover the solvency margin;
4. Investments;
5. Reinsurance operations;
6. Allocation of expenditures;
7. Others.

(3) The insurer's procedures for risk management, internal control and accounting reporting are to ensure conditions for monitoring, assessment and control of the transactions under Para. 1. The Deputy Chairperson may prescribe amendments and supplements to the above procedures where these do not guarantee the insurer's solvency to an adequate extent.

(4) Along with the quarterly reference information, an insurer shall submit a report on the significant transactions under Para. 1.

(5) In the case where the Deputy Chairperson judges on the basis of the review of the procedures under Para. 3 or the information submitted under Para. 4 that solvency is endangered, s/he shall apply the following measures:

1. Order preparation of a plan under Art. 86;
2. Impose a coercive administrative measure under Art. 302.

#### Adjusted Solvency Margin of Insurers within an Insurance Group

**Art. 84.** (1) The adjusted solvency of insurers under Art.299, Para. 1, Item 1 shall be calculated through methods specified by Ordinance.

(2) Upon calculation of the solvency adjusted in compliance with Para. 1, there shall be included the companies related to the insurer, the companies holding a share in the insurer and the companies related to the companies holding a share in it.

(3) In the case where the adjusted solvency calculated under the procedure established by Para. 1 is a negative value, the Deputy Chairperson shall apply the measures under Art. 83, Para. 5.

#### Additional Supervision Exercised over an Insurer whose Supervisory Body is an Insurance Holding, a Reinsurer or an Insurer from a Third Country

**Art. 85** (1) With regard to the insurers under Art. 299, Para. 1, Item 2, a method of additional supervision set by Ordinance shall apply.

(2) Upon application of the method under Para 1, the activities of all companies which are related to the insurance holding, the reinsurer or the insurer from a third country shall be taken into consideration.

(3) In the case where as a result from the method applied under Para. 1 it has been established that the solvency of an insurer under Art. 299, Para. 1, Item 2 is or may be endangered, the Deputy Chairperson shall apply the measures under Art. 83, Para 5.

## **Section VI Financial Status Recovery Measures**

#### Solvency Recovery Plan and Short-Term Plan

**Art. 86.** (1) In the case where the own funds of an insurer fall below the amount of the solvency margin, the insurer shall be obligated to prepare a plan for recovery of the solvency margin and submit it for approval to the Deputy Chairperson.

(2) In the case where the own funds of an insurer fall below the guarantee capital amount, the insurer shall be obligated to prepare a short-term plan for the raising of additional own funds and submit it for approval to the Deputy Chairperson.

(3) Upon occurrence of the circumstances under Paras. 1 or 2, an insurer shall be obliged to notify the Commission within a three-day period, and to submit the relevant plan within a 30-day period.

(4) In the case where the circumstances under Paras. 1 or 2 have been established by the Deputy Chairperson, s/he shall immediately give an order to the insurer to prepare the relevant plan and shall fix the time-limit for its preparation, which may not exceed thirty (30) days.

(5) The plans under Paras. 1 and 2 shall contain indication of the time-limit, within which an insurer shall provide own funds to cover the solvency margin, or the guarantee capital respectively, the specific measures for bringing these in line with the requirements set under the present Code, as well as the funding sources for their implementation. The time-limit to cover the guarantee capital may not exceed six (6) months, and the one to reach the solvency margin – longer than twelve (12) months.

(6) The Deputy Chairperson shall render a ruling within a 30-day period as of the plan's submission where they shall refuse to approve it in the case where the measures proposed do not guarantee the insurer's solvency or the interests of the insured persons to a sufficient degree.

#### Reorganisation Plan

**Art. 87.** (1) The Deputy Chairperson may oblige an insurer to draw up a reorganisation plan in the case where s/he judges that the interests of the insured persons are imperilled in view of the insurer's financial standing.

(2) A reorganisation plan shall comprise of the operations to be undertaken within a three-year period as of the date of the plan's preparation and shall contain at least:

1. Evaluation of management expenses and commission charges;
2. A detailed projection of income and expenditure on main operations, inward and outward reinsurance;
3. Projected balance sheet;
4. Valuation of financial means which are to cover forthcoming obligations and the requisite solvency margin;
5. A general reinsurance plan.

(3) The Deputy Chairperson may apply the measures under Art. 302, Para. 2, as well as to:

1. Set an increased amount of the solvency margin of an insurer on the basis of the data submitted under the plan presented;
2. Recalculate the technical provisions amount, as well as to reevaluate all elements of the own funds, especially in the cases where there is a significant change in the market valuation of the aforesaid elements in comparison with the preceding financial year.
3. Reduce the decrease rate based on reinsurance upon setting the solvency margin in the case where the reinsurance coverage's reliability has been significantly changed for the last financial year or insignificant risk has not been transferred or has been transferred via the reinsurance contracts.

### Section VII

#### **Supervision over the Financial Status in Relation to the Operations under the Terms and Conditions of Right of Establishment and Freedom to Provide Services**

##### Supervision over the Financial Status

**Art. 88.** (1) The Commission and the Deputy Chairperson shall exercise supervision over the implementation of the present Chapter's provisions over the insurers having a legal seat in the Republic of Bulgaria, and in relation to their operations under the terms and conditions of the right of establishment or freedom to provide services.

(2) The supervision under Para. 1 shall include control over solvency, technical provisions formed and the assets that are utilized in order to cover these, with a view to the insurer's overall activity. The supervision under Para. 1 shall also cover the supervision of the technical resources allocated by insurers that have been granted a licence under Section II, letter A, Item 18 of Annex No. 1 in order to immediately provide travel assistance. Where conducting an inspection of the technical resources under Sentence Two, the Minister of Health or some other competent authorities shall be obligated to render assistance to the Commission and the Deputy Chairperson.

(3) Where carrying out the supervision under Para. 1, the Commission, upon advising in advance the competent authority of the branch's home Member State, may conduct on-site inspections severally or jointly with such authority.

(4) A competent authority of a Member State may, upon advising the Commission in advance thereof, conduct on-site inspections at the branches of insurers having a legal seat within its national jurisdiction, established within the territory of the Republic of Bulgaria. The Commission may delegate a representative to participate in the said inspection.

#### Notification

**Art. 89.** In the cases where the Commission adjudges that an insurer, having a legal seat in another Member State, covering risks within the territory of the Republic of Bulgaria under the terms and conditions of the right of establishment and freedom to provide services, by performing its operations jeopardizes its financial stability, the Commission shall notify the competent authority of the insurer's home Member State, thereof.

## **Chapter Seven**

### **CONFLICT OF INTERESTS DISCLOSURE. INSURANCE SECRECY**

#### **Section I**

#### **Conflict of Interests**

##### Conflict of Interests Disclosure

**Art. 90.** (1) Each member of a managing or supervisory body, each official having a governing functions, as well as any other person authorized to manage or represent an insurer, shall notify the Managing Body of an insurer in writing in the case where s/he enters into a contract with the insurer, which contract exceeds the bounds of the insurer's regular operations or considerably deviates from the usual market conditions.

(2) The provision of Para. 1 shall also apply in the case where a party to a transaction with the insurer is:

1. A family member of a person under Para. 1;
2. A company, in which a person under Para. 1 or a member of their family holds directly or through related parties qualified participating interest under Art. 16, Para. 1;
3. A company, in which a person under Para. 1 or a member of their family is a partner, a member of a managing or supervisory body, an official having governing functions, or a person authorized to manage or represent the company.

(3) Each person under Para. 1 shall notify the managing body of an insurer, in writing and at least once per every 6 months, of companies in which the said person or members of their family hold directly or through related parties qualified participating interest under Art. 16, Para. 1; in which they are partners, members of a managing or supervisory body, officials having governing functions, or persons authorized to manage or represent the company.

(4) A person under Para. 1 shall not participate in the negotiations, discussion and decision-making on concluding a transaction with the insurer, to which the said person is a party, or a person under Para. 2 is a party.

(5) The persons under Para. 1, as well as the insurer's other employees shall be obligated to give preference to the interests of the insurer and of its clients before their own interests, in the performance of their functions.

(6) Insurers shall be obligated to build up the internal organization of their activity in such a manner that does not allow the persons under Para. 1 to be in a situation where their obligations to a client of an insurance service enter into conflict with their obligations to another client of the insurer or their own interests enter into conflict with their obligations to a client of the insurer.

(7) Insurers shall adopt rules, under which the procedure for conflict of interests disclosure and for ensuring confidentiality is established, so as not to injure the interest of an insurer's client at the expense of another client; of a person under Para. 1; or of an employee of

an insurer; as well as the interest of an insurer at the expense of the interest of an employee of theirs or a person under Para. 1.

Consequences of Non-Observance  
of the Requirements in the Case of a Conflict of Interests

**Art. 91.** In the case where it has been established that a person under Art. 90, Para. 1 violates the rules governing the conflict of interests' disclosure, the coercive administrative measures under Art. 302 shall apply.

Special Requirements for Avoidance of Conflicts of Interests

**Art. 92.** An insurer, covering risks under *Legal Expenses Insurance*, shall undertake the necessary measures in order to avoid a conflict of interests through the performance of at least one of the following requirements:

1. It shall not permit its employees to whom claims settlement or provision of legal advice on a *Legal Expenses Insurance* has been assigned to simultaneously perform similar activity with regard to other insurance types under Section II of Annex No. 1 at its expense or at the expense of another insurer, with whom the above insurer has business, financial or administrative relations;

2. In the case where it covers risks under *Legal Expenses Insurances* and under other insurances under Section II of Annex No. 1, it shall transfer the claims settlement under *Legal Expenses Insurances* to another legal person under the terms and conditions and under the procedure of Art. 60, which shall meet the requirements set under Item 1 above;

3. It shall provide the insured person with the right to authorise a lawyer at their own discretion to defend their interests as of the moment at which the insured person's right to receive an indemnity under the insurance has arisen.

**Section II**  
**Insurance Secrecy**

Safeguarding the Insurance Secrecy

**Art. 93.** (1) An insurer, members of the managing and supervisory bodies, auditors, actuaries, as well as all other persons working for an insurer, including the persons with which an insurer has concluded contracts under Art. 60, shall be obligated to keep in secrecy all and any information that has become known to them in connection with the performance of their functions. The persons under *Sentence One* may not utilize the information acquired to their own personal benefit or in favour of another person, as well as for purposes other than performance of their functions.

(2) The obligation under Para. 1 shall also refer to insurance and reinsurance intermediaries and their employees.

(3) Upon taking office, all employees and members of managing and supervisory bodies of an insurer shall sign a Declaration on Safeguarding the Insurance Secrecy. The obligation under *Sentence One* shall also refer to the natural persons who represent legal entities – members of an insurer's, a reinsurer's and insurance and reinsurance intermediary's managing and supervisory bodies.

(4) Insurance agents and persons with which/whom an insurer has concluded contracts under Art. 60 shall sign a Declaration under Para. 3 upon contract's conclusion, settling their relations with the insurer. The persons under *Sentence One* shall be obligated to acquaint their employees with the obligations under Para. 1.

(5) The provision of Para. 1 shall also apply to the cases where the persons under Paras. 1-4 have discontinued their legal relation with the insurer, in connection with which the obligation to safeguard the insurance secrecy has arisen.

#### Disclosure of the Insurance Secrecy

**Art. 94.** Apart from disclosing the information under Art. 93, Para. 1 to the Commission, to the Deputy Chairperson and to the authorized officials of the Commission's administration, the above information may only be disclosed:

1. By explicit written consent of the person to whom it refers;
2. Before the authorities of the Court, the Procurator's Office, the investigation authorities and the police authorities under the procedure envisaged by law;
3. Before the Financial Intelligence Agency under the terms and conditions and under the procedure envisaged by the Measures against Money Laundering Act;
4. Before the Guarantee Fund and the National Bureau of Bulgarian Motor Insurers in connection with their activities under the present Code;
5. For the purposes of establishing information systems for insurance fraud prevention.

## **Chapter Eight** **ACTUARIAL SERVICE.** **ACCOUNTANCY**

### **Section I** **Actuarial Service**

#### Responsible Actuary

**Art. 95. (1)** Actuarial service by an insurer or a reinsurer shall be provided by a responsible actuary. A responsible actuary shall be a natural person who has recognized legal capacity, and who organizes, manages and is responsible for the actuarial service of the insurer or the reinsurer.

(2) A responsible actuary shall:

1. Not have been convicted of intentional crime of general character;
2. Not have been within the last three years, preceding the initial date of the insolvency set by the court, a member of a managing or a supervisory body or a general partner of a company, with regard to which insolvency proceedings have been initiated or which has been dissolved due to insolvency, in the case where there have been unsatisfied creditors;
3. Not have been declared bankrupt and is not undergoing bankruptcy proceedings;
4. Not have been debarred from the right to hold a property accountable office;
5. Hold a higher degree of education where they have obtained educational qualifications not lower than a Master's Degree or an academic degree, 'Doctor', and covered a course of study in higher mathematics in compliance with the requirements specified under an Ordinance issued by the Commission;
6. Have at least three-year experience as an actuary of an insurer, reinsurer, health insurance company, pension insurance company, at agencies performing supervision over the activities of the above persons, or as a lecturer having academic rank in insurance or actuarial science;
7. Have obtained a recognized legal capacity of a responsible actuary from the Commission upon successful completion of an examination.

(3) The procedure and the terms and conditions of holding the said examination and of recognizing the legal capacity under Para. 2, Item 7, as well as of recognizing legal capacity acquired outside the Republic of Bulgaria, shall be specified under an Ordinance issued by the



Commission. For the purposes of the present Code, the legal capacity of the responsible actuary shall be recognized under the procedure established by the *Social Insurance Code* or by the *Health Insurance Act* where the recognition of legal capacity examination taken includes assessment of knowledge in the field of insurance.

(4) Upon a proposal submitted by the Deputy Chairperson, the Commission shall divest a responsible actuary of their legal capacity in the case where it has been established that they:

1. No longer meet the requirements set under Para. 2, Item 1 – 4;
2. Upon performing the activity of actuarial service of an insurer or a reinsurer, they have performed gross violations or regular offences of the provisions of the present Code or the regulations on its implementation;
3. Have submitted false data or documents of erroneous contents, on the grounds of which their legal capacity has been recognized;

(5) In the cases where an actuary has been divested of legal capacity under Para. 4, that person may request recognition of a responsible actuary's legal capacity not earlier than three years following the Resolution's entry into force. By divesting the legal capacity on any of the grounds listed under Para. 4, the person's legal capacity as a responsible actuary that has been recognized under the procedure established by the *Social Insurance Code* or by the *Health Insurance Act* shall also be considered to have been divested.

#### Additional Requirements Set toward the Responsible Actuary

**Art. 96. (1)** A responsible actuary may not be a spouse or a relative in direct or collateral line of descent up to the fourth degree inclusive or connected by marriage up to the third degree to a member of a managing or supervisory body of an insurer, as well as a member of a managing or supervisory body of another insurer.

(2) A responsible actuary shall be elected by the General Meeting of the insurer or the reinsurer, before which Meeting they shall attest to the non-existence of the circumstances under Para. 1 by a Declaration. The insurer or the reinsurer shall advise the Deputy Chairperson of the resolution on electing a responsible actuary taken within a timeframe of up to seven days following the date of passing the resolution, and shall also submit an authenticated copy of the Declaration under Sentence One.

(3) In the case where an amendment has been introduced into the circumstances under Para. 1, or upon divestiture of a responsible actuary's legal capacity under Art. 95, Para. 4 the General Meeting of the insurer or the reinsurer shall be obligated to dismiss the responsible actuary and to elect a new one within a three-month timeframe upon coming of knowledge of the circumstances.

#### Actuarial Service

**Art. 97. (1)** A responsible actuary shall be responsible for:

1. Working out sufficient premiums, in terms of amount, with the exception of the premiums for high risks insurances;
2. Setting up sufficient technical provisions, in terms of amount; for the proper calculation of the solvency margin; as well as for the correct utilization of the actuarial methods in the insurer or reinsurer's practice;
3. The accuracy of the distribution scheme of income gained from assets' investments between an insured and an insurer in life insurance.

(2) In connection with the activity under Para 1, a responsible actuary shall:

1. Draw up and certify the information submitted by the insurer with regard to the actuarial operations;
2. Draw up an annual actuarial report – by 31st March of the year following the one the report refers to.

(3) Upon performance of their obligations, a responsible actuary shall have access to all necessary information, and the managing bodies and employees of an insurer or a reinsurer shall be obligated to render them assistance.

(4) The actuary shall immediately notify the Commission of each circumstance that has become known to them in the course of performance of their functions, and which refers to the insurer or the reinsurer and represents a significant violation of the present Code or the regulations on its implementation, or may unfavourably affect the performance of the insurer or reinsurer's operations.

(5) In the cases under Para. 4, no restrictions shall apply on information disclosure, which restrictions have been provided for under a law, the sublegislative legislation or a contract. The responsible actuary shall not bear responsibility for the bona fide disclosure of information under Para. 4 before the Commission and the Deputy Chairperson.

(6) The actuarial authentication's structure, and the structure and the contents of the actuarial report and of the statistics certified by a responsible actuary, shall be specified under an Ordinance issued by the Commission.

## **Section II Accountancy**

### Organization of Accounting Reporting

**Art. 98.** (1) The insurer and reinsurer's managing bodies shall be responsible for the organization and functioning of the accounting reporting, which is to guarantee accurate recording of its results and financial standing.

(2) The bodies under Para. 1 shall conform to the procedures in relation to the paper flow and accountancy of the establishment's specifics and volume of activity.

(3) Insurers who have been granted a licence under Section I of Annex No. 1, and insurers who have been granted a licence under Section II of Annex No. 1 and who are related within an insurance group, may not conclude agreements and apply different provisions that lead to incorrect representation of their accounting results and more precisely affect their receipts and expenditure's structure.

### Annual and Periodical Reports of Insurers

**Art. 99.** (1) For the purposes of financial supervision, an insurer shall submit to the Commission:

1. Annual financial report – by March 31<sup>st</sup> of the year following the year the report refers to;

2. Annual statistics, reports and supplements – by April 30<sup>th</sup> of the year following the year the report refers to;

3. Quarterly accounts, statistics, reports and supplements – by the end of the month following the quarter the report refers to;

4. Monthly statistics – by the end of the month, following the month these refer to.

(2) An insurer from a third country who has been granted a licence to open a branch in the Republic of Bulgaria, shall also submit the consolidated annual reports they are obliged to prepare in compliance with the law at their legal seat along with a translation in the Bulgarian language made by a sworn translator.

(3) The minimum requirements to the organization of the insurers' accounting reporting, as well as the structure and contents of the statements, statistics, reports and supplements under Para. 1 shall be specified under an Ordinance.

(4) The Commission and the Deputy Chairperson shall exchange documentation and information in connection with the supervision exercised over insurance with the competent authorities exercising insurance supervision in the Member States.

#### Insurance Group Accountancy

**Art. 100.** (1) For the purposes of financial supervision, insurers who are part of an insurance group under Art. 299, Para. 1 shall prepare and submit their consolidated reports to the Commission by June 30<sup>th</sup> of the year following the year these refer to.

#### Notifications

**Art. 101.** (1) An insurer shall be hereby obligated to notify the Commission of:

1. Newly arisen facts and circumstances subject to entry into the Commission's Registry;
2. Amendments to the circumstances having been entered into the Commercial Registry;
3. Other circumstances as established by the Ordinance under Art. 99, Para. 3.

(2) The obligation under Para. 1 shall be fulfilled within a seven-day period as of occurrence or coming of knowledge of the relevant fact or circumstance, and where it is subject to entry into the Commercial Registry – within a seven-day period as of the entry. Documentation proving the amendment made shall be attached to the notification.

#### Annual Financial Report's Audit and Certification

**Art. 102.** (1) An insurer shall also file with the Commission the annual financial report under Art. 26 of the Accountancy Act, which shall be certified by two registered auditors included in a list endorsed by the Deputy Chairperson.

(2) The auditors under Para. 1 shall meet the requirements under Art. 13, Para. 1, Items 3, 4, 5, 7, 8 and 9, as well as at least one of the following requirements:

1. To have not less than three years of professional experience in auditing of an insurer, a reinsurer, a bank or another financial institution; or

2. To have not less than three years of professional experience as an accountant or an auditor of the Internal Control Department of an insurer or a reinsurer, or as an academic lecturer in the field of Insurance Accounting; or

3. To have been a member of a managing or supervisory body of an insurer or a reinsurer for a period of at least three years.

(3) The auditors under Para. 1 shall immediately notify the Commission of each circumstance, having become known to them upon performance of the audit, and which pertains to an insurer or to a person under Art. 299, Para. 1 or 2 in the case where an insurer is a part of an insurance group, and which represents a significant violation of the present Code or the regulations on its implementation, or may unfavourably affect the performance of the insurer's operations, or represents grounds for refusal to state opinion, or grounds for expressing reservations, or grounds for expressing a negative opinion.

(4) The auditors under Para. 1 shall also notify the Commission of each circumstance under Para. 3 that has become known to them upon performance of the audit of a person related to an insurer.

(5) In the cases under Paras. 3 and 4, no restrictions on information disclosure provided for under a law, a bylaw, or a contract shall apply. The auditor shall not bear responsibility for the bona fide disclosure of information under Paras. 3 and 4 before the Commission and the Deputy Chairperson.

#### Approval of Auditors

**Art. 103.** (1) In order to enter the List under Art. 102, Para. 1, the registered auditor shall submit to the Commission a written statement per sample, and shall attach the documentation required.

(2) The Deputy Chairperson shall render an opinion within a one-month period as of statement's submission. Art. 33, Paras. 2, 4 and 5 shall accordingly apply where irregularities have been established or should additional information be needed; and the term for removing the said irregularities or providing additional information shall not be shorter than 15 days.

(3) The Deputy Chairperson shall refuse inclusion on the List under Art. 102, Para. 1 in the case where the applicant:

1. Does not meet the requirements under Art. 102, Para. 2;  
2. Has not removed the omissions or discrepancies established, or has not submitted the additional information and documents required within the term specified;

3. Has submitted incorrect data or documents that contain erroneous information;

(4) The Deputy Chairperson shall publish an updated List of the persons who may be auditors of an insurer on the Commission's website.

## **Chapter Nine**

### **ORGANIZATION OF THE ACTIVITY ON INSURANCE CLAIMS SETTLEMENT**

#### Internal Rules

**Art. 104. (1)** The insurer's managing board, or the board of directors respectively, shall adopt internal rules with regard to the operations on claims settlement under insurance contracts. The rules shall not apply to claims' settlement on high risks insurances, unless otherwise provided for therein.

(2) The rules shall provide for the procedures, under which an insurer shall accept claims under insurance contracts, shall collect evidence in order to establish their grounds and amount, shall perform assessment of the damages incurred, shall specify the indemnity amounts, shall effect payments to consumers and shall consider complaints submitted by them.

(3) The above rules may not come into contradiction with the law and are to guarantee the consumers' rights to swift, transparent and fair settlement of their claims.

(4) The rules, along with their subsequent amendments, shall be submitted to the Commission within a seven-day period following their adoption. The Deputy Chairperson may give compulsory directions for removal of contradictions with the law, as well as in the cases where the consumers' rights have been restricted unreasonably.

(5) The rules shall be public. Insurers shall publish these on their websites and shall secure free access to these at the locations where they perform their activities.

#### Filing Insurance Claims. Proofs

**Art. 105. (1)** Insurance claims shall be filed with the insurer under the procedure and within the time periods provided for under the Insurance Contract.

(2) The insurer shall verify each claim filed.

(3) Where a consumer of an insurance service is an injured person under *Third Party Liability Insurances* or is a third person utilizing different insurances, the insurer shall notify them of the proofs that the above person is to submit in order to establish the grounds and the amount of their claim. Additional proofs may be required only in the case where the proofs' necessity may not have been envisaged as of the date of filing the claim, and not later than within a period of up to forty-five days as of the date of proofs' submission, as demanded under Sentence One.

(4) Where the consumer of the insurance service is a party under an Insurance Contract, the insurer shall notify them of the additional proofs not later than within a period of forty-five days following the proofs' submission, as specified by the Contract and the rules under Art. 104 that have not been envisaged under the Insurance Contract at the moment of its conclusion, and which are necessary in order to establish the grounds and the amount of their claim.

(5) It shall not be allowed to demand proofs, which the insurance service consumer may not obtain due to existing normative obstacles or due to lack of legal possibility to secure these, as well as such proofs that may be prudently considered as having no substantial importance for the establishment of the claim's grounds and amount, and aim unjustified delay and prolongation of the claim's settlement procedure.

(6) Paras. 3 and 4 shall not apply to the activity related to claims settlement on high risks insurances.

#### Co-operation Rendered by State Agencies and Third Persons

**Art. 106.** (1) For the purposes of establishing the insurance event and the damages caused by it, the insurer, the person looking for indemnity, the Guarantee Fund or the National Bureau of Bulgarian Motor Insurers, has the right to receive the information needed, which information is kept by the agencies of the Ministry of Interior, investigation authorities, different state agencies, the General Practitioner, medical and health institutions and the persons who have the right to attest to the occurrence of circumstances, as well as authenticated transcripts of documents. Where the information demanded constitutes a part of the materials related to the preliminary proceedings, the prosecutor shall authorize access to it.

(2) Where the information under Para. 1 constitutes a secret protected by the law, upon its provision to the persons, in writing and in return for a signature, their obligations not to disclose it shall be elucidated, as well as the consequences of its non-regulated disclosure.

#### Insurer's Conclusion. Payment

**Art. 107. (1)** Within a time period of up to fifteen (15) days following the submission of all proofs under Art. 105, the insurer shall:

1. Assess and pay the amount of the indemnity or the sum insured; or
2. Legitimately refuse to effect the payment.

(2) The time period under Para. 1 shall not apply to the activity related to claims settlement on high risks insurances.

## **Chapter Ten** **TRANSFER OF INSURANCE PORTFOLIO**

#### Transfer

**Art. 108. (1)** An insurer may transfer all or part of its insurance portfolios (transferring insurer) to another insurer (undertaking insurer) upon written authorization by the Deputy Chairperson.

(2) The contracts concluded by the insurer by separate types of insurance shall be included in the insurance portfolio.

(3) Transfer of an insurance portfolio shall be allowed provided that:

1. The undertaking insurer holds a licence for the insurance types included in the insurance portfolio, which portfolio is the subject of the transfer;
2. Upon transfer, the undertaking insurer shall have at its disposal own funds corresponding to the solvency margin;
3. The transfer of an insurance portfolio does not affect the interests of the persons insured.

#### Application Form for Issuance of Authorization for Transfer of Insurance Portfolio

**Art. 109. (1)** For issuance of an authorization for transfer of an insurance portfolio, an application form shall be submitted, to which shall be attached as follows:

1. Transfer of Insurance Portfolio Contract;
2. List of the insurance contracts transferred, specified as a total number and by insurance types;
3. Statistics on the technical provisions corresponding to the contracts subject to transfer and on the assets that are to be transferred in order to cover these, as well as evidence for holding the assets;
4. Forecast with regard to the solvency margin amount and the undertaking insurer's own funds following the portfolio's transfer;
5. Other documents.

(2) The Deputy Chairperson shall render an opinion on the application for insurance portfolio transfer within a two-month period as of receipt of the application. Article 33, Paras. 2, 4 and 5 shall accordingly apply, and the time period for removal of any irregularities or submission of additional information shall not be longer than one month.

(3) The Deputy Chairperson shall refuse to issue an authorization in the case where the undertaking insurer is implementing a reorganization plan; where the requirements set under the present Code and the regulations on its implementation have not been observed; or the interests of the persons insured have not been protected.

(4) The Deputy Chairperson may, at the request of the transferring or the undertaking insurer, allow transfer of assets covering technical provisions that do not comply with the requirements set under Art. 73 but that are sufficiently liquid and have been evaluated on a fair value basis, where this is necessary in order to protect the interests of the persons insured, and where the financial status of the undertaking insurer will not be endangered. In exceptional cases, the Deputy Chairperson may allow transfer of assets, having insufficient liquidity or an amount that is less than the one requisite to cover the technical provisions.

#### Notification of Parties Concerned.

##### Right to Contract Termination

**Art. 110.** (1) Undertaking insurers shall notify the persons insured of the transfer of the insurance portfolio and of its terms and conditions in writing within a 14-day period as of the said transfer.

(2) An insured person shall have the right to terminate a contract by notifying thereof the undertaking insurer in writing within a 60-day period upon receipt of the notification.

(3) Persons insured under *Life* Insurances shall have the right to obtain the premium provision, which corresponds to the insurance contract as at the day of transfer, and those insured under different insurances – the respective part of the premium, corresponding to the unexpired contract term, with a proviso that no insurance indemnity has been paid or is forthcoming.

##### Effect of Transfer

**Art. 111.** (1) Insurance portfolio transfer shall be effective as of issuance of the authorization under Art. 106, Para 1.

(2) In the case where the insured person has not availed themselves of their right under Art. 110, Para. 2, the transfer shall give rise to its valid action with regard to all persons, having rights or obligations under the contract.

(3) Upon transfer, the transferring insurer shall be exempted from its liabilities under the contracts transferred.

(4) Simultaneously with the transfer of insurance contracts, the assets used to cover the technical provisions shall be transferred as well.

#### Transfer of Insurance Portfolio within the European Union and the European Economic Area

**Art. 112.** (1) An insurer may transfer all or part of its insurance portfolios of contracts concluded under the terms and conditions of the right of establishment or of the freedom to provide services to an undertaking insurer, having its legal seat in another Member State, upon an authorization by the Deputy Chairperson. Articles 108-111 shall apply accordingly.

(2) The Deputy Chairperson shall issue an authorization upon receipt of a document, certifying that upon transfer, the undertaking insurer shall have at its disposal own funds corresponding to the solvency margin, where the said document shall be submitted by the competent authority of the Member State at the insurer's legal seat.

(3) In the case where an insurer transfers insurance contracts concluded through one of its branches, the Deputy Chairperson shall request the opinion of the competent authority in the Member State of the branch's legal seat.

(4) In the cases under Paras. 1 and 3, the Deputy Chairperson shall issue an authorization upon receipt of consent given by the competent authorities of the Member States where the insurance risk is located.

(5) In the case where within a three-month period the Deputy Chairperson has not received a reply by the competent authorities of the Member States under Paras. 2 - 4, it shall be reckoned that a positive opinion is given, or implicit consent respectively.

(6) In the cases under Paras. 1 and 3, the undertaking insurer shall publish a notification of the insurance portfolio transfer in compliance with the legislation of the Member State where the insurance risk is located.

#### Transfer of Insurance Portfolio by a Branch of an Insurer from a Third Country within the European Union and the European Economic Area

**Art. 113.** (1) A branch within the meaning of the Commerce Act of an insurer from a third country, registered in the Republic of Bulgaria, may transfer all or part of its insurance portfolios to an undertaking insurer having its seat in the Republic of Bulgaria or in another Member State upon obtaining an authorization by the Deputy Chairperson. Articles 108-111 shall apply accordingly.

(2) Upon insurance portfolio transfer to an undertaking insurer from another Member State, the Deputy Chairperson shall issue an authorization upon receipt of a document, certifying that upon transfer the insurer shall have at its disposal own funds corresponding to the solvency margin, which document shall be issued by the competent authority in the Member State as per the undertaking insurer's legal seat.

(3) In the cases where an insurance portfolio is transferred to a branch within the meaning of the Commerce Act of an insurer from a third country, which branch has been registered within the territory of the Republic of Bulgaria, if necessary, the Deputy Chairperson shall issue an authorization upon receipt of a document submitted by the competent authority under Art. 47, Para. 3, certifying that upon transfer the insurer shall have at its disposal own funds corresponding to the solvency margin. In the cases where the insurance portfolio is transferred to a branch of an insurer from a third country, which branch has been established within the territory of another Member State, the Deputy Chairperson shall issue an authorization upon receipt of a document issued by the competent authority of the Member State where the branch is located, or, if necessary, by the competent authority under Art. 47, Para 3, certifying that upon transfer the undertaking insurer shall have at its disposal own funds corresponding to the solvency margin; and that the legislation of the Member State where the branch is located permits such transfer; and that the competent authority assents to the transfer's performance.

(4) In the cases under Paras. 1 - 3 the Deputy Chairperson shall issue an authorization upon receipt of a consent given by the competent authority of the Member State where the risk is located, in the cases where the said country is not the Republic of Bulgaria.

(5) In the case where within a three-month period the Deputy Chairperson has not received a reply by the competent authorities of the Member States under Paras. 2-4, it shall be reckoned that a positive opinion is given, or implicit consent respectively.

(6) In the cases under Paras. 1 - 3, the undertaking insurer shall publish a notification of the insurance portfolio's transfer in compliance with the legislation of the Member State where the risk is located.

#### Grant of Consent upon Insurance Portfolio Transfer within the European Union and the European Economic Area

**Art. 114.** (1) Upon insurance portfolio transfer within the European Union and the European Economic Area, contracts under which the Republic of Bulgaria is the Member State where the risk is located, the Deputy Chairperson shall give consent on the transfer within a three-month period as of receipt of the request by the authority competent to issue the transfer authorization, in the case where the interests of the persons insured are protected.

(2) In the case where no opinion has been rendered within the timeframe set under Para. 1, it shall be reckoned that implicit consent is expressed.

#### Certification of Solvency Margin of an Insurer Having a Legal Seat in the Republic of Bulgaria upon Insurance Portfolio Transfer by an Insurer from a Third Country Having a Legal Seat in a Member State

**Art. 115.** (1) Within a three-month period as of receipt of a request by the relevant competent authority of the home Member State of the transferring insurer, who intends to transfer an insurance portfolio of contracts concluded under the terms of free provision of services or of freedom of establishment of a local insurer, the Deputy Chairperson shall issue a document, certifying that upon transfer the undertaking insurer will have at its disposal own funds corresponding to the solvency margin.

(2) The Deputy Chairperson shall refuse to issue the document under Para. 1 in the case where upon a transfer, an undertaking insurer will not have at its disposal own funds corresponding to the solvency margin, as well as in the case where an undertaking insurer is implementing a recovery scheme and in this connection the interests of the insured are endangered.

#### **Certification of Solvency Margin of an Insurer Having a Legal Seat in the Republic of Bulgaria upon Insurance Portfolio Transfer by an Insurer from a Third Country Established in a Member State**

**Art. 116.** (1) Within a three-month term as of receipt of the request by the relevant competent authority of the branch Member State of an insurer from a third country, who intends to transfer an insurance portfolio to insurer having a legal seat in the Republic of Bulgaria or to a branch within the meaning of the Commerce Act of an insurer from a third country registered in the Republic of Bulgaria, as well as in the case where the Commission is the competent authority under Art. 47, Para. 3, the Deputy Chairperson shall issue a document, certifying that upon effecting the transfer the undertaking insurer will have at its disposal own funds corresponding to the solvency margin.

