

INSURANCE CODE

In force from 01.01.2006.

Prom. SG. 103/23 Dec 2005, amend. SG. 105/29 Dec 2005, amend. SG. 30/11 Apr 2006, amend. SG. 33/21 Apr 2006, amend. SG. 34/25 Apr 2006, amend. SG. 54/4 Jul 2006, amend. SG. 59/21 Jul 2006, amend. SG. 82/10 Oct 2006, amend. SG. 105/22 Dec 2006, amend. SG. 48/15 Jun 2007, amend. SG. 97/23 Nov 2007, amend. SG. 100/30 Nov 2007, amend. SG. 109/20 Dec 2007

Part one. GENERAL PROVISIONS

Subject

Art. 1 (1) This code shall regulate:

1. the insurance and the reinsurance;
2. the insurance and the reinsurance intermediation;
3. the conditions for starting, performing and termination of the activities under items 1 and 2;
4. the insurance contract;
5. the obligatory insurance, and
6. the insurance supervision.

(2) The provisions of this code shall not apply to the activities on additional social insurance and voluntary health insurance, unless stipulated otherwise by a law.

Objectives

Art. 2. The objectives of this law are:

1. ensuring protection of the consumers of insurance services, and
2. creating conditions for the development of stable, transparent and effective insurance market.

Insurance

Art. 3. The insurance is activity of providing insurance coverage of risks by virtue of a contract, consisting of collecting and spending resources designated for paying indemnities and other monetary sums at occurrence of events or conditions, provided in a contract or in a law, as well as of the activities, connected directly with them, including:

1. assessment of the insurance risk;
2. determination of the insurance premium;
3. establishment of occurred insurance event;
4. assessment of the amount of the damages caused;
5. management of the own funds and the assets, serving for coverage of the technical reserves of the insurer;
6. (suppl. – SG 97/2007) transfer of all or part of the insurance risks, covered by an insurer, to a re-insurer or to another insurer (passive reinsurance);
7. provision of services by the insurer under Travel assistance insurance under section II, letter "A", item 18 of appendix No 1 via persons, hired by him/her, and technical means of his/her own.

Reinsurance

Art. 4. (amend. and suppl. – SG 97/2007) The reinsurance shall be activity of taking on all risks or part of them, covered by an insurer or by another re-insurer, including the activities, connected directly to them, by a re-insurer, against release of insurance premium (active reinsurance), by the virtue of a reinsurance contract.

Insurance and reinsurance intermediation

Art. 5. (1) The insurance and reinsurance intermediation shall be performing of activity by occupation, which consists of giving assistance in the preparation, conclusion and fulfillment of insurance, respectively - reinsurance contracts, in the conclusion of such contracts on behalf of the insurer, respectively upon assignment by a consumer of insurance services, and assistance in relation to

exercising rights and fulfillment of obligations under such contracts, including the cases of occurrence of an insurance event, as well as giving consultations in connection to such contracts.

(2) Shall not be deemed as insurance and reinsurance intermediation:

1. the implementation of the activities under par. 1 by an insurer, respectively re-insurer or their employees;
2. the casual supplying of information during the fulfillment of other professional activity, the subject of which is not giving assistance to consumers of insurance services at the preparation, conclusion and fulfillment of insurance, respectively - reinsurance contracts;
3. carrying out settlement of claims activity by occupation, and
4. performing activity for preparation of expert assessments.

Voluntariness of insurance

Art. 6 (1) The insurance shall be carried out on the principle of voluntariness.

(2) Obligatory insurance can be stipulated by a law or by an international treaty of agreement, which has been ratified, promulgated and entered into force in the Republic of Bulgaria.

Insurance supervision

Art. 7. The regulation and the control over the activities under art. 1, par. 1 shall be carried out by the Commission for Financial Supervision, called hereinafter "the Commission", as well as by the deputy chairman of the Commission for Financial Supervision, who manages department "Insurance supervision", called hereinafter "the deputy chairman".

Persons, who can carry out activities under this code

Art. 8. (1) Insurer shall be:

1. a stock-holding company, a cooperation or an insurer from a third country via a branch, registered under the Commercial Law, who have obtained a license under the conditions and by the order of this code.

2. (suppl. – SG 97/2007) an insurer from another Member State under the conditions of the right of establishment or the freedom to provide services.

(2) (amend. – SG 97/2007) Re-insurer shall be:

1. a stock-holding company, which has acquired active insurance license under this Code;

2. a person, who has obtained active insurance license at his/her seat in another Member State;

3. a person, who has obtained active insurance license at his/her seat in a third country (re-insurer from a third country):

a) via a branch, which has been registered under the Commercial law and has acquired a license pursuant to the present Code, or

b) from its seat of business or from a branch in a third country, where the terms laid down in this Code have been observed.

(3) (new – SG 97/2007) Insurance or re-insurance license under this Code may also be granted to a person, established as a European Company (SE). Insurers, re-insurers and European Companies are being established, carry out their activity and are terminated according to Council Regulation (EC) No 2157/2001 of 8 October 2001 on the Statute for a European Company (SE) and pursuant to this Code. The provisions regulating the insurance stock-holding companies shall also be applied to insurers - European Companies.

(4) (prev. text of para 3 – SG 97/2007) Insurance or reinsurance intermediary shall be:

1. an insurance broker or an insurance agent, registered under the conditions and by the order of this code;

2. an insurance intermediary from a third country, registered under the conditions and by the order of this code;

3. an insurance intermediary from a Member State, who carries out activity under the conditions of the right of establishment or the freedom to provide services.

Restrictions of the activity

Art. 9. (1) Shall not be allowed the carrying out by one and the same insurer of insurances under section I and under section II of Appendix No 1, except for the Accident insurance.

(2) (amend. – SG 97/2007) An insurance stock-holding company can also carry out active reinsurance with regards to the types of insurance and the relevant risks in relation to which it has obtained an insurance license. A re-insurer may not carry out insurance activity.

(3) (suppl. – SG 97/2007) Performing of other commercial activity by an insurer, respectively a re-insurer shall not be allowed. Settlement of claims of persons, insured by insurers having a seat of business out of the Republic of Bulgaria, by an insurer shall not be considered other commercial activity.

(4) (suppl. – SG 97/2007) An insurer or a re-insurer cannot participate as an unlimited liable partner in a trade company and may not secure someone else's obligations by his assets.

(5) Performing of insurance intermediation activity as an insurance broker and an insurance agent by one and the same person shall not be allowed.

Language

Art. 9a. (new – SG 97/2007) Insurance and re-insurance intermediation in the Republic of Bulgaria shall be carried out in Bulgarian language. General provisions, user information and other documents, being provided by the insurers and insurers intermediaries to users, shall be prepared in Bulgarian language. Upon request by the user, another language may also be used in the relations with the insurer.

Application of the rules of international agreements and practice of the Committee of Insurance and Pension Fund Supervisors

Art. 9b. (new – SG 97/2007) (1) In case different rules are established for the activities as per Art 1, para 1 by an international agreement, ratified, promulgated and entered into force with regards to the Republic of Bulgaria, respectively the European Community, at carrying out its international contract competence, the said rules shall be applied.

(2) The Committee shall adopt ordinances, instructions or practices in relation to the application of the international contracts referred to in para 1, in case this is stipulated therein or required for the purposes of good supervision practice.

(3) The Committee and the deputy chairman can apply written records and other documents, adopted within the framework of the Committee of Insurance and Pension Fund Supervisors, observing the relevant European Union directives.

Part two. INSURANCE AND REINSURANCE

Chapter one. INSURERS AND RE-INSURERS HAVING THEIR SEAT IN THE REPUBLIC OF BULGARIA

Section I. Insurance stock-holding company

General requirements

Art. 10. (1) The insurance stock-holding company is a joint-stock company, which has obtained a license for carrying out insurance activity under this code.

(2) The insurance stock-holding company establishes, performs its activity, transforms and terminates under the Commercial law, as far as it is not provided otherwise by this code.

(3) The insurance stock-holding company may open more than one branch under the Commercial law in one settlement, including the one at its seat.

(4) The insurance stock-holding company has a right to carry out insurance activity only for the kinds of insurances, indicated in the license, except for the cases of coverage of subsidiary risks under the conditions of section ²², letter "C" from appendix No 1.

Trade name

Art. 11. (1) The trade name of the insurance stock-holding company shall contain the word "insurance" or derivatives in Bulgarian language and may also contain the word "insurance" or derivatives in a foreign language.

(2) A person who does not have a license for carrying out activity as an insurer, can not use the word "insurance" or derivatives in Bulgarian or a foreign language in his/her trade name, advertising or other activity.

Capital and stocks

Art. 12. (1) (amend. – SG 97/2007) The size of the registered capital of the insurance stock-holding company can not amount to less than the minimum size of the guarantee capital under art. 82, para 1 or 2.

(2) (suppl. – SG 97/2007) The capital under par. 1 should be entirely registered and deposited by the date of submitting an application for obtaining a license. In the event of subsequent capital increase, the latter must be deposited completely by the date of submitting the application for entry in the Commercial register.

(3) The installments in the capital of the insurance stock-holding company shall be cash only and can not be implemented with resources of unproved origin, or with ones, received as a result of illegal activity.

(4) The insurance stock-holding company shall issue personal non-cash stocks only with one vote right each.

Requirements for professional qualification, experience and good reputation

Art. 13. (1) Each member of managing or control body of insurance stock-holding company and every person, authorized to manage or represent an insurance joint-stock company should:

1. have a higher education and an adequate professional qualification, necessary for managing the activity of insurance stock-holding company;

2. have professional experience in the sphere of economics or finance;

3. have not been convicted of deliberate crime of general nature;

4. have not been during the last three years prior to the initial date of the insolvency fixed by the court, a member of managing or control body or an unlimited liable partner in a company, for which insolvency proceedings are initiated or in a company terminated due to insolvency, if unsatisfied creditors have remained.

5. have not been declared insolvent and is not under insolvency proceedings;

6. not be a spouse or a relative on the direct line without restriction, on the collateral line up to fourth degree or by marriage up to third degree with another member of managing or control body of the company;

7. has not been deprived of the right to occupy material liability position;

8. during the last year prior to the act of the competent body has not been a member of a managing or a control body or unlimited liable partner in a company, whose license for performing activity, subject to licensing regime, has been withdrawn, except for the cases when the license has been withdrawn upon request by the company and when the license has been repealed by the respective order;

9. has not been discharged from office at managing or control body of a trade company on the grounds of compulsory administrative measure applied, except for the cases when the act of the competent authority has been repealed by the respective order.

(2) The requirements under par. 1 shall also refer to natural persons, representing legal entities – members of managing or control body of the insurance stock-holding company.

(3) A member of managing or control body of an insurance stock-holding company and a person, authorized to manage or represent it, should be a person, who has a good reputation and does not threaten the insurer's management and the interests of the consumers and does not impede the insurance supervision.

(4) Executive director or another person, authorized to manage and represent the insurance stock-holding company, must have a higher education with educational qualification degree "Master" or educational and scientific degree "Doctor" achieved and should not hold a paid position under legal terms of employment anywhere else, except as an assistant in a scientific institute or a lecturer in an educational institution.

(5) (suppl. – SG 97/2007) The circumstances under par. 1, item 3 shall be established by a court reference and a declaration for lack of conviction outside the Republic of Bulgaria – for Bulgarian citizens and for the persons, who are not Bulgarian citizens – by a declaration for lack of conviction, if in the state of their customary residence an official document for certification of lack of preceding conviction is not being issued. The circumstances under par. 1, items 4 - 9 shall be established by a declaration. The documents under sentences one and two shall be acknowledged in case they are submitted within three months from the date of their issue, respectively preparation. A continuous residence permit in the Republic of Bulgaria for a person from a third country shall be presented within three months from the issue date of the approval.

(6) (amend. – SG 97/2007) The persons under par. 1 and 2 are subject to approval by the deputy chairman before the entry in the commercial register, respectively the appointment to a position, for which entering is not required. The deputy chairman shall decide in one month term after the receiving the application.

(7) Upon establishing incompleteness or contradictions with the lawful requirements in the documents with the application of par. 6 the deputy chairman shall require the applicant to remove the irregularities in one month term. The term for pronouncing of par. 6 shall stop for the period from sending the notice for removal of the irregularities till receiving the additional documents.

Independent members

Art. 13a. (new – SG 97/2007) (1) At least one third of the council of directors or the supervisory board of the insurer shall be consisted of independent members – natural persons. With regards to the independent members shall be applied Art. 13.

(2) Independent member of the council may not be:

1. an employee of the insurer;
2. a person as per Art. 83, para 1, items 4 to 6;
3. a person has lasting trade relations with the insurer;
4. a member of managing or control body, procurator or employee of a person referred to in item 3 or in Art. 83, para 1, items 1 to 3;
5. a related person with another member of managing or control body of the insurer.

(3) Persons, elected as independent members of the council of directors or the supervisory board, with regards to whom circumstances under para 2 occur after the election date shall immediately notify the respective body of the insurer thereof. In such-like cases the persons shall no longer perform their functions and receive remuneration.

(4) The candidates for independent members shall prove the absence of circumstances referred to in para 2 by declaration.

Professional experience

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

1. for a period of at least three years he/she has held a position at managing body of an insurer, re-insurer, a health insurance company or a pension insurance company;
2. for a period of at least five years he/she has held a position in control body or other managerial position at an insurer, re-insurer, a health insurance company, a pension insurance company or a bank;
3. for a period of at least five years he/she has held a position as a representative insurance broker, directly managing the insurance intermediation activity, in case the broker's activity is commensurable to activity of an insurer.
4. for a period of at least ten years he/she has held a managerial position at a state institution in the sphere of economics and finance, and in case the person has a degree in economics or law – not less than five years.
5. he/she is a habilitated person in the field of economics or law.

(2) Apart from the cases of par. 1, a member of managing or control body of an insurance stock-holding company could be a person, who has held for at least three years other managerial position at

an insurer, a re-insurer, a health insurance company, a pension insurance company, a bank, a state institution or as a representative insurance broker, directly engaged in the insurance intermediation activity.

Assessment of the professional qualification and experience

Art. 15. The deputy chairman shall refuse to issue an approval in the cases when in spite of the formal availability of the requirements under art. 13, par. 1, item 1 and art. 14, he/she decides that the person does not have sufficient professional qualification and experience, necessary for the effective participation in the management of the insurer, to whom the request refers to. The motivated refusal shall be sent to the insurer, to whom the request refers to.

Qualified participation

Art. 16. (1) A person, who directly, together with or via related persons owns 10 or more than 10 percent of the votes of the general assembly of an insurance stock-holding company or another participation, which gives him the opportunity to control it, must be indisputably fixed and he/she should meet the requirements of:

1. art. 13, par. 1, items 3, 4, 5, 7, 8 and 9 and par. 3, as well as to have appropriate qualification and experience, which shall guarantee reasonable management of the insurer – if he/she is a natural person.

2. art. 13, par. 1, items 4 and 5 – if he/she is a legal person.

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

(3) A person, who intends to acquire a participation in the capital of insurance stock-holding company under the conditions of par. 1, and subsequently to increase his/her participation so that he/she acquires directly, along with or via related persons 20, 33, 50 or more than 50 percent of the votes of the general assembly of an insurance stock-holding company, shall notify in writing the deputy chairman prior to the acquisition.

(4) (suppl. – SG 97/2007) If the acquisition under par. 1 and 3 takes place during stock trade at a stock exchange or on a regulated market of securities, the notifying shall be made not later than 14 days after the conclusion of the transaction. The purchasers can not exercise their voting right before the term under par. 6 has expired, unless the deputy chairman orders an earlier entry of the change in the joint-stock participation in the registers of the Commission. Before the term under par. 6 has expired, the stocks, acquired by the order of this paragraph, should not be taken into consideration at determining the quorum of the general assembly of the stockholders, unless a circumstance under sentence two occurs.

(5) The notification under par. 1, 3 and 4 shall be carried out through submission of an application, to which the following documents shall be attached:

1. declaration for the origin of resources according to a model, approved by the deputy chairman, concerning the origin of the funds, with which the installments have been made against recorded stocks, and that they are not from loans;

2. declaration for related persons in the sense of § 1, item 12 of the Additional provisions;

3. for lack of previous conviction under art. 13, par. 5 for the persons under par. 1, item 1 and par 2;

4. copy of identity document of a natural person or certificate of current status of a legal person;

5. for the professional qualification and experience of the natural person or the members of the managing body of the legal person;

6. statutes or other similar constituting documents of the legal person;

7. certified copy of the decision of the competent body according to the law, the statutes or the constituting contract for participation of the person in the capital of the insurance stock-holding company;

8. declaration that the circumstances under art. 13, par. 1, item 4, 5, 7, 8 and 9 do not exist;

9. for paid taxes for the last three years and for lack of liabilities to the state and the municipalities by the respective authorities at the permanent address, the seat and at the place of the economic activity of the person;

10. the audited financial reports for the last three years, if the person has been obliged to prepare them;
11. references from the competent body, carrying out financial supervision at the permanent address or at the seat of the person.

(6) In three months term from the notification under par. 1, 3 or 4 the deputy chairman shall issue a prohibition for acquisition of the declared participation, if he/she estimates that the person threatens the stability of the insurer or the interests of the insured persons or he/she does not satisfy the requirements of this code and the acts for its implementation.

(7) Within the term under par. 6 the deputy chairman may approve the implementation of the change of the stock participation, as well as to determine a maximum term, within which the acquisition under par. 3 shall be carried out.

(8) The persons under par. 1 and 3, who have acquired participation, without submitting a notification before the expiry of the term under par. 6, or in violation of a prohibition of the deputy chairman, can not exercise their voting rights. The voting right of persons under sentence one should not be taken into account at assessment of the presence of quorum for the conducting of a general assembly.

(9) If the deputy chairman does not issue a prohibition within the term of par. 6, the person has a right to acquire the participation, declared by him/her.

(11) A person, who intends to reduce his/her participation below 50, 33, 20 or 10 percent of the votes in the general assembly of the insurance stock-holding company or, due to another reason, ceases to exercise control over the insurance shareholding company, shall notify the deputy chairman in advance thereof.

(11) The insurance stock-holding company and the Central depository shall inform the deputy chairman about every acquisition of participation under par. 3, respectively about the reduction of participation of par. 10 within three days term after coming of knowledge.

(12) (suppl. – SG 97/2007) A person, who acquires one or more percent of the stocks of an insurance stock-holding company, or increases his/her participation in a way that it exceeds one percent of the company's stocks, shall be obliged to identify himself/herself in front of the deputy chairman and to submit the declarations under par. 5, items 1 and 2 and a declaration for lack of liabilities to the state and the municipalities within 14 days from acquisition or the participation increase.

(13) (new – SG 97/2007) The declarations referred to in para 5, items 1 and 2 shall also be provided in case of capital increase of the insurer by means of installments, where the installment of the stockholder exceeds 30 000 BGN. The declarations under the first sentence shall be presented within 7 days term from payment of the installments.

(14) (prev. text of para 13 – SG 97/2007) The insurance stock-holding company shall annually present to the Commission till the 31 of march a reference according to a confirmed model for the persons, who own directly, together with or via related persons 10 or more percent of the votes in the general assembly of the insurance company.

(15) (new – SG 97/2007) For the purposes of notification referred to in para 1, 3 and 4 the stocks and the voting shares, being owned according to Art. 146 of the Law for Public Offering of Securities, shall be considered as stocks of related persons.

Section II.

Mutual insurance cooperation

General requirements

Art. 17. (1) The mutual insurance cooperation shall be a cooperation, which has acquired a license for carrying out insurance.

(2) The mutual insurance cooperation constitutes, carries out its activity, transforms and terminates by the order of the Law of the cooperations, unless this code stipulates otherwise.

(3) The subject of activity of the mutual insurance cooperation includes one or more kinds of insurances of section I from appendix No 1 along with or without Accident insurance.

(4) The mutual insurance cooperation shall have right to carry out insurance only on the kinds of insurances, indicated in the license.

Trade name

Art. 18. (1) The trade name of the mutual insurance cooperation can not contain the name of a member of cooperation.

(2) For the mutual insurance cooperation art. 11 shall be applied respectively.

Founders and members of the cooperation

Art. 19. (1) The mutual insurance cooperation shall be constituted by at least 500 persons. Founder and member-cooperator may be a natural person, accomplished 18 years of age, who is not under judicial disability

(2) The founders shall insure themselves in the mutual insurance cooperation, after it has acquired a license for carrying out insurance and shall deposit an insurance installment on an insurance under section I from appendix No 1, chosen by them, for the first year.

(3) The membership in the mutual insurance cooperation shall be initiated or winded up simultaneously with the conclusion or the termination of the insurance contract according to the general conditions.

Installments and payments of the members of cooperation

Art. 20. (1) Every member of cooperation shall make an entering and share installment, whose amount shall be determined in the statutes, and shall conclude with the mutual insurance cooperation an insurance contract on Life insurance under section I from appendix No 1 with term of effect no shorter than three years. The share installments shall be used for filling the minimum guarantee capital.

(2) In order to reach the minimum guarantee capital and the solvency margin the general assembly with simple majority of all members of cooperation can take a decision for collecting additional and target installments from the members of cooperation. All installments made in the capital of the cooperation shall be pecuniary. The additional and target installments can be returned to the members of cooperation only if in that way the own funds of the mutual insurance cooperation will not be reduced below the solvency margin or the minimum guarantee capital. The returning of the additional and target installments shall be implemented by one month notice to the deputy chairman. Within the term of the notice the deputy chairman shall prohibit the return, if as a result of it the own funds of the mutual insurance cooperation will be reduced below the amount of the solvency margin or the minimum guarantee capital. After termination of the mutual insurance cooperation the shares, the additional and the target installments shall be subject to returning only after all other liabilities have been paid up.

(3) Art. 12, par. 3 shall be applied respectively for the mutual insurance cooperation. In case the additional or the target installment exceeds one percent of the minimum guarantee capital of the cooperation, art. 16, par. 12 shall be applied.

(4) The premiums of the members of the cooperation and the liabilities of the mutual insurance cooperation under the insurance contracts shall be equal, if the circumstances on the insurance are the same.

(5) When the mutual insurance cooperation concludes insurance contracts under several kinds of insurances, for each kind a separate balance sheet shall be prepared. The accumulated funds on each kind of insurance shall be used for payments of sums insured on this kind of insurance, unless otherwise provided by the statutes.

(6) The general assembly of the mutual insurance cooperation may take a decision for reduction of the payments on the insurances by a majority of two thirds of all members of the cooperation.

Contents of the statutes

Art. 21. Except for the data, provided in the Law of the cooperations, the statutes of the mutual insurance cooperation must also contain:

1. the kinds of insurances;
2. the funds of the mutual insurance cooperation, the type, the manner of depositing and the amount of the installments, the range of the responsibility of the members and the liabilities of the mutual insurance cooperation.

Requirements for professional qualification, experience and good reputation

Art. 22. For the members of the managing and the control body of the mutual insurance cooperation, as well as for all other persons, authorized to manage or represent it, art. 13, art. 14, par. 2 and art. 15 shall be applied respectively.

Section III. Re-insurer

General requirements

- Art. 23 (1) A re-insurer shall be a stock-holding company, which has acquired a license for reinsurance.
- (2) The re-insurer constitutes, carries out its activity, transforms and winds up by the order of the Commercial law, unless this code stipulates otherwise.
- (3) (amend. – SG 97/2007) A captive re-insurer is a re-insurer, controlled by financial undertaking, which is not an insurer, a re-insurer, an insurance or reinsurance group, or by non-financial undertaking whose purpose is to provide reinsurance coverage only of the risks of the persons, controlling it, or of the ones from the group, in which it participates. The circumstance that the re-insurer is captive shall be entered in the articles of association of the company.
- (4) (amend. – SG 97/2007) The provisions concerning the re-insurer shall be applied to a captive re-insurer, unless otherwise stipulated by this Code.