(2) The Deputy Chairperson shall refuse to issue the document under Para. 1 in the case where upon effecting the transfer, the undertaking insurer will not have at its disposal own funds corresponding to the solvency margin, as well as in the cases where its branch is implementing a recovery scheme and in that connection the interests of the insured are endangered.

### **TITLE THREE**



## TRANSFORMATION AND WINDING UP OF AN INSURER

### Chapter Eleven TRANSFORMATION OF AN INSURER

#### Terms for Transformation of an Insurer

**Art. 117.** (1) Transformation of an insurer shall be performed by authorization of the Commission under the following conditions:

1. Guarantee of the rights of the consumers of insurance services;
2. Upon transformation, an insurer shall have at its disposal own funds corresponding to the solvency margin.

(2) Insofar as it is not provided otherwise under the present Chapter, the procedure established by the Commerce Act or the Co-operatives Act shall apply accordingly. Transformation through an amendment to the legal form, as well as change in the subject of operations, shall not be allowed.

(3) Transformation through merger or take-over shall be performed only between insurers where the requirement set under Art. 9, Para. 1 is observed.

(4) In the case of transformation through division or separation, the newly established companies shall also be insurers.

#### Authorization for Transformation of Insurer

**Art. 118.** (1) For issuance of an authorization under Art. 117, Para. 1, an application form per sample specified by the Deputy Chairperson shall be submitted, to which the following shall be attached:

1. The resolution of the competent body of each of the transforming companies on effecting the transformation;
2. Contract or Transformation Scheme;
3. Report by the managing body of each of the transforming and receiving companies, also specifying the reasons necessitating the transformation;
4. Other documents specified under an Ordinance.

(2) The Commission shall decide upon the application for transformation within a four-month period as of submission of the above application. In the case where irregularities are established or should additional information be needed, Art. 33, Paras. 2, 4 and 5 shall apply accordingly, and the time period for removal of the irregularities or submission of the additional information shall not be shorter than fifteen days.

(3) The Commission shall issue a licence for transformation simultaneously with the issuance of a licence for performance of insurance activity to the newly-established companies.

(4) The Commission shall refuse to issue a licence in the case where the requirements of the Code have not been observed or the interests of the persons insured have not been protected.

(5) The insurers participating in the transformation shall be obligated to notify the insured persons of the transformation realized. Article 110 shall apply accordingly.

### Chapter Twelve LIQUIDATION AND INSOLVENCY

#### Section I Liquidation

##### Dissolution of an Insurer

**Art. 119.** An insurer shall be winded-up:

1. Voluntarily – only by a resolution of the General Meeting and where observing the provisions of Art. 120 and 121;
2. Compulsorily – upon withdrawal of a licence under Art. 36, Para. 1, Items 1 - 5 and Items 7 and 8, and Para. 2, Items 1 - 3;
3. Upon declaration of insolvency.

#### Voluntary Dissolution

**Art. 120.** (1) Voluntary dissolution shall be performed under a resolution of the General Meeting and upon obtaining an authorization by the Commission. In order to be issued an authorization for dissolution, the insurer shall submit an application as per sample specified by the Deputy Chairperson, to which the following shall be attached:

1. Record of Proceedings of the General Meeting, at which the resolution for voluntary dissolution has been adopted, and a proposal for appointing a liquidator by the court;
2. Liquidation Plan adopted by the General Meeting, having contents specified under an Ordinance;
3. Contract with another insurer for transfer of the insurance portfolio;
4. The documentation under Art. 109, Para. 1, Items 2 - 5.

(2) The contract for transfer of an insurance portfolio under Para. 1, Item 3 may be concluded with more than one insurer and shall provide for transfer of all insurance contracts, including the contracts under which claims for payment have been filed, as well as of the assets used to cover the technical provisions.

(3) Upon adoption of the resolution under Art. 119, Item 1, an insurer shall be obligated to discontinue conclusion of new contracts, as well as extension of the period and broadening the cover of the insurance contracts in force.

#### Issuance of Authorization for Voluntary Dissolution

**Art. 121.** (1) The Commission shall render judgement within a two-month period following the receipt of the application form under Art. 120, Para. 1. In the case where irregularities are established or should additional information be needed, Art. 33, Paras. 2, 4 and 5 shall apply accordingly, and the time period for removal of the irregularities or submission of the additional information shall not be shorter than fifteen days.

(2) Simultaneously with the resolution for dissolution, the Commission shall withdraw the insurer's licence.

(3) Subsequent amendments to the Liquidation Plan shall be effected under the procedure for its adoption and subsequent approval..

#### Decision of the Court

**Art. 122.** (1) An insurer shall submit the requisite documents to the court for entering the dissolution and for instigating liquidation proceedings within a time period of three business days upon receipt of the authorization under Art. 121, Para. 2, and shall also enclose a certified transcript of the resolution of the Commission.

(2) The insurer shall be obligated to submit to the Commission a transcript of the court's decision on the instigation of liquidation proceedings within a time period of three business days upon its entry.

#### Compulsory Dissolution

**Art. 123.** (1) In the cases under Art. 119, Item 2, the liquidation proceedings shall be instigated by the District Court at the insurer's legal seat upon a request submitted by the Commission. The request shall specify the grounds for withdrawal of the licence , and a proposal

for appointment of a liquidator by the court, to which a certified transcript of the resolution on the licence withdrawal shall be attached.

(2) On the basis of the above request, the court shall instigate liquidation proceedings of the insurer and shall assign a liquidator. On the date of pronouncement of the decision on instigation of liquidation proceedings, or on the next business day at the latest, the court shall forward a transcript of the decision to the Commission.

(3) Within a three-month period as of their assignment, the liquidator shall prepare and present to the Deputy Chairperson a Liquidation Plan under Art. 120, Para. 1, Item 2. The Plan may provide for insurance portfolio transfer.

(4) Within a one-month period as of receipt of the Liquidation Plan, the Deputy Chairperson shall deliver judgement by a Decision, either approving the Plan, or setting other terms under it.

#### Liquidator

**Art. 124.** (1) A liquidator shall be a natural person who meets the requirements under Art. 13, Para. 1, and who is not related to the insurer within the meaning of the Commerce Act.

(2) In the case where, by their actions, a liquidator violates the provisions of the present Code and the regulations on its implementation, the endorsed Liquidation Plan, or imprisls the interests of the persons insured, the Deputy Chairperson shall issue mandatory instructions to the liquidator in connection with his/her activities, which are subject to immediate execution.

(3) In the cases under Para. 2, the Deputy Chairperson may ask the court to dismiss the liquidator.

#### Reports Submitted by a Liquidator

**Art. 125.** A liquidator shall notify the court and the Commission of the proceedings' course, and shall submit a balance sheet and a report to the Commission for each quarter not later than on the 15<sup>th</sup> day of the month following the quarter. Upon a request submitted by the Deputy Chairperson, the liquidators shall also be obligated to submit information on their operations and on the status of the insurer in liquidation proceedings in a manner and term specified by the Deputy Chairperson.

#### Claim of Creditors' Receivables

**Art. 126.** The receivables of the persons insured, entered into the business books of an insurer, shall be considered claimed.

#### Powers of a Liquidator in the Other Member States

**Art. 127.** A liquidator may exercise the powers they have pursuant to the law within the territory of the other Member States, where they observe their legislation.

#### Applicability of the Commerce Act and the Co-operatives Act

**Art. 128.** Insofar as the present Section does not stipulate otherwise, the liquidation regulations set under the Commerce Act, or under the Co-operatives Act respectively, shall apply.

## Section II Bankruptcy

### Grounds for Initiation of Bankruptcy Proceedings

**Art. 129.** (1) Bankruptcy proceedings shall be initiated in the case where the Commission has withdrawn the licence on the grounds of Art. 36, Para. 1, Item 6 and Para. 2, Items 4 and 5, due to the insurer's insolvency.

(2) An insurer shall be insolvent in the case where the total amount of its obligations, the technical provisions inclusive, calculated in compliance with the present Code and the regulations on its implementation, exceeds the total amount of the insurer's assets;

(3) Insolvency shall be presumptive where:

1. The Plan under Art. 86, Para. 1 or 2 has not been submitted within the timeframe set, has not been approved, or is not being implemented;

2. The insurer unlawfully refuses payment, delays payment or pays partially exigible and liquid pecuniary liabilities.

(4) Bankruptcy proceedings shall also be instigated in the case where in the course of the liquidation proceedings any of the circumstances under Para. 2 or under Para. 3, Item 2 has been established.

(5) An insurer who becomes insolvent shall be obligated to notify the Deputy Chairperson within a fifteen-day time period.

(6) The notification under Para. 5 shall be submitted by the managing body, the insurer's questor or liquidator respectively.

#### Initiation of Bankruptcy Proceedings

**Art. 130.** (1) Bankruptcy proceedings of an insurer shall be initiated only upon a request by the Commission.

(2) The request shall only specify the grounds for the licence withdrawal and a proposal for assignment of a trustee, and a certified copy of the Decision on withdrawal of the licence for performing insurance activity entered shall be attached and in force.

(3) The court shall open the case on the day of receipt of the request under Para. 1 and shall set down a session not later than fourteen (14) days as of its opening.

(4) The request under Para. 1 shall be heard by the court at a closed session with the participation of a public prosecutor, and the insurer and the Commission shall be summoned.

#### Court's Decision on Initiation of Bankruptcy Proceedings

**Art. 131.** (1) In the case where the Commission's request meets the requirements set under Art. 130, Para. 2, under its decision the Court shall:

1. Declare insolvency and set its initial date;

2. Initiate bankruptcy proceedings;

3. Declare the insurer bankrupt;

4. Withdraw the powers of the insurer's bodies;

5. Impose general interdiction and distraint over the insurer's property;

6. Deprive the insurer of the right to manage and dispose of the property included in the bankruptcy estate;

7. Rule on initiating encashment of the property included in the bankruptcy estate, and allocation of the property encashed;

8. Assign a trustee.

(2) As of the date of pronouncement of the decision under Para. 1, the insurance contracts having a term of validity of more than year shall be considered terminated. Where there is no right to buy-off value under the contract, the insurer shall owe repayment of the premium's part, corresponding to the unexpired time period, upon deduction of the acquisition costs. Where according to the contract, a right to buy-off value has arisen, the insurer shall owe repayment of the buy-off value.

(3). On the date of pronouncement of the Decision on initiation of bankruptcy proceedings, or on the following business day at the latest, the court shall send a transcript of the Decision to the Commission.

#### Trustee

**Art. 132.** (1) A trustee shall be a natural person who meets the requirements set under Art. 655 of the Commerce Act, and:

1. Has a higher degree of education in Economics or Law and a length of service in their specialty of at least five years, at least three of which in the sphere of insurance, accountancy or finances;

2. Has not been a member of a managing or supervisory body of an insurer for the last five years, preceding the date of the Decision on initiation of bankruptcy proceedings;

3. Is not deprived of the right to hold a property accountable office;

4. Is not a provisional trustee or a trustee of another merchant;

5. Has not been a member of a managing or supervisory body or a general partner in a company where such company has been terminated due to bankruptcy, in the case where unsatisfied creditors have remained;

6. Is included in a list of persons entitled to be trustees of an insurer endorsed by the Commission.

(2) Besides on the grounds of Art. 657 of the Commerce Act, the court shall also dismiss a trustee in the case where they cease to meet the requirements under Para 1, Items 2 – 6.

(3) Dismissal of a trustee may also be requested by the Commission in the cases where the trustee does not perform their obligations and imperils the rights of the persons insured by their actions.

#### Reports Submitted by a Trustee

**Art. 133.** A trustee shall notify the court and the Commission of the proceedings' course and shall submit a written report for each quarter not later than on the 15<sup>th</sup> day of the month following the quarter it refers to. Upon a demand submitted by the Commission, a trustee shall be obligated to immediately provide information on their activities and on the bankruptcy proceedings' course.

#### Presentation of Claims

**Art. 134.** (1) Creditors shall present their claims in writing before a trustee within a two-month period as of the promulgation of the Decision under Art. 131.

(2) The creditors under Para. 1 shall specify under their application the grounds, the debt amount, the preferences and the securities, the correspondence address, and shall enclose written evidence.

(3) Claims of the persons insured shall be regarded as presented. The aforesaid shall not revoke the right of the insured persons to present their claims before the trustee within the time period under Para. 1.

#### Encashment of the Insurer's Property

**Art. 135.** (1) The Commission or the trustee may request that the court allow the sale of an insurer as an enterprise.

(2) In the case where the request under Para. 1 has been made by a trustee, the court shall authorize the sale upon receipt of a written standpoint issued by the Commission. The said standpoint shall be presented not later than thirty (30) days upon its request.

(3) Transfer of property prior to final payment of the price shall not be allowed.

#### Classes of Receivables

**Art. 136.** (1) Upon allocation of the property encashed, the liabilities shall be paid out under the procedure established under Art. 722 of the Commerce Act, where the receivables under insurance contracts shall be settled upon payment of the insolvency expenses and prior to payment of the receivables under Art. 722, Para. 1, Item 4 of the Commerce Act.

(2) The receivables under insurance contracts under Para. 1 shall be paid in the following order:

1. Receivables under obligatory insurance contracts;
2. Receivables on *Life* Insurances;
3. Receivables on the other insurance types;

#### Powers of a Trustee in the Other Member States

**Art. 137.** A Trustee may exercise the powers they have pursuant to the law within the territory of the other Member States, while observing their legislation.

#### Applicability of the Commerce Act

**Art. 138.** Insofar as the present Section and Section III do not stipulate otherwise, the provisions of the Commerce Act shall apply with the exception of Art. 607, 608, 610, 611, 614, Paras. 2 - 4, 615, 625, Art. 629, Para. 1, Art. 631, 631a, Art. 635, 656, Art. 658, Para. 1, Items 3, 11 and 12, Arts. 666 – 684, 696 – 709, 734, 740, 741 and 743.

### Section III

#### Special Regulations on Proceedings of Liquidation and Bankruptcy

##### Effect of the Decision on Initiation of Liquidation or on Bankruptcy Proceedings

**Art. 139.** (1) The Decision of the court on initiation of liquidation or on bankruptcy proceedings for an insurer having its seat in the Republic of Bulgaria shall have effect for all its branches within the territory of the other Member States and third countries.

(2) Simultaneously with the promulgation of the Decision on initiation of liquidation or on bankruptcy proceedings in the *State Gazette*, the court shall publish an excerpt from the Decision in the *Official Journal* of the European Union, as well as data with regard to the Applicable Law, competent court, and the liquidator, the trustee respectively, assigned;

(3) The Commission shall immediately notify the relevant competent authorities in the other Member States of the Decision on initiation of liquidation or on bankruptcy proceedings for an insurer and of its legal effects.

##### Effect of the Decision on Initiation of Liquidation or on Bankruptcy Proceedings for an Insurer that Has Obtained a Licence in another Member State

**Art. 140.** (1) The Decision on initiation of liquidation or on bankruptcy proceedings for an insurer that has obtained a licence in another Member State, shall become effective in the Republic of Bulgaria as of the moment it has been effectuated in the respective Member State;

(2) In the case where the Commission has been notified of initiation of liquidation or bankruptcy proceedings by the competent authority of another Member State, the Commission shall undertake measures for informing the public.

##### Powers of a Liquidator or a Trustee

**Art. 141.** (1) Assignment of a liquidator or a trustee to an insurer who has obtained a licence in another Member State, shall be evidenced by submission of a certified copy of the Decision of the relevant competent authority on their appointment, accompanied by a translation in the Bulgarian language, which is not to be legalized.

(2) A liquidator or a trustee under Para. 1 may exercise within the territory of the Republic of Bulgaria all the powers they possess pursuant to the legislation of the Member State where the insurer has obtained a licence, except for use of force and judgment on legal disputes.

(3) Where exercising their powers, a liquidator or a trustee under Para. 1 shall observe the legislation of the Republic of Bulgaria.

#### Entry into a Public Registry

**Art. 142.** (1) A liquidator or a trustee under Art. 141, Para. 1 may request entry of the Decision on initiation of liquidation or on bankruptcy proceedings in the relevant Public Registries kept in the Republic of Bulgaria. The person under Sentence One shall be obligated to request an entry in the case where such entry in the registries is obligatory.

#### Notification of Known Creditors from Member States

**Art. 143.** (1) A liquidator or a trustee shall forward a written notification per sample endorsed by the Deputy Chairperson to the known creditors having a permanent address or a legal seat in another Member State of the liquidation or bankruptcy proceedings initiated. The notice shall specify their right to present claims, the authority to which these shall be presented, the term for the claims' presentation, and the consequences should the said term not be observed, as well as whether the creditors having privileged or secured receivables are to present their claims.

(2) The notification under Para. 1 shall be drawn up in the Bulgarian language and shall be entitled: *'Invitation for Presentation of a Claim. Please Observe the Deadline'*, or *'Invitation for Presentation of Explanations with Regard to a Claim. Please Observe the Deadline'* respectively, in all official languages of the European Union.

(3) The notification under Para. 1 addressed to the creditors, whose claims arise from an insurance contract, shall specify their right to present explanations, as well as the consequences of the liquidation or of the bankruptcy for their rights and obligations, and shall be drawn up in the official language of the Member State, where their permanent residence or legal seat is located. The claims, arising under insurance contracts shall also be the insurance premiums, which the insurer owes upon termination of the insurance contract in compliance with the law applicable to these contracts prior to the initiation of the liquidation or bankruptcy proceedings. The reserves kept for forthcoming payments shall also be regarded as receivables under the insurance contract.

#### Presentation of Claims by Creditors from Member States

**Art. 144.** (1) Creditors who have a permanent address or a legal seat in another Member State shall have the same rights as creditors having a permanent address or a legal seat in the Republic of Bulgaria, and shall be entitled to present their claims, or to submit explanations with regard to their claims respectively.

(2) Creditors under Para. 1 shall present their claims where specifying the type of receivable, its amount, date of its arising, as well as possible reference to a pledge, mortgage, right of retention of title under a contract for sale or different privilege, and shall submit evidences.

(3) The receivables, or the explanations related to these respectively, shall be presented in the official language of the Member State at their permanent address or legal seat, and shall be entitled: *'Presentation of a Claim'*, *'Explanations with Regard to a Claim'* respectively, where the latter shall be drawn up in the Bulgarian language.

#### Provision of Information on the Proceedings' Progress

**Art. 145.** (1) A liquidator or a trustee shall publish the periodical reports on their activities in an appropriate way.

(2) Upon a request submitted by the relevant competent authorities of the other Member States, the Commission shall provide information on the progress of the liquidation or bankruptcy proceedings.

#### Applicable Law

**Art. 146.** (1) In the case of liquidation or bankruptcy proceedings of an insurer, the Bulgarian Law shall apply, unless otherwise provided for under the present Section.

(2) With respect to the employment contracts and the labour legal relations, the provisions of the law of the Member State, applicable to such contracts or legal relations shall apply.

(3) With respect to contracts, whereby right to utilize is granted or the title over real estate whose location is within the territory of a Member State is transferred, the law of that Member State shall apply.

(4) With respect to an insurer's rights over a real estate, a ship or an airplane, entered into the public registries of a Member State, the law of that Member State shall apply.

#### Consequences of Instituting Liquidation or Bankruptcy Proceedings

**Art. 147.** (1) The institution of liquidation and bankruptcy proceedings shall not affect the real and security rights of the creditors or of the third persons in relation to the insurer's property, including tangible or intangible assets, real estate or chattels, separately or in aggregate, which as of the date of the proceedings' institution is located within the territory of another Member State.

(2) The rights under Para. 1 shall cover:

1. The right to disposal of this property and satisfaction from the price or the revenues from it on the strength of a pledge or a mortgage;

2. The right to preferential satisfaction by virtue of a pledge on the claims or by virtue of the claim's transfer as a security;

3. The right to demand a return and/or recovery of the property by any third person, possessing or utilizing it without lawful grounds;

4. The right to use the property;

5. Any rights entered in a public registry and set against third persons, on the strength of which real or security rights under Items 1 - 4 may be acquired.

(3) The institution of liquidation or bankruptcy proceedings of an insurer shall not affect:

1. The rights of a seller under a contract concluded with the insurer for sale with retention right, where on the date of initiation of proceedings the article is located within the territory of another Member State;

2. The right of a buyer to acquire the title over the article sold by the insurer and shall not be a reason for termination or breach of the contract for sale, should the article be delivered to the buyer, where on the date of the proceedings' initiation the article is located on the territory of another Member State;

3. The off-setting right of the insurer's creditors, where the off-setting is admissible by law that is applicable toward the claim of the insurer.

(4) Outside of the cases under Paras. 1 and 2, the consequences of the liquidation and bankruptcy proceedings' institution over the rights and obligations under transactions concluded on a regulated market shall be settled by the law applicable to that regulated market.

(5) Where upon the initiation of liquidation or bankruptcy proceedings, the insurer has disposed of, against compensation, with a real estate, a ship or an airplane, which are subject to entry in a public registry, as well as of transferrable or other securities, whose existence or transfer presupposes entry into a registry or an account kept on legitimate grounds, or which have been included in a central depository system, regulated by the law of another Member State, the transaction's validity or the action shall be settled by the law of the Member State on whose territory the real estate is located, or in which the registry, the account or the depository system are kept respectively.



(6) The effect of the liquidation or bankruptcy proceedings instituted on the pending court procedure in relation to an article or a right taken away by the insurer, shall be settled as provided by the law of the court's home Member State, before which court the case shall be heard.

#### Rights of the Liquidator, the Trustee and the Creditors to Retain the Insurer's Property

**Art. 148.** (1) The provisions of Art. 147, Paras. 1 and 3 do not restrict the rights of the liquidator, the trustee or the creditors under the Commerce Act and the Obligations and Contracts Act to refer to avoidance or to request declaration of cancellability or of nullity with respect to actions and transactions of the creditors.

(2) The provisions of Art. 147, Para. 4 does not restrict the rights of the liquidator, the trustee or the creditors pursuant to the Commerce Act and the Obligations and Contracts Act to refer to avoidance or to request declaration of cancellability or of nullity in respect to the creditors of actions or transactions concluded on a regulated market in compliance with the law applicable to it.

(3) The liquidator, the trustee or the creditors may not refer to avoidance or to request declaration of cancellability or nullity with regard to the creditors of actions and transactions pursuant to the Commerce Act and the Obligations and Contracts Act in the case where a third person, who has acquired rights over these, proves that the action or the transaction are settled by the law of another Member State, and that according to that law these are effective.

#### Application of the Liquidation and Bankruptcy Rules Where Implementing Coercive Administrative Measures

**Art. 149.** (1) Article 139, Paras. 1 and 3, Arts. 140, 146 and 147 shall apply accordingly upon implementation of the coercive administrative measures under Art. 302, Para. 2, Items 3 and 11.

(2) The decision on the implementation of a measure under Para. 1 shall be promulgated in the *State Gazette* and in the *Official Journal* of the European Union, along with information on the law applicable, the competent authority which performs supervision over the implementation of the rehabilitation measure and on the questor appointed, if such has been appointed.

### PART THREE INSURANCE AND REINSURANCE INTERMEDIARIES

#### Chapter Thirteen GENERAL PROVISIONS

##### Definition

**Art. 150.** (1) Insurance and reinsurance intermediaries shall be insurance brokers and insurance agents who perform insurance and/or reinsurance intermediation for payment.

(2) Insurance and reinsurance intermediaries may also perform different business operations insofar as the present Code or another law does not provide for otherwise.

(3) Persons providing services on intermediation in connection with insurance contracts shall not be insurance and reinsurance intermediaries in the case where the following circumstances are present simultaneously:

1. The insurance contract requires only knowledge of the insurance cover provided;
2. The insurance contract does not cover *Life* Insurance risks;
3. The insurance contract does not cover risks under Section II, Items 10-13, Letter 'A' of Annex No. 1;

4. Insurance intermediation is not the person's main business operation;
5. The insurance is a supplement to a product or service provided and covers:
  - a) Risk of perish, loss or damage of the goods provided, or
  - b) Damage or loss of luggage and other risks related to travel, including the cases where an insurance covers the risks under Item 2 or Item 3, provided that the aforesaid cover is ancillary in relation to the main cover connected to the above travel;
6. The amount of the annual premium does not exceed BGN 1,000, and the total term under the insurance contract, upon its renewal inclusive, shall not be longer than five (5) years.

#### Exceptions

**Art. 151.** (1) The provisions of the present Section shall not apply with respect to insurance and reinsurance intermediation carried out in relation to risks located in third states.

(2) The provisions of the present Section shall not apply with regard to the activities of the insurers and reinsurers carried out through insurance and reinsurance intermediaries located in third countries.

#### Company Name

**Art. 152.** A person who has not been entered into the Registry under Art. 30, Para. 1, Item 9 of the *Financial Supervision Commission Act (FSCA)* may not use in its name, advertising or different activity words in the Bulgarian language or in a foreign language meaning performance of insurance or reinsurance intermediation.

## Chapter Fourteen INSURANCE BROKER

### Section I General Provisions

#### Definition

**Art. 153.** (1) An insurance broker shall be a business enterprise or a sole proprietor that has been entered into the Registry kept by the Commission under Art. 30, Para. 1, Item 9 of the *Financial Supervision Commission Act (FSCA)* who, in return for payment performs insurance intermediation under assignment by a consumer of insurance services, and under assignment by an insurer or a reinsurer performs reinsurance intermediation.

(2) The relations between a consumer of insurance services, an insurer or a reinsurer respectively, and an insurance broker shall be settled under a written contract, except for intermediation in connection with the compulsory insurances under Art. 249, Items 1 and 2.

(3) In the case of performance of insurance intermediation, the insurance broker's remuneration shall be included in the insurance premium and shall be payable by the insurer, unless otherwise provided in the contract under Para. 2.

(4) Upon performance of its operations, an insurance broker shall carry out a full analysis of the insurance risks, of the propositions for insurance or reinsurance cover, shall provide consultation services, shall administer the conclusion of the insurance or the reinsurance contract, shall supervise the time periods for contracts' renewal and shall assist the insurance services consumer with regard to claims settlement upon occurrence of an insured event.

#### Restrictions on Operations

**Art. 154.** (1) An insurance broker may not perform operations as an insurance agent.

(2) The restriction under Para. 1 shall also apply to members of the managing and supervisory bodies of an insurance broker, to all other persons authorized to manage and

represent an insurance broker, as well as to its employees directly involved in performance of insurance or reinsurance intermediation.

(3) An insurance broker may not be a shareholder or a partner or a member of a managing or supervisory body of an insurance agent.

## **Section II**

### **Conditions for Performance of Activity as an Insurance Broker**

#### **Guarantees of the Operations of the Insurance Broker**

**Art. 155.** (1) An insurance broker shall be hereby obligated to guarantee the performance of its obligations to transfer an insurance premium paid to it, and intended for the insurer; or to transfer to the consumer of insurance services an insurance indemnity or a sum of money paid by the insurer through one of the following ways:

1. By permanently maintaining own funds amounting to 4 per cent of the insurance premiums' total amount under insurance and/or reinsurance contracts concluded with its intermediation through the preceding financial year, but not less than BGN 30,000, or

2. By setting up a special client account, into which the insurance premiums intended for the insurer and the insurance indemnities or sums of money intended for the consumer of insurance services are to be transferred.

(2) Where the insurance broker has not set up conditions to guarantee the implementation of his obligations in the ways established under Para. 1, the funds that have been paid to him by consumers of insurance services shall be considered paid to the insurer, and pecuniary means paid to an insurance broker by the insurer shall not be considered paid to a consumer of insurance services until the latter receives these, unless the said pecuniary means have not been paid to the insurance broker by the insurer under the explicit authorization thereof granted by the insurance service consumer under a Power of Attorney, bearing a notary public's attestation of the signature.

(3) The pecuniary means under Para. 1, Item 2 shall not constitute a part of the insurance broker's property, shall not be a subject to distraintment and shall not be included in the bankrupt estate upon the initiation of bankruptcy proceedings for the insurance broker.

(4) The insurance broker shall notify the Deputy Chairman which of the methods to guarantee the implementation of the obligations under Para. 1 shall apply in its activity, on its subsequent amendment, as well as on the method into which the rights of the consumers shall be guaranteed in the process of amending this method. The Deputy Chairperson may give additional directions for protection of the interests of the consumers when changing from one method to guarantee the implementation of its obligations under Para. 1 to another.

#### **Maintenance of Compulsory *Professional Liability* Insurance**

**Art. 156.** (1) Insurance brokers shall be hereby obligated to constantly maintain a compulsory *Professional Liability* Insurance, valid within the whole territory of the European Union and the European Economic Area, and which covers liability of damages, having been incurred on the territory of a Member State upon performance of operations on insurance and/or reinsurance intermediation as a result of their guilty action or inaction. The minimum insurance amount shall be BGN 2,000,000 for each insured event, and BGN 3,000,000 for all insured events for one year.

(2) The insurance under Para. 1 shall cover liabilities of damages also caused by the guilty action or inaction of employees of an insurance broker upon or in connection with performance of insurance or reinsurance intermediation.

#### **Requirements Set to an Insurance Broker**

**Art. 157.** (1) In the case where the insurance broker is a natural person –sole proprietor, he shall:

1. Have a higher degree of education;
2. Have professional experience in the sphere of insurance or have successfully passed a professional qualification examination organized by the Commission;
3. Have not been convicted of imprisonment of an indictable premeditated offence unless they have been exonerated;
4. Have not been debarred from the right to hold a property accountable office;
5. Have not been a member of a managing or a supervisory body or a general partner in a company, with regard to which bankruptcy proceedings have been initiated, or which has been liquidated due to bankruptcy, in the case where unsatisfied creditors have remained;
6. Have not been declared bankrupt and is not undergoing bankruptcy proceedings;

(2) In the case where an insurance broker is a legal person, the members of its managing body and all other persons authorized to manage or represent it shall meet the requirements under Para. 1

(3) In the case where a member of a managing or supervisory body of an insurance broker is a legal person, the requirements set under Para. 1 shall relate to the natural persons who represent these in such bodies;

(4) Employees of an insurance broker who directly perform insurance or reinsurance intermediation shall have at least a high school education and shall meet the requirements set under Para 1, Items 3 - 6.

(5) The professional experience under Para. 1, Item 2 shall mean at least two successive years of holding a governing position or a position directly related to conclusion and performance of insurance contracts at an insurer, a reinsurer, an insurance broker or an insurance agent.

(6) Insurance brokers shall be under the obligation to provide training to their employees under Para. 4.

(7) The conditions and the procedure for conducting an examination for professional qualifications under Para. 1, Item 2 shall be specified under an Ordinance issued by the Commission.

(8) The professional requirements under the present Article set toward the insurance brokers – natural persons or sole proprietors, as well as toward the members of their managing bodies and their employees where these are legal persons shall be obligatory.

### **Section III**

#### **Registration of an Insurance Broker**

##### **Necessary Documents for Entry into the Registry**

**Art. 158.** For entry into the Registry under Art. 30, Para. 1, Item 9 of the *FSCA*, an application form per sample endorsed by the Deputy Chairperson shall be submitted, to which the following shall be attached:

1. Articles of Association or Contract of Incorporation, in the case of a legal person;
2. Data on the persons under Art. 157, Paras. 2 and 3, in the case of a legal person, and documents certifying observance of the requirements set under Art. 157, Para. 1 – if a natural person – sole proprietor;
3. Data on the address of the office or the branch where the operations of insurance intermediation shall be carried out;
4. A certificate of actual legal status;

5. Evidence of possession of own funds under Art. 155, Para. 1, Item 1, where the applicant has selected that method to guarantee the implementation of his obligations;

6. A certificate issued by a bank conducting activity in the Republic of Bulgaria of setting up a client account under Art. 155, Para. 1, Item 2, where the applicant has selected that method to guarantee the implementation of his obligations.

#### Rendering Judgment on the Application Form

**Art. 159.** The Deputy Chairperson shall render a judgment under a resolution on the application form submitted for entry into the Registry within a one-month time period as of its receipt. Upon establishment of irregularities or should additional information be needed, Article 33, Paras. 2, 4 and 5 shall apply accordingly, where the term for removal of the said irregularities or submission of the additional information shall not be shorter than fifteen (15) days.

#### Certificate of Registration

**Art. 160.** (1) Upon entry of an insurance broker into the Registry, the Commission shall issue a Certificate of Registration per sample endorsed by the Deputy Chairperson that shall contain the company, the legal seat and the registered office of the insurance broker, indication of the Registry into which it has been entered, and the ways in which the registration may be attested to, as well as the names of the persons authorized to represent and manage the said insurance broker.

(2) The Certificate of Registration shall be given to the insurance broker upon submission to the Financial Supervision Commission of a certified copy of the mandatory *Professional Liability* Insurance concluded pursuant to the requirements set under Art. 156.

(3) The Certificate of Registration under Para. 1 shall be enclosed in the application for the broker's entry, or for entry of a change in the broker's subject of operations and of the firm into the Commercial Registry, and shall be a condition for its consideration by the court.

#### Grounds for Refusal

**Art. 161.** (1) The Deputy Chairperson shall refuse entry into the Registry in the case where:

1. The requirements set under the present Code have not been observed;
2. An applicant has submitted false data or documents of false contents;

(2) The refusal of the Deputy Chairperson on entry into the Registry shall be grounded in writing.

(3) In the case of refusal, an applicant may submit a new application form for entry into the Registry not earlier than six (6) months as of the Decision on refusal's entry into force.

#### Notifications

**Art. 162.** (1) An insurance broker shall be hereby obligated to notify the Commission of:

1. Newly arisen facts and circumstances subject to entry into the Commission's Registry;
2. Amendments to the circumstances entered into the Commercial Registry.

(2) The obligation under Para. 1 shall be fulfilled within a period of seven days as of occurrence or learning of the relevant fact or circumstance, and in the case where it is a subject to entry into the Commercial Registry – within a seven-day period as of the entry. Documents proving the amendment made shall be attached to the notification.

#### Grounds for Deletion from the Registry

**Art. 163.** (1) The Deputy Chairperson shall delete an insurance broker from the Registry under a resolution in the case where the insurance broker:

1. Has submitted false data or documents that contain erroneous information, on the grounds of which entry into the Registry has been made;

2. Has not commenced to perform operations of insurance intermediation within a one-year term as of entry into the Registry;
  3. Has discontinued performing operations for more than six months;
  4. Has ceased to meet the terms and conditions for performing operations as an insurance broker;
  5. Is undergoing bankruptcy or liquidation proceedings;
  6. Has committed gross or systemic violations of the present Code or of the regulations on its implementation;
  7. Upon death of a natural person - sole proprietor;
  8. At the request of an insurance broker.
- (2) Upon deletion from the Registry, an insurance broker may not perform insurance and reinsurance intermediation. An insurance broker shall be hereby obligated to return the Certificate of Registration issued by the Commission within a seven-day period after being notified of the deletion.