Trade name

- Art. 24. (1) The trade name of the re-insurer shall obligatory contain the word "reinsurance" or derivatives in Bulgarian language. The trade name of the re-insurer may contain the word "reinsurance" or derivatives in foreign language.
- (2) (amend. – SG 97/2007) A person, who does not have a license as re-insurer, shall not be entitled to use in his/her name, advertising or other activity the word "reinsurance" or derivatives in Bulgarian or foreign language.

Stocks and capital

- Art. 25. (1) (amend. and suppl. – SG 97/2007) The amount of the registered capital of the re-insurer can not be less than the minimum amount of the guarantee capital under art. 82, par. 1, item 2. The amount of the registered capital of the captive re-insurer may not be less than the minimum size of the guarantee capital as per Art. 82, para 1, item 3.
- (2) For the re-insurer art. 12, par. 2, 3 and 4 and art. 16 shall be applied.

Requirements for professional qualification, experience and good reputation

- Art. 26. (suppl. – SG 97/2007) For the members of the managing and the control body of the re-insurer, as well as for all other persons, authorized to manage or represent the re-insurer, art. 13, art. 13a, 14 and 15 shall be applied.

Section IV. Insurance holding. Insurance holding with mixed activity

Insurance holding

- Art. 27. (1) (amend. – SG 59/06, in force from the date on which the Treaty of Accession of the Republic of Bulgaria to the European Union becomes effective; suppl. – SG 97/2007) An insurance holding shall be a parent company, which is not a financial holding of mixed activity and whose main activity is acquiring and possessing participations exclusively or mostly in affiliates, which are insurers or re-insurers, including insurers or re-insurers from a Member State or from a third country, when at least one of these affiliates is an insurer or a re-insurer having a seat in the Republic of Bulgaria or in another Member State.
- (2) A member of managing or of controlling body or of another person, who in fact participates in the management of the activity of the insurance holding having a seat in the country, must meet the requirements of Art. 13, par. 1, items 3-9; Art 13, par. 3, 6 and 7; Art. 14, par. 2 and Art. 15 shall be applied.

Insurance holding with mixed activity

Art. 28. (amend. – SG 59/06, in force from the date on which the Treaty of Accession of the Republic of Bulgaria to the European Union becomes effective; suppl. – SG 97/2007) An insurance holding with mixed activity is a parent company, other than an insurer, an insurer from a third country, a re-insurer, a re-insurer from a third country or an insurance holding or a financial holding of mixed activity and at least one of its affiliates is an insurer or a re-insurer having a seat in the Republic of Bulgaria or in another Member State.

Chapter two.

ISSUING AND WITHDRAWAL OF LICENSES OF INSURERS AND RE-INSURERS HAVING THEIR SEAT IN THE REPUBLIC OF BULGARIA

Section I.

Issuing licenses

Licenses

Art. 29. (1) (amend. – SG 97/2007) A license to an insurer shall be issued for insurance as well as for the different kinds of insurances.

(2) (amend. – SG 97/2007) The license of a re-insurer shall be issued for reinsurance activity under Section I of Appendix No 1 (reinsurance and life insurance), for reinsurance under Section II of Appendix No 1 (reinsurance and general insurance) or for re-insurance regarding reinsurance and general insurance.

(3) (amend. – SG 97/2007) The range of the license of an insurer could be expanded with additional license for individual kind of insurance. The license of a re-insurer, granted for part of the activities under para 2, may be expanded by additional license for new activities.

(4) (amend. – SG 97/2007) The license shall be in writing and shall comprehensively determine:

1. with regards to an insurer - the kinds of insurances according to appendix No 1, for which the person is authorized to carry out insurance, except for the cases of covering subsidiary risks under the conditions of section II, letter "C" from appendix No 1;
2. with regards to a re-insurer – the activities referred to in para 2, for which the person is authorised to carry out re-insurance.

(5) (amend. – SG 97/2007) The licenses under par. 1 and 2, as well as the additional licenses referred to in para 3 shall be issued by the Commission upon a proposal by the deputy chairman.

(6) The Commission shall refuse to issue a license for a kind of insurance, if the applicant does not satisfy the requirements of this code and the acts for its implementation.

(7) A license or an additional license for a kind of insurance can be issued for part of the risks in the context of appendix No 1, which refer to the respective kind:

1. in case the applicant has asked the coverage of part of the risks only in the context of appendix No 1, which refer to the kind of insurance;
2. at judgment of the Commission, when from the documents submitted for issuing a license it is established that not all risks are covered.

(8) (new – SG 97/2007) The reinsurance license may be granted for part of the activities under para 2, in case the applicant has requested it, or by decision of the commission, in case due to the documents provided for the purpose of issuing license it is established that carrying out the respective activity is not planned.

Documents necessary for issuing a license

Art. 30. (1) For issuing a license for carrying out insurance activity by a stock-holding company an application shall be submitted, to which shall be attached:

1. the statutes and the other constitutive documents;
2. a list of the stock-holders and the amount of their participation;

3. a document, issued by a bank, which carries out bank activity on the territory of the Republic of Bulgaria, certifying the cash installments made against the registered stocks;
4. the applications together with the attachments of art. 16, par. 5 – for the persons, who acquire participation under art. 16, par. 1;
5. the declarations of art. 16, par. 5, items 1 and 2 and a declaration for lack of liabilities to the state and the municipalities – for the persons who acquire one percent or more from the stocks of the stock-holding company;
6. (amend. – SG 97/2007) a list of the persons under art. 13, par. 5, items 1 and 2 and proofs of observance of the requirements of art. 13, 13a and 14;
7. data for the liable actuary and proofs of observance of the requirements of art. 96, par. 1;
8. the program for the activity of the insurer;
9. a document for paid fee for consideration of documents.

(2) (amend. and suppl. – SG 54/06) For issuance of a license to carry out insurance on an insurance of item 10.1 of Section II, letter "A" of Appendix No. 1, a document of bank guarantee as per the Articles of Association of the National Bureau of the Bulgarian Automobile Insurers, as well as a reinsurance contract in accordance with criteria determined by a decision of the Commission, shall be also submitted. At issuing a license for carrying out an insurance under item 10.1 of section II, letter "A" from appendix No 1, the insurer can start carrying out the activity of offering this kind of insurance, after presenting at the Commission and the Guarantee fund a list of the names and the addresses of the representatives for settling of claims in each Member State.

(3) For issuing a license for carrying out insurance activity by a mutual insurance cooperation an application shall be submitted, to which shall be attached:

1. the statutes and the other constitutive documents;
2. a list of the stock-holders and the amount of their share installments;
3. a document, issued by a bank, which carries out bank activity on the territory of the Republic of Bulgaria, certifying the cash installments made in the capital of the cooperation;
4. the declarations of art. 16, par. 12 for the persons who make additional or target installment, which exceeds 1 percent of the minimum guarantee capital of the cooperation;
5. a list of the members of the managing and control bodies and the persons, who represent the cooperation, and proofs of observance of the requirements of art. 22;
6. data for the liable actuary and proofs of observance of the requirements of art. 96, par. 1;
7. the program for the activity of the insurer;
8. a document for paid fee for consideration of documents.

(4) (amend. – SG 97/2007) For the purpose of issuing license for reinsurance an application shall be submitted, to which must be attached:

1. the appendices under para 1, items 1, 2, 3, 7, 8 and 9;
2. the applications along with the appendices as per Art. 25, para 2 in relation to Art. 16, para 5 – with regards to the persons, acquiring participation as per Art. 25 in relation to Art. 16, para 1;
3. the declarations referred to in Art. 25, para 2 in relation to Art. 16, para 5, items 1 and 2 and a declaration for lack of liabilities to the state and the municipalities - with regards to the persons, acquiring one percent or more or the stocks of the reinsurance stock-holding company;
4. a list of the persons referred to in Art. 26 in relation to Art. 13, paras 1 and 2 along with evidence that the requirements as per Art. 26 in relation to Art. 13, 13a and 14 have been met.

Documents for the range expansion of the license

Art. 31. (1) (amend. – SG 97/2007) For issuing an additional license for expansion of the subject of activity of re-insurer with new kind of activity, an application shall be submitted, to which shall be enclosed:

1. (amend. – SG 97/2007) a certified copy of the written records of the general assembly with the decisions made for adding up the subject of activity;
2. the statutes;
3. (revoked – SG 97/2007)
4. the program for the activity – amended and supplemented;
5. a document for paid fee for consideration of documents.

(2) For issuing an additional license for a new kind of insurance or a supplement of the license for a certain kind of insurance with new risks in the context of appendix No 1, an application shall be submitted, to which shall be attached:

1. the program for the activity – amended and supplemented;
2. proofs that the insurer possesses own funds, sufficient for covering the solvency margin and the minimum guarantee capital;
3. at capital increase, in case the minimum guarantee capital for the respective kind of insurance is greater than the company's own funds:
 - a) a reference for the changes in the stock participation and the changes in the staff of the stockholders, if such have occurred;
 - b) documents, certifying the deposition of the capital increase;
 - c) the documents of art. 30, par. 1, items. 4 and 5;
4. a document for paid fee for consideration of documents.

(3) (amend. and suppl. – SG 54/06) For issuance of an additional license to carry out insurance on an insurance of item 10.1 of Section II, letter "A" of Appendix No. 1, a document of bank guarantee as per the Articles of Association of the National Bureau of the Bulgarian Automobile Insurers, as well as a reinsurance contract in accordance with criteria determined by a decision of the Commission, shall be also submitted. At issuing an additional license for carrying out insurance activity on insurance under item 10.1 of section II, letter "A" from appendix No 1, the insurer can start carrying out the activity of offering this kind of insurance, after presenting at the Commission and the Guarantee fund a list of the names and the addresses of the representatives for settling of claims in each Member State.

Program for the activity

Art. 32. (1) (suppl. – SG 97/2007) The program for the activity of an insurer, respectively of a re-insurer shall contain:

1. (amend. – SG 97/2007) the organizational structure, which includes the activity of the individual organizational units, the distribution of the functions and the powers among the executive directors and the other managerial positions, the organization and management of the information system of the person and the mechanism for the information protection;
2. (suppl. – SG 97/2007) the kinds of insurances which the insurer intends to execute and the risks under appendix No 1, which he/she intends to cover, respectively the activities which the re-insurer intends to carry out and the risks which he/she intends to cover;
3. (suppl. – SG 97/2007) the reinsurance, respectively retrocession policy and program;
4. the methods of formation of the technical reserves;
5. a forecast for the expenses for organizing and starting the activity, the sources of finance for covering this expenses, and for the insurance under item 18 of section II, letter "À" from appendix No 1 – also the financial and technical resources, provided for presenting the help;
6. (amend. – SG 97/2007) financial prognosis for the activity of the person for the first three years, containing:
 - a) (suppl. – SG 97/2007) prognosis for the incomes and the expenses, which includes the anticipated amount of the bonus income, the anticipated claims for insurance, respectively reinsurance payments, as well as the anticipated expenses for commissions for insurance and reinsurance intermediaries, the acquisition, administrative and other expenses;
 - b) forecast balance, including anticipated amount of the technical reserves and their coverage with assets as well as the solvency margin and the minimum guarantee capital;
7. the source, the amount and the distribution of the own funds, including the ways of financing in case of deficiency for covering the solvency margin and the minimum guarantee capital;
8. (amend. – SG 97/2007) measures for prognosis, avoiding and overcoming unfavourable development of the risks, to which the person is disposed and which could be foreseen on the basis of reasonable judgment;
9. description of the internal control system;
10. (new – SG 54/06) program of the measures for money laundering prevention.

(2) (new – SG 97/2007) The program for the activity of a re-insurer shall also contain characterization and basic parameters of the reinsurance contracts he intends to conclude with the assigners.

(3) (prev. text of para 2, amend. – SG 97/2007) The program for the activity should reflect in realistic manner the peculiarities of the market and their influence on the activity of the person referred to in

para 1, the amount of the performed activity, the financial, labour and the other resources, as well as the other factors, regarding its implementation within the fixed terms.

(4) (prev. text of para 3, amend. and suppl. – SG 97/2007) In the cases under art. 31 the program for the activity shall refer to the new subject of insurance, with which the insurer wishes to expand the range of his/her license, respectively to the new kind of activity with which the re-insurer wishes to expand the scope of his license.

Issuing and refusal to issue license

Art. 33. (1) At proposal of the deputy chairman the Commission assesses whether the requirements for issuing the requested license have been observed and pronounces at latest in 4 months term from receiving the application.

(2) If the documents presented are irregular or additional information is required, the Commission shall send an announcement for the established irregularities and/or the requested additional information to the applicant and shall determine sufficient term for the applicant for removing the irregularities and/or presenting the additional information, which should not be shorter than one month and longer than two months. The term under par. 1 shall stop running until the expiry of the term granted for removing the irregularities and/or providing the additional information.

(3) (suppl. – SG 97/07) At issuing an additional license for range expansion of the license of an insurer with a new kind of insurance, respectively of a re-insurer with new activity, the term under par. 1 should not be longer than one month and under par. 2 – not shorter than 7 days. The term for pronouncing of the Commission shall stop till the expiry of the term granted for removing the irregularities and/or providing additional information.

(4) (amend. - SG 54/06) If the announcement of par. 2 is not received at the address for correspondence, given by the applicant, the term set for him/her shall start from placing the announcement at a place specially determined for this purpose in the building of the Commission. The last circumstance shall be certified by a written statement issued by officials determined by an order of the chairman of the Commission.

(5) The Commission shall notify in writing the applicant of the decision made within 7 days from its pronouncing.

Grounds for refusal

Art. 34. (1) (amend. – SG 97/07) The Commission shall refuse issuing license for insurance or reinsurance activity in case:

1. the capital of the applicant does not meet the requirements of this code;
2. the members of the managing or control body of the applicant or the persons, authorized to manage and represent him, do not satisfy the requirements of this code;
3. the persons, who own directly, together with or through related persons 10 or more percent of the votes in the general assembly or of the capital of the applicant or who are able to control him:
 - a) do not satisfy the requirements of this code;
 - b) by means of their activity, qualification or their influence on the decision making can harm the insurer`s activity, or
 - c) can not be identified;
4. the installments deposited in the capital do not meet the requirements of art. 12, par. 3;
5. the applicant has submitted incorrect data or documents of untrue contents;
6. the applicant is a related person with a natural person or a legal entity and this relation creates obstacles for the effective execution of the supervision functions of the Commission or the deputy chairman;
7. obstacles for the effective execution of the supervision functions of the Commission or the deputy chairman are present, ensuing from or related to the implementation of normative or administrative act of a third country, which regulates the activity of one persons or more, with whom the applicant appears to be related;
8. program for the activity is not presented or the presented one does not meet the requirements of art. 32 or does not guarantee in sufficient degree the interests of the consumers of insurance services;
9. other requirements of this code and the acts for its implementation are not met.

(2) In the cases of par. 1, items 1, 2, 4, 5, 8 and 9 the Commission shall refuse the issuance of license only if the applicant has not removed the irregularities or has not presented the additional information within the prescribed time period.

(3) The refusal of the Commission to issue a license shall be motivated in writing.

(4) A new application for issuing license can be submitted not earlier than 6 months from entering into force of the decision for refusal.

(5) (suppl. – SG 97/07) The Commission shall refuse the issuance of additional license for a new kind of insurance or for expansion of the subject of activity of a re-insurer with new activity on the grounds of par. 1, items 1, 3, 4, 5, 8 and 9. Par. 2 and 3 shall be applied.

Entry in the commercial register

Art. 35. (1) (amend. - SG 34/06, in force from 01.10.2008; amend. – SG 97/07) A trader having subject of activity insurance or reinsurance shall be entered in the commercial register after the license issued by the Commission is provided.

(2) (amend. and suppl. - SG 34/06, in force from 01.10.2008; suppl. – SG 97/07) The insurers, respectively the re-insurers shall be obliged to present to the Commission the certificate of registration in 7 days term from the registration in the commercial register.

Section II. Withdrawal of licenses

Withdrawal of license

Art. 36. (1) (amend. – SG 97/07) The Commission shall withdraw the license of an insurer or a re-insurer, if:

1. (amend. – SG 97/07) the person has presented incorrect data or documents of untrue contents, which have served as a ground for issuing the license;
2. (amend. – SG 97/07) the person does not start carrying out activity within 12 months term after the issuance of the license;
3. (amend. – SG 97/07) the number of the members of the mutual insurance cooperation drops under the established minimum and in 6 months term the staff does not fill up or art. 19, par 2 and art. 20, par. 1 have been violated;
4. (amend. – SG 97/07) the person no longer satisfies the conditions, at which the license has been issued;
5. (amend. – SG 97/07) the person carries out commercial activity, other than the activity, for which he/she has obtained a license;
6. (amend. – SG 97/07) the total amount of the liabilities of the person, including the technical reserves, calculated according to this code and the acts for its implementation, exceeds the total value of its assets;
7. (amend. – SG 97/07) the person or his/her stock-holder does not execute compulsory administrative measure applied under this code;
8. the insurer violates the voluntariness of insurance activity;
9. (amend. – SG 97/07) there is a request by the insurer and the requirements of this code have been observed.

(2) (amend. – SG 97/07) The Commission has the right to withdraw the insurance license of an insurer or a re-insurer, if:

1. (amend. – SG 97/07) the person ceases carrying out activity for more than 6 months;
2. the ground for termination of stock-holding company under art. 252, par. 1, item 5 from the Commercial law is present;
3. (suppl. – SG 97/07) the insurer, the re-insurer and/or persons under art. 13, respectively under Art. 22 or under Art. 26 have committed and/or have admitted the committing gross or systematic offences of this code or the acts for its implementation;
4. the plan under art. 86, par. 1 or 2 has not been presented within the prescribed time period, has not been approved or is not fulfilled.
5. (amend. – SG 97/07) the person illegally refuses a payment, pays with delay or partially exigible and liquid monetary liabilities.

(3) (amend. – SG 97/07) In case the grounds for withdrawal of license refer to part of the person`s activity, the Commission may withdraw the license for one or more individual kinds of insurance activity, respectively for separate part of the reinsurance activity.

(4) (amend. – SG 97/07) The Commission shall pronounce with a motivated decision and shall notify in writing the person for the decision made in 7 days term.

(5) By the decision for withdrawal of the license, except for the cases under par. 3, the Commission shall appoint one or several receivers till the appointment of a liquidator or an assignee.

Duties of the insurer or the re-insurers after the license withdrawal (Title suppl. – SG 97/07)

Art. 37. (1) (amend. – SG 97/07) After the decision for license withdrawal comes into effect, the person referred to in Art. 36, para 1 or 2 can not conclude new insurance and/or reinsurance contracts and to offer new contract conditions, as well as to change their provisions, including the term, the sum insured and the coverage under concluded contracts.

(2) (amend. – SG 97/07) The license withdrawal does not exempt the person from his/her duties under already concluded contracts.

Powers of the Commission at withdrawal of the license

Art. 38. (1) After the enactment of the decision for license withdrawal, the Commission addresses to the respective court a request for instituting liquidation proceedings and in the cases under art. 36, par. 1, item 6 and par. 2, items 4 and 5 – for opening insolvency proceedings, and shall undertake the necessary measures for informing the society.

(2) The Commission, respectively the deputy chairman can carry out inspections and apply compulsory administrative measures under art. 302 till the deletion of the company, respectively the cooperation from the commercial register.

Chapter three.

CARRYING OUT ACTIVITY IN A THIRD COUNTRY BY AN INSURER OR A RE-INSURER HAVING A SEAT IN THE REPUBLIC OF BULGARIA. CARRYING OUT ACTIVITY IN THE REPUBLIC OF BULGARIA BY AN INSURER OR A RE-INSURER HAVING A SEAT IN A THIRD COUNTRY (Title suppl. - SG 97/07)

Section I.

Carrying out activity in a third country by an insurer having a seat in the republic of Bulgaria

Issuing a license

Art. 39. (1) For the purpose of issuing a license of an insurer having a seat in the Republic of Bulgaria for carrying out of activity in a third country via a branch, an application shall be submitted at the Commission, in which shall be indicated:

1. the country, in which the insurer intends to open a branch, and its address;
2. the kinds of insurances for which the insurer will carry out activity in the third country.

(2) To the application under par. 1 shall be attached:

1. program of the activity with the amendments and the supplements in relation to the opening of the branch;
2. documents, establishing the observation of the requirements under art. 13 and 14 for the manager of the branch.

(3) When between the competent authority in the state at the seat of the branch and the Commission there is not a cooperation and information exchange agreement, the Commission may require the applicant to certify the requirements, which the legislation of the third country sets concerning the performing of insurance activity via a branch.

(4) Upon a proposal by the deputy chairman the Commission shall pronounce within 2 months from receiving the application. At assertion of irregularities or if additional information is necessary, art. 33, par. 2, 4 and 5 shall be applied respectively, as the term for removing the irregularities or the submission of additional information shall be no shorter than 15 days.

(5) The Commission shall refuse to issue a license, in case:

1. opening a branch in a third country would threaten the financial status of the insurer;
2. within the presented program for the activity is provided carrying out insurance activity in the respective country, which is out of the range of the insurer's license;
3. the offered organizational structure of the branch does not provide its reliable and stable management;
4. there are legal or administrative obstacles for the supervision of the branch by the Commission or the deputy chairman;
5. the insurer is in procedure of implementation of a plan under art. 86, par. 1 or 2 or under art. 87;
6. other requirements of this code or the acts for its implementation have not been observed.

Notifying the Commission

Art. 40. Within 7 days term after the receipt of the license for carrying out insurance activity by the competent authority from the respective third country, the insurer shall present a copy of it to the Commission.

Section II.

Carrying out activity in the Republic of Bulgaria by an insurer having a seat in a third country

Conditions for carrying out activity

Art. 41. (1) An insurer having a seat in a third country (an insurer from a third country) has the right to carry out activity in the Republic of Bulgaria via a branch, registered under the Commercial law, after acquiring a license from the Commission under the conditions and by the order of this code and the acts for its implementation. The license can comprise insurance activity only for the kinds of insurances, for which the insurer has received a permission for carrying out insurance activity in the state at his/her seat.

(2) The Commission can issue a license under par. 1 on the condition that:

1. the person has a right under his/her national legislation to carry out insurance activity;
2. the branch of the insurer disposes of assets in the Republic of Bulgaria to the extent of at least half of the minimum guarantee capital under art. 82, par. 1 or 3;
3. a deposit has been paid measuring one quarter of the amount of the minimum guarantee capital under art. 82, par. 1 or 3 in a bank, carrying out banking practice on the territory of the country;
4. a manager of the branch has been selected, who satisfies the conditions of art. 13, par. 1, 3 and 4 and art. 14, and has powers of a representative in a scope, allowing him/her to take on obligations for the insurer towards third parties and to represent the insurer before the state authorities and the courts of the Republic of Bulgaria;
5. a program for the activity has been presented, respectively containing the information under art. 32.

(3) Unless otherwise provided by this code, the insurer from a third country shall have the rights and the obligations of an insurer having a seat in the Republic of Bulgaria and for his/her activity in the country shall be subject to insurance supervision, exercised by the Commission and the deputy chairman towards the insurers having a seat in the state. When an insurer from a third country has chosen the competent authorities of the Republic of Bulgaria by the order of art. 47, par. 3, the Commission and the deputy chairman shall exercise the supervision for solvency concerning the activity of all his/her branches, established in the European Union and the European Economic Area, and shall apply compulsory administrative measures under this code.