## **Chapter Fifteen**

### **INSURANCE AGENT**

#### **Section I**

#### **General Provisions**

##### Definition. Types

**Art. 164.** (1) An insurance agent shall be a natural person, or a merchant, entered into the Registry kept by the Commission under Art. 30, Para. 1, Item 9 of the *Financial Supervision Commission Act*, who in return for payment and upon assignment by an insurer performs insurance intermediation on their behalf and at their expense. The insurance agents are tied and untied.

(2) A tied insurance agent may not collect premiums and effect payments to the consumers of insurance services.

(3) The relations between an insurer and an insurance agent shall be settled by a written contract - '*Contract for Insurance Agency*'). The type of the agent shall be compulsorily specified under the insurance contract.

##### Restrictions Imposed on the Operations

**Art. 165.** (1) An insurance agent may not work for an insurance broker.

(2) A natural person performing operations as an insurance agent shall be a freelancer.

(3) An insurance agent – a natural person may not be in labour relations with an insurer.

#### **Special Restrictions**

**Art. 166.** (1) An insurance agent may intermediate for one insurer who has obtained a licence to perform insurance operations on insurances covered under Section I of Annex No. 1, and for one insurer who has obtained a licence to perform insurance operations on insurances covered under Section II of Annex No. 1.

(2) Upon consent expressed by the persons under Para. 1, an insurance agent may perform insurance intermediation for other insurers as well, where he shall perform intermediation on insurances, other than the type of insurances for which he has been authorized by the insurers under Para. 1.

#### **Section II**

## Conditions for Performance of Operations as an Insurance Agent

### Guarantees of the Operations of Insurance Agents

**Art. 167.** (1) An insurance agent – a natural person or the persons, managing and representing the insurance agent – a legal person, shall at any time have a good reputation, shall have at least secondary school education, and meet the requirements set under Art. 157, Para. 1, Items 3 - 6. Employees of an insurance agent who directly perform insurance intermediation shall meet the requirements set under Art. 157, Para. 4.

(2) An insurance agent shall be obligated to maintain obligatory *Professional Liability* Insurance, valid for the whole territory of the European Union and of the European Economic Area, and which covers liability of damages, having being incurred within the territory of a Member State upon performance of insurance intermediation as a result of their guilty action or inaction. The minimum insurance sum of the insurance shall be BGN 2,000,000 for each insured event, and BGN 3,000,000 for all insured events for one year.

(3) The insurance under Para. 2 shall cover liability of damages also caused by the guilty action or inaction of an insurance agent – natural person or of his employees, if he is a legal person, in connection with performance of insurance intermediation.

(4) The obligation under Paras. 2 and 3 shall be considered to be fulfilled, if an insurance agent presents a declaration by the insurer/insurers who have authorized him to pursue insurance intermediation on undertaking full responsibility for his actions as an intermediary.

(5) For an insurance agent - legal person or a sole proprietor, the provisions of Art. 155 shall apply. An insurance agent – legal person shall declare the circumstances under Art. 155, Para. 4 before the insurer.

(6) For an insurance agent - natural person, the provisions of Art. 155, Para. 1, Item 2 and Para. 3 shall apply unless a declaration under Para. 4 exists.

(7) Pecuniary means paid to an insurance agent by consumers of insurance services shall be considered to have been paid to the insurer, and pecuniary means paid to an insurance agent by the insurer shall not be considered paid to a consumer of insurance services until the latter has received these.

### Training of Insurance Agents

**Art. 168.** (1) Insurers shall be hereby obligated to provide training to insurance agents with whom they have concluded a contract for insurance agency, as well as to their employees who directly perform insurance intermediation. The said training shall comply with the requirements related to the insurances offered by the insurance agents.

(2) The insurer shall be under the obligation to conduct an examination at the end of the training and to issue a certificate to the insurance agents who have successfully passed the above examination, which certificate is to certify the availability of professional qualifications, related to the knowledge and offer of the insurances, as well as the right to offer the types of insurances specified under the certificate..

### Check-up of Requirements' Observance

**Art. 169.** (1) Before conclusion of a contract for insurance agency, an insurer shall establish whether the person, with whom it is going to sign a contract, meets the requirements set under Art. 167, Para. 1, in relation to Art. 157, Para. 1, Items 3 - 6.

(2) In the case where the person under Para. 1 has no *Professional Liability* Insurance or does not meet the requirements under Art. 167, an insurer who has signed a contract with it, shall bear full responsibility for the person's actions with regard to performance of insurance intermediation under this contract.

### Entry into the Registry

**Art. 170.** (1) An insurer shall keep a list of the persons, with whom it has concluded contracts for insurance agency per sample endorsed by the Deputy Chairperson. The relevant documents under Art. 158, shall be attached to the list.

(2) An insurer shall submit an application form to the Commission for entry into the Registry under Art. 30, Para. 1, Item 9 of the *Financial Supervision Commission Act* of the persons included in the list under Para. 1.

(3) An insurer shall be under the obligation to register each change of the facts and circumstances in the list under Para. 1 and shall notify the Commission.

(4) The obligation under Para. 3 shall be performed within a period of seven (7) days as of occurrence or learning of the relevant fact or circumstance. Documents evidencing the change made shall be attached to the above notification.

#### Identification Card

**Art. 171.** Upon entry of an insurance agent into the Registry, the insurer shall issue to the former an Identification Card per sample endorsed by the Deputy Chairperson, which shall contain at least the following data:

1. Name and address of the natural person, respectively the company, legal seat and registered office of the insurance agent – single proprietor;
2. The address of the office or branch where operations shall be performed;
3. The insurance types the agent may offer and the maximum amount of the insurance sum, up to which an insurance agent may conclude such insurances;
4. The names of the persons authorized to manage and represent an insurance agent – legal person;
5. The Registry into which it has been entered and ways to prove the entry.

#### Grounds for Deletion from the Registry

**Art. 172.** (1) For deletion of an insurance agent from the Registry, Art. 163, Para. 1 shall accordingly apply. The Deputy Chairperson shall also delete an insurance agent from the Registry by an Order upon termination of the contract for insurance agency.

(2) Upon deletion from the Registry, an insurance agent may not perform insurance agency. An insurance agent shall be under the obligation to return the Identification Card issued.

## **Chapter Sixteen** **REQUIREMENTS FOR THE OPERATIONS** **OF INSURANCE INTERMEDIARIES**

#### Principles

**Art. 173.** (1) Upon performance of their operations, insurance brokers and agents shall be under the obligation to observe the principle of voluntary participation and shall conscientiously and with due diligence make clear the rights and obligations under the insurance contract with a view to protect the interests of consumers of insurance services.

#### Observation of Secrecy

**Art. 174.** Upon performance of their operations, insurance brokers and agents shall be under the obligation to keep the trade secret and the good reputation of an insurer and a reinsurer, as well as the insurance secrecy, and shall not use the acquired information for different purposes except for in connection with the exercise of the rights and fulfilment of the obligations under the insurance legal relations.

#### Identification Documents



**Art. 175.** Upon performance of their operations, an insurance broker shall identify itself by the Registration Certificate issued by the Commission, and an insurance agent – by the Identification Card issued by an insurer.

#### Accountancy and Supervision of Insurance Agents

**Art. 176.** (1) Insurance agents shall report before an insurer under the procedure and in the manner provided for under the contract for insurance agency.

(2) Insurance agents shall be subject to supervision by the Internal Control Department of the insurer, for whom they perform insurance intermediation.

#### Provision of Information to Consumers of Insurance Services

**Art. 177.** (1) Upon conclusion of an insurance contract, and upon its modification or renewal if necessary, an insurance broker and an insurance agent shall provide the insurance services consumer with the following minimum information:

1. Their name and address, or company, legal seat and registered office;
2. The Registry, into which they have been entered, and the ways through which the entry may be verified;
3. Whether they hold directly or through related parties more than 10 per cent of the voting rights in the General Meeting or of the capital of an insurer;
4. Whether an insurer or a controlling company of an insurer holds directly or through related parties stocks and shares, representing more than 10 per cent of the voting rights in the General Meeting or of the capital of the insurance broker or the insurance agent;
5. The procedure, under which complaints may be filed by the insurance services consumers and other parties concerned against the insurance broker or the insurance agent, as well as the procedure of out-of-court settlement of disputes between them;

(2) Upon conclusion of the insurance contract, an insurance broker and an insurance agent shall also notify the insurance services consumer whether, in connection with the offered contract, they:

1. Provide advice on the grounds of the obligation under Para. 3, or
2. Have a contractual obligation to perform insurance intermediation exclusively for one or more insurers. In such case, upon request by the insurance services consumer, the insurance broker or the insurance agent shall provide him/her with the names of these insurers, or
3. Have no contractual obligation to perform insurance intermediation exclusively for one or more insurers and does not provide advice on the grounds of the obligation under Para. 3. In such case, upon request of the insurance services consumer, the insurance broker or the insurance agent shall provide him/her with the names of insurers, for whom it may perform and performs insurance intermediation.

(3) In the case where an insurance broker or an insurance agent notifies the insurance services consumer of providing advice on the grounds of a fair analysis, it shall be under the obligation to provide the said advice upon analysis of a sufficient number of insurance contracts so as to be able to give a professional recommendation with regard to the insurance contract that shall be most adequate with a view to the needs of the insurance services consumer.

(4) Before conclusion of a specific insurance contract, an insurance broker and an insurance agent shall be under the obligation, on the grounds of the information provided by an insurance services consumer in writing, to define his/her requirements and needs, as well as the grounds for the advice provided to the insurance services consumer with regard to a particular insurance.

(5) The requirements for provision of the information under Paras. 1 - 4 shall not apply in the case where an insurance broker or an insurance agent performs insurance intermediation on high risks insurance, as well as upon performance of reinsurance intermediation.

#### Requirements from the Information Provided

**Art. 178.** (1) The information under Art. 177 shall be provided on paper or on another permanent carrier, accessible by an insurance services consumer, in the official language of the Member State where the risk is located, or in another language agreed upon by the parties, and shall be clear, accurate and understandable by the insurance services consumer.

(2) The information under Art. 177 may be provided verbally upon the request submitted by an insurance services consumer, as well as in the case where immediate cover is necessary. In such cases, the information shall be provided to the insurance services consumer under the procedure of Para. 1 immediately upon conclusion of the insurance contract.

### **Chapter Seventeen** **PERFORMANCE OF OPERATIONS BY INSURANCE BROKERS AND** **INSURANCE AGENTS FROM THE REPUBLIC OF BULGARIA IN ANOTHER** **MEMBER STATE.**

### **PERFORMANCE OF OPERATIONS IN THE REPUBLIC OF BULGARIA BY** **INSURANCE BROKERS AND INSURANCE AGENTS FROM ANOTHER MEMBER** **STATE**

#### **Section I**

#### **Performance of Operations by Insurance Brokers and Insurance Agents from the** **Republic of Bulgaria in Another Member State**

##### Right to Establishment and Freedom to Provide Services

**Art. 179.** An insurance broker and an insurance agent, registered under the terms and conditions and the procedure of Chapter Fourteen, Chapter Fifteen respectively, may perform operations under the conditions of the right to establishment and of the freedom to provide services within the territory of another Member State.

##### Notification and Commencement of Operations

**Art. 180.** (1) An insurance broker or an insurance agent registered in the Republic of Bulgaria who intends to perform operations in one or more host Member States under the conditions of the right to establishment or of the freedom to provide services, shall notify the Commission thereof in advance.

(2) Within a one-month term as of receipt of the notification under Para. 1, the Commission shall notify the relevant competent authority of the host Member State, if it wishes to be notified, of the intention of an insurance broker or an insurance agent to perform operations within its territory. The Commission shall immediately notify an insurance broker, respectively an insurance agent, of the notification of the competent authority of the host Member State.

(3) An insurance broker, an insurance agent respectively, may commence performing operations within the territory of the host Member State upon expiration of one month as of its notification under the procedure of Para. 2. In the case where the host Member State does not wish to be notified, an insurance broker, an insurance agent respectively, may immediately commence performing operations while observing the law of the host Member State.

(4) The Commission shall immediately notify the relevant competent authority of the host Member State in the case where an insurance broker, an insurance agent respectively, has been deleted from the Registry under Art. 30, Para. 1, Item 9 of the *Financial Supervision Commission Act*.

#### **Section II**

## **Performance of Operations in the Republic of Bulgaria by Insurance Brokers and Insurance Agents from another Member State**

### **Right to Establishment and Freedom to Provide Services**

**Art. 181.** An insurance intermediary registered in a Member State may perform operations within the territory of the Republic of Bulgaria under the conditions of the right to establishment and of the freedom to provide services.

### **Commencement of Operations**

**Art. 182.** An insurance intermediary under Art. 181 may commence performing operations within the territory of the Republic of Bulgaria under the conditions of the right to establishment and of the freedom to provide services upon expiration of one month as of the Commissions' notification forwarded to the relevant competent authority of the home Member State of the insurance intermediary's intention to perform operations in the Republic of Bulgaria.

## **PART FOUR INSURANCE CONTRACT**

### **Chapter Eighteen GENERAL PART**

#### **Definition**

**Art. 183.** (1) An insurance contract shall bind an insurer to undertake certain risks in return for premium payment, and upon occurrence of an insured event to pay an insured or a third party-beneficiary an insurance indemnity or a cash sum.

(2) With regard to insurance contracts, the General Provisions of the Commerce Act and the Obligations and Contracts Act shall apply, insofar as the present Code does not provide for otherwise.

#### **Form**

**Art. 184.** (1) An insurance contract shall be concluded in writing under the form of an insurance policy or of another written act. Upon a request for certification of an insurance contract concluded submitted by the insured, the insurer shall also issue an insurance acknowledgement, a certificate, or a voucher. The insurer shall compulsorily issue an insurance acknowledgement, certificate or another written document, certifying an insurance contract concluded, in the cases where this is provided for under a law.

(2) The written proposal or request addressed to the insurer with regard to insurance contract conclusion or the written replies of the insured to queries posed by the insurer with regard to circumstances important for assessing the nature and amount of the risk, shall be an integral part of the insurance contract.

(3) The insurance contract shall contain:

1. The names, the appellations respectively, and the addresses of the parties;
2. Contract's subject;
3. The insurance risks covered;
4. The contract's term, the beginning and the end of the insurance coverage's period inclusive;
5. The insurance amount or the manner of its assessment;
6. The insurance premium or the manner of its assessment, as well as the timeframes and the procedure for its payment;

7. The amount of the participation with own funds, should such participation be agreed upon between the parties;

8. The names and address of the insurance intermediary should the contract be concluded through an intermediary, and in the case of an insurance agent – the number of its identification document as well;

9. The date and place of contract's conclusion;

10. Parties' signatures.

(4) Upon conclusion of an insurance contract for the benefit of a third party, the contract shall also contain the names, the appellation and address of the beneficiary or the manner in which it may be defined respectively.

(5) In the case where the contract is concluded with an insurer who performs operations in the Republic of Bulgaria under the conditions of the freedom to provide services, in the contract, the name (firm) and the address of the representative under Art. 55, Para. 3, of the branch or the representative under Art. 269, Para. 7 respectively, charged with the execution of its functions, shall also be entered.

(6) The written form of the insurance contract shall be also regarded as observed in the cases where the said contract has been drawn up in the form of an electronic document within the meaning of the Electronic Signature and Electronic Document Act.

(7) The insurance contract may also be concluded through the means of remote communication where observing the provisions of the present Code where the above has been provided for under a law.

(8) The insurer shall be hereby obligated to provide a certified copy of the written document under Para. 1 within a seven-day term as of the request. The lack of an original copy of it shall not serve as grounds for refusal or reduction of an insurance payment.

#### Consumer Information

**Art. 185.** (1) An insurer shall be under the obligation to provide each insurance services consumer, prior to conclusion of an insurance contract under Section I of Annex No. 1, with information in an appropriate written form on the particular insurance type, which information is to include:

1. Name (appellation) of the insurer and its legal and organizational form;

2. Legal seat and registered office of the insurer, as well as of the branch, through which the insurance is taken up;

3. Covered and excluded risks; possibilities for modification of the insurance contract in compliance with the General Terms;

4. The term and the methods of contract termination;

5. Method of specifying premiums, term and ways of their payment as well as consequences of non-payment;

6. Prerequisites and term for payment of insurance indemnity or cash sum;

7. Methods of calculation and allocation of bonuses, if provided for;

8. Redemption values and reduced insurance sum way of calculation, in case of pre-term termination of payments, as well as the amount, up to which these are guaranteed with regard to contracts on insurances under Section I, Items 1, 2, 3 and 5 of Annex No. 1;

9. Detailed listing of particular investment funds, in which the funds under a contract for *Life* Insurance may be invested, as related to *Unit-Linked* Insurance under Section I, Item 3 of Annex No. 1, and characteristics of the assets the funds comprise of;

10. Procedures on out-of-court settlement of disputes between the parties to an insurance contract, if provided for.

11. Conditions under which the unilateral termination of the contract is possible;

12. general information on taxes and fees in relation to this contract;

13. the law applicable to the contract, where the parties do not have the right to free choice of applicable law, or the proposed by the insurer applicable law respectively, where the parties are entitled to a free choice.

(2) An insurer under Para. 1 shall be under the obligation to provide an insured person with the following information during the contract's validity:

1. Data about each change in the circumstances under Para. 1, Items 1 and 2;
2. Information on Para. 1, Items 3 - 9, in the case of change in the general conditions or the law, applicable to the insurance contract; and
3. Annual information on bonuses' status.

(3) An insurer shall be hereby obligated to provide each insurance services consumer – a natural person, prior to conclusion of an insurance contract under Section II of Annex No. 1, with information in suitable written form about the respective type of insurance, which is to contain the circumstances under Para. 1, Items 1, 2, 10 and 13. The information under Para. 1, Items 1 and 2 shall be specified under each document which is forwarded to each person insured.

(4) In the case where an insurance contract is concluded through an insurance broker or an insurance agent, the information under Para. 1 or Para. 3 shall be provided by these.

(5) The provisions of Paras. 1 - 4 shall not apply to contracts for insurance of high risks.

#### General Terms

**Art. 186.** (1) The general terms of an insurer, as established prior to the conclusion of a specific type of insurance, shall bind the insured in the case where these have been provided to the latter at the moment of conclusion of the insurance contract, and the said insured has declared in writing that they accept these. The general terms as accepted by the insured shall be an inseparable part of the insurance contract. In the case where there exists discrepancy between the insurance contract and the general terms, the stipulated under the contract shall be valid.

(2) The insurer's general terms shall be adopted by its managing body, and the date of their adoption and of any subsequent amendments shall compulsorily be specified under these.

(3) The insurer shall be hereby obligated to provide the insurance services consumer the general terms of the insurance prior to the insurance contract's conclusion. In the cases where a questionnaire has been drawn up with regard to the insurance, the general terms shall be provided along with it.

(4) Any amendments to or substitution of the general terms with new ones during the validity period of an insurance contract, shall be binding for the insured only in the case where the said amendments or the new terms have been provided to the above insured and they have approved these in writing.

(5) The general terms shall clearly and unambiguously specify:

1. The risks covered and the exclusions from the coverage;
2. The conditions of premiums' payment on the part of the insured and the consequences resulting from non-payment or inaccurate payment;
3. Insurer's liabilities, payment's term, and the manner of specifying the payments' amounts;
4. The obligations of the person insured upon occurrence of an insured event and its establishment;
5. The circumstances related to amendments to the insurance legal relationship;
6. The terms and the amount of the preliminary payments or borrowings against Life Insurance Policies and their redemption.

#### Entry into Force of an Insurance Contract

**Art. 187.** An insurance contract shall enter into force upon payment of the whole premium due, or of its first instalment in the case of annuity premium payments, unless otherwise provided for by a law or stipulated under the contract.

### Obligation to Declare

**Art. 188.** (1) Upon conclusion of an insurance contract, an insured person shall be under the obligation to accurately and comprehensively declare all substantial circumstances which are known to him/her and are of importance to the risk.

(2) Substantial circumstances under Para. 1 shall be considered only those, for which an insurer has brought forward a query in writing.

(3) Non-reply to a query, with no concealment of a circumstance substantial to the risk, shall not constitute grounds for unilateral termination of the insurance contract, to demand its amendment or to refuse payment of indemnity under Art. 189.

### Intentional Inaccurate Declaration or Reticence

**Art. 189.** (1) In the case where a person insured has consciously made an incorrect declaration or has withheld a circumstance, in the presence of which circumstance an insurer would not have concluded a contract if aware of this circumstance, an insurer may terminate the contract. The insurer may exercise this right within a one-month period as of coming into knowledge of the said circumstance.

(2) In the case under Para. 1, an insurer shall retain the paid part of the premium, and shall have the right to demand that it be paid for the period until the contract's termination.

(3) In the case where a consciously or inaccurately declared or withheld circumstance is of such nature that an insurer would have concluded the contract, but under different terms, the insurer shall have the right to demand its modification. This right may be exercised within a one-month as of coming into knowledge of the above circumstance. In the case where the insured does not accept the proposal of modification within a two-week period as of its receipt, the contract shall be terminated, involving the consequences under Para. 2.

(4) Where in the cases under Para. 1, an insured event occurs, an insurer may fully or partially refuse to pay insurance payment or an amount only where the inaccurately declared or withheld circumstance has affected the occurrence of the event. Where the circumstance under Paras. 1 or 3 has only had influence causing increase of the amount of damages, the insurer may not refuse payment, but may reduce it in accordance with the ratio between the amount of the premium paid and the premium which is to be paid according to the real insurance risk.

(5) In the case where a person insured has concluded a contract through attorney or at the expense of a third party, it shall be deemed sufficient that the circumstance concealed had been known to the insured or to his/her attorney, or to the third party respectively.

### Unintentional Inaccurate Declaration

**Art. 190.** (1) In the case where upon conclusion of an insurance contract, the circumstance under Art. 188, Para. 1 had not been known to the parties, each party may propose modification of the contract within a two-week period as of coming into knowledge of the said circumstance.

(2) In the case where the other party does not accept the proposal under Para. 1 within a two-week period following its receipt, the offeror may terminate the contract, and shall notify the other party thereof in writing.

(3) In the case where the contract is terminated, an insurer shall reimburse the part of the premium paid, which part corresponds to the unexpired term of the insurance contract.

(4) Upon occurrence of an insured event prior to the modification or termination of the contract, an insurer may not refuse payment of insurance indemnity or amount, but may reduce it accordingly to the correlation between the amount of the premium paid and the premium that shall be paid as per the real insurance risk.

### Declaration of Newly Occurred Circumstances

**Art. 191.** (1) While an insurance contract is in force, the insured shall be under the obligation to declare before the insurer all newly occurred circumstances, for which the insurer has placed a query in writing upon conclusion of the contract. Circumstances' declaration shall be immediately made upon coming into knowledge thereof.

(2) In the case of non-performance of the obligation under Para. 1, Art. 189, and 190 shall apply accordingly.

(3) The insured shall be obligated to immediately notify the insurer in writing of a change of the address as specified under the insurance contract, and to communicate his new address to the insurer. Until the notification of the change in address has been received by the insurer, any notifications forwarded by the latter to the address of the insured stated under the insurance contract, shall be considered to have been duly handed in and received by the person insured, and shall arise all legal consequences provided for under the law or the contract.

#### Insurance Premium

**Art. 192.** (1) The whole premium, or the first installment in the case of annuity payments, shall be paid upon conclusion of the insurance contract unless stipulated otherwise.

(2) If, during the period of validity of the contract, the insurance risk considerably increases or decreases, any of the parties may request respective increase or decrease in the insurance premium or termination of the contract.

#### Payment of an Insurance Indemnity or a Sum

**Art. 193.** (1) Upon occurrence of an insured event, the insurer shall be hereby obligated to pay an insurance indemnity or a cash amount to the person insured.

(2) An insurer may not be held liable for amounts exceeding the insured sum, unless this is provided for under the present Code or where otherwise agreed upon between the parties.

#### Self-Participation

**Art. 194.** (1) The parties to an insurance contract may agree on self-participation of the insured, which shall constitute undertaking a part of the responsibility by the insured in the case where an insured event has occurred. Self-participation may be unconditional or conditional.

(2) In the case of unconditional self-participation, a person insured shall bear the risk of occurrence of an insured event up to a certain amount upon each damage.

(3) In the case of conditional self-participation, an insurer shall pay the whole damage amount, where it exceeds the amount of the self-participation set under the insurance contract. Damages that do not exceed the amount of the conditional self-participation specified under the insurance contract shall be undertaken by the insured.

(4) The amount of the self-participation may not exceed 50 per cent of the contract's insurance amount.

(5) Self-participation shall not be allowed with regard to the obligatory insurances of risks in relation to the life and health of natural persons, the *Compulsory Third Party Liability of the Motorists Insurance*, as well as with regard to *Life Insurances*.

#### Insurable Interest

**Art. 195.** (1) An invalid insurance contract shall be one concluded upon absence of insurable interest.

(2) A person insured may demand reimbursement of the whole premium paid or of the paid part of it upon annuity payments, unless he/she had been aware or should have been aware of the absence of insurable interest.

(3) The insurance contract shall be terminated in the case where the interest drops off during the period of its validity. The insurer shall have the right to retain that part of the premium, corresponding to insurance contract's period expired, up to its termination.

### Termination

**Art. 196.** (1) An insurance contract shall be terminated upon expiration of the term, for which it has been concluded, as well as in the cases provided for under the present Code.

(2) An insurance contract may also be terminated on grounds stipulated under it, where these do not contradict to the rules of good customs and the interests of insurance services consumers are not unjustifiably affected.

### Limitation

**Art. 197.** Rights under an insurance contract shall be lapsed with a three-year period of limitation as of the day of occurrence of an insured event, and with regard to *Life* and *Accident* Insurances and *Third Party Liability* Insurances under Items 10 – 13 of Section II, Letter ‘A’ of Annex No. 1 – with a five-year period of limitation as of the day of insured event occurrence.

### Non-Liability to Sequestration

**Art. 198.** (1) Enforcement on a cash amount shall not be allowed under *Life* and *Accident* Insurances, as well as on an indemnity under *Third Party Liability* Insurance.

(2) Enforcement over insurance indemnity under property insurances shall be allowed, where it might have been directed on the property insured.

### Coinsurance Contract

**Art. 199.** (1) Under an coinsurance contract, two or more insurers distribute among themselves the liability undertaken, under already concluded by one of these, insurance contract, or under a contract that is to be concluded.

(2) The parties under a coinsurance contract shall compulsory specify:

- a) the leading underwriter;
- b) the proportion, into which the insurers shall assume liability;
- c) insurance premium’s allocation;
- d) the general terms applicable.

(3) Any relations with the person insured under the insurance contract shall be realized by the leading insurer, unless otherwise stipulated.

(4) Within a seven-day period as of the conclusion of the insurance contract, the leading co-insurer shall notify the insured of the circumstances under Para. 2, in the case where these are not apparent under the insurance contract. In the case where the insured is a natural person, the notification shall occur under the procedure of Art. 185.

(5) The insured shall have the right to terminate the insurance contract by written notice forwarded to the leading co-insurer within a seven-day period as of the notification under Para. 4.

(6) Where the insured has been notified under Para. 4, each of the co-underwriters shall be responsible before him for his part according to the proportion, in which these have underwritten the responsibility, unless otherwise provided for under the insurance contract.

## **Chapter Nineteen** **PROPERTY INSURANCE**

### **Section I** **General Provisions**

#### Subject of Insurance Contract



**Art. 200.** (1) Subject of an insurance contract for property insurance may be any property, which is assessible in terms of money for an insured.

#### Conclusion of Contract without Authority

**Art. 201.** (1) One who insures someone else's property in one's name shall be held personally liable for payment of the insurance premium.

(2) The contract for insurance of someone else's property shall be valid in the case where approval has been expressed on the part of the property's owner.

(3) In the case where the premium has been duly paid, approval of an insurance contract shall have effect also in the case where it has been made upon the insured event's occurrence.

#### Annuity Payments of the Insurance Premium

**Art. 202.** (1) In the cases of annuity payments, the installments of the insurance premium annuity shall be paid within the timeframe agreed upon under the insurance contract. In the case of failure to pay an annuity installment of the insurance premium, the insurer may reduce the insurance amount, amend the contract or terminate it.

(2) An insurer may exercise the rights under Para. 1 not earlier than fifteen days as of the day on which the insured has received a written warning. The written warning shall be also considered handed in the case where in the insurance policy, the insurer has explicitly specified which of the rights under Para. 1 shall be exercised upon the expiry of the 15-day period as of the annuity installment's date of maturity.

(3) In the case where an insured event has occurred prior to payment in full of the insurance premium by the insured, the insurer may deduct the amount of the unpaid premium from the amount of the insurance indemnity.

(4) In the case where it has been stipulated that the insurance cover shall commence, without payment of the whole premium, or the first installment in the case of annuity payments, the insurer shall be entitled to the right to require its payment with the legal interest as from the day of delay.

#### Insurance Amount

**Art. 203.** (1) The insurance amount may not exceed the property's recovery or actual value.

(2) Actual value of the property shall be considered to be the value, in return for which instead of the insured property, another one may be bought of the same quality.

(3) Recovery value of the property shall be considered to be the price for recovery of a property of the same kind, including all inherent expenses incurred with regard to delivery, construction, setting up, etc., without applying depreciation.

(4) Unless otherwise stipulated, it shall be accepted that the insurance amount is set in compliance with the property's actual value. In order to establish the actual value, the insurer shall have the right to inspect the property.

#### Overinsurance

**Art. 204.** (1). In the case where the insurance amount agreed upon exceeds the actual value, or the recovery value of the property insured respectively, the contract shall remain in force, and the insurance amount shall be reduced to the amount of the actual, or the recovery value respectively.

(2) An insurer shall not be under the obligation to reimburse the part of the premium paid, which corresponds to the difference between the insurance amount agreed upon, and the actual, or the recovery value of insured property respectively, unless the insured has been conscientious.

#### Underinsurance

**Art. 205.** (1) In the case where the agreed-upon insurance amount is less than the actual, or the recovery value of the insured property respectively, and the insured property perishes or is damaged, indemnity shall be determined according to the correlation between the insurance amount and the actual, or the recovery value respectively.

(2) In the case where an insurance contract has been concluded with a covenant against first risk, the full damage amount shall be compensated, insofar as it does not exceed the insurance amount.

#### Obligation of Reporting

**Art. 206.** (1) Upon occurrence of an insured event, the person insured shall be under the obligation to notify the insurer within a seven-day period of coming of knowledge thereof, unless the contract makes provision for different adequate term.

(2) The notification term under the contract may not be shorter than three days as of coming into knowledge. In the case of insurances against theft or robbery, the notification term under the contract may not be shorter than 24 hours as of coming into knowledge.

(3) The insurer shall have the right to refuse payment in the case where the insured has not fulfilled their obligations within the terms under Paras. 1 and 2 in order to hinder the insurer in establishing the circumstances, under which the event has occurred, or where the above non-fulfillment has made it impossible for the insurer to establish the said circumstances.

#### Prevention and Limitation of Damages

**Art. 207.** (1) An insured shall be under the obligation to undertake measures for protection of the property insured from damages, to observe the instructions of the insurer and the competent authorities for elimination of sources of risk, and to allow the insurer to make inspections.

(2) Upon violation of the obligations under Para. 1, an insurer shall have the right to terminate the insurance contract only if no insured event has occurred. In the case of insured event occurrence, the insurer may accordingly reduce the insurance indemnity due. In the case where the occurrence of the insured event ensues from non-fulfillment of the obligation under Para. 1, the insurer may refuse payment only in the case where the above has been explicitly stipulated under the contract.

(3). Upon occurrence of an insured event, the insured shall have to allow the insurer to make an inspection of the property damaged and to submit the documents required by the insurer, which are directly related to ascertainment of the event and the amount of the damages.

(4) The insured shall be under the obligation to perform the necessary actions for limitation of damages from the insured event and to follow the instructions of the insurer.

#### Insurance Indemnity

**Art. 208.** (1) Upon occurrence of an insured event, an insurer shall be under the obligation to pay insurance indemnity within the term agreed upon. The term may not be longer than 15 days, and shall commence running as of the day on which the insured has performed his/her obligations under Art. 206, Paras. 1 or 2, and Art. 207, Para. 3.

(2) The insurer shall indemnify the insured person separately for the expenses the insured has incurred to limit the damages, where acting with the due for the case care, even if his efforts have remained without result. In such case, the insurer's liability may even exceed the insurance amount, if the expenses have been made in fulfillment of its directions.

(3) Indemnity shall be equal to the amount of the damage incurred as of the day of the event's occurrence. The insurer shall not owe indemnity for missed benefits, unless otherwise agreed upon under the insurance contract.

(4) In the case where for one property right two or more insurance contracts have been concluded under equal insurance risk covers, and the total of separate insurance amounts exceeds

the actual value of the property insured, each insurer shall be liable in such proportion, in which the insurance amount of the insurance concluded with him is to the total insurance amount of all insurances. The insured person shall be obligated to inform each of the insurers of the presence of other insurance contracts as well, indicating the other insures and the insurance amounts under the contracts concluded with them.

(5) In the case where upon payment of the insurance indemnity the stolen or lost property is found, the insured shall be under the obligation to transfer the property right on it to the insurer or to a person specified in writing by the insurer. In the case where the insured wishes to keep the property found, he/she shall have to pay back to the insurer the compensation received.

#### Recompensation of Damages

**Art. 209.** (1) Upon occurrence of an insured event, an insurer may, with the consent of the insured, also recompense the damages incurred by the latter in kind.

(2) The term for recompensation of damages may not be longer than 45 days as of the day, on which the insured has fulfilled his obligations under Art. 206, Para. 1, or Para. 2 and Art. 207, Para. 3.

#### Partial Loss

**Art. 210.** In the case of partial loss of insured property, it shall be considered insured until the expiration of the insurance contract's term to an amount, equal to the difference between the initial insurance amount and the insurance indemnity paid, unless otherwise provided for under the insurance contract.

#### Denial to Pay Insurance Indemnity

**Art. 211.** (1) An insurer may refuse payment of indemnity only:

1. In the case of deliberate causation of the insured event by the insured person or by a third benefiting person;
2. Upon non-fulfillment of an obligation under the insurance contract, which is material with a view to the insurer's interest and has been provided for under a law or under the insurance contract;
3. In some other cases provided for by law.

#### Transfer of the Property Insured

**Art. 212.** (1) In the case of insured property transfer, the purchaser shall enter into the rights under the insurance contract, unless otherwise provided for. The transferor or the purchaser shall notify in writing the insurer of the transfer within a seven-day period.

(2) The purchaser shall be jointly and severally liable for the unpaid premium part until entry.

(3) The insurer shall have the right to demand the premium from the transferor, until he is notified of the transfer.

(4) The insurer and the purchaser may recess from the contract by forwarding a notice to the other party, made not later than 30 days as of the notification under Para. 1.