(4) (revoked – SG 97/07)

Issuing a license

Art. 42. (1) For issuing a license for carrying out insurance activity via a branch, the insurer from a third country shall submit an application, to which shall be enclosed:

1. a certified copy of the registration act of the insurer and a document issued by the body of registration with updated data about the seat and registered office, the subject of activity, the amount of the registered capital, the management system and the persons who represent and/or manage the insurer;
2. a certified copy of the license for carrying out insurance activity, issued by the competent authority at the seat of the insurer, including a description of the kinds of insurances, for which the license has been acquired;
3. a certified copy of the act of the competent management body of the insurer for opening a branch on the territory of the Republic of Bulgaria and for selection of a branch manager;
4. a certification, issued by the body, exercising insurance supervision in the country at the seat of the insurer, that a Bulgarian insurer can open and carry out activity in this country by the general order, established for foreign insurers;
5. a document, certifying the payment of a deposit according to art. 41, par. 2, item 3, issued by a bank, carrying out banking practice in the Republic of Bulgaria, and documents, certifying the amount of the assets under art. 41, par. 2, item 3;
6. information about the manager of the branch;
7. the program for the activity, as well as the rules for the management organization of the information system and the organization and activity of the insurer's internal control unit;
8. a written declaration by the competent management body of the insurer that it will present the annual reports;
9. the annual financial statements of the insurer for the last three years, respectively for the period of existence of the insurer, if he/she has existed for a shorter period;
10. data about the persons who hold directly or through related persons 10 or over 10 percent of the votes in the general assembly or of the capital of the insurer, or other participation, which gives them an opportunity to control the insurer;
11. (amend. - SG 54/06) if a license for insurance, which covers an insurance of item 10.1 of Section II, letter "A" of Appendix 1 is requested:
 - a) the name and the address of the representative for settlement of claims arising from this insurance- in each of the Member States;
 - b) a document of bank guarantee as per the Articles of Association of the National Bureau of the Bulgarian Automobile Insurers, and
 - c) a reinsurance contract in accordance with criteria determined by a decision of the Commission
12. the technical bases of calculation of the premium rates and the insurance reserves;
13. a document for paid fee for consideration of documents.

(2) The Commission shall pronounce within a four month period from the submission of the application. At assertion of irregularities or if additional information is necessary, art. 33, par. 2, 4 and 5 shall be applied respectively, as the term for removing the irregularities or the submission of additional information shall be no shorter than 15 days.

(3) At issuing an additional license for carrying out insurance activity on insurance under item 10.1 of section II, letter "A" from appendix No 1, the branch of an insurer from a third country can start carrying out the activity on offering this kind of insurance, after presenting at the Commission and the Guarantee fund a list of the names and the addresses of the representatives for settling of claims in each Member State.

Refusal to issue license

Art. 43. (1) The Commission shall refuse to issue license, if the respective grounds under art. 34, par. 1 are present, as well as in case the legal structure at the seat of the insurer from a third country or the state supervision exercised on him/her under this code and the Law of the Commission for financial supervision or if he/she threatens in another way the interests of the consumers of insurance services.

(2) The Commission can also refuse to issue license when it establishes that the competent supervisory body in the country at the seat of the insurer does not apply the principle of reciprocity in providing access of Bulgarian insurers to the respective foreign insurance market, as well as when the insurer from a third country poses a danger for the national security of the Republic of Bulgaria.

(3) The refusal of the Commission shall be motivated in writing.

(4) A new application for issuing a license can be submitted not earlier than 6 months from entering into force of the decision for refusal.

Entry in the commercial register

Art. 44. (1) (amend. - SG 34/06, in force from 01.10.2006) In the commercial register shall be entered branch of the insurer from a third country with subject of activity insurance and/or reinsurance after presenting the license, issued by the Commission.

(2) (amend. and suppl. - SG 34/06, in force from 01.10.2006) The branch of the insurer from a third country shall be obliged to present to the Commission a copy of the certificate of registration within a 5 days period from its receiving, no later than 7 days after the registration in the commercial register.

(3) The insurer from a third country shall notify the Commission of every change in the documents or the circumstances under art. 42, par. 1 in 7 days term after taking the decision, after coming of knowledge of the change or after the entry of the circumstance, in case it is subject to entry in the commercial register, but no later than 14 days after its registration.

License withdrawal

Art. 45. (1) The Commission shall withdraw the license of the insurer from a third country according to the conditions and by the order of art. 36. Art. 37 and 38 shall be applied.

(2) The Commission shall also withdraw the license of the insurer from a third country according to par. 1 in the cases when his/her permission for performing insurance activity has been withdrawn by the competent authority in the country at his/her seat, as well as by the competent body of art. 47, par. 3 on the ground of non-fulfillment of the requirements for solvency. When the body of art. 47, par. 3 has notified the Commission of the license withdrawal of the insurer from a third country on another ground, the Commission shall take the measures necessary for protection of the interests of the consumers of insurance services.

(3) (*) When the Commission in its capacity as a body of art. 47, par. 3 has withdrawn the license of an insurer from a third country, it shall notify immediately the competent authorities of the Member States, which have given consent by the order of art. 47, par. 4, and shall point out the reasons for the decision made.

Requirements for the activity

Art. 46. (1) The branch under the Commercial law of the insurer from a third country shall keep its account books in Bulgarian according to the legislation of the Republic of Bulgaria and shall keep at its address the entire available documentation, related to the activity that it practices in the Republic of Bulgaria.

(2) In 7 days term from the termination of the insurer from a third country the manager of the branch shall present to the Commission the decision of the competent body.

Privileges for foreign insurers

Art. 47. (*) (1) An insurer from a third country, who wishes to obtain license for carrying out insurance activity in the Republic of Bulgaria and in one or more Member States, may require from the Commission the following privileges:

1. his/her solvency margin to be calculated to the whole amount of the activity, carried out in the Member States;

2. the deposit under art. 41, par. 2, item 3 to be paid only in one of the Member State, where he/she carries out activity;

3. the assets, representing the funds to the extent of the guarantee capital, to be situated in one of the Member States, where the insurer carries out activity.

(2) In order to make use of the privileges under par. 1, the insurer from a third country shall submit an application to the Commission and to the competent authorities of the rest Member States, where he/she wishes to or has acquired a license to carry out activity.

(3) In the application the insurer from a third country shall point out the competent authority of one of the Member States, where he/she wishes to or has acquired a license to carry out activity, who shall exercise supervision over his/her solvency in connection with the activity of all his/her branches, created in the European Union and the European Economic Area, as well as the reasons for the choice of this authority. The deposit of par. 1, item 2 shall be deposited in the state under sentence one.

(4) The privileges under par. 1 shall be granted only upon the consent of the competent authorities from all Member States, to which an application under par. 2 has been submitted. The Commission shall give its consent after an assessment of the financial standing of the insurer from a third country, including his/her solvency.

(5) The insurer from a third country can make use of the privileges under par. 1 after the competent authority of par. 3 notifies the rest of the competent authorities that it will exercise supervision over the solvency of the insurer concerning the activity of all his/her branches, opened within the frames of the European Union and the European Economic Area.

(6) The Commission shall present to the respective competent authority under par. 3 the whole information necessary for execution of supervision, which it possesses.

(7) The privileges granted shall be withdrawn simultaneously in all Member States, where the insurer from a third country carries out activity, upon a proposal by the competent authority of one of these Member States.

Section III.

Carrying out activity in a third country by a re-insurer having a seat of business in the Republic of Bulgaria. Carrying out activity in the Republic of Bulgaria by a re-insurer having a seat of business in a third country (new - SG 97/07)

Activity in a third country carried out by a re-insurer having a seat of business in the Republic of Bulgaria

Art. 47a. (new – SG 97/07) With regards to the activity in a third country carried out by a re-insurer having a seat of business in the Republic of Bulgaria shall be applied the legislation of the third country, unless otherwise provided for in this Code.

Activity in the Republic of Bulgaria carried out by a re-insurer having a seat of business in a third country via a branch

Art. 47b. (new – SG 97/07) (1) A re-insurer from a third country shall be authorised to carry out activity in the territory of the Republic of Bulgaria via a branch, registered under the Commercial law, after obtaining license by the Commission in observance of the terms and the procedure laid down in this Code and the acts for its implementation. The license shall be granted for reinsurance only with regards to the types of activities for which the re-insurer has obtained a permission in the state of his seat of business.

(2) The Commission shall issue the license under para 1, provided that:

1. the person is authorised to carry out reinsurance activity according to his national legislation;
2. the re-insurer's branch has assets in the Republic of Bulgaria amounting to no less than half of the minimum guarantee capital referred to in Art. 82, para 1, item 2;
3. a deposit amounting to one fourth of the size of the minimum guarantee capital referred to in Art. 82, para 1, item 2 has been deposited in a bank carrying out bank activity in the Republic of Bulgaria;
4. a manager of the branch has been selected, who meets the requirements of Art. 13, paras 1, 3 and 4 and of Art. 14, who has representative power in a scope, allowing him/her to take on obligations for the insurer towards third parties and to represent the re-insurer before the state authorities and the courts of the Republic of Bulgaria;
5. a program for the activity has been presented, respectively containing the information under Art. 32.

(3) Unless otherwise provided by this Code, the re-insurer from a third country shall have the rights and the obligations of a insurer having a seat in the Republic of Bulgaria also for his/her activity in the country and shall be subject to state insurance supervision with regards to his activity in the country, exercised by the Commission and the deputy chairman towards the re-insurers having a seat in the state.

(4) Art. 42, para 1, items 1 to 10 and 13 and Art. 43 shall be respectively applied with regards to issue and refusal to issue a license under para 1. Art. 44 and 46 shall also be applied respectively.

(5) The Commission shall withdraw the license of a branch of a re-insurer from a third country under the terms and following the procedure laid down in Art. 36, as well as in case the permission for

carrying out reinsurance activity has been withdrawn by the competent authority in the state where is situated the seat of the re-insurer. Art. 37 and 38 shall be applied.

Providing services in the Republic of Bulgaria by a re-insurer having a seat of business in a third country

Art. 47c. (new – SG 97/07) A re-insurer from a third country may provide services in the Republic of Bulgaria from its seat of business or branch on the condition that it has obtained license for carrying out reinsurance activity in the state of its seat and it is subject to supervision with regards to its overall activity by the competent authority in the state in question.

Chapter four.

CARRYING OUT ACTIVITY IN OTHER MEMBER STATE BY AN INSURER OR A RE-INSURER HAVING A SEAT IN THE REPUBLIC OF BULGARIA. CARRYING OUT ACTIVITY IN THE REPUBLIC OF BULGARIA BY AN INSURER OR A RE-INSURER HAVING A SEAT IN OTHER MEMBER STATE (IN FORCE FROM 01.01.2007; TITLE SUPPL. - SG 97/07)

Section I.

Carrying out activity in other Member State by an insurer having a seat in the Republic of Bulgaria

Right of establishment and freedom to provide services

Art. 48. (1) An insurer having a seat in the Republic of Bulgaria, who has acquired a license for carrying out insurance activity according to the terms and by the order of this code, can carry out the activity, for which the license has been issued, on the territory of another Member State under the conditions of the right of establishment or the freedom to provide services.

(2) The mutual insurance cooperation can carry out the activity according to par. 1 only if it possesses own funds enough to cover the guarantee capital under art. 82, par. 1.

Carrying out activity under the conditions of the right of establishment

Art. 49. (1) An insurer having a seat in the Republic of Bulgaria, who intends to create a branch on the territory of other Member State, must notify in advance the Commission thereof.

(2) The notification under par. 1 shall contain:

1. indication of the Member State, where the insurer intends to create a branch, and its address;
2. program for the activity, including information about the kinds of insurances on which the insurer will carry out activity in the Member State of the branch, as well as the organizational structure of the branch;
3. the name of the authorized representative of the branch, who must have an adequate amount of representative power, which allows him/her to undertake liabilities of the insurer to third parties and to represent the insurer before the state authorities and the courts of the Member State of the branch;
4. proofs of membership in the respective national bureau and national guarantee fund of the Member State of the branch, if the insurer intends to carry out activity on insurances under item 10.1 of section II, letter "A" from appendix No 1.

(3) The Commission shall provide the respective competent body of the Member State of the branch with the information under par. 2 in three months term after the notifying of par. 1, and in case additional documents and information have been required - in one month term after receiving them, as well as a certificate that the insurer disposes of own funds enough to cover the solvency margin and the minimum guarantee capital. The Commission shall immediately notify the insurer of the provision of information under sentence one.

(4) Within the term of par. 3 the Commission may refuse to provide the information of par. 2 to the respective competent authority of the Member State of the branch by a motivated decision, if the

administrative structure of the insurer, his/her financial standing or the professional qualification and experience of the persons, who are representing and managing the insurer, or of the authorized representative of the branch are unsuitable or insufficient in regards to the insurances on which the insurer intends to carry out activity in the Member State, and in the cases when the insurer applies a recovery plan and for that matter the interests of the insured persons are threatened. The Commission shall immediately notify the insurer of the decision under sentence one.

(5) (amend. and suppl. – SG 97/07) The insurer can establish a branch and start carrying out activity on the territory of the Member State after the Commission has received a notification by the relevant competent authority of this country, respectively after the expiry of two months after the notification of par. 3 of the respective competent authority, if no notification has been received within the set term.

(6) The insurer shall notify in writing the Commission, as well as the respective competent authority of the Member State of the branch, of every change in the data and documents under par. 2 at least one month before implementing the change. Par. 4 shall be applied respectively.

(7) (revoked – SG 97/07)

Carrying out activity under the conditions of the freedom to provide services

Art. 50. (1) An insurer having a seat in the Republic of Bulgaria, who intends to carry out activity in another Member State under the conditions of the freedom of providing services, without opening branch on its territory, shall be obliged to inform the Commission about that in advance, indicating the kinds of insurances, which he/she intends to conclude in this Member State.

(2) In one month term after the notification under par. 1 the Commission shall give the respective competent body of the Member State under par. 1 the information about the kinds of insurances, on which the insurer is authorized to carry out activity in the Republic of Bulgaria, the kinds of insurance contracts, which he/she intends to conclude in the Member State for provision of services, as well as a certificate that the insurer possesses own funds sufficient for coverage of the solvency margin and the minimum guarantee capital. The Commission shall immediately notify the insurer of the provision of information under sentence one.

(3) Within the term of par. 2 the Commission may refuse to provide the information under par. 2 to the respective competent authority of the Member State under par. 1 by a motivated decision, if the insurer`s own funds do not correspond to the solvency margin or the insurer applies recovery plan and to this matter the interests of the insured persons are threatened.

(4) The insurer may start carrying out activity on the territory of the respective Member State from the date, on which he/she has been informed about the provision of the information under par. 2 by the Commission to the respective competent authority of the Member State.

(5) The insurer shall immediately notify in writing the Commission of every change in the data and the documents under par. 2 at least one month prior to implementing the change. The Commission shall notify the respective competent authority of the Member State about the changes under sentence one.

(6) (revoked – SG 97/07)

Provision of information

Art. 51. (1) An insurer having a seat in the Republic of Bulgaria, who carries out activity in another Member State under the right of establishment or the freedom to provide services, shall present to the Commission by the order of art. 99 quarterly and annual references separately for the insurance transactions concluded and the amount of the insurance bonuses, including the part of the re-insurer, indicated by Member State and by kinds of insurances.

(2) The Commission shall provide the information received under par. 1 as a summary to the competent authorities of the respective Member States upon their request.

Notifying the competent authorities of the other Member States in the event of withdrawing a license of an insurer

Art. 51a. (new – SG 97/07) The Commission shall immediately notify the respective competent authorities of the other Member States in the event of withdrawal of insurer`s license. In case compulsory administrative measure under Art. 302, para 2, item 11 has been imposed along with the withdrawal, the Commission shall propose the respective competent body of the Member State of the branch to apply the same measure.

Section II.

Carrying out activity in the Republic of Bulgaria by an insurer having a seat in another Member State

Right of establishment and freedom to provide services

Art. 52. An insurer having a seat in another Member State, who has acquired a license to carry out insurance activity, may carry out the activity for which the permission has been issued, on the territory of the Republic of Bulgaria under the right of establishment or the freedom to provide services.

Carrying out activity under the right of establishment

Art. 53. (In force from 01.01.2007) (1) (amend. – SG 97/07) Within 2 months term from receiving the information under art. 49, par. 2 by the respective competent authority regarding an insurer from another Member State, who intends to create a branch on the territory of the Republic of Bulgaria, the deputy chairman shall notify the respective competent body of the Member State of origin of the insurer and, if necessary, shall also provide the latter with information about the conditions under which insurance activity is being carried out in the Republic of Bulgaria with regards to the protection of public interests.

(2) (revoked – SG 97/07)

Within the term under par. 1 the Commission shall, if necessary, provide the respective competent body of the Member State of origin of the insurer with information about the conditions under which insurance activity is carried out in the Republic of Bulgaria, in regards to the protection of the consumers of insurance services.

(3) (amend. – SG 97/07) The insurer may open a branch and start carrying out activity on the territory of the Republic of Bulgaria after the competent authority of the Member State of origin has received a notification by the deputy chairman according to para 1, respectively after the term of par. 1 expires, in case no notification has been received within the set term.

(4) (amend. – SG 97/07) The insurer shall notify in writing the Commission of every change in the circumstances as per Art. 49, par. 2, under which it carries out activity, within a term, no shorter than one month before the implementation of the change. Par. 3 shall be applied respectively.

Carrying out activity under the freedom to provide services

Art. 54. (1) An insurer from another Member State who intends to carry out insurance activity in the territory of the Republic of Bulgaria under the conditions of the freedom to provide services, without setting up a branch, may start carrying out activity on the date, on which he/she has been informed by the competent authority of the Member State of origin that the Commission has been provided with information about the risks, which the insurer intends to cover in the Republic of Bulgaria, the kinds of insurances, which he/she is entitled to carry out in the Member State of origin as well as with a certificate that the insurer disposes of sufficient own funds to cover the solvency margin and the guarantee capital.

(2) (amend. – SG 97/07) An insurer, who carries out activity in the Republic of Bulgaria under the conditions of the freedom to provide services and has declared his/her intent to carry out activity under item 10.1 of Section II, letter "A" of Appendix No 1, shall notify in writing the Commission of the name and address of the representative, appointed according to Art. 55, para 3, and shall declare the circumstances referred to in Art. 55, para 2, in case the said information has not been provided to the Commission by the competent authority in the Member State of origin of the insurer following the procedure laid down in para 1.

(3) (new – SG 97/07) Paragraph 1 shall respectively apply whenever any change occurs in the kinds of insurances, which an insurer from a Member State intends to offer in the Republic of Bulgaria under the terms of freedom to provide services.

Requirements for the insurers having their seat in another Member State

Art. 55. (1) (revoked – SG 97/07)

(2) (amend. – SG 97/07) An insurer, who carries out activity in the Republic of Bulgaria under the conditions of the right of establishment or the freedom to provide services, who covers risks on insurance under item 10.1 of section II, letter "A" from appendix No 1, shall be obliged to be a member of the National bureau of Bulgarian automobile insurers and to participate in the financing of the Guarantee fund.

(3) An insurer, who carries out activity in the Republic of Bulgaria under the conditions of the freedom to provide services, shall appoint a person with permanent address or seat in the Republic of Bulgaria to represent him/her in the relations with insured or damaged persons under the obligatory Civil liability insurance of the motorists who are resident or having their seat in the country. The representative must have powers enough to collect all data concerning the settlement of claims of such persons, as well as to make payments and to represent the insurer in court and administrative proceedings in relation to the settlement of claims. The representative shall be obliged to certify before the Commission and other competent authorities that insurances policies for obligatory Civil liability insurance of the motorists are available and valid.

(4) The appointment of the representative under par. 3 shall not be deemed as establishment of the insurer by the Member State. However, in case the insurer has also established a branch in the territory of the Republic of Bulgaria, this branch may perform the functions on the representation related to the obligatory Civil liability insurances of the motorists, concluded under the conditions of the freedom to provide services.

(5) By the approval of the Commission the insurer, who offers obligatory Civil liability insurance of the motorists in the country under the conditions of the freedom to provide services, may assign the functions under par. 3 to the representative for settlement of claims in the Republic of Bulgaria by the order of art. 269.

Section III.

Carrying out activity in another Member State by a re-insurer having a seat of business in the Republic of Bulgaria. Carrying out activity in the Republic of Bulgaria by a re-insurer having a seat of business in another Member State (new - SG 97/07)

Right of establishment and freedom to provide services

Art. 55a. (new – SG 97/07) (1) A re-insurer having a seat of business in the Republic of Bulgaria, who has acquired a license for carrying out reinsurance activity according to the terms and following the procedure of this Code, can carry out the activity, for which the license has been issued, on the territory of another Member State under the conditions of the right of establishment or the freedom to provide services and observing the laws of the said country.

(2) A re-insurer having a seat of business in another Member State, who has obtained a license for carrying out reinsurance at his seat, may perform the activity for which a license has been granted to him on the territory of the Republic of Bulgaria under the terms of right of establishment or freedom to provide services and observing the laws in the Republic of Bulgaria.

Notifying the competent authorities of another Member States in the event of withdrawal of license of a re-insurer

Art. 55b. (new – SG 97/07) The Commission shall immediately notify the respective competent authorities of the other Member states of withdrawal of license of a re-insurer.

Section IV.

Providing information to the European Commission (In force from 01.01.2007, prev. text of Section III - SG 97/07)

Information, which shall be provided to the European Commission

Art. 56. (In force from 01.01.2007) (1) (amend. – SG 97/07) The Commission, respectively the deputy chairman, shall notify the European Commission and the competent authorities, carrying out insurance supervision in the Member States, of:

1. (amend. – SG 59/06, in force from 01.01.2007; amend. – SG 97/07) a license, issued to an insurer or a re-insurer, subject to control executed directly or through related persons by one or more parent companies, as for at least one of them the legislation of a third country is applicable; in the notification shall be indicated the structure of the group, to which the persons under sentence one belong;
 2. (amend. – SG 59/06, in force from 01.01.2007; suppl. – SG 97/07) the participation acquired by the parent company under item 1 in an insurer or a re-insurer having a seat in the Republic of Bulgaria, which gives the company the opportunity to exercise control over the insurer;
 3. (suppl. – SG 97/07) the presence of obstacles for carrying out activity in a third country by an insurer or a re-insurer having a seat in the Republic of Bulgaria.
- (2) (amend. – SG 59/06, in force from the date on which the Treaty of Accession of the Republic of Bulgaria to the European Union becomes effective) Upon request by the European Commission the Commission shall stop the proceedings on applications submitted by insurer from a third country for carrying out activity in the Republic of Bulgaria, as well as on proceedings in relation to acquisition directly or through related persons of a participation by a parent company, to whom the legislation of this third country is applicable.
- (3) By a decision of the Council of the European Union the term under par. 2 may be extended.
- (4) (amend. – SG 59/06, in force from the date on which the Treaty of Accession of the Republic of Bulgaria to the European Union becomes effective) Par. 2 and 3 shall not be applied in case insurers from a third country or persons -their affiliates, who have acquired a license for carrying out insurance activity in the European Union, obtain control or participation in an insurer having a seat in the Republic of Bulgaria.
- (5) Upon a request by the European Commission in the cases when a competent authority in a third country does not apply the principle of reciprocity in providing access to an insurer having a seat in the Republic of Bulgaria or another Member State to the respective foreign insurance market or when at carrying out activity in the territory of a third country by an insurer having a seat in the Republic of Bulgaria or in another Member State he/she is not provided with national treatment regime, the Commission shall notify the Member State of:
1. applications received for issuing a license under par. 1, item 1;
 2. (amend. – SG 59/06, in force from the date on which the Treaty of Accession of the Republic of Bulgaria to the European Union becomes effective) a notification by a parent company of par. 1, item 1 for his/her intention to acquire a participation under par. 1, item 2;
- (6) The notifying shall be suspended after coming to an agreement between the authorities of the European Union and the third country for restoration of the national treatment of the insurers having their seat in the European Union.
- (7) (new – SG 97/07) Paragraphs 2 to 6 shall not apply with regards to re-insurers.

Part two.

REQUIREMENTS TO THE ACTIVITY OF INSURERS AND RE-INSURERS

Chapter five.

MANAGEMENT, STRUCTURE AND ORGANISATION OF THE ACTIVITY. INTERNAL CONTROL

Section I.