#### Entry into the Insured's Rights

**Art. 213.** (1) By payment of insurance indemnity, an insurer shall enter into the rights of the insured against the agent of damage – up to the amount of the indemnity paid and the ordinary expenses incurred with regard to its determination. In the cases where the damage agent has a *Third Party Liability* Insurance concluded, the insurer under the property insurance shall enter into the rights of the insured against the damage agent or its insurer on a *Third Party Liability* Insurance – up to the indemnity amount paid and the ordinary expenses incurred with

regard to its determination. The insurer on a property insurance may claim its receivables directly to the insurer on *Third Party Liability*.

(2) In the case where the person, having caused the damage, is an ascendant or descendant or his/her spouse, as well as in the case where s/he belongs to the family of the insured, the insurer shall have the rights under Para. 1 if s/he has acted intentionally.

(3) The person insured shall be under the obligation to assist the insurer upon exercise of his/her rights against the agent of damage.

(4) In the case where the property of the agent of damage is insufficient, the insurer shall be satisfied after the insured.

(5) In the case where the agent of damage has compensated the person insured in full amount, the insurer shall be exempt from the obligation to pay insurance indemnity.

#### Subscription Insurance Contract

**Art. 214.** (1) A subscription insurance contract shall provide for the rights and obligations of the insured for a certain period of time.

(2) The insured shall be under the obligation to notify an insurer in advance of insured property for each single case under the procedure provided for under the insurance contract. In such cases, the insurer shall be under the obligation to issue a separate document at the request of the insured.

(3) Each of the parties may terminate the contract by a written notification of one-month, unless otherwise provided for.

#### Insurance Against Transport Risks

**Art. 215.** (1) With regard to rail and road, air and river transport, an insurance contract shall cover all risks to which the goods transported are exposed, unless otherwise provided for.

(2) The goods transported may be insured up to their market price at destination.

(3) An insurance contract shall enter into force as of the goods' delivery for transport, and shall be effective until its delivery to the receiver, including also reloading and storing, unless otherwise provided for.

(4) An insurer shall not cover risks upon interruption of transport or deviation from itinerary, unless otherwise provided for.

(5) In the case where a receiver under the transport contract accepts the goods before the damages have been established, an insurer shall owe no compensation.

(6) In the case where the damages could not have been noticed externally upon receipt, and have been established later, but within the term in compliance with the regulations for the relevant type of transport, an insurer shall owe indemnity only if the receiver forwards a notification to him, but not later than 15 days as of the goods' receipt.

#### Marine Insurance Contract

**Art. 216.** A marine insurance contract shall be settled under the Code of Commercial Navigation.

## Section II Legal Expenses Insurance

#### Nature

**Art. 217.** (1) Under the contract for legal expenses insurance, an insurer shall undertake the expenses of an insured person in relation to participation in court, pre-court, administrative and arbitration proceedings, and provide other services, directly related to the insurance cover, more specifically where the person insured:

1. Claims indemnity for damages incurred by him, or
  2. Is represented or defended in connection with any claims brought against him.
- (2) The provisions of the present Section shall not apply:
1. In the case of legal disputes and risks ensuing from or in connection with the use of sea vessels;
  2. In the case of defence and representation of an insured person in connection with a contract for *Third Party Liability* Insurance, which an insurer provides for defence of its interests as well.
- (3) The insurance of liabilities for payment of fines, confiscation or other penalty sanction within the meaning of the penal or administrative and penal provisions, shall not be allowed.

#### Contract for Legal Expenses Insurance' s Form.

##### Compulsory Contents

- Art. 218.** (1) A Contract for Legal Expenses Insurance shall be concluded:
1. Separately from the contract for cover of other risks, or
  2. As a separate part of a contract for cover of other risks, in which part the premium's amount and the type of the legal expenses covered shall be specified.
- (2) The Contract for Legal Expenses Insurance shall explicitly indicate:
1. The manner of settlement of the claims under Art. 92, adopted by the insurer;
  2. The rights of the insured person under Art. 219 and Art. 220.

##### Right to Choose

- Art. 219.** (1) At their own choice, a person insured shall have the right to authorize a lawyer or another person, entitled to provide legal counsel, or to carry out procedural representation in the proceedings under Art. 217, Para. 1 in compliance with the law valid at the place of legal seat of the body, before which the proceedings are to take place.
- (2) The person insured shall also have the right under Para. 1 in the case of conflict of interest in the relations with the insurer;
- (3) The persons authorized by the insured person in compliance with Paras. 1 or 2 may not receive instructions with regard to their operations by the insurer.

##### Out-of-Court Settlement of Disputes

**Art. 220.** The insured person shall have the right to refer to an objective and impartial body for out-of-court settlement of disputes in all cases of disagreement with the insurer in connection with the contract for insurance of legal expenses. The right to claim before the court may not be restricted.

##### Notification of the Insured Person

**Art. 221.** The insurer, the person for settlement of claims under Art. 92, Item 2 respectively, shall be liable to inform the insured with regard to its rights under Art. 219 and 220 in any case of conflict of interests or dissention with the insured person.

## **Section II** ***Travel Assistance Insurance***

##### Nature

**Art. 222.** (1) Under the Contract for *Travel Assistance* Insurance, an insurer undertakes against payment of insurance premium to ensure direct assistance to a person, who as a result of an accidental event has run into trouble during travel. The events and conditions for provision of assistance shall be specified under the insurance contract.

(2) The insurer shall provide the assistance in cash or in kind in compliance with the agreed upon terms under the contract.

(3) The Contract for *Travel Assistance* Insurance shall not cover correction, repair and guarantee servicing of property, as well as the expenses incurred in connection with usual intermediation for finding and providing assistance.

## **Chapter Twenty** **THIRD PARTY LIABILITY INSURANCE**

### Definition

**Art. 223.** (1) A Contract for *Third Party Liability* Insurance shall bind an insurer to cover, within the insurance amount specified under the contract, the liability of the insured for material and non-material damages caused by him/her to third parties. A Contract for *Third Party Liability* Insurance may bind an insurer to cover the liability of the insured for non-performance of his contractual obligation within the limits of the insurance sum specified under the contract.

(2) The insurer shall pay indemnity, for missed benefits inclusive, which missed benefits are directly and immediately as a result from unallowed damage, and for interests in case of delay, where the insured is liable for their payment before the injured person. The insurer shall be liable for the interests in the case of delay, adjudged as a burden to the person insured as of the date of the announcement under Art. 224, Para. 1.

(3) For liability for lost profit, resulting from non-execution of a contractual obligation, the insurer may provide cover against payment of an additional premium, unless otherwise provided for.

(4) The insurer shall also pay the expenses for lawsuits conducted against the person insured in order to establish his civil liability up to the amount of the insurance sum, where the latter is brought to the proceedings.

### Notification and Inclusion. Representation

**Art. 224.**(1) Within a seven-day period as of coming of knowledge, a person insured shall be hereby obligated to notify the insurer of circumstances that may lead to the arising of third party liability. Within the same period of time, a person insured shall be obligated to notify the insurer of claims presented against him/her or of payments s/he has effected.

(2) Upon a claim presented by an injured, the person insured shall be under the obligation to demand inclusion of the insurer into the case, where permitted by law.

(3) The insurer or a person appointed by him may by authorization on the part of the insured, to represent him in legal proceedings or in out-of-court settlement of claims in connection with his civil liability, where this is also in the insurer's interest. The costs in connection with the authorization and the representation shall be at the insurer's expense up to the amount of the insurance sum. The circumstances established under the acts of the court, adjudicated in the participation of persons under Sentence One shall first be binding on the insurer.

### Application of the Regulations on the Property Insurance

**Art. 225.** With regard to *Third Party Liability* Insurance, the regulations under Arts. 202, 207, Paras. 3 and 4, and Art. 208, Para. 1 shall apply.

### Direct Claim

**Art. 226.** (1) A person injured, with regard to whom an insured is liable, shall have the right to demand indemnity directly from the insurer.

(2) An insurer may raise objections ensuing from the contract and from the third party liability of an insured, except for the objections under Art. 207, Paras. 3 and 4, and Art. 224, Para. 1. Where the *Third Party Liability* Insurance is compulsory pursuant to a law, the insurer may not raise objections for self-participation of the person insured as well.

(3) Under the *Third Party Liability* Insurance, which is compulsory, an insurer shall be also liable with regard to a person injured in the case where the latter has been intentionally injured by the insured.

#### Counter Claim

**Art. 227.** (1) The insurer shall have the right to a counter-claim against the insured:

1. In the cases under Art. 226, Para. 3 for all paid to the injured;  
2. For the interest amounts paid in the case of delay, corresponding to the period from the date of occurrence of the insured event until the date of announcement of the circumstances under Art. 224, Para. 1 by the person insured, or until the date of the direct claim's presentation under Art. 224, Para. 1, unless the insured person has failed to fulfil his obligations due to reasons he cannot be charged with.

3. For the amount of the agreed-upon self-participation in the cases under Art. 226, Para. 2, Sentence Two.

#### Agreement

**Art. 228.** (1) An agreement between a person injured and a person insured, as well as recognition of the insured's liability, shall have effect for an insurer if approved by him.

(2) An agreement reached with the knowledge and consent of a representative under Art. 224, Para. 3 shall be considered to have been approved by the insurer.

#### Right of the Insured

**Art. 229.** A person insured shall have the right to receive the insurance indemnity in the case where s/he has satisfied the person injured.

## **Chapter Twenty – One** **LIFE AND ACCIDENT INSURANCES**

#### Subject of the Insurance Contract

**Art. 230.** (1) Contracts for *Life* and *Accident* Insurances shall be concluded against events related to the life, health or physical integrity of a natural person.

(2) A Contract for *Life* Insurance may cover an event of death, or an event of survival to a specified time, or to have a mixed cover.

(3) A Contract for *Life* or *Accident* Insurance shall be invalid where it covers the occasion of death of a minor person, or of a person placed under full judicial disability, as well as with coverage of the risk of abortion or giving birth to a dead child. The insurer shall be obligated to pay back the insurance premiums received in connection with the implementation of a Contract for *Life* or *Accident* Insurance that covers such risks. In the case where the person taking up the insurance has deliberately concealed information with regard to the persons under Sentence One, whose life is a subject to a Contract for *Life* or *Accident* Insurance, the insurer shall be entitled to deduct the amount of the expenses made on the the insurance contract's conclusion from the sum of the premium, which is subject to return.

#### Group Insurance

**Art. 231.** (1) Under one Contract for *Life* or *Accident* Insurance, two or more persons may be insured, whose number is defined or definable. In such case, it shall not be necessary that

the names and the addresses of the persons insured be included under the Contract, in the case where they have been defined in another unequivocal manner, through indication of a definite quality of theirs inclusive.

(2) A Group Insurance may be concluded by an employer, where insured shall be his employees and/or workers, whose life, health and working capacity shall be subject of the said insurance.

(3) The employer under Para. 2 shall be hereby obligated to provide his workers and/or employees with the complete information the said employer has received from the insurer with regard to the Contract for *Life* or *Accident* Insurance concluded, and which is needed by the persons insured in order to exercise their rights under the insurance contract.

#### Mutual Insurance

**Art. 232.** (1) A contract for Mutual Insurance may be concluded by spouses, persons living together in actual extramarital cohabitation, persons of familial relationship, and partners in a company under Art. 357 of the Obligations and Contracts Act, as well as partners in a general partnership, limited partnership or a legal company.

(2) In the case of a divorce of spouses, the mutual insurances shall be separated. The said rule does not apply where the contract has been concluded for the benefit of a child from the marriage ended.

(3) Upon winding-up the companies under Para. 1, the mutual insurances shall be separated.

(4) In the case of termination of the relationship between the persons living together in actual extramarital cohabitation, these may request separation of the insurances, unless the contract has been concluded for the benefit of a child born and fathered by these persons.

#### *Life or Accident* Insurance over a Third Party

**Art. 233.** (1) A person insured may conclude a Contract for *Life* or *Accident* Insurance, whose subject is the life, health or physical integrity of a third person. The said Contract shall only be effective if concluded with the explicit written consent of the third person.

(2) The person over whose life the contract has been concluded may always terminate it by a unilateral written statement addressed to the insurer. In the case where the contract has been maintained for at least two years, the insurer shall be obligated to pay to the person insured the premium reserve under the insurance.

(3) In the case where an insured person perishes before the third person over whose life, health or physical integrity the contract has been concluded, the contract shall be terminated unless otherwise stipulated.

(4) In the case under Para. 3, should the Contract for *Life* Insurance have been maintained for at least two years, the insurer shall be obliged to pay to the heirs of the person insured or to the third party beneficiary the premium reserve under the insurance.

(5) The insurer shall not pay amounts under the Contract in the case where the person insured deliberately causes an insured event.

#### *Life and Accident* Insurances for the Benefit of a Third Party

**Art. 234.** (1) Upon conclusion of a Contract for *Life* or *Accident* Insurance, as well as during any time of its effect, the person insured may specify a third party beneficiary.

(2) With regard to conclusion of an insurance contract for the benefit of a third party, the consent of this person shall not be necessary. The party beneficiary shall give his/her explicit written consent in the case where the subject of the contract under the terms of Art. 233 is the life, health or physical integrity of a third person, other than the insured person.



(3) In the case where an insurance contract has been concluded for the benefit of the insured person's children, the beneficiary parties shall also be the children born after the contract's conclusion unless otherwise stipulated.

(4) In the case where an insurance contract has been concluded for the benefit of a spouse of an insured, the right shall belong to the person who is married to the insured as of the day of the insured event's occurrence, unless otherwise stipulated.

(5) In the case of several parties-beneficiaries, they shall have equal rights, unless otherwise stipulated.

(6) In the case where the third party beneficiary perishes before an insured, and under the contract there are no other persons beneficiaries specified, the insurance amount shall be paid to the person insured or their heirs.

(7) A third party beneficiary shall lose their rights under the contract in the case where they have intentionally caused the insured event. In the case where there are several persons beneficiaries, the part of the person beneficiary who has deliberately caused the insured event, shall be evenly allocated between the other persons, unless otherwise stipulated.

(8) With regard to the hypothesis under Para. 7, in the case where there are no other persons beneficiaries specified, the insurance sum shall be paid to the insured, respectively to his/her heirs.

(9) In the case where under a claim submitted by the creditors of an insured, the insurance contract has been repealed, the third party beneficiary shall be liable up to the amount of the sum received, but not more than the amount of the premium paid.

#### Right of the Third Party Beneficiary

**Art. 235.** (1) The insurance amount shall not be included in the estate of the insured, even where his/her heirs have been specified as parties beneficiaries.

(2) In the case where a party beneficiary is a heir, s/he shall have the right to insurance amount, even if s/he gives up inheritance.

#### Premium's Payment

**Art. 236.** (1) In the case where an insured under a *Life* Insurance does not pay some due current premium in the case of annuity premium payments, the insurer shall not be entitled to demand its payment through the court.

(2) An insurer shall be hereby obligated to invite in writing the insured to pay the current premium within a period that shall not be less than one month as of the invitation's receipt.

(3) In the case where the current premium is not paid within the term under Para. 2, the insurer may reduce the insurance amount to the amount of the redemption value where the current premiums under the insurance contract have been paid for at least two years. Otherwise, the insurer may terminate the contract.

(4) In the case where an insured event occurs prior to the insurance amount's reduction, or the termination of the contract under the terms of Para. 3, it shall be reckoned that the insurance amount has been reduced or that the contract has been terminated.

#### Right to Unilateral Termination of the Contract

**Art. 237.** (1) A natural person who has concluded a natural person insurance contract under a *Life* Insurance, having a term exceeding six months, shall be entitled to unilaterally terminate the contract within a period of 30 days as of the date, on which s/he has been notified of the insurance contract's conclusion.

(2) The person under Para. 1 shall exercise his/her right to termination of the contract by a unilateral written notification, addressed to the insurer. As from the notification's date to the insurer, the insurance contract shall be terminated, and the insured shall be exempted from his/her liabilities under it, and shall have the right to receive the insurance premium paid, with

the exception of the part corresponding to the time, during which the insurer has borne the risk, if no insured event has occurred. The insurer shall return the part of the premium within a thirty-day period as of the notification's receipt.

#### Insurance Sum

**Art. 238.** (1) Upon occurrence of an insured event or of conditions specified under the contract, the insurer shall be hereby obligated to pay the insurance indemnity or the part of it specified under the insurance contract.

(2) Insurance indemnity shall also be paid in the cases where the person who has caused the damage is obligated to indemnify the insured, or has already indemnified him/her, as well as where the insured has received payment under another insurance contract.

(3) The insurer shall effect the payment within a 15-day period as of the date, on which the evidences demanded in order to establish the insured event and the payment's amount.

(4) Where determining the amount of the payment for disability caused by an insured event, except for the cases of loss of limbs or other human organs, the insurer may provide for a period needed for stabilization of the disability, which period may not exceed one year as of the date of the insured event's occurrence. In such case, under the term specified under Art. 3, the insurer shall set and pay an advance amount, which may not be less than the minimum indisputable amount of the payment.

(5) The insured amount shall be paid to the insured or to the third person beneficiaries.

(6) In the case of the insured person's death, where the insurance has not been concluded for the benefit of third persons, the insured amount shall be paid to the insured person's heirs, and if no such exist – to the persons who lived with the deceased in one household.

(7) Under contracts under *Life* Insurance or *Accident* Insurance, the insurer who has paid the insured amount may not enter into the rights of the insured person against the person who has caused the event.

#### Excluded Risks

**Art. 239.** (1) Insofar as not agreed otherwise, an insurer shall be exempted from his liabilities under the insurance contract in the case where:

1. An insured person intentionally commits a suicide prior to the expiration of one year as of the contract's conclusion;

2. Wounding, injury of physical integrity, loss of ability to work or death ensued from the performance of a general crime by the person insured;

3. Death has occurred as a result of execution of a death penalty, imposed with effectuated sentence.

4. Death has occurred upon war, or military operations, or as a result of an act of terrorism.

(2) The parties may also agree upon other excluded risks.

(3) With regard to *Life* Insurance, in the case where the current premiums have been paid for at least two whole years, an insurer shall pay the mathematical reserve under the insurance to the heirs of the insured or to other third party beneficiaries.

#### Right to Redemption. Right to Loan

**Art. 240.** (1) With regard to *Life* Insurance, upon a request submitted by an insured person, the insurer shall be hereby obligated to pay the redemption value under the insurance contract in the case where at least two years have passed as of the beginning of insurance cover period, and all premiums have been regularly paid throughout the said period. The redemption value shall be paid by the insurer within a 20-day period as of the request's submission.

(2) The terms under which an insured person may demand payment of the redemption value, as well as the redemption value's amount for each year of the contract's term of validity shall be specified under the insurance contract.

(3) In the case where the contract has been concluded and a beneficiary has been specified, and the aforesaid person has declared they accept the clause for their benefit, the beneficiary shall have the right to receive the redemption value .

(4) A loan may be granted to the insured by the insurer against the insurance up to the amount of the redemption value. The conditions and the procedure for the grant, repayment and the interest under the loan shall be settled under the insurance contract. In the case where the insured event has occurred and the loan has not been repaid, the contract shall remain in force for a reduced insurance indemnity.

#### Unit-Linked Life Insurance

**Art. 241.** With regard to *Unit-Linked Life* Insurance, the insured person shall bear the investment risk of the mathematical provision in the assets chosen by him/her, unless otherwise stipulated.

#### Security of Liability Insurance

**Art. 242** (1) Where *Life* or *Accident* Insurance has been concluded for the benefit of a creditor in order to secure a liability of a natural person, the latter has the right to a claim against the insurer in the case where it has not been a party to the insurance contract and has paid the liability upon occurrence of an insured event. The same right shall also be entitled to any third person who on the strength of the law has paid the liability.

(2) The insurer may raise all objections ensuing from the insurance contract.

(3) Where the person under Para. 1 is not a party to the insurance contract, it shall have the right to receive it along with the general conditions and the information submitted to the insurer in connection with securing the cover.

#### Provision of Information

**Art. 243.** (1) Prior to conclusion of a Contract for *Life* or *Accident* Insurance, as well as during the Contract's period of validity, the insurer shall have the right to receive detailed and accurate information with regard to the age, sex, and the health status of the person, whose life, health or physical integrity are subject to insurance.

(2) Upon occurrence of an insured event, the insurer shall be entitled to access to the complete medical documentation in connection with the health status of the person, whose life has been insured, and may demand the above information from all persons safeguarding such information.

## **Chapter Twenty-Two** **APPLICABLE LEGISLATION TO INSURANCE CONTRACTS WITHIN THE** **EUROPEAN UNION AND EUROPEAN ECONOMICAL AREA**

#### Applicable Legislation to Insurance Contracts for Property Insurance

**Art. 244. (1)** The applicable legislation to insurance contracts for property insurance, covering risks located within the territory of Member States, shall be determined as follows:

1. In the case where the risk is located within the territory of the Republic of Bulgaria and an insured person has habitual place of residence or head office within the territory of the

Republic of Bulgaria, the applicable legislation shall be the legislation of the Republic of Bulgaria;

2. In the case where the risk is located within the territory of the Republic of Bulgaria and an insured person has no habitual place of residence or head office within the territory of the Republic of Bulgaria, the parties may choose as applicable legislation to the contract the legislation of the Republic of Bulgaria or the legislation of the Member State in which the insured has habitual place of residence or head office; the parties to the contract may also set applicable legislation in compliance with Sentence One in the case where the risk is located in another Member State and the insured has habitual place of residence or head office within the territory of the Republic of Bulgaria;

3. In the case where an insured person performs business operations or is a freelancer, and the contract covers two or more risks related to this activity or profession, and the risks are located within the territory of the Republic of Bulgaria and in one or more Member States, the parties to the contract may set as applicable the legislation of the Member State where one of the risks is located, or the legislation of the Member State where the insured has habitual place of residence or head office;

4. In the case where the relevant country under Items 2 and 3 provides greater freedom to choose applicable legislation to the contract, the parties may set as applicable the legislation of another country in compliance with the opportunity to choose provided;

5. In the case where the risks covered by the contract are restricted to insured events that may occur in a Member State other than the Member States under Items 1, 2 or 3, the parties to the contract may set as applicable to the contract the legislation of the Member State where the insured event has occurred;

6. In the case where an insurance contract covers high risks, the parties may freely choose applicable legislation to the said contract.

(2) With regard to the hypotheses under Para. 1, Item 6, the fact that the parties to the contract have chosen as applicable the legislation of a country other than the Republic of Bulgaria shall not affect the application of the mandatory provisions of the legislation of the Republic of Bulgaria, in the cases where all other elements of the insurance contract are related only to the Republic of Bulgaria as of the moment of choice.

(3) The choice of applicable legislation to an insurance contract shall be explicit and shall clearly ensue from the contract's clauses. In the case where the requirement under Sentence One has not been met, the applicable legislation to the contract shall be the legislation of this Member State under Para. 1, with which the contract is most closely related.

(4) In the case where a part of an insurance contract may be set aside from its other clauses and if this part is more closely related to a Member State other than the relevant countries under Para. 1, the legislation of this other Member State may apply to it as an exception. It shall be assumed that the insurance contract is most closely related to the Member State where the risk is located.

(5) In the case where a particular country consists of more than one territorial units, each of which has its legal norms for contracts, each unit shall be considered a country upon setting applicable legislation in compliance with the provisions of the present Chapter.

(6) The provisions of the present Chapter shall not refer to the application of the regulations of the law of the Republic of Bulgaria, which mandatory settle the case irrespective of the legislation applicable to an insurance contract.

(7) Insofar as the legislation of the Republic of Bulgaria makes provision for, the mandatory regulations of the legislation of the Member State where the risk is located, or of the Member State whose legislation provides for obligation of insurance may apply insofar as, in accordance with the legislation of these Member States, the specified mandatory regulations shall apply irrespective of the legislation applicable to the contract.

(8) In the case where an insurance contract covers risks located in more than one Member State, for the purposes of the application of Paras. 6 and 7 it shall be reckoned that there exist several contracts, each of which is related to one Member State only.

Applicable Legislation to Insurance Contracts for Obligatory  
Insurance

**Art. 245.** (1) For the obligatory insurances provided for under the Bulgarian legislation, the law of the Republic of Bulgaria shall apply.

(2) In the case of a conflict between a Bulgarian law providing for obligatory insurance and the legislation of a Member State where the risk is located, the Bulgarian law shall apply.

(3). In the cases where an insurance contract for obligatory insurance comprises cover of risks in two or more Member States, at least one of which provides for obligatory insurance, Art. 244, Para. 8 shall apply accordingly.

Applicable Legislation to Insurance Contracts for  
*Life and Accident Insurance*

**Art. 246.** The legislation applicable to insurance contracts for *Life and Accident Insurance* shall be set as follows:

1. In the case where the risk is located in the Republic of Bulgaria, the Bulgarian legislation shall be applicable, and where the risk is located in a Member State, the legislation of this Member State shall apply;

2. In the case where a party under the contract is a citizen of the Republic of Bulgaria who has habitual place of residence in a Member State, the parties to the contract may set as applicable the legislation of the Republic of Bulgaria. Where a party under the contract is a citizen of a Member State who has habitual place of residence in the Republic of Bulgaria, the parties under the contract may set as applicable the legislation of this Member State;

3. In the case where a particular country consists of more than one territorial units, each of which has its own legal regulations for contracts, each territorial unit shall be considered a country upon setting the applicable legislation in accordance with the stipulations of the present Chapter;

4. The stipulations of the present Chapter shall not refer to the application of the mandatory regulations of the law of the Republic of Bulgaria, which settle the case;

5. Insofar as the legislation of the Republic of Bulgaria makes provision for, the mandatory regulations of the legislation of the Member State where the risk is located, or of the Member State whose legislation provides for obligation of insurance may apply insofar as, in accordance with the legislation of these Member States, the specified mandatory regulations shall apply irrespective of the legislation applicable to the contract.

Public Order

**Art. 247.** Conclusion of insurance contracts under the stipulations of the present Chapter shall be allowed insofar as it does not contradict the Bulgarian public order.

Application of the Private International Law Code

**Art. 248.** Insofar as not stipulated otherwise under the present Chapter, for the insurance contracts within the European Union and the European Economic Area, the provisions of the Private International Law Code shall apply.

**PART FIVE**  
**OBLIGATORY INSURANCE**

## **Chapter Twenty-Three GENERAL PROVISIONS**

### **Obligatory Insurance Types**

**Art. 249.** Obligatory insurances shall be:

1. *Third Party Liability of Motorists* under Section II, letter “A”, Item 10.1 of Supplement No. 1 herein after referred to as obligatory *Third Party Liability Insurance of Motorists*;
2. *Accident* – of passengers in the public transport vehicles under Section II, letter “A”, Item 1 of Supplement No. 1 herein after referred to as “obligatory *Accident* Insurance of passengers”;
3. Other insurances laid down by a law or by an international treaty, ratified in a constitutional form, promulgated and effectuated for the Republic of Bulgaria.

### **Contract for Obligatory Insurance**

**Art. 250.** An insurer who performs obligatory insurance may not refuse to conclude a contract for the relevant obligatory insurance.

### **Obligatory Insurances’ Term**

**Art. 251.** (1) The term of the obligatory insurances shall be set by the parties to the contract, unless otherwise stipulated under a statutory act.

(2) A contract for obligatory insurance shall be renewed prior to the expiration of its term, except for the cases where the insurable interest has ceased to exist.

### **Contracts for Obligatory Insurance Having an Insurance Amount Exceeding the Minimum Requirements**

**Art. 252.** The contract for obligatory insurance may also be concluded for an insurance amount exceeding the minimum requirements established under a law, and if that be the case it shall be considered that the obligation of taking out of insurance has been fulfilled.

### **Control over Taking out of Obligatory Insurances**

**Art. 253.** (1) Control over taking out of an obligatory insurance shall be exercised by the authorities entrusted thereof under a law.

(2) Control over taking out of obligatory insurances of the *Accident* type for employees in state institutions shall be exercised by the superior state body of the relevant institution, and if there is no such body – by the Agency for State Internal Financial Control.

(3) Control over taking out of obligatory *Third Party Liability Insurance of Motorists* with regard to motor vehicles, which are normally based in the territory of the Republic of Bulgaria, shall be performed by the bodies of the Ministry of the Interior.

(4) Control over taking out of obligatory *Accident* Insurance of passengers shall be performed by the Ministry of Transport and the Ministry of the Interior.

### **Special Provisions on the Control Over the Obligatory *Third Party Liability Insurance of Motorists***

**Art. 254.** (1) Checks on insurance contracts of the obligatory *Third Party Liability Insurance of Motorists* as a part of the state border control shall be exercised in regard to:

1. Motor vehicles which are normally based in the territory of a third country and entering the territory of the Republic of Bulgaria from a third country, as well as in the cases where such motor vehicles leave the territory of the Republic of Bulgaria;

2. Motor vehicles of special registration regime exempt from the obligation of taking out of the obligatory *Third Party Liability Insurance* pursuant to the legislation of the relevant Member State and included on a list drawn up by this Member State and presented to the Republic of Bulgaria;

(2) There shall be no checks on Third Party Liability Insurance of Motorists with regard to motor vehicles which are normally based in the territory of another Member State or the Republic of Croatia and the Swiss Confederation and the Principality of Andorra, as well as with regard to motor vehicles, which are normally based in the territory of a third country, entering the territory of the Republic of Bulgaria from the territory of another Member State. This shall not apply for the non-systematic checks by the authorized controlling bodies, which are carried out on different grounds.

### **Delegacy**

**Art. 255.** (1) The Commission shall issue an Ordinance on the procedure and conditions for performance of the obligatory insurance under Art. 249, Items 1 and 2, as well as on the procedure for its reporting.

(2) The Ordinance under Para. 1 shall also settle the procedure on introduction of unified numeration of policies under the obligatory insurances and their minimum requisites.

### **Information Provided to the European Commission on Obligatory Insurances**

**Art. 256.** (1) The Commission shall notify the European Commission of the obligatory insurances provided for under the Bulgarian legislation, specifying:

1. The specific legal provisions relating to these insurances;

2. The obligatory requisites of the certification documents an insurer shall be under the obligation to provide to the insured with a view to evidencing the compliance with the obligation to take out such insurances.

(2) Where the obligatory insurance has been concluded with an insurer from a Member State while observing the requirements set under Para. 1, Item 2, it shall be assumed that the obligation on the insurance conclusion has been fulfilled.

## **Chapter Twenty-Four**

### **OBLIGATORY THIRD PARTY LIABILITY INSURANCE OF MOTORISTS**

#### **Subject to Insurance and Insurance Cover**

**Art. 257.** (1) Subject to insurance under obligatory *Third Party Liability Insurance of Motorists* shall be the third party liability of the insured natural and legal persons for material and non-material damages caused by them to third parties, related to possession and/or use of motor vehicles for which insured shall be liable in accordance with the Bulgarian legislation or the legislation of the country where the damage occurred.

(2) Insured persons shall be the owner of the motor vehicle, for which there is a validly concluded insurance contract, as well as any person using the motor vehicle on lawful grounds.

(3). Third persons shall be considered to be all persons with the exception of the person liable for the damage caused.

(4) No agreement shall be allowed for exclusion from cover under the Third Party Liability Insurance of damages, caused to a third person who knew or should have known that the driver of the motor vehicle was in a state of alcoholic intoxication or under the influence of any other intoxicating agent at the time of the accident.

(5) The *Third Party Liability Insurance of Motorists* shall not cover the liability of the insured as carrier of goods.

### **Effect of the Contract for Obligatory *Third Party Liability Insurance***

**Art. 258.** (1) The insurance contract for obligatory *Third Party Liability Insurance of Motorists* shall cover the liability of the persons insured for damages caused within the territory of:

1. The Republic of Bulgaria in accordance with the Bulgarian legislation;
2. A Member State in accordance with its law;
3. A third country in the case where the damages have been caused to persons from a Member State during a journey between the territories of two Member States, and under the condition that there is no national insurance bureau responsible for that territory; in such case, the liability shall be covered in accordance with the law of the Member State where the motor vehicle with regard to which the insurance was concluded is normally based.

(2) The insurance contract for obligatory *Third Party Liability Insurance of Motorists* shall provide cover on the territory of the Republic of Bulgaria and of the other Member States on the basis of a single insurance premium, throughout the contract's whole term, in any period within the said period inclusive, where the motor vehicle remains in another Member State.

(3) The insurance contract for obligatory *Third Party Liability Insurance of Motorists* shall provide in each Member State the cover in accordance with its law or the cover under the law of the territory where the motor vehicle is normally based, in the case where this cover is higher.

(4) A territory in which a motor vehicle is normally based shall be the territory of the state:

1. Where the registration number plate of the motor vehicle has been issued, irrespective of whether permanent or temporary;
2. Where the insurance or other distinguishing sign of a motor vehicle, analogical to the registration number plate under Item 1, has been issued in case where no registration is required for particular types of motor vehicles;
3. Where the owner of a motor vehicle has permanent residence in cases where neither registration number plate nor insurance sign nor other distinguishing sign is required for particular types of motor vehicles.

(5) For the purpose of presenting a claim before a guarantee fund or a national insurance bureau in the cases where the motor vehicle has no registration number plate, as well as where it has a registration number plate which does not correspond to this motor vehicle, and a traffic road accident occurs with its participation, the territory within which the motor vehicle is normally based shall be the territory of the state where the above road accident has occurred.

### **Obligation for Conclusion of Contract for Obligatory *Third Party Liability Insurance of Motorists***

**Art. 259.** (1) A contract for *Third Party Liability Insurance of Motorists* shall be obliged to conclude every person who:

1. Possesses a motor vehicle which is registered within the territory of the Republic of Bulgaria and has not been prevented from circulation;



2. Drives a motor vehicle upon entry of the territory of the Republic of Bulgaria, where s/he has no insurance valid for the territory of the Republic of Bulgaria.

(2) The person under Para. 1, Item 2 shall conclude a border contract for *Third Party Liability Insurance of Motorists* at the cross-border point from which they enter the territory of the Republic of Bulgaria. The person under Para. 1, Item 2 shall possess a valid border *Third Party Liability Insurance of Motorists* until s/he leaves the territory of the Republic of Bulgaria,.

(3) The person under Para. 1, Item 2 shall not be obliged to conclude a contract for *Third Party Liability Insurance of Motorists* upon entry of the territory of the Republic of Bulgaria, provided that:

1. S/he holds a valid Green Card Certificate, or

2. Payment of indemnity with regard to his/her third party liability is guaranteed by a competent institution of a Member State and the driver is included in a list, drawn up by the competent authority of the Member State, indicating the persons exempted from obligation for conclusion of obligatory *Third Party Liability Insurance of Motorists* and provided to the Republic of Bulgaria.

(4) The conditions and the procedure for conclusion and reporting of the border *Third Party Liability Insurance of Motorists* under Para. 2 shall be specified in the Ordinance under Art. 255.

#### **Annuity Payments of the Premium under Obligatory *Third Party Liability Insurance of Motorists***

**Art. 260.** (1) In the cases of annuity payments, the installments of the insurance premium shall be paid within the term specified under the insurance contract.

(2) In the case of non-payment of an annuity installment of the insurance premium, the insurer may terminate the contract by the procedure as per Art. 202, para. 2, para. 4 of the same article shall also be applied.

#### **Proof of the Conclusion of an Insurance Contract**

**Art. 261.** (1) The existence of an insurance contract for obligatory *Third Party Liability Insurance of Motorists* shall be proved with an insurance policy and a sign that shall be issued by the Guarantee Fund. The insurance policy as per the first sentence shall be a registered form with continuous numeration, which shall be printed under the procedure established by the Council of Ministers for printing of securities.

(2) In the case of annuity payments, the sign under Para. 1 shall also certify the time period for which the insurance premium has been paid.

(3) Under the *Third Party Liability Insurance of Motorists*, against payment of an additional premium, cover may also be provided for third countries, participating in the *Green Card System*, for which the insurer shall issue a *Green Card Certificate*.

#### **Term of the Third Party Liability Insurance of Motorists**

**Art. 262.** The term of the *Third Party Liability Insurance of Motorists* shall be one /1/ year. Conclusion of a *Third Party Liability Insurance of Motorists* for a shorter term, but not shorter than thirty /30/ days shall be allowed under the following cases:

1. Upon conclusion of an insurance of motor vehicles that have temporary or transit registration in compliance with the Bulgarian legislation in force;

2. In the case of conclusion of border insurance;

3. In the case of conclusion of insurance by companies carrying out import and sale of motor vehicles;

4. In the case of conclusion of insurance of slow moving motor vehicles;
5. In the case of conclusion of insurance of self-propelled machines.

### **Change of Ownership**

**Art. 263.** (1) In the case of change of ownership of the motor vehicle insured, the contract for *Third Party Liability Insurance of Motorists* shall not be terminated. The transferor shall be obligated to hand over, to the purchaser, all documents attesting to the *Third Party Liability Insurance of Motorists* concluded. The transferor and the purchaser shall be thereby obligated to notify the insurer in writing of the transfer within a seven-day period.

(2) The purchaser shall be jointly and severally liable for the part of the premium non-paid up to the moment of transfer.

(3) The insurer shall have the right to demand payment of the premium from the transferor until the former is notified of the transfer.

(4) Within the term as per para. 1 the purchaser may unilaterally terminate the contract without providing motivation.

### **Motor Vehicle**

**Art. 264.** (1) For the purposes of the obligatory insurance as per this Chapter, a motor vehicle shall be assumed to be each vehicle for travel on land propelled by own engine and equipped with a state registration number, as well as the trams, trolley-buses and the self propelled machinery registered under the Law on registration and control of the agricultural and woods machinery. Trailers and semi-trailers shall be also considered to be motor vehicles.

(2) For the purposes of the obligatory insurance as per this Chapter, the following shall not be considered to be motor vehicles:

1. Railroad vehicles, trams excluded;

2. Self-propelled machinery within the meaning of § 1, Item 12 of the Additional Provisions of the Law on registration and control of the agricultural and woods machinery with engine power of up to 10 Kw .

(3) Movement of a motor vehicle on roads open for public use within the meaning of Art. 2, Para. 1 of the Law on Traffic where the driver is not insured under the procedure of the present Code shall not be allowed.

### **Victim. Injured Person**

**Art. 265.** (1) A victim shall be a person who has perished or has suffered corporal harms caused by motor vehicles.

(2) An injured person shall be a person, the victim inclusive, who has the right of indemnity for damages caused by motor vehicles.

### **Insurance Amount**

**Art. 266.** (1) The obligatory *Third Party Liability Insurance of Motorists* shall be concluded for the following minimum insurance amounts:

1. For non-material and material damages as a result of bodily injury or death:

a) BGN 2,000,000 for each event with one victim;

b) BGN 10,000,000 for each event in the case of two or more victims;

2. For damages to property (chattels) – BGN 2,000,000 for each event.

### **Insurance Cover**

**Art. 267.** (1) The insurer under the obligatory *Third Party Liability Insurance of Motorists* shall cover the liability of the insured for the inflicted to third persons, including pedestrians, cyclists, and other participants in the road traffic damages, that are related to the possession or the use of a motor vehicle, including:

1. Non-material and material damages as a result of corporal injury or death;
2. Damages caused to someone else's property;
3. Benefits forgone which are a direct and immediate result from damage, and
4. The expenses reasonably made in relation to the claim presentation under Items 1 - 3, including the legal expenses adjudged as burden on the insured person.

(2) The insurance under Para. 1 shall also cover the liability for damages, caused in connection to the possession or the use of a motor vehicle by a person who:

1. Does not have express or implied authorisation thereto, provided that s/he has not acquired possession over the motor vehicle through theft, robbery or a crime under Art. 346 of the Penal Code;

2. Does not hold a driving license to operate the motor vehicle or whose driving license has been temporarily withdrawn;

3. Is in breach of the statutory requirements for good technical condition of the motor vehicle.

(3) The indemnity under Para. 1 may not exceed the insurance amount under the contract.

(4) Indemnity for an insurer's delay and for legal expenses adjudged against an insurer shall not be limited by the amount of sum insured.

### **Exceptions**

**Art. 268.** An insurer shall not pay indemnity for:

1. Damages sustained by a guilty driver of a motor vehicle;
2. Damages, caused to the property of a passenger in the motor vehicle driven by the guilty driver, or to the property of the guilty driver's family member;
3. Damages caused to a motor vehicle, driven by the insured, as well as for damages inflicted on property, transported by such motor vehicle;
4. Damages caused in the case of use of the motor vehicle for participation in races, provided that the observance of the road traffic rules was not mandatory for the participants in the race and unless otherwise stipulated;
5. Damages caused in the case of use of the motor vehicle during an act of terrorism or war, provided that the injury of the third parties is in direct relation with such act;
6. Damages caused by the transportation of radioactive, chemical or other materials, constituting increased danger;
7. Damages constituting environmental pollution;
8. For damages ensuing from loss or destruction of moneys, jewelry, securities, all sorts of documentation, stamps, coins or other such collections;
9. Reimbursement of payments effected by the system of the state social or health insurance upon or on the occasion of death or corporal harm resulting from an insured event;
10. Interests and court expenses with the exception of the cases under Art. 223, Paras. 2 and 4;
11. Depreciation of the property damaged.

### **Claims representatives**

**Art. 269.** (1) An insurer who has been granted or wishes to obtain a license for performance of insurance operations on *Third Party Liability Insurance of Motorists* shall be

under the obligation to appoint a claims representative on this type of insurance in all Member States. The assignment of a representative under Sentence One shall not constitute opening of a branch in the relevant Member State.

(2) A claims representative under Para. 1 for a Member State may be a natural person resident, or a legal person, a sole proprietor respectively, having legal seat in this Member State. The natural persons who are directly involved in settlement of claims shall have command of the official language of the relevant Member State. No other restrictions on the choice of a claims representative shall be allowed.

(3) A claims representative may work for more than one insurer.

(4) A claims representative shall be responsible for handling and settlement of claims of the injured persons residing in the Member State, where the representative has been appointed, in the case where:

1. The motor vehicle that caused the insured event has a *Third Party Liability Insurance of Motorists* concluded with the insurer who has appointed the representative;

2. The motor vehicle that caused the insured event is normally based in a Member State other than the one where the injured person resides;

3. The insured event has occurred in a Member State, other than the Member State where the insured person is residing or within the territory of a third country during a journey between two Member States.

(5) In the cases under Para. 4, a claims representative shall have the powers to collect all necessary information for establishment of the insured event and the amount of injuries inflicted, as well as to agree out of court claim settlement and to meet the claim in full.

(6) The appointment of a representative under the present Article shall not restrict the right of an injured person to present his/her claims directly as per the place of the insurer's legal seat or its branch's legal seat.

(7) The provisions of Paras. 1-6 shall apply accordingly to the operations of claims representatives who operate within the country on behalf of insurers with a legal seat outside the Republic of Bulgaria.

(8) The Guarantee Fund shall maintain a Registry of the claims representatives appointed by insurers of the Member States to represent them within the territory of the Republic of Bulgaria.

### **Obligations of the Person Insured Upon Occurrence of a Road Accident**

**Art. 270.** (1) In the case of insured event occurrence, a person insured shall have the obligations, according to his/her possibilities, to make his/her best effort in order to save the injured persons and to limit the damages to property, to inform the competent authorities for road traffic control, as well as to perform his/her obligations under Art. 224.

(2) The insured shall be under the obligation to provide the injured person with the data necessary for claim presentation, including:

1. His/her name and address;

2. Name and address, respectively company name, legal seat and registered office of the owner of the motor vehicle;

3. Registration number of the motor vehicle;

4. Company name and legal seat of the insurer who has issued the insurance policy on *Third Party Liability Insurance of Motorists* and the number of the policy issued.

### **Obligations of the Insurer**

**Art. 271.** (1) The term for final judgment on a claim under *Third Party Liability Insurance of Motorists* may not be longer than three months as of its presentation before the

insurer who has concluded the *Third Party Liability Insurance of Motorists* contract, or before its claims representative.

(2) Within the term under Para. 1, the person before whom the claim has been presented shall have to:

1. Fix and pay the indemnity's amount, or
2. Provide a well-grounded standpoint on the claims presented in the case where refusing a payment, or where the legal grounds or the amount of damages has not been clearly determined.

(3) An injured person shall have the right of legal interest for delay on the indemnity's amount, which interest shall accrue as of the date of expiration of the term under Para. 1.

### **Obligations of the Person Injured**

**Art. 272.** The person injured shall be hereby obligated to submit to the insurer the documentation the former has at their disposal and which are related to the insured event and the damages inflicted, and shall assist the insurer upon establishment of the circumstances in connection with the event and the amount of damages.

### **Insurance Indemnity**

**Art. 273.** (1) In the case of death or corporal injury of third persons, the indemnity shall be determined by an insurance experts' commission of the insurer of the guilty driver or via the court.

(2) In the case of damages inflicted to property, the indemnity may not exceed the actual value of the damage inflicted. The indemnities for damages inflicted to motor vehicles shall be determined in compliance with an ordinance on the methodology for settlement of claims for indemnification of damages inflicted to motor vehicles adopted by the Commission.

(3) Indemnity under obligatory *Third Party Liability Insurance of Motorists* shall be determined and paid in the currency, in which the claim has been presented, except for in the cases under Art. 78, Para. 3. Claims for indemnity in relation to insured events, which have occurred in the Republic of Bulgaria shall be presented in the local currency.

(4) In the case of a dispute between the Guarantee Fund and an insurer, having concluded the *Third Party Liability Insurance* contract, with regard to the one who is to compensate the injured person, the indemnity shall be paid by the insurer. In the case where it is established that the liability lies with the Guarantee Fund, the latter shall reimburse the insurer for the amount paid to the injured person together with the legal interest rate.

### **Right of Reimbursement**

**Art. 274.** (1) In addition to the cases under Art. 227, the insurer shall have the right to receive the indemnity paid by it from the insured, in the case where the insured, upon occurrence of the road accident:

1. Has been driving the motor vehicle upon consumption of alcohol with concentration of alcohol in the blood exceeding the rate permitted by the law or under the influence of an intoxicating agent or its analogue, or has refused to undergo or has guiltily deviated from the standard check for alcohol, intoxicating agents or their analogues;

2. Has not stopped and undertaken measures to remove a fault or malfunction in the motor vehicle arisen while driving, which imperils the traffic's safety and the traffic accident occurred as a result of this;

(2) The insurer shall have the right to receive the indemnity paid by it from the person driving the motor vehicle without a driving license.

## **Certificate of Previous Insured Events**

**Art. 275.** (1) A person, who has concluded an obligatory *Third Party Liability Insurance* shall be entitled at any time to receive from the insurer, with whom the insurance contract has been concluded, a certificate of claims for indemnities with regard to damages, caused in the use of the motor vehicle, in relation to which the contract has been concluded or for the lack of such claims for a period of five years prior to the date of filing the application.

(2) An insurer shall be obligated to issue the certificate within a fifteen-day period as of filing of the application.

## **Chapter Twenty-Five**

### **OBLIGATORY ACCIDENT INSURANCE OF PASSENGERS IN PUBLIC TRANSPORT VEHICLES**

#### **Obligated Persons**

**Art. 276.** (1) In the case where the departure and arrival point of travel are within the territory of the Republic of Bulgaria, obligatory *Accident* Insurance of the passengers in public transport vehicles shall be held and maintained by carriers who perform public transport of passengers by means of public transport.

(2) Means of public transport of passengers shall be:

1. Railroad vehicles;
2. Trolley-buses and buses;
3. Aircraft;
4. All kinds of sea and river vessels;
5. Ropeways and tugs;
6. Taxi cabs.

#### **Subject to Insurance**

**Art. 277.** (1) Subject to insurance under the obligatory *Accident* Insurance shall be the health, life and the corporal integrity of the passengers in public transport vehicles.

(2) Persons under Para 1 shall be considered to be the persons who are in the vehicles or in immediate proximity thereof before getting on or after getting off.

(3) The health, life and the corporal integrity of the drivers of vehicles and servicing personnel shall not be considered to be subject to insurance.

(4) For the persons under Para. 3, carriers in the public transport may take out a voluntary *Accident* Insurance.

#### **Effect of the Obligatory Accident Insurance**

**Art. 278.** (1) The obligatory Insurance under Art. 276 shall be effective only if the insured event has occurred within the territory of the Republic of Bulgaria.

(2) Passengers' getting on and getting off during movement of a motor vehicle or outside the sites defined for this purpose shall terminate the effect of the insurance, unless leaving the vehicle during movement has been caused by immediate danger for the life or health of the passenger.

(3) In the case where under the travel conditions of Para. 1 special circumstances impose deviation in the air, sea or river vehicle, the insurance shall be effective for the time of the said deviation.

### **Insurance Cover**

**Art. 279.** (1). The liability of an insurer for payment of insurance amount or the respective part thereof shall arise in the cases where, as a result of an accident covered by the contract for insurance under Art. 276, death or permanent disability has been caused to a passenger.

(2) Upon occurrence of an accident, the passenger insured or his/her heirs shall have the right to demand from the insurer with which the contract has been concluded to pay the insured amount or the respective part thereof.

### **Exceptions to Cover**

**Art. 280.** (1) An insurer shall not owe payment in the case where the death or permanent disability caused to a passenger ensues from:

1. War, unrest or actions of military nature, riots, civil commotions, and other such;
2. An act of terrorism with the exception of the cases where the risk coverage has been explicitly agreed upon by the insurer;
3. An attempt to perpetrate or perpetration of a crime of general nature by a passenger;
4. An attempt to commit a suicide or a suicide committed by a passenger;
5. Illnesses of any nature, including epileptic fits or fits from other illnesses, hemorrhages, paralyzes, gastric-intestinal infections, food poisonings, etc, except for the cases where as a result of an insured event maladies occur and they cause death or physical injury;
6. Premature birth or abortion of a passenger, unless caused by an accident occurred;
7. Temperature influences (colds, freezing, sun or heat stroke), operations, radiation, injections and other curative actions of a passenger, insofar as they are not a consequence of an accident occurred;
8. Alcohol poisonings and directly inflicted by these injuries to a passenger, use of opiate, psychotropic or other narcotic substances by a passenger;
9. Earthquakes or atomic and nuclear explosions, radioactive products and pollutions resulting from these, radiation (ionizing) emission.

### **Insurance Amount**

**Art. 281.** The minimum insurance amount under an obligatory *Accident* Insurance shall be BGN 20,000 for each event for each passenger.

## **Chapter Twenty-Six NATIONAL BUREAU OF BULGARIAN MOTOR INSURERS AND GUARANTEE FUND**

### **National Bureau of Bulgarian Motor Insurers**

**Art. 282.** (1) The National Bureau of Bulgarian Motor Insurers, hereinafter referred to as “the Bureau”, shall be a non-profit association having a legal seat in the city of Sofia, registered under the Non-Profit Legal Entities Act.

(2) A member of the Bureau shall be any insurer who has obtained a license under Supplement No. 1, Section II, letter “A”, Item 10.1, or who offers an obligatory *Third Party Liability Insurance of Motorist* in the Republic of Bulgaria under the procedure provided for under the present Code.

(3) The Bureau shall be a representative “National Bureau” for the Republic of Bulgaria within the meaning of the Internal Regulation Among the Bureaus, participating and assisting for the functioning of the *Green Card System* and the obligatory *Third Party Liability Insurance of Motorists* in the Member States.

(4) The Bureau shall also perform the functions of Compensation Body, making the payments in the cases under Art. 284. The funds needed for payment of indemnities by the Compensation Body shall be set under the budget of the National Bureau of Bulgarian Motor Insurers for the relevant year.

(5) In the case where a claim for indemnity has been presented to the Bureau, Art 271 shall apply except for the cases where it acts as a Compensation Body.

(6) The Bureau’s organization and operation shall be laid down in its Statutes.

### **Provision of Information to the Bureau**

**Art. 283.** (1) The bodies of the national police shall notify the Bureau of the road and transport accidents within the territory of the country with the involvement of motor vehicles normally based in a Member State, for the territory in which these vehicles are normally based, as well as of their registration numbers.

(2) The bodies of the national police shall also provide to the Bureau data about the insurance, according the documents and information submitted by the motor vehicle driver.

(3) The Bureau shall forward the information received to the insurer and the national motor vehicle bureau of the Member State where motor vehicle is normally based.

(4) Paras 1 and 2 shall also apply in case of road accidents involving motor vehicles normally based in a third country.

### **Compensation Body**

**Art. 284.** (1) The Bureau in its capacity of a Compensation Body shall pay indemnity to an injured person, residing in the Republic of Bulgaria in the following cases:

1. In the case where the insurer of the guilty driver or its claims representative in the Republic of Bulgaria has not fulfilled his obligations within the term under Art. 271, Para. 1; or

2. In the case where the insurer of the guilty driver has not appointed a claims representative in the Republic of Bulgaria.

(2) Right to indemnification under Para. 1 shall have the injured person, residing in the Republic of Bulgaria, provided that:

1. The insurance contract of the guilty driver has been concluded with an insurer, established in a Member State other than the Republic of Bulgaria;

2. The insured motor vehicle of the guilty driver is normally based in a Member State other than the Republic of Bulgaria, and

3. The insured event has occurred outside of the Republic of Bulgaria in a Member State or within the territory of a third country during the journey between the territories of two Member States.

(3) The Bureau, in its capacity of a Compensation body, shall also pay indemnity to the injured person, residing in the Republic of Bulgaria in the case where:

1. It is not possible to identify the motor vehicle, which caused the insured event in a Member State other than the Republic of Bulgaria; or



2. Within a two-month period from the insured event occurrence in a Member State other than the Republic of Bulgaria, the insurer of the guilty driver may not be identified, or

3. The insured event has occurred in the Republic of Bulgaria, and it has been caused by a motor vehicle under Art. 259, Para. 3, Item 2.

(4) The Bureau, in its capacity of a Compensation Body, shall not pay indemnities:

1. Under the conditions of Para. 1, Item 2 where the injured person has presented its claim for indemnity directly to the insurer and within the three-month period has received its reasoned reply on the claim, or

2. Where the injured person has presented his/her claim to the insurer through court channels.

### **Procedure before the Compensation Body**

**Art. 285.** (1) An injured person shall present his/her claims for payment of indemnity before the Compensation Body by a written application form, accompanied with the evidences which the injured person possesses.

(2) The term for pronouncing on the part of the Compensatory Body may not be longer than 2 /two/ months as of the date of claim's presentation. Upon expiry of the term under the preceding Sentence, the Compensatory Body shall owe legal interest until the date of payment. Expenses on determining and payment of indemnity shall be on the account of the guilty driver or on the account of the Compensatory Body in the cases under Art. 284, Para. 3, Item 1.

(3) Upon receipt of an application under Para. 1, the Compensatory Body shall immediately notify of this circumstance and of the term under Para. 2 the following persons:

1. The insurer of the guilty driver or its representative for claims settlement;

2. The institution assigned to act as a compensation body in the Member State, where the insurer is established, and

3. The guilty driver if his/her identity and address are known.

(4) The procedure before the Compensatory Body shall be terminated in the case where within the term for pronouncing an injured person receives a due indemnity by the guilty driver, by the insurer or by a third party except for the cases of received payment on *Life* Insurance or *Accident* Insurance. In the case of procedure on claim for indemnity under Art. 284, Para. 1, it shall be also terminated where the insurer or its claims representative has given a well-grounded standpoint on the presented before them claim within judgement term.

(5) An injured person shall not be under the obligation to prove that the liable person may not or refuses to pay the indemnity.

(6) The functions of the Compensation Body shall consist in settlement of the claim only in cases which are subject to objective establishment and due to this its operation shall be limited to finding out if a claim for indemnity has been presented under the established procedure and within the stipulated time-limits, without making an estimate upon its merits. Refusals for payment under the terms of Art. 284 shall be motivated.

### **Reimbursement of the Indemnities Paid and Entry into Rights of the Satisfied Creditor**

**Art. 286.** (1) In the cases of payment under Art. 284, Para. 1 in favour of the Compensatory Body, a claim arises to the institution entrusted to act as a compensation body in the Member State, where the insurer of the guilty driver is established.

(2) In the cases of payment under Art. 284, Para. 3 in favour of the Compensatory Body, a claim shall arise towards:

1. The institution entrusted to effect guarantee payments, analogous to the Guarantee Fund under Art. 287 in the Member State, where the motor vehicle of the liable driver is normally based in the case where the insurer may not be identified;

2. The institution entrusted to effect guarantee payments, analogous to the Guarantee Fund under Art. 287 in the Member State where the insured event has occurred in the case where the motor vehicle may not be identified;

3. The institution entrusted to effect guarantee payments, analogous to the Guarantee Fund under Art. 287 in the Member State where the insured event has taken place in case where the motor vehicle is normally based in the territory of a third country.

4. The institution entrusted to effect guarantee payments, analogous to the Guarantee Fund under Art. 287 in the Member State that has included the motor vehicle in a list of the exempted from the obligation to conclude an obligatory *Third Party Liability Insurance of Motorists* pursuant to Art. 259, para. 2, Item 2.

(3) In the case where the Compensation Body becomes liable for a claim to a compensation body in a Member State, the Compensation Body shall pay to such body the full amount of the indemnity paid by the latter and shall enter into the rights of the injured person towards the liable driver or towards his/her insurer.

(4) Upon fulfillment of its obligations under Para. 3, the Compensation Body shall forward a written invitation to the liable driver or his/her insurer, under which it shall set a one-month period as of the receipt of the written invitation for redemption of the liability. In the case where the liability has not been fulfilled within the time period under Sentence one, with regard to its receivables against persons in the Republic of Bulgaria, the Compensatory Body shall obtain a foreclosure order on the basis of the documents and the account statements proving these.

## **Guarantee Fund**

**Art. 287.** (1) The Guarantee Fund /the Fund/ is a legal person with a legal seat in the city of Sofia. All insurers, offering obligatory *Third Party Liability Insurance of Motorists* and/or obligatory *Accident Insurance* for the passengers through establishment or under the conditions of the freedom to provide services, shall make contributions to the Guarantee Fund at an amount, set under this Code. The minimum amount of the available resources at the Guarantee Fund shall be BGN 3,000,000 /three million Bulgarian levs/.

(2) The resources of the Guarantee Fund shall be raised by:

1. Installment by the insurers, which shall be determined on the basis of the concluded obligatory *Third Party Liability Insurance of motorists* and *Accident Insurance of passengers*, including the border insurances under Art. 259, para 2;

2. Additional installments of the insurers under Art. 290, para 2, item 7;

3. Fines and penalty payments under Art. 315;

4. Incomes from investment of the Fund's resources;

5. Other sources, non-prohibited by law.

(3) The Commission on the proposal of the Council of the Guarantee Fund shall determine annually the amount of the installments under para 2, item 1 and the time-limit for making the installments. The decision under the preceding sentence shall be promulgated in State Gazette.

(4) The Commission on the proposal of the Council of the Guarantee Fund shall determine the amount of the additional installments under para 2, item 2 and the time-limit for making the installments. The decision under the preceding sentence shall be promulgated in State Gazette.

(5) Insurers who do not effect the payments due under para 2, item 1 and item 2 shall owe a legal interest for the period of delay.

(6) The Guarantee Fund resources shall be invested according the procedure for investment of the insurers technical provisions, provided for under the present Code.

(7) The Commission shall adopt a Regulation on the Structure and Operation of the Guarantee Fund. The said Regulation shall be promulgated in the State Gazette.

### **Payments From the Guarantee Fund**

**Art. 288.** (1) The Guarantee Fund shall pay indemnities under *Third Party Liability Insurance of Motorists*:

1. For the material and non-material damages resulting from death and corporal injuries, where the road accident has occurred within the territory of the Republic of Bulgaria and has been caused by an unidentified motor vehicle;

2. For material and non-material damages resulting from death and corporal injuries and for damages inflicted to someone else's property in the case where:

a) The insured event has occurred on the territory of the Republic of Bulgaria or of some other Member State and has been caused by a motor vehicle, which is normally based on the territory of the Republic of Bulgaria and the liable driver hasn't got obligatory *Third Party Liability Insurance of Motorists*;

b) The road accident has occurred on the territory of the Republic of Bulgaria and has been caused by a motor vehicle, which has been dispatched in the Republic of Bulgaria from another Member State and has not been officially registered in the Republic of Bulgaria in the case where the event occurs within a period of thirty days as of the acceptance of the motor vehicle by the purchaser and the liable driver has not concluded *Third Party Liability Insurance of Motorists*;

c) The road accident has occurred on the territory of the Republic of Bulgaria and has been caused by a motor vehicle, which is normally based on the territory of a third country and the guilty driver has not concluded a border insurance or a *Green Card Certificate*;

d) The road accident has occurred on the territory of the Republic of Bulgaria or of some other Member State and has been caused by a motor vehicle, which is normally based on the territory of the Republic of Bulgaria and the possession over it has been taken away by theft, robbery or crime under Art. 346 of the Penal Code.

(2) In the case of a road accident under Para. 1, Item 1, where an unidentified motor vehicle has caused death or significant corporal injuries and that has necessitated stay at a medical institution for medical aid, the Fund shall also pay an indemnity for the damages caused to the property of all persons injured in the said road accident, exceeding BGN 500. The corporal injuries that are significant shall be specified in the Regulation on the Structure and Operations of the Guarantee Fund;

(3) The Fund shall not effect payment for the damages suffered by a person who has voluntarily traveled in a motor vehicle where the said person has been aware that the possession over it has been taken away by theft, robbery or crime under Art. 346 of the Penal Code.

(4) The Fund shall pay indemnities also under the obligatory Accident Insurance of passengers, if the carrier has had no insurance.

(5) The amount of the indemnity paid by the Fund shall not exceed the amount of the minimum insurance amount on the obligatory insurances specified for the year, in which the insured event has occurred. The interests for delay under Para. 7, Sentence One, shall be calculated separately.

(6) The Fund shall determine and pay indemnities where Art. 273 shall apply accordingly. For damages different from the damages caused to motor vehicles, the indemnity shall be specified in compliance with the rules adopted under the procedure of Art. 290, Para. 2, Item 9.

(7) The Fund shall pay indemnities under the procedure laid down by the Regulation on the Structure and Operations of the Guarantee Fund and shall owe interest for delay as of the date on which the term for pronouncement on a claim brought by the injured person expires. The term for pronouncement may not be longer than 3 /three/ months as of the date of filing the claim under the procedure of Para. 9.

(8) The expenses for determining and payment of the indemnity shall be borne by the liable driver, respectively by the carrier or by the Fund in the cases under Para. 1, Item 1 and Para. 2.

(9) For payment of indemnity, the injured person shall present its claim before any of the insurers, having been granted a license and offering *Third Party Liability Insurance of Motorists*, or respectively *Accident* Insurance to passengers or before the Guarantee Fund by a written application, accompanied with evidence about the road accident, the right to receive indemnity in relation to the event and the amount of the inflicted damage. An insurer, that has obtained a license and offers *Third Party Liability Insurance of Motorists*, or *Accident* Insurance of passengers may not refuse to accept the claim raised under the procedure of sentence one as well as to conduct inspection of the damaged property if such is necessary. The insurer shall be obligated within a term of up to 2 /two/ months from receiving the application of the injured person to gather the additionally needed evidence, to conduct a survey, if such is necessary, and to deliver to the Guarantee Fund the whole correspondence in relation to the presented claim. The gathering of additional evidence, the determination of the amount and payment of the indemnity to the injured person shall be made by the Guarantee Fund within the term and under the conditions of this Code. The relations between the Fund and the insurer shall be settled under a contract.

(10) The person injured shall not be obligated to prove that the liable driver may not or refuses to pay the indemnification.

(11) The injured person may bring its claim for payment before the court only if the Fund does not pronounce on the filed application within the period under para 7, denies payment of the indemnity or if the injured person does not agree with the amount of indemnity.

(12) Upon payment of the indemnity under Para. 1 and Para. 2, the Guarantee Fund shall enter into the injured person's rights up to the amount of the paid up sum and the expenses under Para. 8. Whenever the injured person has a foreclosure order against the liable driver, the Fund may use the rights under it on the grounds of the documents and account statements, by which the amounts, paid by it shall be established. In the case where the Fund has determined and paid indemnity, which is less than the amount under the foreclosure order, the injured person shall be satisfied for the difference before the Fund in the foreclosure procedure.

(13) Upon payment of the indemnity under Para. 4, the Guarantee Fund shall be entitled to a claim against the carrier up to the amount of the paid sum and the expenses under Para. 8.

(14) For its receivables under Paras. 12 and 13, the Guarantee Fund may obtain a foreclosure list on the grounds of the documents and account statements by which they have been established if it does not receive a payment within one-month period from receiving the written invitation by the liable driver, respectively the carrier.

### **Bodies of the Guarantee Fund**

**Art. 289.** (1) The bodies of the Guarantee Fund shall be:

1. The Council of the Guarantee Fund
2. The Managing Board
3. The Executive Director.

### **Council of the Guarantee Fund**

**Art. 290.** (1) The Council of the Fund shall comprise of representatives for all insurers, offering obligatory *Third Party Liability Insurance of Motorists* and/or obligatory *Accident Insurance* for the passengers in the Republic of Bulgaria through establishment or under the conditions of the freedom to provide services.

(2) The Council shall:

1. Determine the number, appoint and dismiss the members of the Managing Board and determine its remunerations;

2. Appoint and dismiss the Executive Director among the members of the Managing Board and determine his/her remuneration;

3. Exercise supervision over the Managing Board's activity.

4. Approve the annual report of the Managing Board on the Fund's operation;

5. Adopt the Fund's annual budget;

6. Propose to the Commission the amount of the installments under Art. 287, Para. 2, Item 1;

7. In the case where the available resources in the Fund fall below the minimum amount under Art. 287, Para. 1, Sentence Three, or in the case of some other need of financing the Fund's activity, the Council shall propose to the Commission the amount of the additional installments under Art. 287, Para. 2, Item 2 in compliance with the average market share of the insurers on these types of insurances for the last three calendar years;

8. Adopt decisions about the general principles for investment of the Guarantee Fund's resources.

9. Adopt rules in compliance with the judicial practice on the procedure for settlement of claims for damages arising from death or corporal injuries.

(3) The Council of the Guarantee Funds shall convene for a meeting at least twice per year. The meeting shall be legitimate, if more than half of the insurers under Para. 1 are represented at it.

(4) A meeting of the Council shall be convened by the Managing Board of the Fund on its initiative or on the request of at least 1/3 of the insurers under Para 1. The meeting shall be convened by a written invitation, received by each of the insurers under Para. 1 not later than 14 /fourteen/ days prior to the date of the meeting, or by an invitation, promulgated in the State Gazette not later than 14 /fourteen/ days prior to the date of the meeting.

(5) The invitation to the meeting shall contain the date, time and place of its holding, as well as the items included on the agenda and the draft decisions on them. The Council may adopt decisions on issues, which are not on the agenda, only if all insurers under Para. 1 are represented at the meeting and all agree that the issue should to be considered.

(6) Any insurer under Para. 1 shall be entitled to one voting right at the meetings of the Council.

(7) The decisions of the Council shall be adopted by a majority over half of the attending insurers.

### **Managing Board and Executive Director**

**Art. 291.** (1) The Managing Board of the Guarantee Fund shall consist of 5 /five/ to 7 /seven/ members.

(2) The term of office of the Managing Board shall be 4 /four/ years. A member of the Managing Board may be reappointed without limitations.

(3) The Managing Board shall:

1. Elect Chairperson of the Managing Board among its members, who shall convene and manage the sittings of the Board;

2. Determine the administrative and managerial structure, adopt the number and positions with regard to the employees and rules about the salary in the Fund;
  3. Organize the collection of the Fund's resources;
  4. Pronounce on claims for indemnification.
  5. Adopt decisions regarding the investment of the Fund's moneys, while complying with the legal requirements and the decisions of the Council of the Fund;
  6. Approve the draft of the annual budget of the Fund and present it to the Council of the Fund;
  7. Organize and bear responsibility for the expenditure of the Fund's resources;
  8. Prepare an annual report on the Fund's operation and present it to the Council of the Fund;
  9. Adopt decisions for the Fund's participation in specialized international organizations and structures with analogous subject of operation;
  10. Approve agreements for co-operation on the part of the Fund with government agencies and public organizations in connection with the operations carried out by it;
  11. Consider and resolve other issues related to the Fund's operation, which do not fall within the exclusive competence of the Council of the Fund.
- (4) The Managing Board shall convene at sittings at least once monthly. The sittings shall be convened by the Chairperson upon his/her initiative or upon the request of its member.
- (5) The sittings of the Managing Board shall be legitimate in the case where more than half of its members attend. The decisions of the Managing Board shall be adopted by a majority of more than half of all its members.
- (6) The Executive Director:
1. Shall represent the Fund and conduct the current management of the Fund;
  2. Shall appoint and dismiss the Fund's employees;
  3. Shall perform the factual and legal actions in relation to the investment of the fund's resources consistent with the decisions of the Managing Board and while observing the legal requirements;
  4. Shall dispose of the Fund's resources in compliance with the decisions of the Managing Board, the Regulation on the Structure and Operation of the Guarantee Fund and the present Code;
  5. Shall also perform other actions, assigned to him/her by the Managing Board.
- (7) Art. 13 and 14 shall accordingly apply to the Chairperson, the members of the Managing Board and the Executive Director.