Management, structure and organization of the activity of the insurer and re-insurer

General requirements

Art. 57. (1) The managing body of the insurer or re-insurer shall adopt:

1. management and organization structure of the insurer or re-insurer, determining inclusive the leading positions out of the range of the positions under art. 13, par. 1 and their functions and powers;
2. a program of the activity of the insurer or re-insurer for a period of three years, which shall be updated annually;

3. regulations for the operational control organization, including rules and procedures for performing and accounting of the activity of the individual operational units.

(2) The managing body of the insurer or re-insurer shall present to the general assembly of the stockholders or the members of cooperation an annual account of the implementation of the programs, the regulations and procedures under par. 1.

(3) Within a 7 days term after their adoption, the insurer or the re-insurer shall present before the Commission the documents of par. 1, their subsequent amendments and supplements, as well as the account of par. 2.

Requirements for the persons at leading positions

Art. 58. The persons, holding leading positions under art. 57, par. 1, item 1 must satisfy the requirements of art. 13, par. 1, items 3 and 4 and must have adequate qualification and experience.

Informational system

Art. 59. (1) The insurer or the re-insurer must create and maintain in updated status an informational system, in which the information can be processed, formed, preserved, and archived on paper and/or other permanent carrier according to the internal acts of the insurer, and which shall contain:

1. the statutes and the other internal acts;

2. the book of the members of the cooperation;

3. the records of the sessions of the general assembly of the stockholders, respectively the general assembly of the members of the cooperation and of the managing bodies;

4. accounting information, representing accurately and clearly the type, the amount and the ground of the transactions concluded, their reflection on the results and the financial standing of the insurer;

5. actuary information, representing accurately and clearly the methods and the exit data, which have served for determination of the amounts of the premiums, the technical reserves and the solvency margin, except for the premiums under insurances of large risks.

(2) (suppl. – SG 97/07) The insurers, respectively re-insurers, subject to additional supervision by the order of art. 299, par. 1, shall maintain informational system, which gives them an opportunity to present the whole information, necessary for execution of additional supervision. In the cases of exchange of information between insurers, respectively re-insurers, subject to additional supervision by the order of art. 299, par. 1, and the companies related to them, as well as the ones participating in them, the restrictions for information exchange, provided by a law, a secondary legislation act or an agreement shall not be applied, if such information exchange is necessary for the objectives of the additional supervision and at least one of this companies has its seat in a Member State. The Commission may restrict the exchange of information with persons having their seat in a third country.

(3) (amend. – SG 97/07) Within a period of one month from the issue of an insurance or reinsurance license, the person as per para 1 shall adopt internal regulations for the organization of the informational system. The regulations and their subsequent amendments and supplements shall be presented at the Commission in 7 days term after their adoption.

Section II.

Transfer of activity from an insurer or re-insurer to third parties (Title suppl. - SG 97/07)

Definition

Art. 60. (1) The transfer of activity from an insurer shall mean lasting assignment of individual activities, included in the range of the insurance activity, to be performed by third parties, who are not insurers and whose activity by occupation includes activities under art. 3, par. 1 – 7.

(2) The insurer shall be responsible for the actions of the persons, to whom he/she has transferred a part of the activity under art. 3, par. 1 – 7 as if they were his/her own.

(3) The transfer of activity shall be performed on the basis of a written contract.

Carrying out the transferred activities. Control. State supervision

Art. 61. (1) The transferred activities shall be carried out according to the requirements, established for the insurer.

(2) The transferred activities and the persons, to whom they have been assigned, shall be comprised by the management systems and the internal control systems of the insurer.

(3) The contracts for transfer of activity shall be presented to the deputy chairman upon request. Upon signals on by the consumers of insurance services or in connection with inspections of an insurer, the deputy chairmen may order the implementation of inspection of a third party, to whom has been assigned activity by an insurer - for abiding the law in reference to the activity transferred.

(4) When in the activity of a person, to whom an insurer has transferred activity, have been established breaches of the law or a practice, which threatens the stability of the of the insurer, the rights and the interests of the consumers of insurance services or impedes the execution of the state insurance supervision, the deputy chairman shall order their removal within a term, set by him/her. In case the order has not been fulfilled or, even though it was fulfilled, the person continues to breach the law, to threaten the stability of the insurer, the rights and the interests of the consumers of insurance services or to impede the execution of the supervision, the deputy chairman orders the insurer to end the relations with this person.

(5) The insurer does not owe penalties and other compensations for damages in cases of preliminary termination of contract for transfer of activity in fulfillment of an order under par. 4.

Transfer of activity from a re-insurer to third parties

Art. 61a. (new – SG 97/07) Art. 60 and 61 shall be applied respectively to transfer of activity from a re-insurer to third parties.

Section III. Internal control

Specialized internal control unit

Art. 62. (1) (suppl. – SG 97/07) The insurer, respectively re-insurer, shall create a specialized internal control unit, whose manager shall be selected by the general assembly of the stock-holders, respectively by the members of cooperation. The manager of the specialized internal control unit of a branch under the Commercial law of an insurer or a re-insurer from a third country shall be appointed by the body competent to assign the manager of the branch.

(2) (amend. – SG 97/07) The specialized internal control unit shall support the management bodies of the person under para 1 at taking decisions regarding the activity and shall see to their execution.

(3) At carrying out its activity the specialized internal control unit shall check and make an assessment of:

1. (amend. – SG 97/07) the observance of the law and the internal acts at carrying out the activity of the person under para 1;

2. the system for accounting and information;

3. the accuracy, the completeness and the timeliness of the accounting records and the other documents and accounts;

4. the management systems and the methods of risk assessment;

5. (amend. – SG 97/07) the protection of the assets of the person under para 1 from abandoning and misuses;

6. the adequacy and the observance of the internal procedures for concluding insurance and reinsurance contracts, for acceptance and consideration of claims and determination of the payments for them;

7. (amend. – SG 97/07) the performing and accounting of all activities transferred by the person under para 1;

(4) The manager of the internal control unit must satisfy the requirements of art. 13, par. 1 and 3 and art. 14, par. 2. Art. 13, par. 6 and 7 shall be applied.

(5) (amend. – SG 97/07) The manager of the internal control unit shall inform immediately the managing bodies of the violations in the activity of the person under para 1, established by him/her.

(6) The manager of the internal control unit shall prepare an annual report on the activity of the service and shall present it before the managing body and the general assembly of the stock-holders, respectively the members of cooperation.

(7) (amend. – SG 97/07) The manager of the internal control unit shall inform immediately the deputy chairman in the cases when the as a result of an executed inspection offences and weaknesses in the management of the person under para 1 have been established, which have led or could lead to essential damages and he/she considers that sufficient measures have not been undertaken by the managing body to remove them.

(8) (amend. – SG 97/07) Within a period of one month from the issue of insurance or reinsurance license the person under para 1 shall adopt internal regulations for the organization and the activity of the internal control unit. The regulations and their subsequent amendments and supplements shall be presented to the Commission within 7 days term after their adoption.

(9) (suppl. – SG 97/07) The Commission shall adopt an ordinance, with which shall determine the requirements to the organization and the activity of the internal control unit of the insurer or the re-insurer and the persons included in an insurance or reinsurance group.

Chapter six. REQUIREMENTS FOR THE FINANCIAL STANDING

Section I. Requirements for solvency of the insurer and the re-insurer

General matters

Art. 63. (suppl. – SG 97/07) With the purpose of guaranteeing the opportunity of punctual fulfillment of the obligations under the concluded insurance and reinsurance contracts, the insurer, respectively re-insurer shall be obliged at any time to:

1. determine and apply in his/her activity premiums, corresponding to the size of the risk undertaken and his/her expenses;
2. form sufficient by type and size technical reserves according to the requirements of the law;
3. cover the technical reserves with suitable assets;
4. possess own funds enough to cover the solvency margin and the guarantee capital.

Recalculating the financial indices for supervisory objectives

Art. 64. (1) (suppl. – SG 97/07) Where an insurer or a re-insurer in violation of a law or a by-law has calculated the amount of the technical reserves, the value of the assets, liabilities, incomes and expenses or of other indices, reflected in the accounts and the references, presented to the Commission, the deputy chairman may recalculate each of these indices for the objectives of the executed supervision.

(2) If as a result of the recalculation, violations of this code are established, the measures stipulated in it shall be applied.

Insurance and reinsurance premiums (Title suppl. – SG 97/07)

Art. 65. (1) (suppl. – SG 97/07) The insurance and reinsurance premiums must be sufficient, calculated on the basis of a sensible actuary assumption in order to ensure fulfillment of all obligations of the insurer, respectively re-insurer, including the formation of enough technical reserves.

(2) In fulfillment of the requirement under par. 1, the financial standing of the insurer and his/her solvency in a long term plan shall be prognosticated only on the basis of the premiums as a sole source of income.

Use of sex as an actuarial factor at calculation of insurance premiums

Art. 65a. (new – SG 100/07, in force from 20.12.2007) (1) Considering sex as an actuarial factor at calculation of insurance premiums shall be admitted in case insurers use reliable and regularly up-dated public statistical data showing that sex is determining actuarial factor in the assessment of risks insured.

(2) Costs related to risks of pregnancy and maternity should not lead to differences at calculations of premiums.

Types of reserves

Art. 66. (1) (suppl. – SG 97/07) The insurers, respectively re-insurers shall be obliged to form general and technical reserves.

(2) The general reserves shall consist of:

1. "Reserve" fund according to art. 246 of the Commercial Law, respectively art. 34 of the Law of the cooperations;

2. (amend. – SG 97/07) other funds and reserves, if this is stipulated by the statutes of the person under para 1.

(3) (amend. – SG 97/07) The person under para 1 shall be obliged to maintain constantly sufficient by size technical reserves, corresponding to his/her whole activity, with which to guarantee coverage of the risks undertaken.

(4) (amend. – SG 97/07) The types of technical reserves, which the persons under para 1 must maintain shall be determined in accordance with art. 68.

(5) (amend. – SG 97/07) The increase of the technical reserves shall be included in the inherent expenses and the reduction – in the inherent incomes of the insurer at forming the financial result.

Section II. Technical reserves

Definition

Art. 67. (amend. – SG 97/07) The amount of the technical reserves shall be calculated on the basis of the value of the obligations, undertaken by the insurers or the re-insurers, which are expected to be fulfilled in the future under insurance or reinsurance contracts entered into force, the expenses, related to the performance of these obligations, as well as the value of the possible unfavourable deviation of this expectation.

Types of technical reserves

Art. 68. (1) Insurer, who has acquired a license for insurance by kinds of insurances under section I from appendix No 1, shall form technical reserves, as follows:

1. reserve fund;

2. reserve for forthcoming payments;

3. transfer – premium reserve;

4. mathematical reserve;

5. capitalized value of the pensions;

6. reserve for a future participation in the income;

7. reserves for Life insurance, connected with an investment fund;

8. reserve for bonuses and concessions;

9. other reserves, approved by the deputy chairman or formed by his/her order.

(2) Insurer, who has acquired a license for insurance by types of insurances under Section II from appendix No 1, shall form technical reserves, as follows:

1. reserve fund;

2. reserve for forthcoming payments;

3. transfer – premium reserve;

4. reserves for non-expired risks;

5. reserve for bonuses and concessions;

6. other reserves, approved by the deputy chairman or formed by his/her order.

(3) Branch of an insurer from a third country, who has acquired a license for carrying out insurance activity in the territory of the Republic of Bulgaria shall form technical reserves under par. 1 and 2, which shall cover his/her obligations under the concluded insurance and reinsurance contracts in the Republic of Bulgaria.

(4) (new – SG 97/07) Re-insurers shall form technical reserves under para 1 for their activity under Section I of Appendix No 1 and the reserves under para 2 for their activity under Section II of Appendix No 1.

(5) (prev. text of para 4, suppl. – SG 97/07) The procedure and the methodology for formation of the technical reserves and the reserve fund the principles applied for calculation of their amount, the regulations for determination and estimation of the assets for coverage of the technical reserves as well as the maximum amount of the technical interest for the insurances under section I from appendix No 1, shall be determined by an ordinance.

General rules for forming technical reserves

Art. 69. (1) (amend. – SG 97/07) The technical reserves shall be calculated for each kind of insurance, under which activity is being carried out, provided that the part of the re-insurers, respectively of the retrocessioners, shall not be deducted.

(2) (suppl. – SG 97/07) Insurers, respectively re-insurers shall maintain sufficient by quantity technical reserves under art. 68 in compliance with the total amount of his/her activity and the obligations under the insurance and/or reinsurance contracts, concluded by him/her, as far as their reasonable prognosis is possible.

(3) The basis and the methods of calculation of the technical reserves under the insurances of section I from appendix No 1 shall be public. The insurer shall be obliged to present them to every interested person upon request.

Art. 70. (1) At carrying out active reinsurance the technical reserves under art. 68 shall be formed according to the conditions of the reinsurance contract.

(2) (suppl. – SG 97/07) At carrying out passive reinsurance the insurer shall give an account of the share of the re-insurers in the technical reserves formed according to the terms of the reinsurance contracts. The first sentence shall be applied respectively in the cases of retrocession.

(3) At carrying out co-insurance the insurer shall form the types of reserves under art. 68, giving account of his/her share according to the conditions of the co-insurance contract.

Currency, in which the technical reserves shall be formed

Art. 71. (1) In case the obligations under an insurance or reinsurance contract are fixed in foreign currency or the contract contains a clause for indexation in a foreign currency, the technical reserves shall be formed in the same currency.

(2) (suppl. – SG 97/07) If the obligations under par. 1 are not fixed in a certain clause, the reserves shall be formed in the currency of the Member State in which the risk is located. In this case insurers, respectively re-insurers may form the reserves in the currency in which the premium has been negotiated, if a well-grounded conclusion could be made that the payment of the remuneration shall be implemented in this currency.

(3) When a claim has been presented for a payment in a definite currency, other than the one, determined by the order of par. 1 or 2, the reserve for forthcoming payments shall be formed in the currency, in which the claim has been presented.

(4) (*) In the cases of co-insurance in the European Union the reserve for forthcoming payments could not be lower than the amount according to the legislation and the practices established in the Member State at the seat of the leading co-insurer.

(5) (suppl. – SG 97/07) In case the amount of the claim is fixed in a currency, other than the one, determined by the order of par. 1 – 3, and the insurer, respectively re-insurer, is aware of this, he/she may determine the reserve for forthcoming payments in this currency.

Section III.

Coverage of technical reserves and reserve fund of insurers (Title suppl. - SG 97/07)

General rules

Art. 72. (1) (amend. – SG 97/07) Insurers shall be obliged to cover the gross amount of technical reserves and of the reserve fund by appropriate assets observing the terms of this Section. An insurer from a third country shall cover the technical reserves and the reserve fund, formed by the order of art. 68, par. 3, for his/her branch under the conditions of this Section.

- (2) (amend. and suppl. – SG 97/07) The deputy chairman can prohibit the free disposal of assets of an insurer, who does not fulfill the obligation under par. 1 or under Art. 66, para 3, after he/she has notified of his/her intention the competent authorities of the Member States, where the risk is located.
- (3) The assets under par. 1 must reflect the peculiarities of the activity of the insurer in such a way as to secure the safety, profitability and liquidity by means of differentiation and suitable distribution.
- (4) (new – SG 97/07) The provisions of this Section shall apply to re-insurers only if this is explicitly provided for.

Types of assets for covering technical reserves

Art. 73. (1) For covering technical reserves the following assets can only be used:

1. (amend. – SG 97/07) securities, admitted for commerce on regulated market or multilateral trade system (MTS) of securities in the Republic of Bulgaria or in a Member State, as well as stocks, qualified bonds and other qualified debt instruments, accepted for commerce on the internationally recognized and liquid regulated markets or multilateral trade systems of securities in a third country;
 2. (suppl. – SG 97/07) securities, issued or guaranteed by the Republic of Bulgaria or another Member State, as well as qualified debt instruments, issued or guaranteed by third countries, their central banks or international organizations of which the Republic of Bulgaria is a member, or another Member State;
 3. stocks and shares, issued by investment companies and contractual funds, which carry out activity according to the conditions and by the order of the Law for public offering of securities, as well as stocks and shares of collective investment schemes, whose seat is located in a Member State;
 4. right of ownership over land and buildings;
 5. (suppl. – SG 97/07) receivables from re-insurers, including the share of the re-insurers in the technical reserves and to special purpose alternative insurance risk transfer mechanisms;
 6. deposits and receivables from assigners;
 7. receivables from insured persons and intermediaries, originating from insurance and reinsurance contracts;
 8. receivables from loans against Life insurance;
 9. (suppl. – SG 97/07) pecuniary funds in the cash office and in payment accounts or deposits in banks, which have a right to perform banking practice the Republic of Bulgaria or in another Member State;
 10. deferred acquisition expenses;
 11. indisputably established receivables in connection with reimbursement of taxes.
- (2) Qualified debt instruments within the meaning of par. 1 shall be debt securities with investment rating from internationally recognized rating agencies.
- (3) All assets shall be estimated in correspondence with the principle of caution, taking into account the risk of impossibility for them to be cashed. The value of the receivables, admitted for covering the technical reserves, shall be calculated in accordance with the principle of caution, taking into account the risk of possible non-fulfillment.
- (4) Derivatives of securities, including options, futures and swaps, related to assets for covering technical reserves, shall be admitted for covering technical reserves only if they contribute to the reduction of the investment risk or facilitate the effective management of the insurance portfolio. They shall be calculated in compliance with the principle of caution and could be taken into account in the evaluation of the base assets.
- (5) Receivables from third parties shall be admitted for coverage of technical reserves, after all counter obligations to the third parties have been deducted.
- (6) Shall not be admitted for covering technical reserves:
1. proprietary rights, encumbered with pledge, mortgage or other encumbrance;
 2. (amend. – SG 59/06, in force from the date on which the Treaty of Accession of the Republic of Bulgaria to the European Union becomes effective) investments in an affiliate;
 3. receivables, which are three months past due after the date due.
- (7) At occurrence of extraordinary circumstances and upon motivated request in advance by the insurer the Commission may temporarily admit the use of other types of assets for covering technical reserves, if the requirements of art. 72, par. 3 have been met.

General rules for differentiation

Art. 74. (1) The insurer shall invest the gross amount of the technical reserves formed in assets under art. 73 in compliance with the following restrictions:

1. up to 20 % in real estate, but not more than 10 % in an individual real estate or a group of real estates, which could be deemed as one investment;
 2. up to 80 % in securities under art. 73, par. 1, items 1 and 3, but not more than 30 % in other assets, different from qualified bonds and other qualified debt instruments;
 3. in assets under art. 73, par. 1, item 2 without limitation ;
 4. up to 5 % in securities, issued by one issuer, provided that the restriction does not apply to the assets under art. 73, par. 1, item 2;
 5. up to 50 % in bank deposits, but not more than 25 % of the gross amount in a bank;
 6. up to 3 % in pecuniary funds at a cash office and in payment accounts.
- (2) The maximum amount of the investments in real estate under par. 1, item 1 can not exceed 30 % of the difference between the gross amount of the technical reserves formed and the receivables from re-insurers, transformed by the order of art 75, par. 1 and 2.
- (3) The maximum amount under par. 1, item 4 may be 10 percent in case the insurer invests not more than 40 percent of the gross amount of the technical reserves in securities of issuers, to everyone of whom he/she has exposures amounting to over 5 percent of his/her assets. The maximum amount under par. 1, item 4 may be 20 percent in case the insurer invests technical reserves in debt securities, issued by a credit institution having its seat in a Member State and subject to special supervision within the meaning of the law with the purpose of protection of the holders of such securities. Especially the installments, received in return for the issuance of securities under the sentence two, must be invested according to the regulations of the law in assets, which during the whole validity period of the securities can cover the receivables on those securities and which in case of insolvency of the issuer shall be used for preferable satisfaction of the receivables for the principal and the accumulated interests.
- (4) The assets under par. 1 could not be pawned, mortgaged and encumbered with other encumbrances.
- (5) The assets for covering technical reserves shall be differentiated and distributed in a way that not a single category of assets, the investment market or an individual investment is not with a considerable share.
- (6) An investment in a category of assets, which have high percent of risk because of their essence or the characteristics of the issuer, as well as the share of the assets for covering technical reserves, which has low liquidity, must be reduced to prudent levels.

Investments in receivables

Art. 75. (1) A receivable from a re-insurer, including the share of a re-insurer in the technical reserves, can be accepted as coverage of the technical reserves after the deposits held and the liabilities towards the respective re-insurer have been deducted.

(2) A receivable, respectively a share under par. 1, shall be accepted as coverage of the technical reserves up to:

1. (amend. and suppl. - SG 48/07) the value transformed under par. 1 without limitation, if the re-insurer has an investment credit rating from at least one of the rating agencies, determined with a decision by the Commission;
2. fifty percent of the value transformed under par. 1, if the re-insurer has an investment credit rating from at least one of the rating agencies under item 1 out of the investment class;
3. twenty percent of the value transformed under par. 1, if the re-insurer does not have an investment credit rating from at least one of the rating agencies under item 1.

(3) (amend. - SG 48/07; suppl. – SG 97/07) The insurers shall declare before the deputy chairman the re-insurers, with whom they have concluded reinsurance contracts, as well as information on their credit rating within 7 days term after the conclusion of the contract. The deputy chairman shall have the right to determine amounts other than the ones set under par. 2 for recognition of a receivable to a definite re-insurer or of a share of a definite re-insurer in the technical reserves for covering the technical reserves if circumstances, which allow different objective assessment of the stability of the re-insurer to be made, are available. The deputy chairman may not prohibit the concluding of reinsurance contract with a re-insurer, licensed under this Code, or with a re-insurer from a Member State.

(4) Deposits in assigners and receivables to assigners shall be accepted as coverage of the technical reserves amounting up to the size of the technical reserves formed in relation to concluded reinsurance contracts with the respective assigner.

(5) (amend. - SG 48/07) Receivables to insured persons, originating of insurance contracts, shall be accepted as coverage of technical reserves amounting to the difference between the gross amount of the formed transfer-premium reserve, mathematical reserve or capitalized value of the pensions and the share of the re-insurer therein, transformed by the order of par. 1 and 2. Receivables to insurance intermediaries, originating from insurance contracts, shall be accepted as coverage of technical reserves amounting up to 20 percent of the difference between the gross amount of the formed transfer – premium reserve, mathematical reserve or capitalized value of the pensions and the share of the re-insurer in them, transformed by the order of par. 1 and 2.

(6) Receivables on loans, lent under policies for Life insurances, shall be accepted as coverage of the technical reserves amounting up to the buy-out value under the respective policies, on which the loans have been lent.

(7) (new – SG 97/07) Paragraphs 1 to 3 shall also apply to the claims under reinsurance contracts, concluded with a re-insurer, respectively to the share in the technical reserves of insurers carrying out active reinsurance activity.

Claims related to special purpose mechanisms

Art. 75a. (new – SG 97/07) (1) A claim under special purpose mechanisms for alternative insurance risk transfer may be acknowledged as coverage of technical reserves, after withholding obligations under the relevant special purpose mechanism, provided that it is licensed in the Republic of Bulgaria or in another Member State and meets the requirements laid down in Directive 2005/68/EC of the European Parliament and of The Council on Reinsurance and amending Council Directives 73/239/EEC, 92/49/EEC as well as Directives 98/78/EC and 2002/83/EC.

(2) A claim shall be acknowledged as coverage of technical reserves up to:

1. eighty percent of the transformed value under para 1, in case the mechanism has investment credit rating from at least one of the rating agencies referred to in Art. 75, para 2, item 1;
2. forty percent of the transformed value under para 1, in case the mechanism has investment credit rating from at least one of the rating agencies referred to in Art. 75, para 2, item 1 out of the investment class;
3. two percent of the transformed value under para 1, in case the mechanism has no investment credit rating from at least one of the rating agencies referred to in Art. 75, para 2, item 1.