### **Information Centre**

- Art. 292.** (1) For the purposes of allowing the injured party to seek compensation, an Information Centre shall be established at the Fund, which Centre shall maintain the register of:
1. Registration numbers of the motor vehicles which are normally based on the territory of the Republic of Bulgaria, where this information shall be provided to the Information Centre by the Ministry of the Interior under the procedure established by the Ordinance under Art. 295, para. 6.
  2. Insurers who offer a *Third Party Liability Insurance of Motorists* in the Republic of Bulgaria through an establishment or under the conditions of the freedom to provide services;
  3. Data from the contracts for the obligatory *Third Party Liability Insurance of Motorists*, from the *Green Cards* certificates, and from the contracts for border insurance; with regard to number of insurance contract, name of insurer, an initial and closing date of cover, the motor vehicle's registration number.
  4. List of the claims representatives of insurers, offering the obligatory *Third Party Liability Insurance of Motorists* appointed for the Republic of Bulgaria by insurers with a legal

seat in a Member State and appointed for the Member States by insurers with a legal seat in the Republic of Bulgaria;

5. Data on the carriers having obtained a license for performance of public transport of passengers, where this information shall be provided to the Information Center by the Ministry of Transport under the procedure established by the Ordinance under Art. 295, Para. 6;

6. The insurers offering obligatory *Accident* Insurance of passengers in the Republic of Bulgaria through an establishment or under the conditions of the freedom to provide services;

7. Data from the contracts for the obligatory *Accident* Insurance of passengers with regard to number of insurance contract, name of insurer, an initial and closing date of cover, the public transport motor vehicle's registration number.

8. Information on the motor vehicles in each Member State who are exempted from the obligation to conclude the obligatory *Third Party Liability Insurance of Motorists*, as well as on the authorities entrusted with the task to pay indemnification to the persons injured by such motor vehicles. The information under the present Item shall be collected under the procedure of Art. 293, Para. 5.

(2) The Information Centre shall collect, process and keep the information under Para. 1, and shall provide it to the entitled persons under the conditions and procedure laid down under the present Code and in the Regulation under Art. 287, Para. 7. The time period for preserving the information under Art. 1, Items 1, 2 and 4 shall be seven (7) years as of the date of the motor vehicle registration's termination or as of termination of the insurance contract. The time period for preserving the information under Art. 1, Item 3 shall be three (3) years as of termination of the carrier activities with regard to passengers of public transport vehicle or as of termination of the insurance contract.

(3) Where processing personal data, the Personal Data Protection Act shall apply.

(4) The structure and activity of the Information Centre shall be settled under the Regulation under Art. 287, Para. 7.

(5) The National Bureau of Bulgarian Motor Insurers shall have the right to access the information kept at the Information Centre in connection with the execution of the Bureau's operation under this Code under the conditions and a procedure, specified under the Regulation under Art. 287, Para. 7.

### **Disclosure of Information before an Injured Person**

**Art. 293.** (1) The Information Centre shall be under the obligation to provide an injured person, in connection with his/her right to receive indemnity under a *Third Party Liability Insurance of Motorists*, with:

1. Company name, legal seat and registered office of the insurer;

2. Number of the insurance policy;

3. Name and address, company name respectively, seat and registered office of the claims representative in the Member State by residence of the person injured.

(2) The Information Centre shall also provide information on the identity and address of the owner, the usual driver or the registered holder of the motor vehicle as per its registration documents in the case where an injured person has a legal interest in obtaining these.

(3) The Information Centre shall also provide an injured person, in connection with his/her right to receive indemnity under an *Accident* Insurance of passengers, with the company name and registered office of the insurer and the number of the concluded insurance contract, as well as information about the company, legal seat and registered office of the carrier, in case an injured person has a legal interest from its obtaining.

(4) In connection to the provision of the information under Para 1 on insurance contracts concluded outside of the Republic of Bulgaria or in connection with motor vehicles which are normally based outside the Republic of Bulgaria, the Information Centre shall demand the

necessary data from the information centres in the Member States. Upon request by the information centres of the Member States, the Information Centre shall be under the obligation to provide the information of the Register.

(5) In the case where the Information Centre has no information available on the identity or address of the persons under Para 2, or the company name, legal seat of registered office of the persons under para 3, it shall obtain it on the grounds of a written request from the insurer having concluded the respective insurance contract or from the competent public authority maintaining the Registries of owners of motor vehicles or of carriers.

(6) In order to be provided with the information under Paras 1, 2 or 3, an injured person shall specify under the application form the exact date and place of the insured event's occurrence and the registration number of the motor vehicle as well as other information for its establishment if known to him/her.

(7) The Information Centre shall provide the information, it has available under the present Article, but not later than 3 /three/ days as of receiving the written inquiry by the insured person. With regard to the information under Para. 5, the term may be extended but it may not be longer than 15 /fifteen/ days as of receiving the written inquiry by the injured person. The information shall be provided free of charge.

(8) The right of access of the information under Paras. 1 and 2 shall be guaranteed to the person injured for a period of seven years as of the date of the insured event. The right of access to the information under Para. 3 of the persons who utilize rights under the obligatory *Accident Insurance of passengers* shall be guaranteed for a period of three years as of the insured event's date.

### **Provision of Information by the Insurers**

**Art. 294.** (1) Each insurer who offers obligatory *Third Party Liability Insurance of Motorists* or *Accident Insurance of passengers* in the Republic of Bulgaria through an establishment or under the conditions of the freedom to provide services, shall submit a weekly return on the insurance contracts' concluded and terminated as of the end of previous week to the Information Centre by the second business day of the next week.

(2) The statistics shall contain the information under Art. 292, Para 1, Item 3, and Item 7, and shall be submitted in a manner and under a format specified by the Managing Board of the Fund in connection with the requirements of the system for automated processing of the information, where the authenticity and security of the data submitted shall be guaranteed;

(3) The insurers under Art. 292, Para. 1, Item 2, shall submit annually to the Information Centre a list of its places of operations within the Member States as well as of its claims representatives under Art. 269 and shall update it within 15 /fifteen/ days as of the date of made change in the relevant circumstances.

(4) The return under Para 1 shall be presented in the Commission as well.

### **Exchange of Information and Interaction with Competent Public Authorities**

**Art. 295.** (1) For the purposes of maintaining a Registry under Art. 292, Para. 1, the Information Centre shall exchange information with the competent public authorities which register motor vehicles in the Republic of Bulgaria and perform the government supervision over carriers of passengers by public transport vehicles.

(2) The competent authorities under Para 1 shall weekly, by the first business day of the following week, submit to the Information Centre an updated list of registered motor vehicles in the Republic of Bulgaria and of the registered carriers of passengers by public transport vehicles.



(3) The Information Centre shall weekly, by Friday, provide the competent public authorities under Para. 1 with information actual as of the end of the preceding calendar week, regarding:

1. Motor vehicles with regard to which no obligatory *Third Party Liability Insurance* of motorists has been placed or the contract has been terminated and not renewed within 14 /forteen/ days;

2. Carriers of passengers by public transport vehicles who have not taken out compulsory *Accident Insurance* of passengers or the taken out insurance has been terminated and not renewed within 14 /fourteen/ days.

(4) The competent authorities under Para. 1 shall immediately take measures for stopping the movement of motor vehicles or vehicles for public transport of passengers under Para 2 and for enforcement of the relevant administrative sanctions.

(5) The Information Centre shall exchange information with the competent government authorities, registering the road and transport accidents, occurring on the territory of the Republic of Bulgaria.

(6) The forms and ways of information exchange and interaction under this article shall be provided by an Ordinance, issued jointly by the Minister of the Interior, the Minister of Transport and Communications and the Commission, taking also into consideration the position of the Fund. The ordinance under Sentence One shall also envisage measures for keeping the protected by law secret.

#### Supervision over the Fund's Activity

**Art. 296.** (1) The Fund shall be subject to supervision under the present Code where the rules pertaining to the supervision of the insurers shall apply accordingly.

## PART SIX

### CURRENT SUPERVISION. COERCIVE ADMINISTRATIVE MEASURES

#### Chapter Twenty – Seven CURRENT SUPERVISION

##### Current Supervision's Scope

**Art. 297.** (1) The current supervision of the insurers and the reinsurers having a legal seat in the Republic of Bulgaria shall be exercised by the Commission and by the Deputy Chairperson with regard to their overall operations performed in the Republic of Bulgaria. The supervision under Art. 88 shall also be exercised by the Commission and by the Deputy Chairperson with regard to their operations performed within the Member States.

(2) The current supervision of the insurers from Member States who perform operations in the Republic of Bulgaria under the conditions of the right to establishment and of the freedom to provide services shall be exercised by the Commission and by the Deputy Chairperson with regard to their operations within the country with the exception of the supervision over their financial standing within the meaning of Art. 88, which is exercised by the competent authorities of the Member State at their seat.

(3) The current supervision of the insurers from a third country who perform operations in the Republic of Bulgaria through a branch shall be exercised by the Commission and by the Deputy Chairperson with regard to their overall operations within the country. Where under the conditions established under Art. 47, Para. 3, the competent supervisory authorities have been selected under the present Code, current supervision shall be exercised under the procedure

established under Para. 1, and where the authorities of a different Member State have been selected, current supervision shall be exercised under the procedure established under Para. 2.

(4) The Deputy Chairperson shall exercise current supervision over the overall operations of the insurance intermediaries having a permanent residence or a seat in the Republic of Bulgaria, shall monitor their operations in order to ensure constant observance of the conditions with regard to the performance of their operations and shall undertake the measures provided for under the present Code in order to remove any violations established.

#### Powers of the Competent Authorities

**Art. 298.** (1) Where exercising current supervision, Arts. 18 and 19 under the *Financial Supervision Commission Act* shall apply. The Deputy Chairperson may order the carrying out of inspections at the sites, where the insurer performs operations.

(2) Insurers having a legal seat in a Member State shall be hereby obligated to submit to the Commission and the Deputy Chairperson the documentation and statistics requisite in order to exercise supervision under Art. 297, Para. 2.

(3) The Commission and the Deputy Chairperson shall publish the annual and periodic financial reports of the insurers, as well as the coercive administrative measures implemented and the administrative penalties imposed under the conditions and by the procedure specified by the Regulation under Art. 30, Para. 2 of the *Financial Supervision Commission Act*.

#### Additional Supervision Exercised over Insurers Who are Part of an Insurance Group

**Art. 299.** (1) An insurer who has obtained a licence to perform operations under the present Code shall be subject to additional supervision where:

1. They are a participating company in at least one insurer, a reinsurer or an insurer from a third country;
2. Whose controlling person is an insurance holding, a reinsurer or an insurer from a third country;
3. Whose controlling person is an insurance holding, having mixed operations.

(2) Upon exercise of the supervision under Para. 1, the operations of the following shall be taken into consideration:

1. The companies related to the insurer;
2. The companies participating in the insurer; and
3. The companies related to the companies participating in the insurer.

(3) The insurer under Para. 1 shall submit information for the purposes of the additional supervision as exercised by the Commission under the terms and conditions and under the procedure provided for under the present Code. Where the information has not been submitted under the procedure provided for under Sentence One, the Deputy Chairperson may demand it from each of the persons under Para. 2, as well as to perform an on-site inspection at each of the persons under Para. 2 in order to establish or confirm the above information.

(4) Upon exercise of the additional supervision under Para. 1, the Commission and the Deputy Chairperson may not take into consideration the status of some of the persons under Para. 2 where that person is located into a third country into which legal restrictions exist on the provision of the information needed. Should that be the case, the rules for estimation of the insurer's indices in the case of lack of information shall apply.

(5) Upon exercise of the additional supervision under Para. 1, the Deputy Chairperson may in a specific case not take into consideration the status of a person under Para. 2, where the said person is of insignificant interest with a view to the objectives of the additional supervision over the insurer, or reflecting its financial standing is irrelevant or misleading with a view to the objectives of the additional supervision over the insurer.

(6) The additional supervision under Para. 1 shall not constitute supervision over the insurer from a third country, the insurance holding, or the insurance holding having a mixed activity severally.

(7) In the case where insurers from one insurance group have a seat in different Member States and are controlled by one and the same insurance holding, reinsurer, insurer from a third country, or an insurance holding having mixed operations, the Commission may, on the strength of an agreement completed with a competent authority of a Member State, transfer its power to exercise additional supervision over an insurer under Para. 1, to receive powers to exercise additional supervision over an insurer having a seat in a different Member State respectively.

(8) For the purposes of establishing or confirming material information, necessary for the additional supervision under Para. 1 and held by a person under Para. 2 having a seat in a Member State, the Commission or the Deputy Chairperson may request the co-operation of the competent authorities of the above Member State while observing the local law. In the case where it has received a request submitted by a competent authority of a Member State for co-operation in order to establish or in order to confirm material information, necessary for the additional supervision as exercised by it, and which material information is held by a person having a seat in the Republic of Bulgaria, which person is a related person to the insurer in the Member State, a person participating in that insurer, or is a related person to a person participating in that insurer, the Chairperson of the Commission shall order an inspection to be carried out under the procedure established under Art. 19 of the Financial Supervision Commission Act. Upon a request submitted by the authority of the Member State, officers of the said authority or experts nominated by it may participate in the aforesaid inspection.

#### Exchange of Information with Competent Authorities

**Art. 300.** (1) The Commission and the Deputy Chairperson shall take the opinion of the competent authorities exercising insurance supervision in Member States:

1. Prior to issuance of a license to an insurer who is controlled by an insurer having a seat in a Member State, or by a different legal person or natural person who controls an insurer having a seat in a Member State;

2. Where an insurer having a seat in a Member State, or a different legal person or natural person who controls an insurer having a seat in a Member State has submitted an application under Art. 16, Para. 3.

(2) The Commission and the Deputy Chairperson shall take the opinion of the Bulgarian National Bank and of the authorities exercising bank supervision in a Member State:

1. Prior to issuance of a license to an insurer who is controlled by a bank having a seat in the Republic of Bulgaria or in a Member State, or by a different legal person or natural person who controls a bank having a seat in a Member State;

2. Where a bank having a seat in the Republic of Bulgaria or in a Member State, or a different legal person or natural person who controls a bank having a seat in the Republic of Bulgaria or in a Member State has submitted an application under Art. 16, Para. 3.

(3) The Commission and the Deputy Chairperson shall take the opinion of the competent authorities exercising supervision over the investment companies in the Member States:

1. Prior to issuance of a license to an insurer who is controlled by an investment company having a seat in a Member State, or by a different legal person or natural person who controls an investment company having a seat in a Member State;

2. Where an investment company having a seat in a Member State, or a different legal person or natural person who controls an investment company having a seat in a Member State has submitted an application under Art. 16, Para. 3.

(4) Upon a request submitted by the competent authorities under Paras. 1 - 3, the Commission and the Deputy Chairperson shall provide opinion in the cases where an insurer having a seat in the Republic of Bulgaria, or a natural person or a legal person controlling an

insurer having a seat in the Republic of Bulgaria, controls an insurer, a bank or an investment company subject to the supervision of these authorities or has submitted an application for acquisition of a qualified participation in their capital.

(5) Subject to exchange shall be the information with regard to the shareholders' suitability, as well as with regard to the reputation and professional experience of the members of the managing and supervisory bodies within the group. Such information shall be provided not only for the purposes of the procedure on issuance of a license or for the acquisition of a qualified participation, but also in connection with the current supervision exercised over the activities of these companies.

(6) Where an insurer having a seat in the Republic of Bulgaria is directly or indirectly related to an insurer having a seat in a Member State, or these insurers have a common participating company, the Commission and the Deputy Chairperson shall exchange with the competent authorities in such country all and any information which is of importance for the additional supervision over the insurers within the meaning of Art. 299, Para. 1. The information shall be provided upon a request submitted by the interested party, as well as ex officio where an estimation has been made that the information is material for the respective supervisory authority.

#### Supervision over the Technical Bases

**Art. 301.** Those insurers who perform operations under Section I of Annex No. 1 shall be hereby obligated under an order issued by the Deputy Chairperson to present the technical bases used by them in order to calculate the insurance tariffs and to form the technical provisions. The Deputy Chairperson shall give directions for their amendment where deviation from the provisions of a normative act has been established.

## **Chapter Twenty-Eight** **COERCIVE ADMINISTRATIVE MEASURES**

### **Section I**

#### **Types of Coercive Administrative Measures. Procedure.**

##### Types of Measures

**Art. 302.** (1) The Deputy Chairperson may implement the measures under Para. 2 in the case where s/he establishes that an insurer, employees of an insurer, each of the persons under Art. 13, Art. 22 or Art. 41, Para. 2, Item 4, persons who conclude transactions at the expense of an insurer, shareholders or member-cooperators, holding directly, jointly with or through related persons 10 or more than 10 per cent of the votes in the General Meeting or of the capital of an insurer, have performed actions that have led to, or through inaction have allowed:

1. Violation of the provisions of the present Code, the statutory instruments on its implementation, Acts of the Commission or the Deputy Chairperson, or of the insurer's Scheme of Operations;

2. Impediment to the exercise of insurance supervision;

3. Realization of transactions or performance of actions that concern the financial or structural stability of an insurer;

4. Imperilment of the insured persons' interests.

(2) In the cases under Para. 1, the Deputy Chairperson shall implement the following coercive administrative measures:

1. S/he shall order in writing that particular measures are undertaken in order to discontinue the violations allowed and to remove the resulting harmful consequences of these;

2. S/he shall give prescription to attain: profitability, which in the case of insurers offering *Life Insurance*, shall be at least equal to the technical interest; security and liquidity of the insurance reserves and own capital investments;

3. S/he shall impose measures to strengthen the insurer's financial standing;

4. S/he shall oblige in writing an insurer to increase its own funds within a fixed time limit;

5. S/he shall specify the assets' structure in order to guarantee the payments under the insurance contracts concluded;

6. Under an agenda set by him/her, s/he shall summon a General Meeting of the shareholders, the member-cooperators respectively, or shall set the time for a session of the managing and supervisory bodies in order a Decision to be passed on the measures that are to be undertaken, and shall dispatch representatives of the Commission to attend the sessions of a General Meeting of the shareholders, the member-cooperators respectively, of the managing and supervisory bodies;

7. S/he shall temporarily prohibit payment of dividends;

8. S/he shall oblige an insurer offering obligatory insurance to conclude a contract with a person to whom the said insurer has refused such conclusion;

9. S/he shall temporarily for a period of up to 12 months prohibit a shareholder to exercise their voting right;

10. S/he shall prohibit conclusion of new insurance or reinsurance contracts on all or natural person insurance types, prolongation of the term of contracts concluded and extension of the cover under the above contracts for a period not longer than six (6) months;

11. S/he shall restrict or prohibit the free disposal of assets in the cases under Art. 72, Para. 2, Art. 86, Para. 1 or Para. 2, as well as in the case of divestment of a licence of an insurer;

12. S/he shall pose additional requirements to an insurer with regard to accounting;

13. S/he shall oblige an insurer to dismiss the Head of the Internal Control Department; as well as persons occupying managerial posts, and/or to terminate the powers of persons who conclude transactions for the insurer's account;

14. S/he shall order an insurer to terminate a contract under Art. 60;

15. S/he shall assign a registered auditor, an actuary having a recognized capacity, or an expert, who is to conduct a financial, actuarial or different inspection at the cost of an insurer;

(3) In the cases under Para. 1, at a proposal submitted by the Deputy Chairperson, the Commission may:

1. Order in writing an insurer to undertake the necessary actions in order to dismiss one or more persons authorised to manage or represent it, or each of the persons under Art. 13, Art. 22 or Art. 41, Para. 2, Item 4, as well as the responsible actuary liable under Art. 95;

2. Order in writing a shareholder to transfer the shares owned by him/her within a fixed period;

3. Assign a questor for a period of up to one (1) year.

(4) A coercive administrative measure shall also be the withdrawal of a licence under Art. 36, except for the cases where the person has explicitly renounced the licence issued.

(5) The Commission may inform the public on measures implemented under Paras. 2, 3, and 4, or on operations endangering the interests of the persons insured.

(6) Where implementing coercive administrative measures under Para. 2, Items 5, 7, 9 and 11, Para. 3, Item 3, and Para. 4, the provisions of Art. 7, Para. 2 and Art. 11, Para. 1 of the Administrative Procedures Act regarding explanations and objections of parties concerned shall not apply.

(7) The coercive administrative measures under Para. 2, Items 1 and 4, and Para. 3, Item 1 may be also implemented with regard to insurance brokers.

(8) The court, at the request of the Deputy Chairperson or of the Commission, shall enter into the Trade Registry the circumstances under Para. 2, Items 3, 7, 9, 10 and 11 and under Para. 3, and shall promulgate these in the *State Gazette*.

#### Procedure on Implementation of Coercive Administrative Measures

**Art. 303.** (1) Procedure on implementation of coercive administrative measures shall be initiated on the initiative of the Deputy Chairperson.

(2) Notifications and communications in a procedure on implementation of coercive administrative measures may be sent by registered letter with advice of delivery, by telegram, by phone, telex or fax. Notifications and communications by registered letter with advice of delivery or by telegram shall be proved by notice on their delivery, by phone – in writing by an official having sent them, and by telex or fax - by written confirmation of a sent message.

(3) In the case where notifications and communications are not received at the address, phone, telex or fax given by the persons or entered into the relevant Register under Art. 30, Para 1 of FSCA, they shall be considered delivered upon their placing on a spot in the building of the Commission, specially specified for the purpose. The last circumstance shall be certified by Protocol prepared by officials assigned by order of the Deputy Chairperson.

(4) The coercive administrative measures under Art. 302, Para 2 shall be implemented by a written well-grounded Decision of the Deputy Chairperson, and the coercive administrative measures under Art. 302, Para 3 – by a written well-grounded Decision of the Commission. Decisions shall be communicated to the interested parties within a seven-day term as of rendering.

(5) Decision on implementation of coercive administrative measures shall be subject to immediate performance irrespective of possible appeal. The appeal of the decision on implementation of a coercive administrative measure does not impede its implementation.

#### Applicability of the Administrative Procedure Act

**Art. 304.** For the procedure on implementation of coercive administrative measures, the Administrative Procedure Act shall apply insofar as the present Code does not provide for otherwise.

## Section II

### Special Rules in the Procedure on Implementation of Coercive Administrative Measures

#### Notification of Member States of Undertaken Coercive Administrative Measures

**Art. 305.** (1) The Deputy Chairperson shall notify the competent authorities of the Member States in which an insurer seated in the Republic of Bulgaria performs operations under the right of establishment and of free provision of services prior to implementing the coercive administrative measures under Art. 302, Para 2, Items 3 and 11, indicating whether it is necessary for them to take the same measures.

(2) In the case where, in connection with withdrawal of licence of an insurer seated in the Republic of Bulgaria, performing operations under the right of establishment and of freedom to provide services, the Deputy Chairperson has implemented a coercive administrative measure under Art. 302, Para 2, Item 11, it shall propose to the competent authorities of the relevant Member States to implement the same measure.

Actions of the Commission upon Notification of Coercive Administrative Measure  
Imposed on an Insurer Having a Seat in a Different Member State

**Art. 306.** (1) In the case where the Commission is notified by a competent authority of a home Member State of imposed restriction or prohibition on assets disposal as well as of undertaken measures in connection with the implementation of a short-term plan with regard to an insurer performing operations in the Republic of Bulgaria under the right of establishment and of free provision of services, it shall undertake the same measures with regard to the insurer if a request is present.

(2) In the case where the Commission is notified by a competent authority of a home Member State of withdrawal of licence of an insurer performing operations in the Republic of Bulgaria under the right of establishment and of freedom to provide services, the Commission shall undertake the relevant actions so as to prevent conclusion of new insurance contracts by the insurer, prolonging of the term of concluded contracts, increase of insurance amounts and extension of their cover. In co-operation with the competent authorities of the home Member State, the Commission shall undertake all necessary measures for protection of the interests of insured, including restriction of the right of the insurer to dispose with its assets.

Coercive Administrative Measures with Regard to an  
Insurer Having a Seat in a Different Member State

**Art. 307.** (1) In the case where it is established that an insurer seated in a Member State, performing operations in the the Republic of Bulgaria under the right of establishment and of free provision of services, violates the present Code or the regulations on its implementation, the Deputy Chairperson shall order in writing that the made violations and the harmful consequences from them be discontinued and removed within a fix term.

(2) In the case where the violations are not removed within the set term, the Deputy Chairperson shall notify the competent authority in the Member State as per legal seat of an insurer of this and of the necessity of undertaking relevant measures.

(3) If regardless of the measures implemented by the competent authorities of the Member- State or in the case where they have turned out to be inadequate or insufficient an insurer continues to violate the present Code or the regulations on its implementation, the Deputy Chairperson may undertake the necessary measures for discontinuance of violations and penalty imposition upon notification of the competent authorities of the Member State as per seat of the insurer, and in extremely serious cases to prohibit the insurer from conclusion of new contracts in the Republic of Bulgaria.

(4) In extraordinary cases, the Deputy Chairperson may impose the measures under Para 3 with no preliminary notification of the competent authorities as per legal seat of the insurer under Para 2 and Para 3.

Actions of the Commission

**Art. 308.** In the case where the Commission is notified by the relevant competent authority of the Member State of the branch or of providing services about an insurer seated in the Republic of Bulgaria who violates the legislation of the country on whose territory it performs operations under the right of establishment and of free provision of services, the Commission, the Deputy Chairperson respectively, shall implement relevant coercive administrative measures under Art. 302 and notify the competent authority of the Member State as per legal seat of the insurer of the measures undertaken.

**Chapter Twenty-Nine**

**QUESTOR**

## Requirements

**Art. 309.** (1) A questor shall be a natural person.

(2) A questor shall meet the requirements under Art. 13, Para. 1, Items 3 - 5 and 7, and shall:

1. Not be a spouse, a lineal relative or a collateral relative to the sixth degree inclusive or a relative by marriage to the third degree inclusive to a member of a managing or supervisory body of the insurer, whose powers have been repealed by the Questor Assignment Act;

2. Not be in relations with the insurer or its debtor that may arise well founded doubts on his/her objectivity.

(3) A questor shall be under the obligation to declare in writing before the Commission the circumstances under Para 2 and immediately notify the Commission upon change in these.

## Grounds for the Assignment of a Questor

**Art. 310.** (1) The Commission shall assign one or more questors in the case where:

1. An insurer submits false information on the operating results or impedes performance of insurance supervision in other ways;

2. An insurer is undergoing a procedure on implementation of a short-term plan;

3. The licence of an insurer has been withdrawn up to the moment of appointment of a liquidator or a questor by the court.

(2) Upon issuance of the act on questor's appointment, the Commission shall immediately serve it to the respective insurer and shall publish notification thereof in one national daily newspaper. The questor shall immediately take up his duty.

(3) The Commission may issue binding instructions to a questor with regard to his/her operations and withdraw his/her powers and assign in his/her place another questor at any time. The acts under Sentence One shall not be subject to appeal.

## Rights and Obligations of a Questor

**Art. 311.** (1) By assignment of a questor, all powers of the managing and supervisory body of an insurer shall be discontinued and exercised by the questor insofar as the Act on his/her assignment does not provide for any restrictions. A questor shall undertake all necessary measures to protect the interests of the insured.

(2) A questor shall have the right of remuneration to an amount set by the Commission. The remuneration shall be at the cost of the insurer.

(3) Actions and transactions performed on behalf and on the account of an insurer with no preliminary authorization by the questor shall be void.

(4) In the case of assignment of two or more questors, they shall take decisions with unanimity and exercise their powers jointly unless the Commission decides otherwise.

(5) A questor shall have unrestricted access to the premises of an insurer, the accounting and other information and its property.

(6) All employees of an insurer shall be under the obligation to assist the questor upon performance of his/her powers.

(7) A questor shall account for his/her operations before the Commission only and immediately provide a report on his/her operations upon its request.

(8) For the time of management of a questor, the insurer's General Meeting of the Shareholders or of the Member Co-operators may only be convened by the questor and adopt resolutions on the agenda as announced by the questor, except for the cases of adopting a resolution on dissolution of the insurer.

(9) Upon a request submitted by the questor, the procurator's office and the agencies of the Ministry of Interior shall be obligated to render co-operation with regard to the exercise of the questor's powers under para. 1.



(10) The questor shall exercise his/her powers with the care of a good husband. The questor shall only bear responsibility for damages caused by them deliberately or in the case of gross negligence.

## **PART SEVEN ADMINISTRATIVE AND PENAL PROVISIONS**

### Liability upon Performance of Operations in Violation of the Stipulations and Procedure of the Present Code

**Art. 312.** (1) One who performs or allows performance of insurance operations with no licence obtained under the procedure of the present Code or in violation of the regulations on right to establishment or of the freedom to provide services shall be sanctioned by:

1. Penal sum from BGN 2,000 to BGN 10,000 if a natural person;
2. Penalty payment from BGN 50,000 to BGN 200,000 if a legal person or a sole proprietor.

(2) By the penalty payment under Para. 1, Item 2 shall also be sanctioned an insurer performing insurance operations on insurance types for which they have not been granted a licence.

(3) Upon repeated violation, the sanction under Para. 1, Item 1 shall amount to a sum ranging from BGN 4,000 to BGN 20,000, and under Para. 1, Item 2 and Para. 2 – from BGN 100,000 to BGN 400,000.

(4) One who performs or allows performance of operations as an insurance broker or an insurance agent without being entered in the Registry under Art. 30, Para 1, Item 9 of FSCA kept by the Commission, under the procedure set by the present Code, or in violation of the regulations on freedom of establishment or of the regulations on freedom to provide services shall be sanctioned by:

1. Penal sum amounting from BGN 2,000 to BGN 10,000 if a natural person;
2. Penalty payment amounting from BGN 5,000 to BGN 50,000 if a legal person or a sole proprietor.

(5) Upon repeated violation the sanction under Para 4, Item 1 shall amount from BGN 4,000 to BGN 20,000, and under Para 4, Item 2– from BGN 10,000 to BGN 100,000.

(6) Paragraphs 4 and 5 shall not be applied to those persons who perform insurance intermediation under the procedure established by Art. 150, Para. 3.

(7) Under the sanction under Para. 5, Item 2 shall be also sanctioned an insurer or a reinsurer who in its operations within the territory of the Republic of Bulgaria utilizes the intermediary services of the persons under Para. 4 under the condition that these persons do not perform operations on insurance intermediacy under the procedure set by Art. 150, Para. 3. Para. 5, proposal two shall apply.

### Liability upon Non-Observance of the Requirements for the Technical Provisions

**Art. 313.** An insurer who performs or allows the performance of a violation under Art. 66, Para 1, Art. 68, Paras. 1 - 3, Art. 72, Para. 1 and Art. 77 shall be punished by a penalty payment amounting from BGN 10,000 to BGN 40,000, and upon repeated violation – from BGN 20,000 to BGN 80,000.

### Liability for Non-Implementation of a Coercive Administrative Measure

**Art. 314.** (1) One who does not implement a coercive administrative measure imposed by the Commission or by the Deputy Chairperson shall be sanctioned by:

1. Penal sum amounting from BGN 1,000 to BGN 2,000 if a natural person;
2. Penalty payment amounting from BGN 4,000 to BGN 40,000 if a legal person;

(2) Upon repeated violation the sanction under Para. 1, Item 1 shall amount from BGN 2,000 to BGN 4,000, and under Para. 1, Item 2 – from BGN 8,000 to BGN 80,000.

#### Liability for Non-Conclusion of a Compulsory Insurance

**Art. 315.** (1) A person who has not performed their obligation to conclude a compulsory insurance under Art. 249, Item 1 or 2 shall be punished by:

1. Penal sum amounting from BGN 100 to BGN 500 if a natural person;
2. Penalty payment amounting from BGN 500 to BGN 5,000 if a legal person.

(2) Upon repeated violation, the sanction under Para 1, Item 1 shall amount from BGN 200 to BGN 1,000, and under Para 1, Item 2 from BGN 1,000 to BGN 10,000.

(3) An insurer who commits a breach of Art. 250 shall be sanctioned by a penalty payment amounting from BGN 5,000 to BGN 20,000, and if a repeated violation - from BGN 10,000 to BGN 40,000.

#### Liability for Violation of the Procedure of Acquisition and Disposal of Qualified Participation in an Insurance Company

**Art. 316.** A person who acquires or transfers shares from an insurance company in breach of Art. 16, Paras. 3, 4 and 10, or in violation of a prohibition under Art. 16, Para. 6 shall be punished by:

1. Penal sum amounting from BGN 2,000 to BGN 10,000 - if a natural person, irrespective whether he/she acquires or transfers the shares on his/her behalf or on account of someone else;
2. Penalty payment amounting from BGN 5,000 to BGN 10,000 - if a legal person.

#### Liability for Provision of Erroneous Information

**Art. 317.** (1) A member of a management or supervisory body of an insurer or a reinsurer, or another person who manages or represents it, and who provides or allows the provision of erroneous information in connection with the implementation of the insurance supervision, shall be punished by a penalty from BGN 10,000 to BGN 50,000 in the case where the action does not represent a crime.

(2) The Deputy Chairperson may also order temporary divestiture of the right to exercise operations as a person under Para. 1.

(3) For the offence under Para. 1, penalty payment amounting from BGN 20,000 to BGN 100,000 shall be imposed on the insurer.

#### Liability of the Questor, Liquidator and Trustee

**Art. 318.** A questor, liquidator or trustee, who does not fulfill or violates a lawful direction or order of the Commission, of its Chairperson or the Deputy Chairperson shall be sanctioned by a penal sum from BGN 1,000 to BGN 10,000.

#### Liability for Violations of the Legal Framework

**Art. 319.** (1) One who performs or allows performance of violation of the provisions of the present Code or of the regulations on its implementation, outside the cases under Art. 312 - 318, shall be sanctioned by:

1. Penal sum amounting from BGN 500 to BGN 3,000 if a natural person;
2. Penalty payment amounting from BGN 1,000 to BGN 20,000 if a legal person.

(2) Upon repeated violation, the sanction under Para. 1, Item 1 shall amount from BGN 1,000 to BGN 6,000, and under Para. 1, Item 2 – from BGN 2,000 to BGN 40,000.

#### Procedure on Enforcement of an Administrative Sanction

**Art. 320.** (1) The statements on ascertainment of an administrative violation shall be drawn up by officials authorized by the Deputy Chairperson, and in the cases under Art. 315, Paras. 1 and 2, by officials from the Control Departments under the Traffic Act.

(2) A Penal Warrant shall be issued by the Deputy Chairperson, and with regard to the violations under Art. 315, Paras. 1 and 2 – by the Director of the Regional Directorate of the Interior, in whose region the violation has been established.

(3) Ascertainment of violations, issuance, appeal and implementation of penal provisions shall be performed under the procedure of the Administrative Violations and Penalties Act.

### ADDITIONAL PROVISIONS

§1. Within the meaning of the present Code:

1. **“Insurance services consumer”** shall be an insured person, a third person beneficiary, a third injured person, other persons, for whom rights have arisen under an insurance contract, as well as a natural person and a legal person who shows interest in utilizing the services provided by an insurer or an insurance intermediary with regard to its object of operations.

2. **“Insurance risk”** shall be the objectively existing probability of damaging pecuniary and non-pecuniary wealth, the realization of which is uncertain, unknown and independent from the will of the insured person.