(3) Insurers shall announce before the deputy chairman the special purpose mechanisms for alternative insurance risk transfer the re-insurers, with whom they have concluded reinsurance contracts, as well as information on their credit rating within 7 days term after the conclusion of the contract. The deputy chairman shall be entitled to determine amounts other than the ones set under para 2 for recognition of a claim under definite special purpose mechanisms for covering technical reserves if circumstances, which allow different objective assessment of the stability of the mechanism to be made, are available. The deputy chairman may also allow covering technical reserves by claims under special purpose mechanism, licensed in a third country, in case it meets requirements, similar to the ones under para 1, and it is possible to make objective assessment of its stability.

Deferred acquisition expenses

Art. 76. As coverage of the gross amount of the technical reserves formed shall be accepted the deferred acquisition expenses, deducted with the related reinsurance Commissions, deferred for a following period.

Rules for territorial distribution

Art. 77. (1) The technical reserves under insurance contracts, covering risks in the Republic of Bulgaria or a Member State, shall be covered by assets, located in the territory of the Republic of Bulgaria or a Member State. The technical reserves under contracts of sentence one can also be covered by assets, situated in the territory of a third country, with a permission issued by the deputy chairman for each individual case.

(2) The requirement for territorial distribution of the assets under par. 1 shall not refer to the cases, when the technical reserves are covered by investments in receivables to re-insurers in the proportion, determined in art. 75.

(3) The assets, covering the technical reserves, formed by a branch of an insurer from a third country, who does not profit from the advantages under art. 47. par. 1, covering risks within the country, must be located in the territory of the Republic of Bulgaria.

(4) The location of the assets shall be:

1. for the right of ownership over real estate – the location of the real estate;

2. for the securities:

a) the seat of the issuer;

b) the seat of the bank – if the securities are ensured by bank;

c) the seat of the depository if the securities are book-entry;

3. for the deposits – the location where the contract for deposit has been concluded;

4. for the rest receivables – the seat of the debtor;

5. for the shares in investment funds – the location of the assets with a predominant share, included in the fund, determined in accordance with the conditions of items 1 – 4.

(5) (*) In the cases of co-insurance the insurer may invest the technical reserves, formed under the co-insurance contracts with insurers, who have acquired a license for carrying out insurance activity by the competent authority from the Member State, in assets under art. 73, located in the Republic of Bulgaria or in a Member State at the seat of the leading co-insurer.

Rules for currency matching

Art. 78. (1) When the cover under an insurance contract is set in a certain currency, the liabilities of the insurer shall be accounted as due ones in the same currency. The assets, covering the technical reserves, shall be in the same currency as the liabilities, originating from the contracts under which the technical reserves have been formed.

(2) The insurer may not apply the rule under par. 1 at covering the technical reserves, including the mathematical reserve, with assets, if the applying of this principle would lead to maintenance of assets in this currency amounting to not more than 7 percent of the assets in other currencies.

(3) Par. 1 shall not be applied to the coverage of technical reserves in a currency, other than BGN or the one of a member state, if the investments in this currency are regulated, if it is subject to transfer restrictions or because of other similar reasons it is not suitable for covering technical reserves.

(4) Up to 20 percent of the total amount of the technical reserves could be covered by assets in a currency, other than the one in which they have been formed, on the condition that the total amount of the assets for covering technical reserves in all currencies is at least equal to the total amount of the liabilities in all currencies.

(5) When the technical reserves have been formed in BGN, in euro or in other currency of a Member State, the assets for their covering could be in euro.

Special regulations for the coverage of reserve under Life insurance, related to an investment fund

Art. 79. (1) The reserve under Life insurance, related to an investment fund, in case the investment risk is incurred by the insured person, shall be covered by the assets, contracted in the insurance contract. In case the liabilities of the insurer under such contract are bound with the value of an index, the reserves shall be covered by assets, which reflect as completely as possible the value of this index and have suitable security and liquidity.

(2) Articles 72, per. 3, art. 74, 75 and 78 shall not be applied for the assets under par. 1.

(3) In case under Life insurance, related to an investment fund, part of the liabilities of the insurer are guaranteed, the technical reserves, representing their value, shall be covered by assets by the general order.

Section III.

"A" Coverage of the technical reserves and the reserve fund of a re-insurer (new - SG 97/07)

General provisions

Art. 79a. (new – SG 97/07) (1) Re-insurers shall be obliged to cover the gross amount of technical reserves and reserve fund by assets according to this Section.

(2) The deputy chairman may prohibit free disposal of assets of a re-insurer, who does not fulfill the obligation pursuant to para 1 or as per Art. 66, para 3, after he/she has notified the competent authorities of the assuming Member States of his/her intention.

(3) This Section shall not apply to insurers, carrying out active re-insurance.

Requirements to the choice of assets for the purpose of covering technical reserves

Art. 79b. (new – SG 97/07) (1) When selecting assets for covering technical reserves, re-insurers shall take into consideration the peculiarities of the activity, carried out by them, including the essence, quantity and the duration of the anticipated payments under claims in such a way as to guarantee sufficiency, liquidity, safety, quality, profitability and compliance with their investments.

(2) Re-insurers shall provide differentiation and suitable allocation of the assets in order to cover technical reserves, the purpose of which is to guarantee their capacity to fulfill the undertaken obligations in the event of unfavourable changes in the economic situation, including unfavourable changes in the financial markets, the real estate markets or in case of disastrous events.

(3) Re-insurers shall assess the influence of unfavourable or unexpected changes in the market situation on the assets for covering technical reserves at least once a year, by differentiating them in such a way as to reduce possible unfavourable effects.

(4) Assets for covering technical reserves, except for the ones referred to in Art. 73, para 1, item 2 shall be differentiated and allocated in a manner not allowing any of the categories of assets, investment market or individual investment to have considerable share. A re-insurer shall be obliged not to allow investments in the assets of one issuer or issuers, who are part of group of related persons, exposing it to excessive risk concentration.

(5) Investments in securities, not accepted for trade on a regulated market or MTS of securities in the Republic of Bulgaria, in another Member State or on internationally acknowledged liquid and regulated market or MTS of securities in a third country, shall be limited to reasonable degree.

(6) With regards to investments in derivatives of securities Art. 73, para 4 shall be applied, the re-insurers being obliged to avoid considerable risk exposition in their relations with a separate person, as well as in other derivative operations.

(7) Art. 75, para 1 to 3 and 7 shall be applied to claims of re-insurers under retrocession contracts and to the share of retrocessioners in the technical reserves of re-insurers.

(8) Art. 75a shall be applied to claims of re-insurers under special purpose mechanisms for alternative insurance risk transfer.

Investment policy

Art. 79c. (new – SG 97/07) (1) Pursuant to Art. 79b the managing body of the re-insurer shall adopt investment policy within one month from the issue of the reinsurance license and shall update it annually.

(2) The investment policy under para 1 shall contain:

1. analysis of the re-insurer's activity, of the risks undertaken and the payments, carried out by him/her;

2. analysis of the macroeconomic environment situation, including the condition and the tendencies on financial markets and on real estate markets;

3. prognosis for the anticipated frequency and amount of the submitted claims, including disastrous events, and for the possible effect over the insurance market, the financial markets and the real estate markets;

4. grounded determination of the assets for covering technical reserves and reserve fund, their differentiation and allocation, corresponding to the maximum to the activity of the re-insurer, to the

macroeconomic conditions and tendencies, in which it is being carried out, and of the prognosis under item 3 with regards to achievement of the goals as per Art. 79b, para 1;

5. analysis of the risks related to assets, liabilities and their interrelation and the correlations under item 4 in the practices of re-insurers and definition of the manner of their current identification, monitoring, management and limitation;

6. definition of the cases of deviation of the policy adopted and of the terms under which this is being admitted and of the additional security measures, which shall be applied in such-like cases.

(3) In their investment policy re-insurers shall provide expressly the conditions and risk limitation measures under which shall be admitted investments, exceeding:

1. thirty percent of the gross amount of technical reserves in assets in a currency other than the one in which the reserves are formed;

2. thirty percent of the gross amount of technical reserves in securities, which are not being traded on a regulated market or MTS of securities as per Art. 79b, para 5;

3. five percent of the gross amount of technical reserves in securities, issued by one and the same issuer;

4. ten percent of the gross amount of technical reserves in securities, issued by more than one issuer, who are related persons from one group.

(4) Re-insurers create unit which shall apply the investment policy, identify, track, assess, manage and make proposals for limitation of risks, related to the investment activity.

(5) The internal control unit of a re-insurer shall be in command of the implementation of the investment policy and the activity of the unit under para 4.

(6) The Commission and the deputy chairman shall exercise current supervision over the investment policy of re-insurers and the activity of the unit under para 4 and may apply measures as per para 302 in the cases provided for in the law and where re-insurers expose themselves to hazards which they are not able to manage efficiently in their investment activity.

(7) The selection of one or more of the possibilities referred to in para 3 shall be admitted after the deputy chairman has been informed thereof, the latter being authorised to prohibit the making of certain investments which may expose him to risk, which he is unable to manage.

Section IV. Own funds. Solvency margin. Guarantee capital

Own funds

Art. 80. (1) (suppl. – SG 97/07) The insurers' or re-insurers' own funds, deducted by the intangible assets, must be at all times at least equal to the solvency margin or the minimum extent of the guarantee capital, in case it is higher than the solvency margin.

(2) (amend. – SG 97/07) The own funds of the persons under para 1 shall consist of his/her assets, deducted by the foreseeable liabilities. The elements, which shall be included at calculating the amount of the own funds, shall be determined by an ordinance.

(3) Mutual insurance cooperation, whose gross annual bonus income does not exceed 10 000 000 BGN, shall be obliged to maintain own funds amounting to the solvency margin or to the minimum guarantee capital under art. 82, par. 4, in case it is higher than the solvency margin.

(4) When in the course of three consecutive years the mutual insurance cooperation has exceeded the amount of the bonus income under par. 3 annually, from the fourth year it shall be obliged to maintain own funds in the amount under art. 82, par. 1, item 2, provided that its solvency margin does not exceed this size.

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

Solvency margin

Art. 81. (1) (amend. and suppl. – SG 97/07) The solvency margin shall be the minimum amount to which must be equal the own funds of the insurer, deducted with the intangible assets, necessary for ensuring the fulfillment of the contractual obligations of an insurer or a re-insurer in a long term plan, in compliance with the total amount of his/her activity.

- (2) (amend. – SG 97/07) The person under para 1 shall be obliged to maintain own funds, necessary for ensuring the fulfillment of his/her contractual obligations in a long term plan, in compliance with the total amount of his/her activity.
- (3) The solvency margin and the methods of its calculation shall be determined by the ordinance under art. 80, par. 2.
- (4) (suppl. – SG 97/07) For the calculation of the solvency margin of a branch of an insurer, respectively a re-insurer, from a third country only the activity of the branch shall be taken into account.

Guarantee capital

Art. 82. (1) The guarantee capital shall constitute one third of the solvency margin, however, it could be no less than:

1. (suppl. - SG 48/07) four million and four hundred thousand BGN – for an insurer, who has acquired a license for insurance which covers kinds of insurances under section II, letter "A", items 1–9 and items 16-18 from appendix No 1.
2. (suppl. - SG 48/07; suppl. – SG 97/2007) six million and four hundred thousand BGN - for an insurer, who has acquired a license for insurance which covers kinds of insurances under section I and section II, letter "A", items 10-15 from appendix No 1 – also with regards to re-insurer;
3. (new – SG 97/2007) 2 000 000 BGN – for a captive re-insurer.

(2) (suppl. – SG 97/2007) When an insurer carries out insurance on several kinds of insurances under section I from appendix No 1, the higher value shall be deemed as minimum size of the guarantee capital.

(3) (amend. – SG 97/2007) When an insurer carries out activity related to active reinsurance, the value referred to in para 1, item 2 shall be considered minimum size of the guarantee capital, provided that one of the following conditions is available:

1. the premiums, registered under active insurance, exceed 10 percent of the gross amount of the registered premiums or 97 800 000 BGN, or
2. the technical reserves, formed in relation to active re-insurance, exceed 10 percent of the gross amount of the technical reserves formed.

(4) The mutual insurance cooperation under art. 80, par. 3 shall maintain minimum guarantee capital according to appendix No 2.

(5) (suppl. – SG 97/2007) The guarantee capital of a branch of an insurer, respectively of a re-insurer from a third country shall constitute one third of the solvency margin, however, it could be no less than the half of the size under par. 1, item 1 and 2 according to the license, received from the Commission. A part of the guarantee capital shall be the deposit under art. 41, par. 2, item 3, respectively the one as per Art. 47b, para 2, item 3.

Section V.

Additional requirements to solvency of insurers and re-insurers from insurance or reinsurance group (Title amend. - SG 97/07)

Information on the transactions within the frames of insurance or reinsurance group (Title amend. – SG 97/07)

Art. 83. (1) (amend. – SG 97/2007) Subject to supervision shall be the transactions of a person under Art. 299, para 1 with the following persons:

1. company related to the insurer;
2. participating in the insurer company;
3. company, related to participating in the insurer company;
4. (amend. – SG 97/2007) natural person, who has a participation in the person under Art. 299, para 1 or in a company, related to the latter;
5. (amend. – SG 97/2007) natural person, who has a participation in participating in the person under Art. 299, para 1;
6. (amend. – SG 97/2007) natural person, who has a participation in a company, related to company participating in the person under Art. 299, para 1.

(2) The transactions under par. 1 shall include:

1. loans and other forms of crediting;
2. guarantees and off-balance-sheet operations;
3. deals with own funds, serving as a cover of the solvency margin;
4. investments;
5. reinsurance operations;
6. distribution of expenses;
7. others.

(3) (amend. – SG 97/2007) The procedures for risk management, internal control and accountancy reporting of the person under Art. 299, para 1 must provide conditions for observation, estimation and control of the transactions under par. 1. The deputy chairman may order amendment and supplement of these procedures, if they do not ensure in sufficient degree the solvency of the person under Art. 299, para 1, item 1.

(4) (amend. – SG 97/2007) The person under Art. 299, para 1 shall present an account for the significant transactions under par. 1 along with the quarterly information.

(5) If on the basis of the examination of the procedures under par. 3 or on the basis of the information presented under par. 4 the deputy chairman estimates that the solvency is threatened, he/she may apply the following measures:

1. to order the preparation of a plan under art. 86;
2. to apply compulsory administrative measure under art. 302.

Adjusted solvency of insurers or re-insurers within the frames of insurance or reinsurance group (Title suppl. – SG 97/07)

Art. 84. (1) (amend. – SG 97/2007) The adjusted solvency of the persons under Art. 299, para 1, item 1 shall be calculated by applying methods, defined by an ordinance.

(2) (amend. – SG 97/2007) At calculating the adjusted solvency in compliance with par. 1 shall be included the companies, which are:

1. related to the person under Art. 299, para 1, item 1;
2. participating in the person under Art. 299, para 1, item 1, and
3. related to the companies participating in the person under Art. 299, para 1, item 1.

(3) (suppl. – SG 97/2007) If the adjusted solvency, calculated in compliance with par. 1, is negative, the deputy chairman shall apply the measures under art. 83. par. 5 with regards to the person under Art. 299, para 1, item 1.

Supplementary supervision of an insurer, respectively a re-insurer, whose parent company is an insurance holding company, or an insurer from a third country or a re-insurer from a third country (title amend. – SG 59/06, in force from 01.01.2007; amend. – SG 97/07)

Art. 85. (1) (amend. – SG 97/2007) In regards to the persons under Art. 299, para 1, item 2 a method of supplementary supervision shall be applied, determined by an ordinance.

(2) (amend. and suppl. – SG 97/2007) When applying the method of par. 1, shall be taken into account the activity of all companies, related to the insurance holding company, the insurer from a third country or the re-insurer from a third country.

(3) (amend. and suppl. – SG 97/2007) If as a result of the method applied under par. 1 is established that the solvency of the person under art. 299, par. 1, item 2 is or could be threatened, the deputy chairman shall apply the measures under art. 83, par. 5 with regards to the said person.

Section VI. Recovery measures for the financial standing

Recovery plan for the solvency in a short-term plan

Art. 86. (1) When the own funds of the insurer drop below the extent of the solvency margin, the insurer shall be obliged to draw a plan for reaching the solvency and to present it to the deputy chairman for approval.

(2) When the own funds of the insurer drop below the amount of the guarantee capital, the insurer shall be obliged to draw a short-term plan for supplementary raising of own funds and to present it to the deputy chairman for approval.

(3) Upon occurrence of the circumstances of par. 1 or 2, the insurance undertaking shall be obliged to notify the Commission in three days term and to present the respective plan within a 30 days period.

(4) In case the circumstances of par. 1 or 2 have been established by the deputy chairman, the latter shall immediately order to the insurer and shall set a term for its preparation, which can not be longer than 30 days.

(5) Within the plans under par, 1 and 2 shall be indicated the term, in which the insurer shall provide own funds for covering the solvency margin, respectively the guarantee capital, the concrete measures for setting them in compliance with the requirements of this code as well as the sources of the resources for their implementation. The term for covering the guarantee capital can not be longer than 6 months and for reaching the solvency margin – not longer than 12 months.

(6) (amend. and suppl. – SG 97/2007) The deputy chairman shall pronounce within 30 days period after the submitting of the plan, he/she shall refuse to approve it, if the measures offered do not guarantee in a sufficient degree the solvency of the insurer or the interests of the insured persons or the fulfillment of the obligations, ensuing from reinsurance contracts.

(7) (new – SG 97/2007) By announcing the plan the deputy chairman may lower the reduction norm, based on the reinsurance, when setting the solvency margin, in case the reliability of the reinsurance coverage has changed considerably during the last financial year or by means of the reinsurance contracts no risk or insignificant one has been transferred.

Recovery plan

Art. 87. (1) (suppl. – SG 97/2007) The deputy chairman may oblige the insurer to prepare a recovery plan if he/she estimates that in regards with its financial standing the interests of the insured persons or the fulfillment of the obligations, ensuing from reinsurance contracts, are threatened.

(2) The recovery plan shall include the activity for a period of three years, considered from the date of its preparation and shall contain at least the following data:

1. assessment of the management expenses and the Commissions;
2. detailed prognosis of the incomes and expenses from the basic activity, the active/direct and the passive insurance;
3. prognostic balance;
4. estimation of the financial resources, which must cover the forthcoming liabilities and the solvency margin;
5. (suppl. – SG 97/2007) general reinsurance program, respectively recession program.

(3) The deputy chairman can apply the measures under art, 302, par. 2 as well as to:

1. determine increased amount of the solvency margin of the insurer on the basis of the data in the presented plan;
2. recalculate the amount of the technical reserves and to re-estimate all elements of the own funds, especially in the cases, when a considerable change in the market evaluation of these elements occurs, in comparison with the previous financial year;
3. lower the reduction norm, based on the reinsurance, when setting the solvency margin, in case the reliability of the reinsurance coverage has changed considerably or by means of the reinsurance contracts no risk or an insignificant one has been transferred for the last financial year.

Implementation of the provisions to re-insurers

Art. 87a. (new – SG 97/07) The provisions of this Section shall also apply to re-insurers.

Section VII.

Supervision on the financial standing in relation to the activity under the conditions of the right of establishment and the freedom to provide services

Supervision over the financial standing

Art. 88. (1) The Commission and the deputy chairman shall execute supervision in applying the provisions of this chapter over the insurers having their seat in the Republic of Bulgaria and in relation to their activity under the conditions of the right of establishment and the freedom to provide services.

(2) The supervision under par. 1 shall include control over the solvency, the technical reserves formed and the assets, which serve as their coverage in regards to the whole activity of the insurer. The supervision under par. 1 also includes the control over the technical resources for assistance while traveling directly by insurers, who have acquired a license under item 18 from section II, letter "A" of appendix No 1. At implementing an inspection of the technical reserves under sentence one the Minister of Transport, the Minister of Healthcare and other competent authorities shall be obliged to provide support to the Commission and the deputy chairman.

(3) (*) At executing the supervision under par. 1, after notifying preliminary the competent authority of the Member State of the branch, the Commission may implement inspections on the spot independently or together with this authority.

(4) A competent authority of the Member State may, after notifying preliminary the Commission, implement inspections on the spot in branches of the insurer having a seat within the range of its national jurisdiction, set on the territory of the Republic of Bulgaria. The Commission may send a representative to take part in the inspection.

Notifying

Art. 89. (*) In the cases when the Commission estimates that an insurer having a seat in another Member State, covering risks in the territory of the Republic of Bulgaria under the conditions of the right of establishment or the freedom to provide services, by his/her activity threatens his/her financial stability, the Commission shall notify the competent authority from the Member State of origin of the insurer.

Implementation of the provisions to re-insurers

Art. 89a. (new – SG 97/07) The provisions of this Section shall also apply to re-insurers.

Chapter seven. CONFLICT OF INTERESTS DISCLOSURE. INSURANCE SECRET

Section I. Conflict of interests

Conflict of interests disclosure

Art. 90. (1) Every member of a managing or a control body, every other person holding managerial position as well as every other person, authorized to manage or represent an insurer, shall notify in writing the managing body of the insurer, when concluding a contract with the latter, which expands out of the range of the usual activity of the insurer or essentially deviates from the custom market conditions.

(2) The provision of par. 1 shall also be applied in case a party to a transaction with the insurer is:

1. a member of the family of a person under par. 1;
2. a company, in which a person under par. 1 or a member of his/her family owes directly or through related persons qualified participation under art. 16, par. 1;
3. a company, in which a person under par. 1 or a member of his/her family is an associate, a member of a managing or a control body, a managing functionary or a person, authorized to manage or represent the company.

(3) Each person under par. 1 shall notify in writing at least once in a 6 month period the managing body of the insurer of the companies, in which the person or the members of his/her family owe directly or through related persons qualified participation under art. 16, par. 1, in which they are associates, members of a managing or control body, managing functionaries or persons, authorized to manage or represent the company.

(4) A person under par. 1 shall not participate in the negotiations, the discussion and the taking of a decision for conclusion of transaction with the insurer, party to which is a person under par. 2.

- (5) The persons under par. 1, as well as the other employees of the insurer, shall be obliged to prefer the interests of the insurer and his/her consumers to their own interests at performing their functions.
- (6) The insurer shall be obliged to set up the internal organization of his/her activity in a way that does not allow the persons under par. 1 to put themselves in a position whereas their obligations to a consumer or their own interests enter in conflict with their obligations to another consumer.
- (7) The insurer shall adopt rules, with which to settle the order for conflict of interests disclosure and for ensuring confidentiality in order not to admit damages of interests of a consumer of insurance service for the account of another consumer, a person under par. 1 or an employee of an insurer, as well as of an insurer for the account of interest of its employee or of a person under par. 1.

Consequences from non-observance of the requirements at conflict of interests

Art. 91. When it is established that a person under art. 90, par. 1 violates the rules for conflict of interests disclosure, the compulsory administrative measures under art. 302 shall be applied.

Special requirements for avoiding conflict of interests

Art. 92. An insurer, who covers risks under legal expenses insurance, must undertake the necessary measures for avoiding conflict of interests by fulfillment of at least one of the following requirements:

1. not to admit his/her employees, to whom has been assigned the settling of claims or giving legal advices under legal expenses insurance, and at the same time to carry out similar activity in connection with other kinds of insurances under section II from appendix No 1 to his/her account or to the account of another insurer, with which the insurer is in commercial, financial or administrative relations;
2. if he/she carries out covering risks under legal expenses insurances and other insurances of section II from appendix No 1, to transfer settling of claims under legal expenses insurances to another legal person, which must satisfy the requirements of item 1, under the conditions of art. 60;
3. to present to the insured person the right to authorize a lawyer by his/her own choice for protection of his/her interests from the moment at which for the insured person has occurred the right to receive indemnity under the insurance.

Section II. Insurance secret

Keeping the insurance secret

Art. 93. (1) The insurer, the members of the managing and control bodies, the auditors, the actuaries as well as all other persons, working for the insurer, including the persons, with whom the insurer has concluded contracts under art. 60, shall be obliged to keep in secret the information, which has become known to them in connection with the execution of their functions. The persons under sentence one may not use the information acquired for their private benefit or for the benefit of another person, as well as for other purposes, except for performing their functions.

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

(3) All employees and members of managing and control bodies of the insurer shall sign a declaration for keeping the insurance secret at taking into position. The duty under sentence one shall refer to all natural persons, representing legal persons – members of the managing and control bodies of the insurer and the insurance and reinsurance intermediary.

(4) The insurance agents and the persons, with whom the insurer has concluded contracts under art. 60, shall sign a declaration under par. 3 at concluding the contract, arranging their relations with the insurer. The persons under sentence one shall be obliged to inform their employees of the duties under par. 1.

(5) The provision of par. 1 shall be applied in the cases when the persons under par. 1 – 4 have terminated their legal relation with the insurer, in connection with which the obligation for keeping insurance secret has occurred.

Disclosure of insurance secret

Art. 94. Except to the Commission, the deputy chairman and the authorized officials from the administration of the Commission, the information under art. 93, par. 1 could only be disclosed:

1. with the explicit consent in writing of the person, to whom it refers;
2. before the bodies of the court, the prosecution, the investigation bodies and police bodies observing the order, established by the law;
3. (amend. – SG 109/07, in force from 01.01.2008) before State Agency "National Security" under the conditions and by the order, determined in the Law for the measures against money laundering;
4. before the guarantee fund and the National Bureau of the Bulgarian Automobile Insurers in connection to their activity under this code;
5. for the objectives of setting up information systems for preventing insurance frauds;
6. (new – SG 105/05, in force from 01.01.2006 ã.) before the director of the territorial directorate of the National Revenue Agency, in case:
 - a) by act of a revenue body was established that the inspected person has foiled the implementation of check or revision or does not keep the accountancy required, as well as if it is incomplete or unauthentic;
 - b) by act of a competent state authority was established the occurrence of a chance event which has lead to destruction of accountancy documents of the inspected person.
7. (new – SG 97/07) before an insurer, where necessary in relation to conclusion of a reinsurance contract.

Implementation of the provisions to re-insurers

Art. 94a. (new – SG 97/07) The provisions of this Chapter shall also apply to re-insurers, except for Art. 92, provided that Art. 90 and Art. 93, para 4 shall be applied respectively.

Chapter eight. ACTUARY SERVICE. ACCOUNTANCY

Section I. Actuary service

Liabile actuary

Art. 95. (1) The actuary service of an insurer or a re-insurer shall be carried out by liable actuary. Liable actuary shall be a natural person with recognized legal capacity, who organizes, directs and is responsible for the actuary service of the insurer or the re-insurer.

(2) The liable actuary should:

1. not have been convicted of intentional crime of general nature;
2. not have been for the last three years before the initial date of the insolvency, determined by the court, a member of the managing or control body or unlimited liable partner in a company, for which have been constituted insolvency proceedings or in a terminated because of insolvency company, if unsatisfied creditors have remained;
3. not have been declared insolvent or under insolvency proceedings;
4. not be deprived of the right to occupy material responsibility position;
5. have a higher education with obtained educationally-qualification degree not lower that Master or educational and scientific degree Doctor with covered teaching hours in higher mathematics as per requirements determined by an ordinance of the Commission;
6. have at least three years of experience as an actuary of insurer, re-insurer, health-insurance company, pension-insurance company, or in bodies performing supervision over the activity of these persons, or as habilitated teacher in insurance or in actuary;
7. have recognized capability of liable actuary by the Commission after successful passing an examination.

(3) The terms and the procedure of recognition of the capacity and conduction of the examination for recognition of the capacity under par. 2, item 7, as well as for recognition of capability, obtained outside the Republic of Bulgaria, shall be determined by an ordinance of the Commission. For the purposes of this code, the capability of the liable actuary recognized under the procedure of Code of

Social Insurance or under the Law for the health insurance, where the passed examination for capability includes assessment of the knowledge in the field of pension insurance shall be recognized.

(4) The Commission shall deprive the capability of liable actuary upon proposal of the deputy chairman, if it is found that the person:

1. does not meet the requirements of par. 2, items 1 – 4 any more;
2. upon performing activity of actuary servicing of an insurer or a re-insurer he/she has performed gross or systematic breaches of this code or of the regulations for its implementation;
3. has submitted incorrect data and documents of untrue contents, on the basis of which his/her capability has been recognized.
4. (new – SG 97/07) has not carried out the activity for more than two consecutive years from the recognition of capability or from discharge from office as a liable actuary, unless he/she has performed activity as an actuary.

(5) (suppl. – SG 97/07) In the cases of deprivation of capability under para 4, items 1, 2 and 3 the person may require recognition of capability of liable actuary not earlier than three years after the decision enters into force. With the deprivation of the capability on some of the grounds of par. 4, the capability of the person as an liable actuary recognized under the Code of Social Insurance or under the Law for the Health Insurance shall be considered deprived too.

Additional requirements to the liable actuary

Art. 96. (1) The liable actuary should not be a spouse or relative up to fourth degree including of direct or collateral or in-law relationship to a member of the managing or control body of the insurer, as well as to a member of the managing or control body of another insurer.

(2) The liable actuary shall be elected by the general assembly of the insurer or the re-insurer, before which he/she shall in advance certify by an affidavit the lack of the circumstances of par. 1. The insurer or the re-insurer shall notify the deputy chairman of the decision for election of a liable actuary taken within 7-days period from the date of taking the decision, and shall submit a certified copy of affidavit.

(3) Upon a change of the circumstances of par. 1 or in case of deprivation of capacity of a liable actuary under art. 95, par. 4, the general assembly of the insurer or the re-insurer shall be obliged to dismiss the liable actuary and to elect a new one in three months term after coming of knowledge of the circumstances.

Actuary servicing

Art. 97. (1) The liable actuary shall be responsible for:

1. preparing sufficient by amount premiums, except for the premiums under insurances of large risks;
2. forming sufficient by amount technical reserves for the correct calculation of the solvency margin as well as for the correct usage of the actuary methods in the practice of the insurer or the re-insurer;
3. the correctness of the scheme for distribution of the income from investments of the assets between the insured person and the insurer in the life insurance.

(2) In connection to the activity of par. 1 the liable actuary shall:

1. (suppl. – SG 97/07) prepare and certify the statements of the insurer or re-insurer in relation to the actuary activity;
2. (suppl. – SG 97/07) prepare and submit at the Commission annual actuary report till the 31st of March of the year, following the year which the report refers to.

(3) Upon execution of his/her obligations, the liable actuary shall have access to the all information needed, and the managing bodies and the employees of the insurer shall be obliged to provide assistance.

(4) The actuary shall notify immediately the Commission of each circumstance which became known to him/her upon execution of his/her obligations and which refers to the insurer or the re-insurer and appears to be a significant offence of the this code or the acts on its implementation or may influence unfavourably on the performance of the activity of the insurer or the re-insurer.

(5) In the cases of par. 4 the restrictions for disclosure of information, provided by a law, a secondary legislation act or an agreement, shall not be applied. The liable actuary shall not bear liability for diligent revealing of information under par. 4 before the Commission and the deputy chairman.

(6) The form of the actuary certification and the form and content of the actuary report and of the statements which the liable actuary certifies, shall be determined by an ordinance of the Commission.

Section II. Accountancy

Accountancy organization

Art. 98. (1) (amend. – SG 97/07) The managing bodies of insurers shall be responsible for the organization and the functioning of the accountancy, which shall ensure the accurate reflection of its results and financial standing.

(2) The bodies under par. 1 shall conform the procedures related to documents circulation and accountancy to the characteristics and the volume of the activity of the undertaking.

(3) Insurers, who have acquired a license under section I from appendix No 1 and insurers, who have acquired a license under section II from appendix No 1 and who are connected within the frames of insurance group, can not conclude agreements and apply other clauses, leading to incorrect presentation of their financial results and especially influencing the structure of their incomes and costs.

(4) (new – SG 97/07) The provisions of this Section shall also apply to re-insurers, except Art. 99, para 1, item 4.

Annual and periodical reports of insurers and re-insurers (Title suppl. - SG 97/07)

Art. 99. (1) For the objectives of financial supervision the insurer shall submit to the Commission:

1. an annual financial report – till the 31st of May of the year, following the year, which the report refers to;

2. (amend. – SG 97/07) annual statements, reports and appendices – till 31 March of the month, following the quarter, which they refer to;

3. quarterly accounting, statements, reports and appendices in - till the end of the month, following the quarter which they refer to;

4. monthly statements - till the end of the month, following the month which they refer to.

(2) An insurer from a third country, who has acquired a license for opening a branch in the Republic of Bulgaria, shall also present the consolidated annual reports, which he/she is obliged to prepare according to the law at his/her seat along with a translation in Bulgarian language, implemented by a certified translator.

(3) (suppl. – SG 97/07) The minimum requirements for the organization of the accountancy of insurers and re-insurers as well as the form and the contents of the accounts, statements, reports and the appendices under par. 1 shall be determined by an ordinance.

(4) (In force from 01.01.2007) (suppl. – SG 97/07) The Commission and the deputy chairman shall exchange documents and information in connection to the supervision executed over insurance and reinsurance activity by the competent authorities, carrying out insurance supervision in the Member States.

Accountancy of an insurance group

Art. 100. (amend. – SG 97/07) An insurer referred to in Art. 299, para 1 shall prepare and a consolidated accountancy report of the insurance group and shall present it at the Commission till the 30th of June of the year, following the year, which it refers to.

Notifications

Art. 101. (1) The insurer shall be obliged to notify the Commission of:

1. newly occurred facts and circumstances which are subject to entry into the registers of the Commission;

2. changes in the circumstances, entered in the commercial register;

3. other circumstances, determined by the ordinance under art. 99, par. 3.

(2) The obligation under par. 1 shall be fulfilled within 7 days period after occurrence or coming of knowledge of the respective fact or circumstance, and if it is subject to entry in the commercial register – within 7 days from its registration. To the notification shall be enclosed the documents, certifying the implemented change.

Audit and endorsement of the annual financial report

Art. 102. (1) (amend. – SG 97/07) The annual financial report under art. 99, par. 1, item 1 and the references under Art. 99, para 1, item 2 shall be certified by two registered auditors or specialized audit enterprise according to the Law for the Independent Financial Audit, included in a list, approved by the deputy chairman.

(2) The auditors under par. 1 must meet the requirements of art. 13, par. 1, items 3, 4, 5, 7, 8 and 9, as well as at least one of the following requirements:

1. to have at least three years of experience in the audit of an insurer, a re-insurer, a bank or other financial institution;
2. to have at least three years of professional experience as an accountant or an official in the internal control unit of an insurer or a re-insurer or as habilitated teacher in the sphere of insurance accountancy;
3. to have been members of a managing or control body of an insurer or a re-insurer in the course of at least three years.

(3) (new – SG 97/07) In case the registered auditor is a specialized audit enterprise, the annual financial report under Art. 99, para 1, item 1 and the references as per Art. 99, para 1, item 2 shall be certified by two diplomaed expert – accountants and shall be applied the requirements under para 2 with regards to diplomaed expert – accountants, who are liable for the audit under para 1.

(4) (amend. - SG 54/06; prev. text of para 3– SG 97/07) The auditors under par. 1 shall notify immediately in written the Commission of every circumstance, which has become known to them at implementation of the audit and which refers to the insurer or to a person under art. 299, par. 1 or 2, in case the insurer is a part of insurance group, and:

1. constitutes essential violation of this code or the acts for its implementation;
2. can influence unfavourably the performance of the activities of the insurer;
3. constitutes a ground for refusal to express opinion, a ground for expressing reserves or a ground for expressing negative opinion;
4. is related with deeds of the persons under Art. 13 or of the persons who occupy high positions within the insurer, causing or which may cause significant damages to the insurer or to the consumers of the offered by him insurance services, or
5. is related to untrue or incomplete data in the reports, references and accounts, which the insurer shall present before the Commission.

(5) (prev. text of para 4, amend. – SG 97/07) The auditors under par. 1 shall notify the Commission of every circumstance under para 4, which has become known to them at implementation of audit of a person, related to the insurer.

(6) (prev. text of para 5, amend. – SG 97/07) In the cases of paras 4 and 5 the restrictions for disclosure of information, provided by a law, secondary legislation act or agreement, shall not be applied. The auditor shall not bear responsibility for the diligent disclosure of information under paras 4 and 5 before the Commission and the deputy chairman.

Recognition of auditors

Art. 103. (1) In order to be included in the list of art. 102, par. 1 the registered auditor shall submit to the Commission a written application according to a model, to which he/she shall attach the necessary documents.

(2) The deputy chairman shall pronounce in one month term from receiving the application. At assertion of irregularities or if additional information is necessary, art. 33, par. 3, 4 and 5 shall be respectively applied, the term for removing the irregularities or for providing the additional information shall be no shorter than 15 days.

(3) (amend. – SG 97/07) The deputy chairman shall refuse including in the list under art. 102, par. 1, if:

1. the applicant does not meet the requirements of art. 102, par. 2;
2. the applicant has not removed the established incompleteness or discrepancies or has not submitted the required additional information and documents within the fixed term;
3. the applicant has submitted incorrect data or documents of untrue contents;
4. (new – SG 97/07) there are circumstances which are likely to affect the good reputation and professional qualities of the applicant.

(4) (new – SG 97/07) Specialized auditor companies shall be included in the list as per Art. 102, para 1 on the ground of submitted application along with the documents concerning the diplomaed expert – accountants, who meet the requirements of Art. 102, para 2.

(5) (new – SG 54/06; amend. – SG 97/07; prev. text of para 4, amend. – SG 97/07) The deputy chairman shall delete from the list as per Art. 102, para 1 a registered auditor, who fails to perform some his/her duties under Art. 102, para 4 or 5 or who has certified untrue report of an insurer or of a re-insurer, without reflecting this in the opinion expressed by him/her. The auditor may apply for a subsequent entry in the list not earlier than three years after the effective date of the decision for deletion.

(6) (previous text of Para 4 – SG 54/06; prev. text of para 5 – SG 97/07) The deputy chairman shall publish on the site of the Commission on Internet an updated list of the persons, who could be auditors of an insurer.

Chapter nine.

ORGANIZATION OF THE ACTIVITY OF SETTLING INSURANCE CLAIMS

Internal regulations

Art. 104. (1) (amend. – SG 97/07) Within a period of one month from the issue of the insurance license the managing council, respectively the council of directors of the insurer shall adopt internal regulations of the activity of settlement of insurance claims on insurance contracts. The regulations shall not be applied to settlement of claims for insurances of large risks, unless otherwise provided by them.

(2) The regulations shall regulate the procedures on which the insurer admits the claims for the insurance contracts, collects the proofs for establishment of their grounds and amount, makes assessment of the damages caused, determines the extents of the indemnities, carries out the payments with the consumers and considers complaints, submitted by them.

(3) The regulations can not contradict the law and should guarantee the rights of the consumers for fast, transparent and just settlement of their claims.

(4) The regulations along with their subsequent amendments and supplements shall be presented to the Commission in 7-days term after their adoption. The deputy chairman may give obligatory prescriptions for removing contradictions with the law, as well as in cases of groundless restriction of the rights of the consumers.

(5) The regulations shall be public. The insurer shall publish them on his/her site in Internet and shall provide access to them for free at the places where an activity is carried out.

Prohibition of use of sex as an actuarial factor at calculation of insurance indemnity or sum

Art. 104a. (new – SG 100/07, in force from 20.12.2007) (1) Insurers may not consider sex as a factor at calculation of the amount of the insurance indemnity or sum.

(2) Costs related to pregnancy and maternity shall not result in differences at calculations of the amount of the insurance indemnity or sum.

Evidence

Art. 105. (1) The insurance claims shall be presented before the insurer by the order and within the terms, provided in the insurance contract.

(2) The insurer shall verify each presented claim.

(3) If the consumer of the insurance service is a damaged party under Civil liability insurance or a third party beneficiary under other insurances, the insurer shall inform him/her of the evidence which he/she must present for establishing the ground and the extent of his/her claim. Additional evidence can be required only in case the need for them could not have been foreseen by the date of submitting the claim and at latest within 45 from the date of the presentation of the evidence, required at submitting the claim under sentence one.

(4) In case the consumer of insurance service is a party to an insurance contract, the insurer shall inform him/her about the additional evidence at latest within 45 days from the date of the presentation of the evidence, determined by the contract and the regulations of art. 104, which have not been

stipulated by the insurance contract at its concluding and which are necessary for establishing the ground and the extent of his/her claim.

(5) Shall not be admitted requiring evidence, which the consumer of insurance service can not obtain because of existing normative impediments or because of the lack of legal opportunity for their provision as well as such evidence, for which a reasonable assessment can be made that do not have essential significance for establishing the ground and the extent of the claim and that they aim ungrounded delay and prolongation of the procedure for settling the claim.

(6) Paragraphs 3 and 4 shall not apply to the activity of settling insurance claims under insurances for large risks.

Cooperation from state authorities and third parties

Art. 106. (1) For the needs of establishing the insurance event and the damages, caused by it, the insurer, the person, who demands indemnity, the Guarantee fund or the National Bureau of the Bulgarian Automobile Insurers has the right to receive the necessary information, preserved by the Ministry of Interior, the investigation bodies, the other state authorities, the personal physician, the medical and health establishments and the persons, who have the right to certify the occurrence of circumstances as well as verified copies of documents. In case the information required is a part of the materials from the preliminary investigation, the prosecutor shall allow the access to it.

(2) In case the information under par. 1 constitutes a secret, protected by the law, at its provision to the persons shall be explained in writing and against signature their obligations not to publicize it as well as the consequences from its unregulated spreading.

Conclusion of the insurer. Payment

Art. 107. (1) Within 15 days from the provision of all evidence under art. 105 the insurer should:

1. determine and pay the amount of the indemnity or the sum insured, or
2. to refuse with motives the payment.

(2) The term under par. 1 shall not apply to the activity of settling claims on insurances of large risks.

Chapter ten. TRANSFER OF INSURANCE PORTFOLIO

Transfer

Art. 108. (1) An insurer can transfer all or part of his/her insurance portfolios (transferring insurer) to another insurer (assuming insurer) after a written permission of the deputy chairman.

(2) In the insurance portfolio shall be included the contracts under individual kind of insurance concluded by the insurer.

(3) Transfer of insurance portfolio shall be admitted on the condition that:

1. the assuming insurer possesses a license for the kinds of insurances, included in the insurance portfolio, subject to transferring;
2. after the transfer the assuming insurer possesses own funds, corresponding to the solvency margin;
3. the interests of the insured persons shall not be affected by the transfer of the insurance portfolio.

Application for issuing a permission for transfer of insurance portfolio

Art. 109. (1) For issuing a permission for transfer of insurance portfolio an application shall be submitted, to which shall be enclosed:

1. a contract for transfer of insurance portfolio;
2. a list of the insurance contracts transferred, indicated in general and by kinds of insurances;
3. a reference for the technical reserves, corresponding to the contracts – subject to transferring, and for the assets, which shall be transferred for their coverage as well as evidence for the possession of the assets;
4. a prognosis for the amount of the solvency margin and the own funds of the assuming insurer after the transfer of the portfolio;
5. other documents.

(2) The deputy chairman shall pronounce on the application for transfer of insurance portfolio in two months term after its receipt. Art. 33, par. 2, 4 and 5 shall be applied respectively, provided that the

term for removing the irregularities or provision of additional information is not longer than one month.

(3) The deputy chairman shall refuse to issue a permission in case the assuming insurer implements a recovery plan, if the requirements of this code or the acts for its implementation have not been met or the interests of the insured persons have not been protected.

(4) Upon request by the transferring and the assuming insurer the deputy chairman can permit transfer of assets for covering technical reserves, which do not correspond to the requirements of art. 73, but, however, are liquid enough to and have been estimated at just value, in case this is necessary for the protection of the interests of the insured persons and the financial status of the assuming insurer would not be threatened. In exclusive cases the deputy chairman can permit transfer of assets with insufficient liquidity or one with an extent, lower than the necessary for covering technical reserves.

Informing the interested persons. Right for termination of the contract

Art. 110. (1) The assuming insurer shall inform in writing the insured persons about the transfer of the insurance portfolio and its conditions in 14 days term after the transfer.

(2) The insurer has the right to terminate the contract, provided that he/she informs in writing the assuming insurer in 60 days term after receiving the notification.

(3) The persons, insured under Life insurance, have the right to obtain the premium reserve, corresponding to the insurance contract by the day of the transfer, and the insured under other kinds of insurances – the respective part of the premium for the unexpired term of the contract, provided that insurance indemnity has not been paid or no payment of such is forthcoming.

Effect of the transfer

Art. 111. (1) The transfer of an insurance portfolio shall have an effect after issuing the permission under art. 108, par. 1.

(2) In case the insurer has not made use of his/her right under art. 108, par. 2, the transfer shall have an effect with regard to all persons, who have rights or obligations under the contract.

(3) After the transfer the transferring insurer shall be released from his/her obligations under the transferred insurance contracts.

(4) The assets for covering the technical reserves shall be transferred simultaneously with the transfer of the insurance contracts.

Transfer of insurance portfolio within the frames of the European Union and the European Economic Area

Art. 112. (*) (1) An insurer can transfer all or part of his/her insurance portfolios, concluded under the conditions of the right of establishment or the freedom to provide services, to an assuming insurer having a seat in another Member State after receiving a permission by the deputy chairman. Art. 108 – 11 shall be applied.

(2) The deputy chairman shall issue a permission after receiving a document from the competent authority of the Member State by origin of the assuming insurer, certifying that after the transfer the assuming insurer will have own funds, corresponding to the solvency margin.

(3) In case the insurer transfers insurance contracts, concluded through his/her branch, the deputy chairman shall require the opinion of the competent authority of the Member State of the branch.

(4) In the cases of par. 1 and 3 the deputy chairman shall issue a permission after receiving the consent of the competent authorities of the Member States where the risk is located.

(5) If in three months term the deputy chairman has not received an answer from the competent authorities under par. 2 – 4, it is deemed that a positive statement, respectively silent consent has been given.

(6) In the cases of par. 1 and 3 the assuming insurer shall publish a message for the transfer of the insurance portfolio in accordance with the legislation of the Member States where the risk is located.

Transfer of insurance portfolio from a branch of an insurer from a third country within the frames of the European Union and the European Economic Area

Art. 113. (*) (1) A branch under the Commercial law of an insurer from a third country, registered in the Republic of Bulgaria, can transfer all or a part of its insurance portfolios to an assuming insurer

having its seat in the Republic of Bulgaria or in another Member State after receiving a permission of the deputy chairman.

(2) At transferring insurance portfolio of assuming insurer from another Member State the deputy chairman shall issue a permission after receiving a document by the competent authority of the Member State of origin of the assuming insurer, certifying that after the transfer the insurer will have own funds, corresponding to the solvency margin.

(3) In the cases when the insurance portfolio is being transferred to a branch under the Commercial law to an insurer from a third country, registered on the territory of the Republic of Bulgaria, if necessary, the deputy chairman shall issue a permission after receiving a document from the competent body of art. 47, par. 3, certifying that after the transfer the insurer will have own funds, corresponding to the solvency margin. In the cases when the insurance portfolio is being transferred to a branch of an insurer from a third country, the deputy chairman shall issue a permission after receiving a document from the competent authority of the Member State of the branch or, if necessary, from the competent body of art. 47, par. 3, certifying that after the transfer the insurer will have own funds, corresponding to the solvency margin, that the legislation of the Member State of the branch allows such transfer and the competent authority permits its implementation.

(4) In the cases of par. 1 – 3 the deputy chairman shall issue a permission after receiving a consent from the competent authority of the Member State where the risk is located, in case this country is other than the Republic of Bulgaria.