3. **“Insured event”** shall be the occurrence of a covered risk under an insurance within the period of insurance cover.

4. **“Insured”** shall be a person whose pecuniary and/or non-pecuniary wealth is subject of an insurance contract.

5. **“Insurance amount”** (limit of liability) – shall be a cash amount negotiated or determined by a normative act and specified under an insurance contract, representing the upper limit of the insurer’s liability toward an insured person, a person beneficiary or a third injured person.

6. **„Member State”** shall be a country which is a member of the European Union or another country belonging to the European Economic Area.

7. **„Third country”** shall be a country which is not a Member State within the meaning of Item 6.

8. **“Branch”** shall be a legal form, under which an insurer is permanently present within the territory of a Member State through establishment of an office managed by its employees or by other persons explicitly permanently empowered by the insurer to act on its behalf.

**“Branch of an insurer from a third country”** shall be a branch registered under the procedure of the Commerce Act by an insurer having a seat in a third country.

9. **“Control”** shall be present in the cases where a person (controlling person):

(a) Holds the majority of the votes in the General Meeting of another company (controlled person), or

(b) Has the right to set the majority of the members of the managing and supervisory body of a company (controlled person) and is a shareholder or a partner in this company, or

(c) May exercises decisive influence on a company (controlled person), in which it is a shareholder or a partner in compliance with a contract concluded with this company or as per its Constituent Act or Articles of Association, or

(d) Who is a shareholder or a partner in this company and:

aa) The majority of the members of the managing or supervisory body of this company (controlled person) who have performed the relevant functions during the previous and current fiscal years and by the moment of preparation of consolidated financial statements, have been assigned due to its voting right only, and the controlling person holds 20 or more than 20 per cent of the voting right in this company; - these hypothesis shall not apply in case another person exercises control under Items (a), (b) or (c) over this company, or

bb) Who independently controls, by virtue of an agreement with other shareholders or partners of this company (controlled person) the majority of votes in the General Meeting of this company.

In the cases under Items (a) (b) and (d) to the votes of the controlling person shall be added the votes of other persons over whom it exercises control, as well as the votes of persons acting on their behalf but on its account or at the expense of a person controlled by it.

In the cases under Items (a), (b) and (d) the votes of the controlling person shall be reduced by votes on shares held at the expense of a person being nor a controlling person neither a person controlled by it, as well as by votes on shares which are subject to pledge in case the rights on them are exercised on the order or to the benefit of the pledgor.

In the cases under Items (a) and (d) the votes of the controlling person shall be reduced by votes on shares held by the controlled person itself through a person controlled by it or through a person acting on its behalf but on the account of the controlled person and the person controlled by it.

**10. “Participation”** shall be present in the case where a person holds a share of the capital directly or indirectly through control of 20 or more than 20 per cent of the capital or of the votes in the General Meeting of the company.

**11. “Participating company”** shall be:

- a) A controlling company, or
- b) A company holding a share within the meaning of Item 10, or
- c) A company related to another company through joint management as per a contract signed by them or as per their constituent acts, or
- d) A company, with regard to which more than half the members of the managing or supervisory body are at the same time more than half the members of the managing or supervisory body of another company for a period, including one fiscal year and until the moment of preparation of the consolidated financial statements for this year.

**12.1. “Related parties”** shall be two or more natural persons or legal entities related:

- a) Through holding directly or through control of 20 or more than 20 per cent of the votes in the General Meeting or the capital of a company, or
- b) Through control where the controlled person shall also be regarded as such with regard to persons controlled by persons, which are controlled by it,
- c) Permanently to one and the same person through control.

12.2. Related parties shall also be the spouses, the relatives in a direct line of descent without any restrictions, the relatives of the lateral branch of the family, up to a third degree inclusive, and the relatives connected by marriage up to a third degree inclusive.

**13. “Related company”** shall be a controlled company, a company in which there is participation within the meaning of Item 10, or a company related to another company under the terms of Item 11, letters “c” and “d”.

**14. “General Provisions”** shall be standardized clauses applicable to unlimited number of insurance contracts irrespective of their name.

**15. “Establishment of an insurer in a Member State”** shall be the seat, representative office, or branch of an insurer, including any permanent presence of an insurer within the territory of a Member State, even in the cases where such presence is not in the form of a representation or a branch, but contains in itself a permanent office managed by the insurer’s

own staff, or by a person who is independent, but has permanent powers to act on behalf of the insurer.

**16. “Household”** shall be the persons without distinction of the kinship ties among these who live together in autonomous dwellings and have a common budget.

**17. “Administrative expenses”** shall be the expenses on servicing the insurance and reinsurance contracts, and management of the insurance portfolio.

**18. “Member State of the branch”** shall be the Member State where the branch that has concluded the contract covering the risk is located.

**19. “Member State of services provision”** shall be the Member State where the risk is located in the case where the risk is covered by an insurer or a branch located in another Member State.

**20. “Home Member State”** shall be:

a) The Member State where the legal seat of the insurer covering the risk is located;  
b) Where the insurance broker or the insurance agent is a natural person – the Member State, where his/her habitual place of residence is and where s/he pursues operations; where the insurance broker or the insurance agent is a legal person – the Member State where its legal seat is located.

c) within the meaning of Chapter Eleven, the Member State where the insurer has been granted a licence.

**21. “National Insurance Bureau”** shall be a professional organization established in compliance with Recommendation No. 5 adopted on 25 January 1949 by the Subcommittee of the Commission on Land Transport of the United Nations Economic Commission for Europe and shall unite the insurers having obtained a licence for performance of insurance operations on the territory of one country, having the right to perform insurance under Section II, Letter ‘A’, Item 10 of Annex No. 1, except for *Carrier’s Liability* Insurance under Section II, Letter ‘A’, Item 10.2 of Annex No. 1.

**22. “Member State where the risk is located”** shall be:

a) The Member State where the real property is located in the case where an insurance contract covers risks on real property, also including buildings and chattels in them, if covered by the same contract;

b) The Member State where the motor vehicle is registered in the case where an insurance refers to the risks related to any type of vehicles. Where a motor vehicle is delivered from one Member State into another, it shall be considered that the risk is located in the country of destination as of the moment of acceptance of the delivery by the purchaser for a period of up to thirty /30/ days, even in the cases where the motor vehicle has not been officially registered;

c) The Member State in which an insured has concluded an insurance contract in connection with risks related to travel or tourism provided that the maximum term of the contract is not longer than four months;

d) In all other cases, the risk is located in:

aa) The Member State of the habitual place of residence of the natural person who has concluded the insurance, or

bb) The Member State of the legal seat of a legal person or of its branch that have concluded the insurance contract.

**23. “Coinsurance within the European Union”** shall be coinsurance with regard to which high risks within the meaning of Item 29 are covered, in the case where the following additional circumstances are present:

a) The amount of the risk – subject to the insurance – necessitates the participation of more than one insurer for its cover;

b) The risk – subject of the insurance – is covered by virtue of one contract and upon one premium for one and the same period by two or more insurers (coinsurers), each one directly liable before the insured for a certain part of the insurance indemnity;

c) One of the coinsurers is a leading coinsurer and sets the risks and the terms of the insurance contract (insurance), as well as the amount of the premium rates;

d) The risk covered is within the European Union;

e) For the purposes of coverage of this risk, it shall be considered that the leading coinsurer covers the whole risk, and

f) At least one of the coinsurers – a party to the coinsurance contract – has a legal seat in a Member State other than the Member State as per legal seat of the leading coinsurer, or is a party to the contract through a branch whose legal seat is in such Member State.

**24. “Assignor”** shall be an insurer or a reinsurer who transfers all or a part of the risks on concluded insurance contracts and pays insurance premiums to a reinsurer.

**25. “Deferred acquisition costs”** shall be acquisition costs related to the unexpired term of insurance cover on valid as of the end of accounting period and having entered into force during the same period insurance contracts, which have been carried forward in coming accounting periods.

**26. “Acquisition costs”** shall be the expenses ensuing from conclusion or renewal of insurance contracts and may be:

a) Direct – acquisition commissions (the encashment commissions upon payment of periodical premiums on long-term insurances under Section I of Annex No 1 shall not be included), expenses related to preparation of insurance contracts and to their inclusion in the insurance portfolio;

b) Indirect – for advertising and administrative expenses related to preparation of offers, conclusion of contracts and renewal of contracts already concluded.

**27. “Redemption value”** shall be the agreed upon amount on the insurances under Section I, Items 1, 2, 3 and 5 of Annex No. 1, which an insurer shall pay an insured or a third party beneficiary upon pre-term contract termination.

**28. „Family members”** shall be a husband, a wife, children under the age of 18, and in the case where they continue their education – up to the age of 26, and in the case where these are incapable or permanently incapable to work – irregardless of their age.

**29. “High risks”** shall be the risks on the insurance types under Section II of Annex No. 1 as follows:

a) Under Items 4, 5, 6, 7, 11 and 12 – in all cases;

b) Under Items 14 and 15 – in the case where an insured performs business activity or is a freelancer, and the risks are related to this operation or profession;

c) Under Items 3, 8, 9, 10, 13 and 16 – provided that an insured meets at least two of the following criteria:

aa) Balance sheet figure: over BGN 12.4 million;

bb) Net turnover: over BGN 25.6 million;

cc) Average number of persons employed by the insured throughout the fiscal year – 250.

In the case where an insured is a part of a group, for which consolidated financial statements are prepared in compliance with Art. 37, Para. 2 of the Accountancy Act, the criteria under Letter “c” shall apply on the basis of the consolidated financial statement.

**30. “Permanent carrier”** shall be a paper carrier, diskette, compact disc or any other carrier, which allows the user to save information addressed personally to him/her in a manner which provides a future access to this information for a period of time adequate to the purposes for which it has been provided, and which allows reproduction of this information without being changed.

**31. “Host Member State”** shall be the Member State:

a) which is not a home Member State and where the insurer has a branch;

b) the Member State where the insurance broker or the insurance agent has a branch or provides services.

**32. “Third party beneficiary”** shall be another person specified by the insured under the insurance contract who has the right to receive the full amount or a part of the insurance indemnity or the insurance amount.

**33. “Insurance cover period”** shall be the period for which an insurer covers the insurance risk.

**34. “Insurance interest”** shall be the legally recognized necessity of protection against the consequences of an insurance event.

**35. „Motorist”** shall be the owner, user, holder or driver of a motor vehicle who upon and in connection with holding the above motor vehicle or using it may cause injury to third parties.

**36. “Green Card Certificate** shall be an international Certificate for an insurance issued on behalf of a National Bureau under Item 21 in compliance with Recommendation No. 5 adopted on 25 January 1949 by the Subcommittee of the Commission on Land Transport of the United Nations Economic Commission for Europe.

**37. “Repeated violation”** shall be a violation perpetrated within a one-year period as of entering into force of a penal order under which penalty has been imposed for the same type of violation.

**38. “Systematic offences”** shall be three or more administrative offences under the present Code or the regulations on its implementation perpetrated within a period of one year, or three or more identical administrative offences perpetrated within a period of of three consecutive years.

§2. Advertising materials and other signs indicating the relationships between an insurer and an insured person, may not be placed on insured movables or real estate, unless otherwise provided for by law.

§3. The documents that are required under the procedure established by the present Code and which have been issued in a language other than Bulgarian, should be accompanied with a translation into the Bulgarian language and legalized in compliance with the requirements of the valid legislation. In the case where there is a discrepancy between the texts, correct shall be deemed to be the data in the translation in the Bulgarian language.

§4. (1) The minimum amounts under Art. 82, Paras. 1 and 3 shall be updated yearly, where their amount in euros shall be increased by the percentage growth of the European Consumer Prices Index, as published by Eurostat, provided that this percent exceeds 5 per cent from the date of the last recalculation. The result shall be rounded upwards to full EUR 100,000.

(2) The minimum rates of the insurance amounts of the compulsory insurance and of the own funds of an insurance intermediary shall be updated every five years, where their amount in euros shall be increased by the percentage growth of the European Consumer Prices Index issued by Eurostat for the period from last updating. The first updating is to be performed as of January 15, 2008. The result shall be rounded to a whole euro.

(3) The minimum rates of the insurance amount under Art. 266, respectively § 27, Para. 2, shall be updated every five years considered as of July 11, 2005 by the European Consumer Prices Index, where these shall be increased by the percentage growth indicated by this index and the result shall be rounded upwards to full EUR 10,000.

(4) The Commission shall in due time prepare proposals to the National Assembly for amendment to the provisions of the present Code in compliance with Paras. 1 - 3.

## **TRANSITIONAL AND FINAL PROVISIONS**

§ 5. The Insurance Act (Promulgated, *State Gazette*, Issue No. 86 in 1996; amended, Issue No. 1 in 1997; Decision No. 6 of the Constitutional Court of the Republic of Bulgaria dated 25 February 1997 – Issue No 21 in 1997; amended and supplemented, issue No 58 in 1997; amended, Issue No 21 in 1998; amended, Issue No 52 in 1998, amended and supplemented, Issue No 93 in 1998; Issue No. 132 in 1998; Issue No 88 in 1999; supplemented, Issue No 83 in 2000; amended, Issue No 97 in 2000; amended and supplemented, Issue No 1 in 2001; amended, Issue No 102 in 2001; Issue No 110 in 2001; amended and supplemented, Issue No 96 in 2002; supplemented, Issue No 107 in 2002, amended, Issue No 8 in 2003; amended and supplemented, Issue No 85 in 2004) shall be repealed.

§ 6. (1) The licences to perform insurance and reinsurance operations, as well as additional permits for new types of insurances issued under the procedure established by the Insurance Act shall retain their validity, and upon the Code's entry into force shall have the effect of a license, additional licence respectively within the meaning of Art. 29, except for in the cases under Para. 2 of the present Section. The licences and additional licences issued under Items 10 – 13 of Section II, Letter 'A' of Annex No. 1 to Art. 6, Para. 2 of the repealed Insurance Act shall correspond to a licence under Items 10 – 13 under Section II, Letter 'A' of Annex No. 1, except for in the cases B under Para. 2 of the present Section.

(2) Previously established insurance companies and reinsurers that have obtained licenses and additional licenses under Item 10, Section II, Letter 'A' of Annex No. 1 under Art. 6, Para. 42 of the repealed Insurance Act, shall be obligated within a time period of up to one year as of the Code's entry into force to submit to the Commission the documentation necessary for the issuance of a new license under Item 10.1 of Section II, Letter 'A' of Annex No. 1. To the application, a Scheme of Operations by type of insurance for three years, the envisaged Tariff envisaged in compliance with the requirements of Art. 65 and actuary rationale shall be attached to the application. The licenses and additional licenses issued under Item 10, Section II, Letter 'A' of Annex No. 1 under Art. 6, Para. 2 of the repealed Insurance Act shall be valid until the Commission renders judgement, until the expiry of the time period for submission of an application under Sentence One respectively, in the case where the application has not been submitted. In the case of refusal to issue a license under Item 10.1 of Section II, Letter 'A' of Annex No. 1, the Commission by its judgement shall confirm the license under Item 10.2 of Section II, Letter 'A' of Annex No. 1.

(3) Previously established insurance companies and reinsurers shall bring their capital in compliance with the requirements of the Code by January 1, 2007.

(4) Previously established insurance companies and reinsurers shall bring their shares in compliance with the requirements of Art. 12, Para. 4 within a period of up to six (6) months as of the date of the Code's entry into force.

(5) Previously established insurers and reinsurers shall adopt and submit to the Commission the acts and documents under Art. 57, Para.1, Art. 62, Para. 8, Art. 90, Para. 7, Art. 98, Para. 2, the rules on the organization and management of the information system, shall establish the specialized internal control department, shall elect its director, and shall bring the rest of their operations into compliance with the provisions of the Code within a timeframe of up to one year as of its entry into force. The rules under Art. 104, Para. 2 shall be adopted and submitted to the Commission within a timeframe of up to six (6) months as of the Code's entry into force.

(6) Insurers who hold a license under Item 10.1 of Section II, Letter 'A' of Annex No. 1 shall submit to the Commission and to the Guarantee Fund the lists of the representatives for claims settlement appointed in the Member States until the date of the *Contract for the Republic of Bulgaria's Accession to the European Union's* entry into force.



(7) The National Bureau of Bulgarian Motor Insurers may not refuse the admission as a member of an insurer who meets the requirements of the Code and of the Articles of Association under Art. 282, Para. 6.

§ 7. (1) The Ordinance under Art. 95, Para. 2, Item 5, and Para. 3 and Art. 97, Para. 6 shall be adopted within a one-year timeframe as of the Code's entry into force. The first exam for acquisition of actuarial capacity shall be held within a six-month period as of the Ordinance under Sentence One's entry into force.

(2) Within a three-year period as of the Code's entry into force, the insurers and reinsurers shall be obligated to conclude contracts for actuary servicing with persons having the recognized capacity of a responsible actuary.

(3) Until the expiry of the time period under Para. 2, the persons who have been approved as actuaries of an insurer undergoing a procedure for issuance of a license under Art. 25 of the Insurance Act, or under the procedure established by Art. 10, Para. 4 of the Insurance Act may perform the obligations of a responsible actuary where carrying out the actuary servicing of an insurer or a reinsurer, as well as to be appointed responsible actuaries at insurers or reinsurers. Until the expiry of the time period under Para. 2, for responsible actuaries of insurers and reinsurers may be appointed persons who have been approved as actuaries of health insurance companies or have been licensed as actuaries of pension assurance companies and the additional pension insurance funds managed by these.

§ 8. (1) Previously established insurance intermediaries shall bring their operations in compliance with the requirements of the Code within a period of three months as of its enforcement.

(2) Previously established insurance brokers who have pursued operations of insurance intermediation for more than five years shall submit an application form for entry into the Registry of the Commission under Art. 30, Para. 1, Item 9 of the *Financial Supervision Commission Act* within a period of three months as of the Code's entry into force.

(3) With respect to the previously established insurance brokers, other than those under Para 2, the Commission shall adopt the Ordinance under Art. 157, Para. 7 and shall organize the conduction of an examination within a period of six months as of the Code's entry into force.

(4) Insurers shall be obligated to renew the contracts for insurance agency with the agents, who have chosen to work with them and have successfully passed the training and examination under Art. 168, Para. 2 hereof within a period of six months as of the Code's entry into force.

(5) Within the timeframe set under Para. 4, insurers shall submit an application form for entry into the Registry under Art. 30, Para. 1, Item 9 of the *Financial Supervision Commission Act* of the insurance agents, with whom they have concluded contracts for agency under Para. 1, and who meet the requirements of the present Code. A copy of the insurance policy concluded under Art. 167, Para. 2 or a declaration under Art. 167, Para. 4 for each insurance agent shall be attached to the above application form.

§ 9. Upon the Code's entry into force, previously instituted proceedings for issuance of licenses, permits or approvals before the Commission or before the Deputy Chairperson shall continue under the procedure set by the repealed *Insurance Act*.

(2) Previously instituted proceedings for implementation of coercive administrative measures and for withdrawal of licenses issued to insurers or insurance brokers shall continue under the procedure set by the Code.

§ 10. (1) Previously established insurers within the meaning of § 1, Item 11 of the Additional Regulations of the Insurance Act shall finalize the liquidation proceedings, the bankruptcy proceedings respectively, under the procedure set by the repealed Insurance Act.

(2) For persons under Para. 1 who do not have sufficient funds to cover the expenses on liquidation or on bankruptcy, upon a request submitted by the Deputy Chairperson, the court shall, along with the resolution on declaration of bankruptcy, also rule the company's deletion. Trustee shall not be appointed.

(3) For persons under Para. 1 who, according to the evidence collected, neither have funds, nor liabilities, the court, upon a request submitted by the Deputy Chairperson, shall rule the company's deletion.

(4) For persons under Para. 1 whose liquidation or bankruptcy has been finalized with settlement of the liabilities toward third persons, the Deputy Chairperson shall issue a decision on liquidation's termination. The relations among shareholders shall be settled under the Commerce Act.

§ 11. (1) Until the date of entry into force of the Contract for the Republic of Bulgaria's Accession to the European Union, within the meaning of the Code, the "Member States" shall be considered to be third countries; and for these, as well as for the persons from these, the regulations with regard to third countries shall apply.

(2) As of the date of entry into force of the Contract for the Republic of Bulgaria's Accession to the European Union, the activities of a branch of an insurer having a seat in a Member State, and having obtained a licence under Art. 36 of the Insurance Act or a license under Art. 41 of the Code, shall be performed under the terms and conditions of the right to establishment.

(3) Until the date of entry into force of the Contract for the Republic of Bulgaria's Accession to the European Union, the technical provisions under insurance contracts covering risks in the Republic of Bulgaria shall be covered with assets located within the territory of the Republic of Bulgaria.

(4) Until the date of entry into force of the Contract for the Republic of Bulgaria's Accession to the European Union, an insurer may cover the technical provisions with assets located abroad upon obtaining a permission issued by the Deputy Chairperson.

(5) Until the date of entry into force of the Contract for the Republic of Bulgaria's Accession to the European Union, the own funds of a branch of an insurer from a third country shall be invested in the Republic of Bulgaria.

(6) Until the date of entry into force of the Contract for the Republic of Bulgaria's Accession to the European Union, the minimum insurance amount under Art. 156, Para. 1, Sentence Two, and Art. 167, Para. 2, Sentence Two, shall be BGN 200,000 for each insured event, and BGN 300,000 for all insured events for one year. Until the date of entry into force of the Contract for the Republic of Bulgaria's Accession to the European Union, the insurance under Sentence One shall cover the liability for damages, occurred within the territory of the Republic of Bulgaria.

(7) Until the date of entry into force of the Contract for the Republic of Bulgaria's Accession to the European Union, the Financial Supervision Commission shall notify the European Commission of the wish expressed by the Republic of Bulgaria to be notified in compliance with Art. 6, Para. 1 of Directive 2002/92/EC of the intention of insurance intermediaries from Member States to perform operations in the Republic of Bulgaria under the terms and conditions of the right to establishment or of the freedom to provide services.

(8) Until the date of entry into force of the Contract for the Republic of Bulgaria's Accession to the European Union, the insurance contract for the compulsory *Third Party Liability of Motorists* Insurance shall provide coverage within the territory of the Republic of

Bulgaria. A separate contract shall be concluded for *Third Party Liability of Motorists Insurance* for abroad – *Green Card*.

(9) The National Bureau of Bulgarian Motor Insurers, incorporated in compliance with Art. 82 of the repealed Insurance Act, and the Guarantee Fund, incorporated in compliance with Art. 87 of the repealed Insurance Act, shall conform their operations with the requirements of the Code within a timeframe of 6 months as of its entry into force.

§ 12. (1) The regulations on its implementation of the repealed Insurance Act shall remain effective insofar as these are not in disagreement with the Code.

(2) The Commission shall adopt the regulations on the implementation of the Code, as well as the amendments to the regulations under Para. 1 – in the case where their explicit revocation is not necessary within a period of one year of the Code's entry into force, insofar as not provided for otherwise.

(3) The administrative actions issued on the basis of the repealed Insurance Act shall retain their validity insofar as these do not come into contradiction with the Code.

§ 13. To the *Financial Supervision Commission Act* (Promulgated in State Gazette, Issue No 8 in 2003; amended, Issue No 31 in 2003; amended and supplemented, Issue No 67 in 2003; amended, Issue No 112 in 2003; amended and supplemented, Issue No 85 in 2004) the following amendments and supplements shall be made:

1. Following amendments and supplements are introduced in Art. 10:

a) a new para 4 is created:

“(4) In the case of pre-term termination of the Deputy Chairperson's mandate, the Commission, at the proposal of the Chairperson, shall appoint another member as his/her substitute, who will execute his/her powers until the coming into office of the new Deputy Chairperson.”;

b) the former Art. 4 becomes Art. 5

2. In Art. 13:

a) In Para. 1:

aa) Items 12, 13, 14, 15 and 16 shall be cancelled;

bb) a new Item 21 is created:

“21. shall also realize different powers as explicitly provided for under a law”.

b) Para. 3 shall be amended as follows:

“(3) The natural person administrative acts of the Commission shall be justified and are subject to appeal before the Supreme Administrative Court. The appeal shall not suspend the implementation of the natural person administrative act.”

3. In Art. 15, Para. 4 shall be amended as follows:

“(4) The natural person administrative acts of the Deputy Chairperson in charge of the *Insurance Supervision Division*, may be appealed by order of the court before the Supreme Administrative Court.”

4. To Art. 16:

a) In Para 1

aa) Item 2 shall be cancelled;

bb) in Item 3, the words “Art. 9 of the Insurance Act” shall be replaced with “Art. 16 of the Insurance Code”;

cc) In Item 4 the words “merger of insurers and sale of an insurer's company in liquidation” shall be deleted;

dd) Item 5 shall be changed as follows:

“5. enters, denies entry and deletes an insurance broker and an insurance agent from the Commission's Registry;”

ee) Item 6 shall be amended as follows:

“6. shall approve the persons under Art. 13, Para. 22 and Art. 26 of the Insurance Code;”

ff) Items 7 and 8 are canceled;

gg) Item 13 shall be amended as follows:

“13. shall approve or prescribe the creation of different technical provisions within the meaning of Art. 68 of the Insurance Code”;

hh) In Item 17 after the word “insurers” a comma shall be placed and the conjunction “and” shall be deleted, and after the words “insurance brokers” there shall be added “and insurance agents” ;

ii) Item 20 shall be cancelled;

b) Paragraph 2 shall be amended as follows:

“(2) The proposal under Art. 13, Para 1, Items 5 – for the issue of a licence and under Art. 6 – for transformation shall be made at least 1 month before expiration of the term for judgment by the Commission, and in case of voluntary termination of an insurer and of licensing of an actuary – at least 14 days before expiration of the term for judgement by the Commission and all required documents must be attached to it.”

c) Paragraph 4 shall be amended as follows:

“(4) The natural person administrative acts of the Deputy Chairperson in charge of the *Insurance Supervision Division*, may be appealed by order of the court before the Supreme Administrative Court.”

5. In Art. 17, Paragraph 4 shall be amended as follows:

“(4) The natural person administrative acts of the Deputy Chairperson in charge of the *Insurance Supervision Division*, may be appealed by order of the court before the Supreme Administrative Court.”

6. In Art. 18, Para 3 shall be amended as follows:

“(3) Upon a request in writing by the Commission Chairperson, for the purposes of the exercised by the Commission supervision, the banks shall be obligated to provide information about the assets and the operations on the accounts and deposits of the supervised persons, as well as of other persons, of which is known to have offended the provisions of this Law, the Insurance Code, the Social Insurance Code, the Public Offering of Securities Act, the Health Insurance Act or the Law on Special Purpose Vehicles. The providing of the information under sentence one may not be denied or restricted due to considerations of bank or trade secret.”

7. Article 24 shall be amended as follows:

“Professional Secrecy

Art. 24. (1) The information created and obtained by the Commission in connection with performance of its functions and which represents a trading, bank or other secrecy protected by law or whose disclosure would injure the trading interest of supervised persons, shall be a professional secrecy. Professional secrecy shall not be an official secrecy within the meaning of the Protection of Classified Information Act.

(2) A professional secrecy shall not be information subject to public disclosure in compliance with the present or other act.

(3) Members of the Commission and employees from its administration shall be under the obligation to keep the professional secrecy also after their dismissal from position, respectively termination of their labour relations.

(4) Paragraph 3 shall accordingly apply with regard to auditors and with regard to all other persons performing functions assigned to them by the Commission.

(5) Information, which represents a professional secrecy, may be used by the Commission and its bodies only in relation to performance of its functions:

1. For verification of observance of the requirements for issuance of the envisaged by the Public Offering of Securities Act, the Insurance Code, the Social Insurance Code and the Health Insurance Act permits (licenses) for performance of operations regulated by these acts, as well as for performance of supervision over the performance of these operations;

2. For implementation of coercive administrative measures and enforcement of administrative penalties;

3. Upon court appeal against Acts of the Commission and its bodies.”

8. Article 25 shall be amended as follows:

“Disclosure of Professional Secrecy

Art. 25. (1) Information representing a professional secrecy may be disclosed only:

1. Before the bodies of the Court, the Prosecutor’s Office, the investigation authorities and the police authorities under the legally established procedure;

2. Before the bodies exercising bank supervision and the Financial Investigation Agency under terms and procedure set by joint instructions insofar as this is necessary for performance of their functions;

3. Before auditors performing audit of supervised entities, the Fund for Compensation of Investors in Securities and the National Guarantee Bureau insofar as this is necessary for performance of their functions;

4. By the explicit written consent of the person to whom it refers;

5. As generalized data in a manner not allowing natural personization of the persons it refers to.

(2) Information concerning health status of natural persons, received in connection with performance of financial supervision, may be disclosed only with their explicit written consent or on the order of the court upon presence of data on a committed crime.

(3) The persons and bodies under Para 1 shall be under the obligation to keep the confidentiality of the information obtained.

(4) Information representing a professional secrecy may be provided only to the bodies of a Member State performing financial supervision provided that they keep the confidentiality of received information and use it only in connection with performance of their functions:

1. For verification of observance of the requirements for issuance of licenses for performance of operations on financial markets, as well as for performance of supervision over performance of this operation

2. For imposing sanctions;

3. Upon appeal against their acts in an administrative or legal form.

(5) Information representing a professional secrecy may be provided to a foreign body from a third country, performing financial supervision, on the grounds of an agreement for cooperation and information exchange and provided that the body to which the information is provided:

1. Ensures at least the same level of confidentiality of the provided information;

2. Has the power and agrees to provide information of the same nature upon request by the Commission;

3. Needs the required information for performance of its supervision functions.

(6) The Commission may provide under the procedure of Para 5 information which represents a professional secrecy, received by the bodies of a Member State, performing financial supervision, only with their explicit consent and for the purposes for which the consent has been given.”

9. In Art. 30, Para 1:

a) Item 7 is amended as follows:

“7. insurers and reinsurers”;

b) In Item 9 at the end there shall be added “and insurance agents”.

c) Item 12 is created:

“12. the persons who have recognized capacity of a responsible actuary.”

10. In § 1 of the Additional Provisions Art. 7 and 8 shall be created:

“7. “Member State” is a state which is a member of the European Union or other state which belongs to the European Economic Area.

8. "Third state" is a state, which is not a Member State within the meaning of Art.7".

11. To the Supplement to Art. 27, Para 2, the following amendments and supplements shall be made:

a) Item 2.1 shall be amended as follows:

"2.1 For issuance of a licence to a joint-stock company or a branch of an insurer having a seat in a third country:

a) for performance of life and accident insurance – BGN 30,000, and BGN 2,000 per each type of insurance;

b) for performance of property insurances – BGN 90,000, and BGN 3,000 per each type of insurance;

c) for performance of reinsurance or of insurance and reinsurance – BGN 120,000, and BGN 4,000 per each type of insurance.

b) In Item 2.2 the word "permit for performance of insurance activity" shall be replaced with "licence for performance of insurance";

c) Item 2.3 shall be amended as follows:

"2.3. For entry of an insurance broker into the Registry - BGN 5,000";

d) Item 2.3a shall be created:

"2.3a. In order to broaden the license's scope with an additional license for:

a) performance of life and accident insurance – BGN 30,000, and BGN 2,000 per each type of insurance;

b) performance of property insurances – BGN 90,000, and BGN 3,000 per each type of insurance;

c) performance of reinsurance or of insurance and reinsurance – BGN 120,000, and BGN 4,000 per each type of insurance.

e) In Item 2.6, the text before letter "a" shall be amended as follows:

"2.6. For expansion of the scope of a license with a new insurance type of an insurance company or branch of an insurer with a registered office in third state";

f) Item 2.7 shall be amended as follows:

"2.7. For expansion of the scope of a license with a new type of insurance of a mutual insurance co-operative society – BGN 1,000 for each type of insurance";

g) In Item 2.9, the following amendments shall be introduced:

"2.9. For inspection of documentation:

a) for issuance of licenses and permits for performance of operations on insurance, reinsurance, insurance and reinsurance, for extension of the scope of a license issued with an additional license for merging, taking over, separating and segregating insurers (reinsurers) - BGN 500;

b) on application for entry of an insurance broker - BGN 50.

c) for expansion of the scope of the licence with a new type of insurance – BGN 100;

d) for approval of a registered auditor - BGN 20;

e) Item 4.7 shall be cancelled;

f) Item 4.8, Letter 'b' shall be cancelled;

g) Item 5 shall be created:

"5. For recognition of the capacity of a responsible actuary:

a) to sit for an examination - BGN 300;

b) for issuance of a certificate - BGN 200.

12. Everywhere in the Act, the words "Insurance Act" shall be replaced with the "Insurance Code".

**§ 14. To the Health Insurance Act** (Promulgated in the State Gazette, Issue No 70 in 1998; amended, Issue No 93 in 1998; Issue No 153 in 1998; Issue No 62 and Issue No 65 in 1999; amended and supplemented, Issue No 67 in 1999; amended, Issue No 69 in 1999;

amended and supplemented, Issue No 110 and Issue No 113 in 1999; Issue 1, 31 and 64 in 2000; amended, Issue No 41 in 2001; amended and supplemented, Issue No 1 and Issue No 54 in 2002; supplemented, Issue No 74 in 2002; amended and supplemented, Issue No 107 in 2002; amended, Issue No 112 in 2002; amended and supplemented, Issue No 119 in 2002; issue No 120 in 2002; amended and supplemented, Issue No 8 in 2003; supplemented, Issue No 50 in 2003, amended, Issue No 107 in 2003; supplemented, Issue No 114 in 2003, effective as of 1 January 2004, amended and supplemented, Issue No 28 in 2004; Issue No 38 of in 2004; amended and supplemented, Issue No 49 in 2004, amended, Issue No 70 in 2004; amended and supplemented, Issue No 85 and Issue No. 111 in 2004) the following amendments and supplements shall be made:

1. In Art. 82, Para 4, Item 1 the words “Annex No. 1 to Art. 6, Para 2 of the Insurance Act” shall be replaced by “Annex No. 1 of the Insurance Code”.

2. In Art. 84, Para 5 the wordse “Insurance Act” shall be replaced by “Insurance Code”.

3. In Art. 94 Para 2 shall be amended as follows:

“(2) A shareholder in a health insurance company directly or indirectly through related parties may not be a person for whom a well-grounded conclusion may be made that it may use the activity on voluntary health insurance for achieving goals non-compatible with the objectives and rules of Art. 82, Para 3 of the present Act and by Art. 11 of the Financial Supervision Commission Act”.

4. In Art. 95, Para 2, Item 6, the words “§ 1, Item 10 of the Insurance Act” shall be replaced by “§1, Item 12 of the Insurance Code”.

5. To Art. 97

a) In Para. 2:

aa) Item 9 shall be modified as follows:

“9. meets the conditions of Art. 94, Para 2”;

bb) Item 10 shall be modified as follows:

“10. Is not a partner or a shareholder as well as a member of a managing or supervisory body of a trading company for which the hypothesis under Art. 94, Para 2 is present”.

b) Paragraph 5 shall be cancelled.