(5) If within three months term the deputy chairman has not received an answer from the competent authorities of par. 2 – 4, it shall be considered that a positive statement, respectively a silent consent has been given.

(6) In the cases of par. 1 – 3 the assuming insurer shall publish a message for the transfer of the insurance portfolio according to the legislation of the Member State, where the risk is located.

Giving consent at transfer of insurance portfolio within the frames of the European Union and the European Economic Area

Art. 114. (*) (1) At transfer of insurance portfolio within the frames of the European Union and the European Economic Area, which includes contracts, to which the Republic of Bulgaria is the Member State, where the risk is located, the deputy chairman shall give a consent for the transfer within three months after receiving the request from the authority, competent to issue a permission for the transfer, if the interests of the insured persons are protected.

(2) If no decision is announced within the term of par. 1, it is considered that there is a tacit assent.

Certification of the solvency margin of an insurer having a seat in the Republic of Bulgaria at transfer of insurance portfolio by an insurer from a third country having a seat in a Member State

Art. 115. (*) (1) In three months term after receiving a request by the respective competent authority of the Member State of origin of the transferring insurer, who intends to transfer insurance portfolio from contracts, concluded under the conditions of the right of establishment or the freedom to provide services, to an insurer having a seat in the Republic of Bulgaria, the deputy chairman shall issue a document, certifying that after the transfer the assuming insurer shall have own funds, corresponding to the solvency margin.

(2) The deputy chairman shall refuse issuing a document of par. 1 if after the transfer the assuming insurer will not have own funds, corresponding to the solvency margin, as well as in case the assuming insurer attaches a recovery plan and for that matter the interests of the insured persons are threatened.

Certification of the solvency margin of an insurer having a seat in the Republic of Bulgaria at transfer of insurance portfolio by an insurer from a third country, settled in a Member State

Art. 116. (*) (1) Within three months term from receiving the request by the respective competent authority of the Member State of origin of the transferring insurer, who intends to transfer insurance portfolio to an insurer having a seat in the Republic of Bulgaria or a branch under the Commercial law of an insurer from a third country, registered in the Republic of Bulgaria, as well as in the cases when the Commission is a competent authority under art. 47, par. 3, the deputy chairman shall issue a document, certifying that after the transfer the assuming insurer shall have own funds, corresponding to the solvency margin.

(2) The deputy chairman shall refuse issuing a document of par. 1, in case the assuming insurer will not have own funds, corresponding to the solvency margin after the transfer, as well as if his/her branch executes a recovery plan and for that matter the interests of the insured persons are threatened.

Special regulations in case of transfer of reinsurance portfolio

Art. 116a. (new – SG 97/07) This Chapter shall be applied to transfer of portfolio from reinsurance contracts between re-insurers, between insurers or between an insurer and a re-insurer, except for Art. 108, para 3, item 3, Art. 112, paras 3 to 6, Art. 113 and 114.

Chapter ten.

“A” SPECIFIC REQUIREMENTS FOR CARRYING OUT REINSURANCE ACTIVITY TRANSFERRING LIMITED AMOUNT OF RISK (new - SG 97/07)

Legal delegation of power

Art. 116b. (new – SG 97/07) The Commission may determine by an ordinance the specific requirements for carrying out reinsurance activity transferring limited amount of risk concerning:

1. provisions which must be contained in each concluded contract;
2. reliability of administrative and accounting procedures and adequacy of internal control mechanisms and of risk management requirements;
3. requirements to accountancy, prudence rules and to statistical information;
4. formation of technical reserves so that sufficiency, reliability and objectivity thereof is guaranteed;
5. investment of the assets for covering technical reserves in order to ensure that they give account of the peculiarities of the activity, carried out by a re-insurer, in particular the nature, scope and duration of the anticipated payments under claims with the purpose of achieving sufficiency, liquidity, security, quality, profitability and investment adequacy, and/or
6. solvency margin, own funds, minimum guarantee capital, which the re-insurer is obliged to maintain in relation to the reinsurance activity transferring limited amount of risk.

Notifying the European Commission

Art. 116c. (new – SG 97/07) The Commission shall notify the European Commission of the requirements adopted pursuant to Art. 116b not later than the date of promulgation of the relevant ordinance in the State Gazette.

Part three.

TRANSFORMATION AND TERMINATION OF AN INSURER OR A RE- INSURER (TITLE SUPPL. - SG 97/07)

Chapter eleven.

TRANSFORMATION OF AN INSURER OR A RE-INSURER (TITLE SUPPL. - SG 97/07)

Conditions for transformation of an insurer

Art. 117. (1) Transformation of an insurer shall be implemented by a permission of the Commission on the condition that:

1. the rights of the consumers of insurance services are guaranteed;
 2. after the transfer the insurer shall possess own funds, corresponding to the solvency margin.
- (2) Unless otherwise stipulated in this chapter, the provisions of the Commercial law or the Law of the cooperations shall be applied respectively. Transformation by change of the legal form, as well as by change of the subject of activity shall not be permitted.

(3) Transfer by merging or joining shall be implemented only between insurers, observing the requirement of art. 9, par. 1.

(4) At transfer by splitting or separation the newly established companies also should be insurers.

Permission for transformation of an insurer

Art. 118. (1) For issuing a permission under art. 117, par. 1 an application shall be submitted according to a model, fixed by the deputy chairman, to which shall be enclosed:

1. the decision of the competent body of each of the transforming companies for implementing the transformation;

2. a contract or a plan for transformation;

3. (suppl. – SG 97/07) a report by the managing body of each of the transforming and assuming companies and under Art. 262i of the Commercial Code, indicating the reasons due to which the transfer is necessary.

4. (amend. – SG 97/07) the report of the inspector as per Art. 262j; of the Commercial Code, which also comprises a statement on the financial security of the insurer and the creditworthiness of the latter after the transformation, as well as on the guarantees for retaining the rights of the insured persons;

5. (new – SG 97/07) account of the amount of solvency margin and own funds of each undertaking, taking part in the transformation, by the moment of taking the decision for transformation;

6. (new – SG 97/07) forecast of the amount of solvency margin and own funds of each undertaking, formed after the transformation;

7. (new – SG 97/07) balance and report sheet of the income of each undertaking, participating in the transformation by the end of the month, preceding the date of submission of the application;

8. (new – SG 97/07) a permission by the Commission for Protection of Competition – in case of transformation via merger or joining;

9. (new – SG 97/07) the attachments referred to in Art. 30, para 1, items 1, 2 and 6 to 9 – with regards to each insurance undertaking, formed as a result of the transformation, as well as with regards to every assuming insurer, whose changes as a result of the transformation being indicated;

10. (new – SG 97/07) the attachments referred to in Art. 30, para 3, items 1, 2 and 5 to 8 – with regards to each mutual insurance cooperation, formed after the transformation, as well as with regards to each assuming cooperation, its changes as a result of the transformation being indicated;

11. (new – SG 97/07) other documents in relation to ascertainment of the circumstances under Art. 117, para 1.

(2) The Commission shall pronounce on the application for transformation in 4 months term after receiving the application. At establishing irregularities or if additional information is needed, art. 33, par. 2, 4 and 5 shall be applied respectively, as the term for removing the irregularities or for providing the additional information is no shorter than 15 days.

(3) The Commission shall issue the permission for transformation simultaneously with the issuance of a license for carrying out insurance activity for the newly established companies.

(4) The Commission shall refuse to issue a permission, if the requirements of the code are not met or the interests of the insured persons are not protected.

(5) The insurers, participating in the transformation, shall be obliged to inform the insured persons of the implemented transformation. Art. 110 shall be applied respectively.

Transformation of a re-insurer

Art. 118a. (new – SG 97/07) Art. 117, except for para 1, item 1 and Art. 118 shall be applied respectively to transformation of a re-insurer. In case as a result of a transformation carried out will be threatened the opportunity of the participating insurers to fulfill their obligations under the reinsurance contracts, no permission for transformation shall be granted.

Chapter twelve.

LIQUIDATION AND INSOLVENCY

Section I.

Liquidation

Termination of an insurer

Art. 119. (1) (prev. text of Art. 119 – SG 97/07) An insurer shall be terminated:

1. voluntarily - only by a decision of the general assembly and observing the provisions of art. 120 and 121;
2. compulsory – by withdrawal of license under art. 36, par. 1, item 1 – 5, 7 and 8 and par. 2, item 1 – 3;
3. at declaring insolvency.

(2) (new – SG 97/07) In case of liquidation and insolvency of a insurer or a re-insurer, the claims of creditors from third countries, including the ones ensuing from contracts concluded via branch under the terms of freedom to provide services, shall be satisfied in the same way as the claims of the creditors from the Republic of Bulgaria.

Voluntary termination

Art. 120. (1) Voluntary termination shall be implemented by a decision of the general assembly and after receiving a permission of the Commission. For issuing a permission for termination the insurer shall submit an application according to a model, defined by the deputy chairman, to which shall be attached:

1. (amend. - SG 34/06, in force from 01.10.2006) a record of the general assembly, at which the decision for voluntary termination was taken, and a proposal for appointment of a liquidator;
2. (amend. - 97/07) a liquidation plan, adopted by the general assembly, containing:
 - a) term within which liquidation shall be finalized;
 - b) remuneration of the liquidator or the liquidators;
 - c) proposal for transfer of the portfolio of insurance or reinsurance contracts;
 - d) amount of the property - in total and by type, monetary resources, long-term and short-term tangible or intangible assets, financial assets, claims;
 - e) amount of the obligations – in total and by type, by insurance, respectively reinsurance portfolio and other liabilities;
 - f) timetable for discharge of liabilities;
 - g) liquidation expenses;
 - h) prognosis of the amount of the property after satisfaction of the creditors;
 - i) managerial, organisational, legal, financial, technical and other actions related to implementation of the plan.
3. a contract with another insurer for transfer of insurance portfolio;
4. the documents under art. 109, par. 1, items 2 – 5.

(2) The contract for transfer of insurance portfolio under par. 1, item 3 can be concluded with more than one insurer and shall provide transfer of all insurance policies, including the ones, on which have been filed claims for payment as well as of assets for covering technical reserves.

(3) (suppl. - 97/07) After taking the decision under art. 119, para 1, item 1 the insurer shall be obliged to discontinue the concluding of new contracts as well as the continuation of the term and the expansion of the coverage of the acting insurance contracts in effect.

Issuing a permission for voluntarily termination

Art. 121. (1) The Commission shall pronounce in two weeks term after the receipt of the application under art. 120, par. 1. At assertion of irregularities or if additional information is required, art. 33, par. 2, 4 and 5 shall be applied respectively, as the term for removing the irregularities or for providing the additional information is not shorter than 15 days.

- (2) Simultaneously with the permission for termination the Commission shall withdraw the license of the insurer.
- (3) Subsequent changes in the liquidation plan shall be implemented by the order of its adoption and following approval.

Registration of the termination (Title amend. - SG 34/06, in force from 01.07.2007)

- Art. 122. (1) (amend. - SG 34/06, in force from 01.07.2007) The insurer shall present at the Recordation Agency the documents required for registration of the termination and for instituting proceedings on liquidation within a term of three workdays after receiving the permission under art. 121, par. 2, provided that he/she attaches a certified copy of the decision of the Commission.
- (2) (amend. - SG 34/06, in force from 01.07.2007) The insurer shall be obliged to present to the commission a certificate of the registration under para 1 within term of three working days after implementing the registration.

Compulsory termination

- Art. 123. (1) (amend. - SG 34/06, in force from 01.07.2007; suppl. – SG 97/07) In the cases of art. 119, para 1, item 2 the proceedings on liquidation shall be constituted upon decision of the Commission. The decision shall contain the ground for withdrawal of the license and with it a liquidator shall be determined, his/her remuneration and term for implementing the liquidation. The decision shall be sent to the Recordation Agency for registration in the commercial register.
- (2) (amend. - SG 34/06, in force from 01.07.2007) The Recordation Agency shall enter the termination of the insurer and the name of the liquidator.
- (3) In three months term from the appointment the liquidator shall prepare and present to the deputy chairman a liquidation plan under art. 120, par. 1, item 2. The plan may provide transfer of insurance portfolio.
- (4) In one month term from the receipt of the liquidation plan the deputy chairman shall pronounce a decision, with which he/she shall approve the liquidation plan or determine other conditions in it.

Liquidator

- Art. 124. (1) A liquidator shall be a natural person, who satisfies the requirements of art. 13, par. 1 and is not a related person with the insurer within the meaning of the Commercial law.
- (2) When by his/her actions the liquidator violates the provisions of this code, the acts for its implementation, the approved liquidation plan or threatens the rights of the insured persons, the deputy chairman shall issue compulsory recommendations to the liquidator in connection with his/her activity, which are subject to immediate fulfilment.
- (3) (amend. - SG 34/06, in force from 01.10.2006) In the cases of para 2 the commission may discharge the liquidator and it shall send its decision thereof to the Recordation Agency for registration.

Accounts of the liquidator

- Art. 125. (amend. - SG 34/06, in force from 01.10.2006) The liquidator shall inform the Commission of the course of the proceedings and shall present a balance sheet and a report to the Commission for each quarter not later than the 15th of the month following the quarter. Upon request by the deputy chairman the liquidators shall be obliged to provide information about their activity and the status of the insurer in liquidation in a way and within a term, determined by the deputy chairman.

Submission of receivables

- Art. 126. The receivables of the insured persons, registered in the commercial documents of the insurer, shall be considered to be submitted.

Authorities of the liquidator in the other Member States

- Art. 127. (*) The liquidator can exercise the authorities which he/she has according to the law, in the territory of the other Member States, provided that he/she observes their legislation.

Applicability of the Commercial law and the Law of cooperations

Art. 128. As far as this section does not stipulate otherwise, the regulations for liquidation under the Commercial law, respectively the Law of cooperations shall be applied.

Liquidation of a re-insurer

Art. 128a. (new – SG 97/07) Art. 119 to 125, 127 and 128 shall be applied respectively to liquidation of a re-insurer.

Section II. Insolvency

Grounds for initiating insolvency proceedings

Art. 129. (1) (amend. – SG 97/07) insolvency proceedings shall be constituted if the Commission has withdrawn the license on any of the grounds referred to in Art. 36, para 2, item 6, para 2, items 4 or 5.

(2) The insurer is considered insolvent when the total amount of his/her liabilities, including the technical reserves, calculated in accordance with this code and the acts for its implementation, exceeds the total value of his/her assets.

(3) The insolvency shall be presumed, in case:

1. the plan under art, 86, par. 1 or 2 has not been submitted within the fixed term, has not been approved or is not being fulfilled.
2. the insurer illegally refuses a payment, pays with delay or pays partially exigible and liquid monetary liabilities.

(4) The insolvency proceedings shall also be initiated in case in the course of the proceedings on liquidation some of the circumstances under par. 2 or under par. 3 are established.

(5) An insurer, who becomes insolvent, shall be obliged to notify the deputy chairman within 15 days term.

(6) The notification under par. 5 shall be submitted by the managing body, respectively by the receiver or the liquidator of the insurer.

Initiating insolvency proceedings

Art. 130. (1) The insolvency proceedings shall be initiated only upon request by the Commission.

(2) In the request shall be indicated only the ground for withdrawing the license and a proposal for appointing assignee and a certified copy of the entered into force court decision for withdrawal of the license for carrying out insurance activity shall be attached.

(3) The court shall initiate the case on the day of receiving the request under par. 1 and shall set a sitting not later than 14 days after its initiating.

(4) The request under par. 1 shall be considered by the court with the participation of a prosecutor behind closed doors, summoning the insurer and the Commission.

Court decision for initiating insolvency proceedings

Art. 131. (1) If the request of the Commission meets the requirements of art. 130, par. 2, the court, by its decision, shall:

1. declare the insolvency and shall determine its initial date;
2. open insolvency proceedings;
3. declare insolvency of the insurer;
4. terminate the legal authorities of the bodies of the insurer;
5. rule general interdiction and distraint on the property of the insurer;
6. deprive the insurer of the right to manage and administer the property, included in the mass of insolvency;

7. rule for the start of the sale of the property included in the mass of insolvency and allocation of the sold property;

8. appoint assignee.

(2) From the date of the announcement of the decision under par. 1 the insurance contracts with term of effect of more than one year shall be considered terminated. In case the insurer does not have a right of buy-out value under the contract, he/she owes the reimbursement of the part of the premium, corresponding to the unexpired term, after deduction of the acquisition expenses. If according to the contract a right of buy-out value has aroused, the insurer owes the return of the buy-out value.

(3) On the day of announcement of the decision for constituting insolvency proceedings or at latest on the next workday the court shall be obliged to send a copy of the decision to the Commission.

Assignee

Art. 132. (1) The assignee is a natural person, who shall satisfy the requirements of art. 655 from the Commercial law and should:

1. have a higher education in economics or law and professional experience for not less than 5 years in one the fields of insurance, accountancy or finances;

2. not have been a member of managing or control body of the insurer during the last 5 years, preceding the date of the decision for constituting proceedings on insolvency;

3. not be deprived of the right to occupy material responsibility position;

4. not be a temporary assignee or an assignee of another entrepreneur;

5. not have been a member of managing or control body or an unlimited liable partner in a company, winded up because of insolvency, in case dissenting creditors have remained;

6. be included in a list of the persons, approved by the Commission, who could be assignees of the insurer.

(2) Except for the grounds under art. 657 of the Commercial law, the court shall discharge the assignee in case he/she no longer meets the requirements of par. 1, item 2 – 6.

(3) Discharge of the assignee may also be requested by the Commission in the cases when the assignee does not fulfill the liabilities and threatens the interests of the insured persons by his/her actions.

(4) (new – SG 97/07) In the cases of early termination of the office of the assignee, the Commission shall propose a new one from the list as per para 1, item 6 to the court.

Reports of the assignee

Art. 133. The assignee shall notify the court and the Commission of the court of the proceedings and shall present a written report for each quarter not later than the 15th date of the month, following the month, which it refers to. At request by the Commission the assignee shall be obliged to present information concerning his/her activity and the court of the insolvency proceeding.

Submission of receivables

Art. 134. (1) The creditors shall submit in writing their receivables before the assignee within two months from the promulgation of the decision under art. 131.

(2) The creditors under par. 1 shall indicate in the request the ground, the amount of the receivable the privileges and the indemnities, the address for correspondence and shall attach written evidence.

(3) The receivables of the insured persons shall be considered to be presented. This shall not repeal the right of the insured persons to present before the assignee their receivables within the term of par. 1.

Conversion of the property of the insurer into cash

Art. 135. (1) The Commission or the assignee may request the court to allow the sale of the insurer as an undertaking.

(2) In case the request under par. 1 has been done by the assignee, the court shall approve of the sale after receiving the written statement of the Commission. The statement shall be submitted no later than 30 days after it was requested.

(3) Transfer of the property before the final payment of the price shall not be admitted.

Classes of claims

Art. 136. (amend. – SG 97/07) At carrying out distribution of the cashed property the liabilities shall be paid according to the following sequence:

1. claims, secured by a pledge or mortgage – from the amount received at implementation of the security;
2. claims, with regards to which right of retention is being exercised – from the value of the property retained;
3. insolvency expenses;
4. claims under obligatory insurance contracts;
5. claims under Life insurances;
6. claims under the rest kinds of insurances;
7. claims of the security fund referred to in Art. 311s;
8. claims ensuing from employment relations, occurred prior to the date of the decision for initiation of insolvency proceedings;
9. public claims of the state and the municipalities, such as taxes, customs duties, fees, obligatory insurance installments and other, which have occurred prior to the date of the decision for initiation of insolvency proceedings;
10. the other unsecured claims, which have occurred prior to the date of the decision for initiation of insolvency proceedings;
11. claims referred to in Art. 616, para 2, item 1 of the Commercial Law;
12. claims referred to in Art. 616, para 2, item 2 of the Commercial Law;
13. claims referred to in Art. 616, para 2, item 3 of the Commercial Law;
14. claims referred to in Art. 616, para 2, item 4 of the Commercial Law.

Authorities of the assignee in the other Member States

Art. 137. (*) The assignee can exercise the authorities, which he/she has according to the law, in the territory of the other Member States, provided that he/she observes their legislation.

Applicability of the Commercial law

Art. 138. Unless otherwise stipulated by this section and section III, the provisions of the Commercial law shall be applied, with the exception of art. 607, 608, 610, 611, art. 614, par. 2 - 4, art. 615, 625, art. 629, par. 1, art. 631, 631à, 635, 656, art. 658, par. 1, items 3, 11 and 12, art. 666 - 684, 696 - 709, 734, 740, 741 and 743.

Section III. Specific regulations for the liquidation and insolvency proceedings.

Effect of the decision for initiating liquidation or insolvency proceedings

Art. 139. (*) (1) (amend. - SG 34/06, in force from 01.10.2006) The registration of the opening of liquidation or insolvency proceedings as well as the decision of the court for opening insolvency proceedings of an insurer having a seat in the Republic of Bulgaria shall have an effect for all his/her branches in the territory of the other Member States and third countries.

(2) (amend. - SG 34/06, in force from 01.10.2006) Simultaneously with the entry in the commercial register of the opening of the liquidation proceedings and the announcement in the commercial register of the decision of the court for opening of insolvency proceedings, the Recordation Agency shall send the decision of the court for publishing in "Official Gazette" of the European Union as well as information about the applicable law, the competent court and the entered liquidator, respectively assignee.

(3) (amend. - SG 34/06, in force from 01.10.2006) The Commission shall notify immediately the respective competent authorities of the other Member States of the registration of the initiating of liquidation proceedings or of the decision for the opening of insolvency proceedings of the insurer and its legal consequences.

Effect of the decision for initiating liquidation or insolvency proceedings of an insurer, who has acquired a license in another Member State

Art. 140. (*) (1) The decision for initiating liquidation or insolvency proceedings of an insurer, who has acquired a license in another Member State shall have an effect in the Republic of Bulgaria from the moment at which it has an effect in the respective Member State.

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

Authorities of the liquidator or the assignee

Art. 141. (*) (1) The appointment of liquidator or assignee of an insurer, who has acquired a license in another Member State, shall be proved by presenting a certified copy of the decision of the respective competent authority for his/her appointment, along with a translation in Bulgarian language, which shall not be legalized.

(2) The liquidator or the assignee under par. 1 can exercise all authorities, which he/she has according to the legislation of the Member State where the insurer has acquired license, on the territory of the Republic of Bulgaria, except use of duress and pronouncing on legal disputes.

(3) At execution of his/her authorities the liquidator or the assignee under par. 1 shall observe the legislation of the Republic of Bulgaria.

Entry in a public register

Art. 142. (*) The liquidator or the assignee under art. 141, par. 1 may request entry of the decision for initiating liquidation or insolvency proceedings in the respective public registers, maintained in the Republic of Bulgaria. The person under sentence one shall be obliged to request entry, in case the entry in the registers is compulsory.

Notifying the known creditors from the Member States

Art. 143. (*) (1) The liquidator or the assignee shall send to the known creditors with a permanent residence or having a seat in another Member State a notice in writing according to a model, determined by the deputy chairman, concerning the initiated liquidation or insolvency proceedings. In the notice shall be indicated their right to present their receivables, the authority, before which they shall be presented, as well as whether it is necessary the creditors having privileged or guaranteed receivables to present them.

(2) The notice under par. 1 shall be prepared in Bulgarian language, named "Invitation for presenting receivable. Observe the term!", respectively "Invitation for presenting explanations in connection to receivable. Observe the term!" in all official languages of the European Union.

(3) In the notice under par. 1 to the creditors, whose receivables originate from an insurance contract, shall be indicated their right to present explanations, as well as the consequences from the liquidation or the insolvency for their rights and liabilities, and it shall be prepared in the official language of the Member State of their permanent residence or their seats. Receivables, descending from an insurance contract, are also the insurance premiums, which the insurer owes at termination of the insurance contract in compliance with the law, applicable to these contracts before initiating the liquidation or insolvency proceedings. The reserves for forthcoming payments shall also be considered to be receivables under the insurance contract.