6. Articles 97a, 97b and 97c are created:

“Art. 97a. (1) The actuarial servicing of the health insurance company shall be performed by a responsible actuary. A responsible actuary shall be a natural person who has recognized legal capacity, and who organizes, manages and is responsible for the actuarial service of the health insurance company.

(2) A responsible actuary shall:

1. Not have been convicted of intentional crime of general character;

2. Not have been within the last three years, preceding the initial date of the insolvency set by the court, a member of a managing or a supervisory body or a general partner of a company, with regard to which bankruptcy proceedings have been initiated or which has been dissolved due to bankruptcy, in case there have been unsatisfied creditors;

3. Not have been declared bankrupt and is not undergoing bankruptcy proceedings;

4. Not have been debarred from the right to hold a property accountable office;

5. Hold a higher degree of education where they have obtained educational qualifications not lower than a Master’s Degree and covered a course of study in higher mathematics in compliance with the requirements specified under an Ordinance issued by the Financial Supervision Commission;

6. Have at least three-year experience as an actuary of an insurer, reinsurer, health insurance company, pension insurance company, at agencies performing supervision over the operations of the above persons, or as a lecturer having academic rank in life insurance or actuarial science;

7. Have obtained a recognized legal capacity of a responsible actuary from the Financial Supervision Commission upon successful completion of an examination.

(3) The procedure and the terms and conditions of holding the said examination and recognizing the legal capacity under Para. 2, Item 7 shall be specified under an Ordinance issued by the Financial Supervision Commission. For the purposes of the present Act, the legal capacity of the responsible actuary shall be recognized under the procedure established by the *Social Insurance Code* or by the *Health Insurance Act* where the recognition of legal capacity examination taken includes assessment of knowledge in the field of health insurance.

(4) Upon a proposal submitted by the Deputy Chairperson of the Financial Supervision Commission in charge of the *Insurance Supervision Division*, the Financial Supervision Commission shall divest a responsible actuary of their legal capacity in the case where it has been established that they:

1. No longer meet the requirements set under Para. 2, Item 1 – 4;
2. Upon performing operations on actuarial service of a health insurance company, they have performed gross violations or systematic offences of the provisions of the present law or the bylaws on its implementation;

3. Have submitted false data or documents of erroneous contents, on the grounds of which their legal capacity has been recognized;

(5) In the cases where an actuary has been divested of legal capacity under Para. 4, that person may request recognition of a responsible actuary's legal capacity not earlier than three years as of Resolution's entry into force. By divesting the legal capacity on any of the grounds listed under Para. 4, the person's legal capacity as a responsible actuary that has been recognized under the procedure established by the *Social Insurance Code* or by the *Health Insurance Act* shall also be considered to have been divested.

**Art. 97b. (1)** A responsible actuary may not be a spouse or a relative in direct or collateral line of descent up to the fourth degree inclusive or connected by marriage up to the third degree to a member of a managing or supervisory body of an health insurance company, as well as they shall not be a member of a managing or supervisory body of another health insurance company.

(2) A responsible actuary shall be elected by the General Meeting of the health insurance company, before which Meeting they shall attest the non-existence of the circumstances under Para. 1 under a Declaration. The health insurance company shall advise the Deputy Chairperson of the resolution on electing a responsible actuary taken within a timeframe of up to seven days following the date of passing the resolution, and shall also submit an authenticated copy of the Declaration under the preceding Sentence.

(3) In the case where an amendment has been introduced into the circumstances under Para. 1, or upon divestiture of a responsible actuary's legal capacity under Art. 97a, Para. 4, the General Meeting of the health insurance company shall be obligated to dismiss the responsible actuary and to elect a new one within a three-month timeframe upon coming of knowledge of the circumstances.

**Art. 97c. (1)** A responsible actuary shall be responsible for working out sufficient in terms of amount premiums and for setting up sufficient in terms of amount technical provisions; for the proper calculation of the solvency margin; as well as for the correct utilization of the actuarial methods in the health insurance company's practice;

(2) In connection with the activity under Para 1, a responsible actuary shall:

1. Draw up and certify the information submitted by the health insurance company with regard to the actuarial operations;

2. Draw up an annual actuarial report – by 31st March of the year, following the year the report refers to.



(3) Upon performance of their obligations, a responsible actuary shall have access to all necessary information, and the managing bodies and employees of a health insurance company shall be obligated to render them assistance.

(4) The actuary shall immediately notify the Commission of each circumstance that has become known to him/her in the course of performance of his/her functions, and which refers to the health insurance company and represents a significant violation of the present Act or the regulations on its implementation, or may unfavourably affect the performance of the health insurance company's operations.

(5) In the cases under Para. 4, no restrictions shall apply on information disclosure, which restrictions have been provided for under a law, the sublegislative legislation or a contract. The responsible actuary shall not bear responsibility for the bona fide disclosure of information under Para. 4 before the Financial Supervision Commission and the Deputy Chairperson of the Financial Supervision Commission in charge of the *Insurance Supervision Division*".

(6) The actuarial authentication's form, and the form and the contents of the actuarial report and of the statistics certified by a responsible actuary, shall be specified under an Ordinance issued by the Financial Supervision Commission.

7. In Art. 99g:

a) in Para 1 after the words "merger", "acquisition" shall be added;

b) Para 2 shall be canceled;

c) Para 3 shall be amended as follows:

"(3) Transformation of health insurance companies shall be performed under the terms and conditions and under the procedure of Chapter Eleven of the Insurance Code and of the Financial Supervision Commission Act.

8. In Art. 99h, Para 4 the words "Chapter Nine of the Insurance Act" shall be replaced by "Chapter Twelve, Section One of the Insurance Code".

9. In Art. 99i, Sentence Two, the words "Chapter Eleven of the Insurance Act" shall be replaced by "Chapter Twelve, Section II of the Insurance Code".

10. To Art. 99j the following amendments shall be made:

a) Paragraph 3 shall be modified as follows:

"(3) Health insurance companies shall be under the obligation to notify the Financial Supervision Commission in writing of:

1. All newly arisen facts and circumstances subject to entry into the Registries of the Financial Supervision Commission;

2. Changes in circumstances having been entered into the Trade Register".

b) New Para 4 shall be created:

"(4) The obligation under Para 3 shall be performed within a period of seven days as of occurrence of the facts and circumstances, as the documents proving the made change shall be enclosed to the notification. In case the relevant fact or circumstance is subject to entry into the Trade Register, the term for notification shall be seven days as of judgement on the entry.

11. § 19f shall be created in the Transitional and Concluding Provisions:

§ 19f (1) The Ordinance under Art. 97a, Para. 2, Item 5, Para. 3 and Art. 97c, Para. 6 shall be adopted within a one-year timeframe as of the Insurance Code's entry into force. The first exam for acquisition of actuarial capacity shall be held within a six-month period as of its entry into force.

(2) Within a three-year period as of the Insurance Code's entry into force, the health insurance companies shall be obligated to conclude contracts for actuary servicing with persons having the recognized capacity of a responsible actuary.

(3) Until the expiry of the time period under Para. 2, the persons who have been approved as actuaries of a health insurance company undergoing a procedure for issuance of an approval under Art. 97, or under the procedure established by Art. 99 may perform the obligations of a responsible actuary where carrying out the actuary servicing of a health insurance company, as

well as to be appointed responsible actuaries at health insurance companies. Until the expiry of the time period under Para. 2, for responsible actuaries of health insurance companies may be appointed persons who have been approved as actuaries of health insurance companies or have been licenced as actuaries of insurers and reinsurers assurance companies or have obtained a licence for actuaries of pension insurance companies and the additional pension insurance funds managed by these.

**§ 15. In the Commerce Act** (Promulgated, State Gazette, Issue No 48 in 1991; amended, Issue No 25 in 1992, Issue No 61 and Issue No 103 in 1993; Issue No 63 in 1994; Issue No 63 in 1995; Issue No 42, 59, 83, 86 and 104 in 1996; Issue No 58 in 1997; Issue No 100 and Issue No 124 in 1997; Issue No 52 and Issue 70 in 1998; Issue No 33, Issue No 42, Issue No 64, Issue No 81, Issue No 90, Issue No 103, Issue No 114 in 1999; Issue No 84 in 2000, Issue No 28, Issue No 61, Issue No 96 in 2002; Issue No 19, Issue No 31, 39, 42, 43 and Issue No 66 in 2005) Chapter Twenty-Seven: “Contract for Insurance” shall be cancelled.

**§ 16. In the Local Taxes and Charges Act** (Promulgated, *State Gazette*, Issue No 117 of 1997, amended, Issue No 71, Issue 83, Issue 105 and Issue No 153 of 1998, Issue No 103 of 1999, Issue No 34 and Issue 102 of 2000, Issue No 109 of 2001, Issue No 28, Issue No 45, Issue No 56 and Issue No 119 of 2002, Issue No 84 and Issue No 112 of 2003, Issue No 6, Issue No 18, Issue 36, Issue No 70 and Issue No 106 of 2004, Issue 87 and Issue 94 in 2005) to § 1, Item 19 of the Additional Provisions the following amendments and supplements shall be made:

“19.”Insurance value” of a motor vehicle is the market price, against which instead of the insured property, another one of the same type and quality can be bought at the moment of issue of the certificate for the property’s insurance value”.

**§ 17. In the Export Insurance Act** (promulgated - SG, issue 61 in 1998; amended and supplemented, issue 112 in 2001; issue 92 in 2004) in Art. 10a shall be amended as follows:

“Art. 10a. (1) *BAEZ - AD* is an insurer within the meaning of the Insurance Code. The Insurance Code shall apply to *BAEZ - AD*, insofar as the present law does not stipulate otherwise.

(2) The Insurance Code shall not apply to the activity of *BAEZ - AD* under the present law, with the exception of the provision of Section Four, which shall apply to the insurance legal relations, arisen under the present law.”

**§ 18. In the Value Added Tax Act** (Prom. SG, Issue 153 in 1998; amended, Issue 1 in 1999; amended, Issue 44; Issue 62; Issue 64, Issue 103 and Issue 111 in 1999; Issue 63 and Issue 78, Issue 102 in 2000; Issue 109 in 2001; Issue 28; Issue 45 and 117 in 2002; Issue 37, Issue 42, Issue 86 and Issue 109 in 2003; Issue 53, Issue 70 and Issue 108 in 2004, бр. 28, 43 и, 76 , 94 и 95 or 2005 г.) in Art. 37 after the word “insurer” shall be added the words “and reinsurer”; the words “Insurance Act” shall be replaced by “Insurance Code”, and the words “insurance assistants (agents)” shall be replaced by “insurance agents”.

**§ 19. In the Corporate Income Tax Act** (Prom., SG, Issue 115 in 1997, amended Issue 19 in 1998; supplemented Issue 21 and Issue 153 in 1998; Issue 12, Issue 50, Issue 51, Issue 64 and Issue 81, Issue 103, Issue 110 and Issue 111 in 1999; Issue 105 and Issue 108 in 2000; Issue 34 and Issue 110 in 2001; Issue 45 and Issue 61 and 62 and Issue 119 in 2002, Issue 42 and Issue 109 in 2003; Issue 18 and Issue 53 and 107 and Issue 107 in 2004, Issue 39, Issue 88 and Issue 91 in 2005) in § 1, Item 47 of the Additional Provisions, the words “insurance companies, mutual insurance co-operative societies” shall be replaced with “insurers and reinsurers”; and the words “Insurance Act” shall be replaced by “Insurance Code”.

**§ 20. In the Personal Income Tax Act** (Prom. SG, Issue 118 in 1997; Issue 35 in 1998 - Decision No. 6 of the Constitutional Court of the Republic of Bulgaria in 1998; amended Issue 71 and 153 in 1998; Issue 50; Issue 103 and Issue 111 in 1999; Issue 105 in 2000; Issue 110 in 2001; Issue 40, Issue 45; Issue 61 and Issue 118 in 2002; Issue 42, Issue 67; Issue 95 and Issue 112 in 2003; Issue 36 and Issue 37 and Issue 53; Issue 70 and Issue 108 in 2004, and Issue 43 in 2005) the following amendments shall be made:

1. In Art. 12, Para 1, Item 3, the words “insurance reserves” shall be replaced with “technical provisions”;

2. In § 1 of the Additional Provisions:

a) In Item 48, the words “insurance reserves” shall be replaced with “technical provisions”;

b) In Item 49, the words “Commerce Act” shall be replaced with “Insurance Code”;

c) In Item 50, the words “under Section I, Letter ‘A’, Items 1, 2 and 3 of Annex No. 1 to Art. 6, Para 2 of the Insurance Act” shall be replaced with “under Section I, Items 1, 2 and 3 of Annex No.1 to Art. 9, Para 1 of the Insurance Code”.

**§ 21. In the Measures Against Money Laundering Act** (Prom. GS, Issue 85 in 1998, amended, Issue 1 and Issue 102 in 2001; Issue 31 in 2003), the following amendments shall be made:

1. In Art. 3, Para 2, Item 2 shall be amended as follows:

“2. Insurers and reinsurers having a seat in the Republic of Bulgaria; insurers from an EU Member State or a country – party under the European Economic Area Treaty which perform operations within the territory of the Republic of Bulgaria; insurers having a legal seat in countries other than the aforesaid, which have obtained a license from the Financial Supervision Commission to perform operations in the Republic of Bulgaria through a branch.”

2. In Art. 4, Para 12, the words “to Art. 6, Para 2 of the Insurance Act” shall be replaced with “the Insurance Code”.

**§22. In the Road Traffic Act** (Prom., SG, Issue 20 in 1999, amended, Issue 1 in 2000, Issue 43; Issue 45 and Issue 76 in 2002, Issue 16 and Issue 22 in 2003, Issue 6, Issue 70, Issue 85 and Issue 115, Issue 79 and Issue 92 in 2005), the following amendments shall be made:

1. In Art. 100, Para. 1, Item 3, the words “*Third Party Liability Insurance*” shall be substituted by “*Compulsory Third Party Liability Insurance of the Motorists*”.

2. In Art. 123, Para. 2, after the words “*Third Party Liability*” shall be added “*of the Motorists*”.

3. In Art. 125, a new Item 8 is created:

“8. In the case where the accident is with one participant and the motor vehicle is not in the condition to undertake self-propelled motion due to the damages caused to it by the accident.”

4. In Art. 125a:

a) a new Paragraph 1 is created:

“1. The controlling agencies of the Ministry of Interior shall issue a statement of ascertainment for the attendance under Art. 125 of the place of the road accident. A copy of the above statement shall be forwarded ex officio within a ten-day period as of its issuance to the insurer of the driver guilty of the accident, specified under the statement within a ten-day period as of its issuance.”

b) the former Para. 1 shall become Para 2, and shall be amended as follows:

“2. The Minister of the Interior and the Financial Supervision Commission shall specify under an Ordinance the documentation, the procedure for their preparation upon traffic accidents in the cases under Art. 125, as well as the procedure for providing information, in compliance with the preceding Paragraph.”

c) the former Para. 2 shall become Para 3.

5. In Art. 171, Item 2, Letter ‘C’, after the words “compulsory Third Party Liability Insurance” shall be added: “*of Motorists.*”

6. In Art. 183, Para. 1, Item 1, after the words “Third Party Liability Insurance” shall be added: “*of Motorists.*”

**§ 23. In the Public Offering of Securities Act** (Promulgated, SG, Issue 114 of 1999, amended, Issue 63 and Issue 92 of 2000, Issue 28, Issue 61, Issue 93 and Issue 101 of 2002, Issue 8, Issue 31, Issue 67 and Issue 71 of 2003, Issue 37 of 2004, Issue 19 Issue 31, Issue 39 of 2005), in Art. 77d, Para. 2, Item 12, the words “Art. 87 of the *Insurance Act*” shall be substituted by “Art. 287 of the *Insurance Code*”.

**§ 24. In the Social Insurance Code** (Promulgated, SG, Issue 110 in 1999, Issue 55 - Resolution No. 5 of the Constitutional Court of the Republic of Bulgaria in 2000; amended, Issue 64 in 2000, Issue 1, Issue 35 and Issue 41 in 2001, Issue 1, 10, 45, 74, 112, 119 and 120 in 2002, Issue 8, 42, 67, 95, 112 and 114 in 2003, Issue 12, 38, 52, 53, 69, 70, 112 and 115 in 2004, Issue 38, 39 and 76 in 2005), the following amendments are introduced:

1. In Art. 121e, Para. 6 shall be amended as follows:

“(6) The Chairperson of the Management Board, the Chairperson of the Board of Directors, the executive director and the procurator shall meet the requirements under Paras. 2, 4 and 5, and to have a permanent address or permit for continuous stay in the country.”

2. Arts. 122i and Art. 122k are hereby created:

**“Responsible Actuary”.**

Art. 122i. Actuarial servicing of a pension insurance company and the funds for additional pension insurance managed by it shall be only provided by a person who has recognized legal capacity of a responsible actuary. A responsible actuary shall be a natural person having recognized by the Commission legal capacity, who organizes, manages and is responsible for the actuarial servicing of the Company and the Funds managed by it.

(2) A responsible actuary shall:

1. Not have been convicted of intentional crime of general character;
2. Not have been within the last three years, preceding the initial date of the insolvency set by the court, a member of a managing or a supervisory body or a general partner of a company, with regard to which bankruptcy proceedings have been initiated or which has been dissolved due to bankruptcy, in case there have been unsatisfied creditors;
3. Not have been declared bankrupt and is not undergoing bankruptcy proceedings;
4. Not have been debarred from the right to hold a property accountable office;
5. Hold a higher degree of education where they have obtained educational qualifications not lower than a Master’s Degree and covered a course of study in higher mathematics in compliance with the requirements specified under an Ordinance issued by the Commission;
6. Have at least three-year experience as an actuary in national assurance institutions, an actuary of an insurer, reinsurer, health insurance company, pension insurance company, at agencies performing supervision over the operations of the above persons, or as a lecturer having academic rank in life insurance or actuarial science;
7. Have obtained a recognized legal capacity of a responsible actuary from the Commission upon successful completion of an examination.

(3) The procedure and the terms and conditions of recognizing the legal capacity and holding the said examination and recognizing the legal capacity under Para. 2, Item 7 shall be specified under an Ordinance issued by the Commission. For the purposes of the present Code, the legal capacity of the responsible actuary shall be recognized that and has been recognized under the procedure established by the *Insurance Code* or by the *Health Insurance Act* where the

recognition of legal capacity examination taken includes assessment of knowledge in the field of pension insurance.

(4) Upon a proposal submitted by the Deputy Chairperson, the Commission shall divest a responsible actuary of their legal capacity in the case where it has been established that the person:

1. No longer meets the requirements set under Para. 2, Items 1 - 4;
2. Upon performing operations on actuarial service of a pension insurance company and the funds for additional pension insurance managed by it, they have committed gross violations or systematic offences of the provisions of the present Code or the bylaws on its implementation, or of the regulations on the organization and the operations of the funds for additional pension insurance managed by the respective pension insurance company;
3. Has provided false data or documents of erroneous contents, on the grounds of which their legal capacity has been recognized;

(5) In the cases where an actuary has been divested of legal capacity under Para. 4, that person may request recognition of a responsible actuary's legal capacity not earlier than three years as of Resolution's entry into force. By divesting the legal capacity on any of the grounds listed under Para. 4, the person's legal capacity as a responsible actuary that has been recognized under the procedure established by the *Insurance Code* or by the *Health Insurance Act* shall also be considered to have been divested.

#### Additional Requirements Set toward the Responsible Actuary of a Pension Insurance Company

**Art. 122k.** (1) A responsible actuary of a pension insurance company shall:

1. Not be a spouse or a relative in direct or collateral line of descent up to the fourth degree inclusive or connected by marriage to a member of a managing or supervisory body of a pension insurance company.
2. Not be a member of a managing or supervisory body of another company having identical subject of operations;
3. Not be a partner or a shareholder, member of a managing or supervisory body of a person under Art. 123c, Para. 1, with whom the pension insurance company has contractual relations, or of a related to him person, of a custodian bank, or a person related to it;
4. Not be a party to transactions concluded with a pension insurance company and the additional pension insurance funds managed by it, except for the cases where he acts in its capacity of the company's shareholder or of a person insured in any of these funds;
5. Have a permanent address or permit for permanent stay in the country.

(2) A responsible actuary shall be elected by the General Meeting of the Shareholders of the pension insurance company, before which Meeting they shall attest in advance under a Declaration that they meet the requirements under Para. 1. The pension insurance company shall advise the Deputy Chairperson of the Commission of the resolution on electing a responsible actuary taken within a timeframe of up to seven days following the date of passing the resolution, and shall also submit an authenticated copy of the Declaration under the preceding Sentence.

(3) The responsible actuary shall notify the pension insurance company of an amendment to the circumstances under Para. 1 within a seven-day period as of coming of knowledge of the said amendment.

(4) In the case where an amendment has been introduced into the circumstances under Para. 1, or upon divestiture of a responsible actuary's legal capacity under Art. 122i, Para. 4, the General Meeting of the Shareholders of the pension insurance company shall be obligated to dismiss the responsible actuary and to elect a new one within a three-month timeframe upon coming of knowledge of the circumstances.”

4. Art. 123 shall be amended as follows:

## Actuarial Service

**Art. 123.** (1) A responsible actuary shall:

1. Work out the biometrical tables under Art. 169, Para. 1, Item 2 and Art. 246, Para. 1, Item 2 and the actuarial accounts of the pension schemes offered, which are to be approved by the management body of the pension insurance company;

2. Be responsible for the correct implementation of the actuarial methods in the pension insurance company's operations;

3. Be responsible for the truthful and accurate assessment of the amount of the pension reserves for payment of life pensions by the respective fund, and of all amounts due to insured persons, pensioners or their heirs;

4. By March 31 of each year draw up and present to the pension insurance company and to the Deputy Chairperson of the Commission an actuarial report for the preceding year.

(2) The Deputy Chairperson of the Commission shall specify the form and the compulsory contents of the annual actuarial report under Para. 1, Item 3.

(3) Upon performance of their duties, the responsible actuary shall have access to all necessary information, and the managing bodies and the employees of the pension insurance company shall be obligated to render them assistance."

5. § 11b shall be created in the Transitional and Concluding Regulations:

§ 11b (1) The Ordinance under Art. 122i, Para. 2, Item 5, Para. 3 shall be adopted within a one-year timeframe as of the Insurance Code's entry into force. The first exam for acquisition of actuarial capacity shall be held within a six-month period as of its entry into force.

(2) Within a three-year period as of the Insurance Code's entry into force, the pension insurance companies shall be obligated to conclude contracts for actuary servicing with persons having the recognized capacity of a responsible actuary.

(3) Until the expiry of the time period under Para. 2, the persons who have been granted an actuarial licence under the procedure established by Ordinance No. 14 of April 28, 2004 on the procedure and manner for licensing actuaries of pension insurance companies and of the funds for additional pension insurance managed by these (SG, Issue 46 in 2004), may perform the obligations of a responsible actuary upon performance of actuarial service of pension insurance companies and of the funds for additional pension insurance managed by these, as well as to be appointed responsible actuaries of pension insurance companies and of the funds for additional pension insurance managed by these."

**§ 25.** In the Ministry of Interior Act (Promulgated, SG, Issue 122 of 1997, Issue 29 of 1998, - Resolution No. 3 of the Constitutional Court of 1998, amended, Issue 70, 73 and 153 of 1998, Issue 30 and 110 of 1999, Issue 1 and 29 of 2000, Issue 28 of 2001, Issue 45 and 119 of 2002, Issue 17, 26, 95, 103, 112 and 114 of 2003, Issue 15, 70 and 89 of 2004, Issue 11, 19, 27 and 86 of 2005), in Art. 60, Para. 1, Item 20 shall be created:

"20. submit to the National Bureau of Bulgarian Motor Insurers and to the Information Centre at the Guarantee Fund the information, as specified under the Insurance Code and the subdelegated legislation on its implementation, and exercise the control over the conclusion and renewal of the compulsory *Third Party Liability of Motorists* Insurance, where shall implement the coercive measures provided for and shall impose administrative penalties."

**§ 26.** In the Motor Carrier Act (Promulgated, SG, Issue 82 of 1999, amended, Issue 11 and 45 of 2002, Issue 99 of 2003, Issue 70 of 2004, Issue 88, 92 and 95 of 2005), in Art. 2, Para. 5, the following amendments are introduced:

1. A new Item 6 is created:

"6. submit to the Information Centre at the Guarantee Fund the information as specified under the Insurance Code and the subdelegated legislation on its implementation in connection

with the compulsory *Accident* Insurance of the passengers in the public transport vehicles, and shall exercise control on the insurance's conclusion and renewal.

2. Former Item 6 shall become Item 7.

**§ 27. (1)** Since January 1, 2010, the minimum insurance amounts on the compulsory *Third Party Liability of Motorists* Insurance shall be set as follows:

1. For non-material and material damages as a result of physical injury or death:
  - a) for each event in case of one injured person – BGN 1,000,000;
  - b) for each event in the case of two or more injured persons – BGN 5,000,000;
2. For property damages – BGN 1,000,000 for any event.

**(2)** Until January 1, 2010, the minimum insurance amounts on the compulsory *Third Party Liability of Motorists* Insurance shall be set as follows:

1. For non-material and material damages as a result of physical injury or death:
  - a) for each event in the case of one injured person – BGN 700,000;
  - b) for each event in the case of two or more injured persons – BGN 1,000,000;
2. for property damages – BGN 200,000 for each event.

**(3)** The Financial Supervision Commission shall notify the Commission of the European Union of the deferment periods under Arts. 1 and 2, and of their duration.

**§ 28.** The present Code shall enter into force as of January 1, 2006, save for:

1. Art. 45, Para. 3, Art. 47, Chapter Four; Art. 71, Para. 4, Art. 77, Para. 5, Art. 80, Para. 5, Art. 88, Para. 3, Art. 89, Art. 99, Para. 4, Art. 112-116 inclusive, Art. 127, 137, 139 – 149 inclusive, Chapter Seventeen, Chapter Twenty-Two, Art. 254, Para. 1, Item 2, Art. 256, Art. 258, Para 1, Items 2 and 3, Paras. 2, 3 and 5 and Art. 282, Para. 2, which shall become effective as of the date of entry into force of the Contract for Republic of Bulgaria's Accession to the European Union.

2. Art. 254, Para. 2 shall become effective as of the date of the Decision of the Commission of the European Union, upon submission of information on the conclusion of an agreement between the National Bureau of Bulgarian Motor Insurers and the bureaux of the motor insurers of the Member States in compliance with Art. 2, Para. 2 of Directive 72/166/EEC on approximation of the Member States laws related to insurance against third party liability in regard to use of motor vehicles and on enforcement of obligation for insurance against such liability.

3. Art. 266, which shall become effective as of June 11, 2012;

4. Art. 282, Para. 4 and Art. 284-286, which shall become effective as of the date of the Decision of the Commission of the European Union, upon submission of information on the conclusion of an agreement between the National Bureau of Bulgarian Motor Insurers and the compensation authorities of the Member States in compliance with Art. 6, Para. 3 of Directive 2000/26/EC on approximation of the Member States laws related to insurance against third party liability in regard to use of motor vehicles and on amendment of Council Directives 73/239/EEC and 88/357/EEC. Until the entry into force of the Contract for the Republic of Bulgaria's Accession to the European Union, the National Bureau of Bulgarian Motor Insurers shall establish the organization necessary for the exercise of the functions as a compensatory body.

5. Art. 288, Para. 2, which shall enter into force as of June 11, 2007, and shall be applied for all claims for indemnity filed, under which as of that date the managing board of the Guarantee Fund has not rendered an opinion. Until the entry into force of the Contract for the Republic of Bulgaria's Accession to the European Union, the Guarantee Fund shall only pay indemnities where the road accident has occurred within the territory of the Republic of Bulgaria. The Guarantee Fund shall create the organization on the implementation of the

functions of the Information Centre within a period a period of six /6/ months as of the present Code's entry into force.

**The Code was adopted by the 40<sup>th</sup> National Assembly on December 8, 2005 and was stamped with the official seal of the National Assembly.**

**CHAIRMAN OF THE  
NATIONAL ASSEMBLY:**

**GEORGI PIRINSKI**

**Annex No. 1**

## **INSURANCE TYPES**

### **Section I INSURANCE TYPES. RISKS**

#### 1. Life Insurance and Annuity.

a) Life Insurance which covers the risks death only or survival to a stipulated age only, or survival to a stipulated age or earlier death;

b) Pension Insurance or Annuity, including a saving element and obligation for lump-sum or periodical payments, due after expiration of at least one year as of payment of premium or the first installment under an annuity plan.

With regard to these contracts, an insurer shall pay fixed amounts.

#### 2. Marriage and Child Insurance.

An insurance for payment of a fixed amount upon marriage or birth or expiration of insurance term which is bound with reaching of a stipulated age of a child.

#### 3. Unit-Linked Life Insurance.

An insurance under Items 1 and 2, with regard to which insurance payments are completely or partially dependent on the value of and/or income from preliminary specified assets.

#### 4. Permanent Health Insurance.

a) An insurance for payment of medical expenses or of fixed amounts for diagnostics and treatment, ensuing from an accident or sickness or certain types of accident or sickness;

b) An insurance for payment of fixed lump-sum or periodical amounts for a fixed period or for life, upon disability caused by an accident or sickness, or by certain types of accident or sickness.

#### 5. Capital Redemption.



An insurance for a fixed term, with regard to which for receiving of premium, an insurer pays an amount agreed before term expiration.

#### 6. Supplementary Insurance.

An insurance providing supplemental covers, including any or a combination of:

- a) Death as a result of an accident;
- b) Permanent incapacity or reduced capacity for work as a result of an accident;
- c) Permanent incapacity or reduced capacity for work as a result of sickness;
- d) Temporary incapacity as a result of an accident;
- e) Temporary incapacity as a result of sickness;
- f) Unemployment;
- g) Hospitalization;
- h) Terminal diseases;
- i) Medical expenses.

## Section II

### A. INSURANCE TYPES. RISKS

#### 1. Accident (including industrial accidents and occupational diseases):

- Fixed cash amounts;
- Indemnities;
- Combination of the two;
- Indemnities to passengers.

#### 2. Sickness:

- Fixed cash amounts;
- Indemnities;
- Combination of the two;

#### 3. Land Vehicles (excluding railroad vehicles).

Each damage to or loss of:

- Land motor vehicles;
- Land vehicles other than motor vehicles.

#### 4. Railroad vehicles.

Each damage to or loss of railroad vehicles.

#### 5. Aircraft.

Each damage to or loss of aircraft.

#### 6. Ships (sea, river and lake and canal)

Each damage to or loss of

- River and canal vessels;
- Lake vessels;
- Sea vessels.

#### 7. Cargo in Transit (including goods, luggage and others).

Each damage to or loss of cargo in transit irregardless of transport type.

#### 8. Fire and Natural Perils.

Each damage to or loss of property (other than the property under Items 3, 4, 5, 6 and caused by:

- Fire;
- Explosion;
- Implosion;
- Storm;
- Other natural perils;
- Nuclear energy;
- Land subsidence.

9. Other property damages.

Each damage to or loss of property (other than the property under Items 3, 4, 5, 6 and caused by hail or frost or any other event such as theft except for the ones included under Item 8.

10. Third Party Liability related to possession and use of motor vehicles.

10.1. Each liability for damages arising upon use of land motor vehicle;

10.2. Third Party Liability of the carrier by land motor vehicles.

11. Third Party Liability related to possession and use of aircraft.

11.1 Each liability for damages arising upon use of aircraft.

11.2 Third Party Liability of the carrier by aircraft.

12. Third Party Liability related to possession and use of ships.

12.1 Each liability for damages arising upon use of ships.

12.2. Third Party Liability of the carrier by ships.

13. General Third Party Liability.

Each liability for damages other than the mentioned under Items 10, 11 and 12.

14. Credits:

- General bankruptcy;
- Export credits;
- Annuity payment sales;
- Mortgages;
- Agricultural credits.

15. Guarantees:

- Direct;
- Indirect.

16. Miscellaneous financial losses:

- Risks related to employment;
- General income insufficiency;
- Bad weather;
- Income loss;
- Current general expenses;
- Unforeseen trading expenses;
- Loss of market value;
- Loss of annuity or income;
- Indirect trading losses other than the mentioned;
- Other financial losses (non-trading);
- Other financial losses

17. Legal Expenses (Legal Defense).

An insurance for cover of legal expenses and other litigation expenses.

18. Travel Assistance (Assistance).

Assistance to persons in trouble during travel, in case they are far away from home or from their permanent place of residence.

## B. NAME OF LICENCE FOR MORE THAN ONE TYPE OF INSURANCE

In case a licence includes simultaneously:

- a) The types under Items 1 and 2, it shall be called “Sickness and Accident Insurance”;
- b) The types under Items 1 (indemnity to travelers), 3, 7 and 10, it shall be called “Motor Insurance”
- c) The types under Items 1 (indemnity to travelers), 4, 6, 7 and 12, it shall be called “Marine and Transport Insurance”
- d) The types under Items 1(indemnity to travelers), 5, 7 and 11, it shall be called “Aviation Insurance”;
- e) The types under Items 8 and 9, it shall be called “Property Insurance”;
- f) The types under Items 10, 11, 12 and 13, it shall be called “Third Party Liability”
- g) The types under Items 14 and 15, it shall be called “Credits and Guarantees”;
- h) All types, it shall be called “General Insurance”.

## C. ANCILLARY RISKS

1. An insurer, having been granted a licence for one principal risk related to one or a group of insurance types under Section II of the Supplement, may also cover risks included in other types requiring no licence for these risks, in case:

- They are related to the principal risk;
- They refer to the object covered by the principal risk;
- They are covered by the contract, covering the principal risk.

2.1 The risks included in Section II, Letter “A”, Items 14, 15 and 17 of the present Annex may not be considered ancillary with regard to other insurance types.

2.2. The risk under Section II, Letter “A”, Item 17 (Legal Expenses) may be ancillary with regard to insurances of the Travel Assistance type under Section II, Letter “A”, Item 18 in case the circumstances under Item 1 are present and in case the principal risk refers only to providing of assistance to persons in trouble during travel, when they are far away from home or from their permanent place of residence.

2.3. Legal Expenses may be ancillary risk also under the terms of Item 1 in case of reference to disputes or risks ensuing from or in connection with sea vessels.

**Annex No. 2 to Art. 82, Para 4**

Minimum amount of guarantee capital of a mutual insurance cooperative society under Art. 80, Para 3.

| No | Level of achieved annual premium income (in thousand BGN) | Amount of minimum guarantee capital (in thousand BGN) |
|----|---|---|
| 1. | Up to 500 inclusive                                       | 100   |
| 2. | From 500 to 1000 inclusive                                | 200   |
| 3. | From 1,000 to 1,500 inclusive                             | 300   |
| 4. | Over 1,500  | 400   |