Submission of receivables by creditors from Member States

Art. 144. (*) (1) The creditors, who have permanent residence or seat in another Member State shall profit from the same rights, which the creditors with permanent address or having a seat in the Republic of Bulgaria have, and shall have the right to submit their receivables, respectively to present explanations in relation to their receivables.

(2) The creditors under par. 1 shall submit their receivables, indicating the type of their receivable, its amount, the date of its occurrence as well as if they are based on pledge, mortgage, right of preservation of the property under sales contract or another privilege and shall present evidence.

(3) The receivables, respectively the explanations in connection to them shall be presented in the official language of the Member State at their permanent residence or seat with the name "Presenting receivable", respectively "Explanations in relation to receivable" in Bulgarian language.

Providing information in the course of the proceedings

Art. 145. (*) (1) The liquidator or the assignee shall publish in a proper way the periodical accounts for his/her activity.

(2) Upon request by the competent authorities of the other Member States, the Commission shall provide information about the course of the liquidation or insolvency proceedings.

Applicable law

Art. 146. (*) (1) In the liquidation or insolvency proceedings of an insurer the Bulgarian legislation shall be applied, unless otherwise stipulated in this section.

(2) For the labour contracts and the labour legal relations shall be applied the provisions of the law of the Member State, applicable to these contracts or legal relations.

(3) For contracts, with which right to using is provided or right of ownership over real property is transferred, whose location is on the territory of a Member State, the legislation of this Member State shall be applied.

(4) For the rights of the insurer over real property, vessel or aircraft, entered in a public register in a Member State, the law of this Member State shall be applied.

Consequences from the initiation of the liquidation or the insolvency proceedings

Art. 147. (*) (1) The initiation of the liquidation or insolvency proceedings shall not affect the real and the security rights of the creditors or the third parties in regards to the property of the insurer, which includes tangible and intangible assets, immovable and movable properties, separately or in totality, which by the date of initiating the proceedings is located on the territory of another Member State.

(2) The rights under par. 1 shall include:

1. the right of disposal with this property and satisfaction from the price or the incomes from it by virtue of pledge or mortgage;
2. the right of preferential satisfaction by virtue of pledge on the receivable or pursuant to transfer of the receivable as a security;
3. the right to claim return and/or restoration of property from every third party, who possesses or uses it without a legal basis;
4. the right of use of the property;
5. every right, entered in a public register and undefeatable to third parties, pursuant to which real or security right under items 1 – 4 could be acquired.

(3) The initiation of liquidation or insolvency proceedings of insurer shall not affect:

1. the rights of the seller under concluded with the insurer sale contract, with retaining the ownership until the payment of the price, in case by the date of initiating the proceedings the property is situated in the territory of another Member State;
2. the right of the buyer to acquire the ownership over the property sold by the insurer and this shall not be a ground of termination or cancellation of the sale contract, if the property has been given to the buyer, in case by the date of initiating the proceedings the property is located on the territory of another Member State;
3. the right of set-off of the insurer`s creditors, when the set-off is admissible/permmissible by the law, applicable to the receivable of the insurer.

(4) Out of the cases under par. 1 and 2 the consequences from the constitution of proceedings on liquidation or insolvency on the rights and liabilities under transactions, concluded on regulated market, shall be settled by the law, applicable to this regulated market.

(5) In case after initiating the proceedings on liquidation or insolvency the insurer has disposed against payment or gratuitously with real estate, vessel or aircraft, which are subject to entry in a public register, as well as with transferable or other securities, whose existence or transfer with entry in a register or an account, maintained on a legal basis, or which are included in a central depository system, regulated by the law of another Member State, the validity of a transaction or an action shall be regulated by the law of the Member State, on whose territory the real estate is located, respectively in which the register, the account or the depository system is maintained.

(6) The effect of the initiated liquidation or insolvency proceedings on pending court proceedings concerning property or right, withdrawn by the insurer, shall be regulated by the law of the Member State at the seat of the court before which the case is being considered.

Rights of the liquidator, the assignee and the creditors for retention of the property of the insurer
Art. 148. (*) (1) The provisions of art. 147, par. 1 and 3 shall not restrain the rights of the liquidator, the assignee or the creditors according to the Commercial law and the Law of obligations and contracts to refer to nullity or to claim declaration of invalidation or invalidity of actions or transactions in regards to the creditors.

(2) The provision of art. 147, par. 4 shall not restrain the rights of the liquidator, the assignee or the creditors according to the Commercial law and the Law of obligations and contracts to refer to nullity or to claim declaration of invalidation or invalidity in regards to the creditors of actions or transactions, concluded on a regulated market in accordance with the law, applicable to it.

(3) The liquidator, the assignee or the creditors can not refer to nullity or to claim declaration of invalidation or invalidity of actions or transactions in regards to the creditors of actions or transactions creditors according to the Commercial law and the Law of obligations and contracts in case a third party, who has acquired rights on them proves that the action or the transaction are regulated by the law of another Member State and that according to this law they are valid.

Application of the regulations for liquidation and insolvency at execution of compulsory administrative measures

Art. 149. (*) (1) Art. 139, par. 1 and 3, art. 140, 146 and 147 shall be applied respectively at application of the compulsory administrative measures under art. 302, par. 2, item 3 and 11.

(2) A decision for applying a measure under par. 1 shall be promulgated in State Gazette and in the Official Journal of the European Union along with information about the applicable law, the competent authority, executing supervision on the application of a recovery measure and the appointed assignee, 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 the insurance brokers and the insurance agents, who carry out insurance and/or reinsurance intermediation against remuneration.

(2) The insurance and reinsurance intermediaries can also carry out another commercial activity, unless stipulated otherwise by this code or by another law.

(3) The persons, who provide services of intermediation in connection with insurance contracts, are not insurance and reinsurance intermediaries, if at the same time the following conditions are available:

1. the insurance contract requires the knowledge only of the presented insurance coverage;
2. the insurance contract does not cover the risks under Life insurance;
3. the insurance contract does not cover the risks under items 10 – 13 from section II, letter "A" of appendix No 1;
4. the basic professional activity of the person is not insurance intermediation;
5. the insurance is an addition to a provided product or service and covers:
 - a) the risk of extinguishment, loss or damage of a provided good, or
 - b) damage or loss of luggage and other risks, connected with traveling, including the cases when the insurance covers risks under item 2 or 3, provided that this coverage is supplementary in regards to the essential coverage, related to the traveling;
6. the amount of the annual premium does not exceed 1000 BGN and the total duration of the insurance contract, including after its renewal, is not more than 5 years.

Exceptions

Art. 151. (1) The provisions of this part shall not be applied to insurance and reinsurance intermediation carried out, regarding risks located in third countries.

(2) The provisions of this part shall not apply to the insurers and the re-insurers, carried out by insurance and reinsurance intermediaries, situated in third countries.

Trade name

Art. 152. A person, who is not entered into the register under art. 30, par. 1, item 9 of the Law of the Commission for financial supervision, can not use in its name, advertising or other activity words in Bulgarian or foreign language, meaning carrying out insurance or reinsurance intermediation.

Chapter fourteen. INSURANCE BROKER

Section I. General provisions

Definition

Art. 153. (1) The insurance broker shall be a trade company or a sole trader, entered in the register under art. 30, par. 1, item 9 of the Law of the Commission of financial supervision, maintained by the Commission, who carries out insurance intermediation against remuneration upon assignment by a consumer of insurance services and upon assignment by an insurer or a re-insurer carries out reinsurance intermediation.

(2) The relations between the consumer of insurance services, respectively the insurer or the re-insurer, and the insurance broker shall be regulated by written contract, except in cases of intermediation in connection with the obligatory insurances under art. 249, item 1 and 2.

(3) At implementation of insurance intermediation the remuneration of the insurance broker shall be included in the insurance premium and shall be owed by the insurer, unless otherwise provided in the contract under par. 2.

(4) (amend. – SG 97/07) In carrying out his/her activity the broker shall be obliged to work out complete analyses of the insurance risks, of the proposals for insurance or reinsurance coverage, to provide consultation services, to negotiate the terms on behalf of a consumer of insurance services and in case of assignment by such or to conclude consumer insurance or reinsurance contracts, to observe the terms for renewal of the contracts and cooperate with the consumer of insurance services at the settlement of the claims upon occurrence of an insurance event.

Restrictions of the activity

Art. 154. (1) The insurance broker can not carry out activity as an insurance agent.

(2) The restriction under par. 1 shall also be applied to the members of the managing and control bodies of the insurance broker, to all other persons, authorized to manage and represent the insurance broker, as well as to his/her employees, occupied directly in carrying out insurance or reinsurance intermediation.

(3) The insurance broker can not be a stock-holder or an associate or a member of managing or control body of an insurance agent.

Section II. Conditions for carrying out activity as an insurance broker

Guarantees for the activity of the insurance broker

Art. 155. (1) The insurance broker shall be obliged to ensure the execution of his/her activities to transfer an insurance premium, paid to him/her, designated for the insurer, or to transfer to the

consumer of insurance services an insurance indemnity or a pecuniary sum, paid by the insurer, in one of the following ways:

1. by maintaining constantly own funds amounting to 4 percent of the total value of the insurance premiums under insurance and/or reinsurance contracts, concluded through his/her intermediation during the previous financial year, but not less than 30 000 BGN, or

2. by creating his/her own client account, by which shall be the remitted the insurance premiums for the insurer and the insurance indemnities or monetary sums for the consumer of insurance services.

(2) In case the insurance broker has not created conditions for ensuring the fulfillment of his/her obligations in the ways under par. 1, the pecuniary sums, which have been paid to him/her by the consumers of insurance services, shall be considered paid to the insurer, and the pecuniary sums, paid to the insurance broker by the insurer, shall not be deemed as paid-up to the consumer of insurance services till the latter does receive them, unless they have been paid to the insurance broker by the insurer under the explicit authorization for this given by the consumer of insurance services by a letter of attorney with notary certified signature.

(3) (suppl. – SG 97/07) The pecuniary funds under par. 1, item 2 are not part of the property of the insurance broker, they are not subject to distraint and are not included in the mass of insolvency upon initiating insolvency proceedings of the insurance broker. In the event of death of the insurance broker – sole trader, the deputy chairman shall assign a liquidator of the client account, who shall ascertain the claims and carry out payments related to it. With regards to the liquidator of the account shall be applied the requirements as per Art. 157, para 1, items 1 and 3 to 6.

(4) The insurance broker shall inform the deputy chairman which one of the ways for ensuring the fulfillment of the obligations under par. 1 he/she shall apply in his/her activity, about its subsequent changes as well as about the way in which the rights of the consumers of insurance services shall be guaranteed in the course/process of the change of this way. The deputy chairman may give additional instructions for protection of the interests of the consumers upon transfer from one way of ensuring the fulfillment of the obligations under par. 1 to another.

Maintenance of obligatory Professional liability insurance

Art. 156. (1) The insurance broker shall be obliged to maintain constantly obligatory Professional liability insurance, valid for the whole territory of the European Union and the European Economic Area, which covers the liability for damages, occurred on the territory of a Member State at carrying out activity of insurance and/or reinsurance intermediation as a consequence of his/her culpable action or inaction. The minimum sum insured shall be 2 000 000 BGN for each insurance event and 3 000 000 BGN for all insurance events in the course of one year.

(2) The insurance under par. 1 shall cover the liability for damages, caused by culpable action or inaction of employees of the insurance broker during or on occasion of the implementation of insurance and/or reinsurance intermediation.

Requirements to the insurance broker

Art. 157. (1) In case the insurance broker is a natural person – a sole trader, he/she must:

1. have a higher education;

2. have professional experience in the sphere of the insurance business or have passed successfully an exam for professional qualification, organized by the Commission;

3. not have been convicted to imprisonment for indictable crime, unless he/she has been rehabilitated;

4. not have been deprived of right to occupy material responsibility position;

5. (suppl. – SG 97/07) not have been, during the last three years prior to the initial date set by the court a member of managing or control body or an unlimited liable partner in a company, for which insolvency proceedings are initiated or a company winded up because of insolvency, in case dissenting creditors have remained;

have not been during the last three years prior to the initial date of the insolvency fixed by the court, a member of managing or control body or an unlimited liable partner in a company, with regards to which insolvency proceedings are initiated or in a company terminated due to insolvency, if unsatisfied creditors have remained.

6. not be declared insolvent or in insolvency proceedings.

(2) (suppl. – SG 97/07) In case the insurance broker is a legal person, the members of its managing and control body and all other persons, authorized to manage or represent it, must meet the requirements of par. 1.

(3) In case a member of managing or control body of the insurance broker is a legal person, the requirements of par. 1 shall refer to the natural persons, who represent them in these bodies.

(4) The employees of the insurance broker, directly engaged in carrying out insurance or reinsurance intermediation, must have secondary education at least and should meet the requirements of par. 1, items 3 to 6.

(5) The professional experience under par. 1, item 2 shall mean at least two consecutive years of work at a managerial position or at a position directly related to the conclusion and fulfillment of insurance contracts at an insurer, re-insurer, insurance broker or an insurance agent.

(6) The insurance broker shall be obliged to provide education for his/her employees under par. 4.

(7) The conditions and the order for conducting an exam for professional qualification under par. 1, item 2, as well as for recognition of a qualification, acquired in a Member State, shall be determined by the Commission with an ordinance.

(8) The professional requirements of this article to the insurance brokers – natural persons or sole traders, as well as to the members of their managing bodies and employees, in case they are legal persons, shall be obligatory.

Section III. Registration of the insurance broker

Documents necessary for entry in the register

Art. 158. For entering the insurance broker in the register under art. 30, par. 1, item 9 from the Law of the Commission for financial supervision shall be submitted an application according to a model, determined by the deputy chairman, to which shall be attached:

1. the statutes or the company contract – if it is a legal person;
2. information about the persons under art. 157, par. 2 and 3 - if it is a legal person, and documents, certifying the observation of the requirements under art. 157, par. 1 – if it is a natural person – sole trader;
3. information on the address of the office or the branch, where the activity of insurance intermediation shall be carried out;
4. a certificate of current status;
5. proofs of possession of own funds under art. 155, par. 1, item 1, in case the applicant has chosen this way of ensuring the fulfillment of his/her duties;
6. a certification from a bank, carrying out activity in the Republic of Bulgaria, for opening a client account under art. 155, par. 1, item 2, in case the applicant has chosen this way of ensuring the fulfillment of his/her obligations;
7. (new – SG 97/07) a document for paid fee for examination of documents.

Deciding on the application

Art. 159. (suppl. – SG 97/07) The deputy chairman shall pronounce a decision on the application for entering the register within one month from its receipt. At assertion of irregularities or if additional information is necessary, art. 33, par. 2, 4 and 5 shall be applied, provided that the term for removal the irregularities or for providing additional information is not shorter than 15 days. In case no irregularities have been found or they have been removed and/or additional information has been provided and there are no impediments to the entry, the deputy chairman shall notify the applicant thereof. The entry shall be carried out after payment of the relevant fee according to the tariff – Appendix to Art. 27, para 2 from the Law of the Commission of Financial Supervision.

Certification for registration

Art. 160. (1) After the entry of the insurance broker in the register the Commission shall issue a certification for registration according to a model, determined by the deputy chairman, containing the trade name, the seat and the registered office of the insurance broker, the register, in which he/she has

been entered, the ways by which the entry could be certified, as well as the names of the persons, authorized to manage and represent the insurance broker.

(2) (amend. – SG 97/07) The certification for registration shall be presented to the insurance broker after submitting at the Commission a certified copy of obligatory Professional liability insurance concluded in accordance with the requirements under art. 156.

(3) (amend. – SG 97/07) The certification for registration under par. 1 shall be attached to the application for entry of a change of the subject of activity and of the trade name of the broker in the commercial register, and it shall be a condition for its consideration by the court.

Grounds for refusal

Art. 161. (1) The deputy chairman shall refuse entry in the register, in case:

1. the requirements of this code have not been observed;
2. the applicant has submitted incorrect data or documents of untrue contents.

(2) The refusal of the deputy chairman for entry in the register shall be motivated in writing.

(3) In case of a refusal the applicant may submit a new application for entry in the register not earlier than 6 months after the entry into force of the decision under par. 1.

Notifications

Art. 162. (1) The insurance broker shall be obliged to notify the Commission of:

1. newly occurred facts and circumstances which are subject to entry into the register of the Commission;

2. changes in the circumstances entered in the trade register.

(2) The obligation under par. 1 shall be executed within 7 days term from the occurrence or the coming of knowledge of the respective fact or circumstance, and in case it is a subject to entry in the commercial register - within 7 days from the entry. The documents certifying the implemented change shall be applied to the notification.

(3) (new – SG 54/06) The insurance broker shall present before the Commission annual and period reports and references as per a form approved by an order of the deputy chairman.

Grounds for deletion from the register

Art. 163. (1) The deputy chairman shall write off the insurance broker from the register:

1. in case he/she has presented incorrect data or documents of untrue contents, which have served as a ground for the entry in the register;

2. if he/she has not started carrying out insurance intermediation activity in one year term after his/her entry into the register;

3. in case he/she has ceased carrying out activity for a period longer than 6 months;

4. when he/she no longer satisfies the requirements for carrying out activity as an insurance broker;

5. in case insolvency or liquidation proceedings are initiated with regard to him/her;

6. (suppl. – SG 97/07) if he/she has performed gross or systematic breaches of this code or of the acts on its application or other fundamental breaches of the law, ascertained by an act which has become effective;

7. in case of death of the natural person – sole trader;

8. upon request by the insurance broker.

(2) After the deletion from the register the insurance broker can not carry out insurance and reinsurance intermediation. The insurance broker shall be obliged to return the certification for registration, issued by the Commission, within 7 days term from the date on which he/she has been informed of the deletion.

Chapter fiveteen. INSURANCE AGENT

Section I. General provisions

Definition. Types

Art. 164. (1) The insurance agent shall be a natural person or a trader, entered in the register under art. 33, par. 1, item 9 from the Law of the Commission for financial supervision, maintained by the Commission, who upon assignment by an insurer carries out insurance intermediation against remuneration for and on behalf of the insurer. The insurance agents shall be bound and unbound.

(2) The bound insurance agent can not collect premiums and implement payments to the consumers of insurance services.

(3) The relations between the insurer and the insurance agent shall be regulated by a written contract - "Insurance agency contract". The type of the agent shall obligatorily be pointed out in the insurance contract.

Restrictions of the activity

Art. 165. (1) The insurance agent can not work for an insurance broker.

(2) The execution of activity as an insurance agent by a natural person shall be a freelance profession.

(3) The insurance agent - a natural person, can not be under legal terms of employment with the insurer.

Specific restrictions

Art. 166. (1) The insurance agent can mediate for one insurer, who has acquired a license for carrying out insurance activity, including insurances under section I from appendix No 1, and for one insurer, who has acquired a license for carrying out insurance activity, including insurances under section II from appendix No 1.

(2) The insurance agent can also carry out insurance intermediation for other insurers with the consent of the persons under par. 1, if he/she performs intermediation on insurances, other than the kinds of insurances, for which he/she has been authorized by the insurers under par. 1.

Section II. Conditions for carrying out activity as an insurance agent

Guarantees for the activity of the insurance agent

Art. 167. (1) The insurance agent – natural person, or the persons, who manage or represent the insurance agent – legal person, should have good reputation, secondary education at least and must meet the requirements of art. 157, par. 1, item 3 – 6. The employees of the insurance agent, directly engaged in insurance intermediation, must meet the requirements of art. 157, par. 4.

(2) The insurance agent shall be obliged to maintain obligatory Professional liability insurance, valid for the whole territory of the European Union and the European Economic Area, which covers the responsibility for damages, occurred on the territory of a Member State in carrying out insurance intermediation activity as a consequence of his/her culpable action or inaction. The minimum sum insured shall be 2 000 000 BGN for each insurance event and 3 000 000 BGN for all insurance events in the course of one year.

(3) The insurance under par. 2 shall cover the responsibility for damages, caused by culpable action or inaction of the insurance agent – natural person, or of his/her employees, in case he/she is a legal person, during or on occasion of the implementation of insurance intermediation.

(4) The duty under par. 1 and 2 shall be considered to be fulfilled, if the insurance agent presents a declaration from the insurer/insurers, who have authorized him/her to carry out insurance intermediation, for bearing full responsibility for his/her actions as an intermediary.

(5) For the insurance agent – legal person or sole trader, the provisions of art. 155 shall be applied. The insurance agent – legal person, shall declare before the insurer the circumstances under art. 155, par. 4.

(6) For the insurance agent – natural person the provisions of art. 155, par. 1, item 2 and par. 3 shall be applied, unless a declaration under par. 4 is available.

(7) (new – SG 97/07) The requirement for opening a client account by the insurance agent shall not apply in those cases where the insurer has empowered the agent to operate with his/her account, by which are directly remitted the insurance premiums, intended for the insurer, and the insurance indemnities or monetary sums, designated for the consumer of insurance services.

(8) (prev. text of para 7 – SG 97/07) The monetary funds, paid by the consumers of insurance services to the insurance agent, shall be considered paid up to the insurer, and the monetary funds, paid to the insurance agent by the insurer, shall not be considered to be paid up to the consumer of insurance services until the latter receives them.

Training of the insurance agents

Art. 168. (1) The insurers shall be obliged to provide training for the insurance agents, with whom they have concluded an insurance agency contract, as well as for their employees, directly engaged in carrying out insurance intermediation. The training should correspond to the requirements, connected with the insurances, offered by the insurance agents.

(2) The insurer shall be obliged to conduct an exam at the end of the training and to issue a certification for the insurance agents, who have passed the exam successfully, which shall certify the presence of professional qualification, related to the knowledge and the offering of the insurances, as well as the right to offer the kinds of insurances, indicated in the certification.

Check for observing the requirements

Art. 169. (1) Prior to concluding an insurance agency contract, the insurer shall establish whether the person, with which he/she concludes a contract, meets the requirements of art. 167, par. 1 in connection with art. 157, par. 1, items 3 – 6.

(2) In case the person under par. 1 does not have a Professional liability insurance or does not satisfy the requirements of art. 167, the insurer, who has concluded a contract with him/her, shall bear the full responsibility for his/her actions in connection with the implementation of the insurance intermediation under the contract.

Entry in the register

Art. 170. (1) The insurer shall keep a list of the persons, with which he/she has insurance agency contracts concluded, according to a model, determined by the deputy chairman. The respective documents under art. 158 shall be attached to the list.

(2) (suppl. – SG 97/07) The insurer shall submit an application to the Commission for entry of the persons, included in the list of par. 1, into the register under art. 30, par. 1, item 9 from the Law of the Commission for Financial Supervision. The insurance agent shall be obliged to submit an application for entry in the register of the Commission individually, in case he/she performs intermediation for an insurer from another Member State, carrying out activity in the Republic of Bulgaria under the terms of freedom to provide services, and shall submit the respective documents pursuant to Art. 158 within 14 days term from concluding the insurance agency contract.

(3) (suppl. – SG 97/07) The insurer shall reflect each change of the facts and the circumstances in the list under par. 1 and shall notify the Commission thereof. In the cases referred to in para 2, sentence two, the notification of change of facts and circumstances shall be carried out by the insurance agent.

(4) (amend. – SG 97/07) The obligation under par. 3 shall be fulfilled within 7 days term after coming of knowledge of the respective fact or circumstance.

Certification for identification

Art. 171. After the entry of the insurance agent into the register the insurer shall issue a certification for identification according to a model, determined by the deputy chairman, which shall contain at least the following information:

1. the name and the address of the natural person, respectively the trade name, the seat and the registered office of the insurance agent - sole trader;
2. the address of the office or the branch, where the activity is carried out;
3. the kinds of insurances, which he/she can offer, and the maximum amount of the sum insured, up to which he/she can conclude such insurances;
4. the names of the persons, authorized to manage and represent the insurance agent – legal person;
5. the register, in which he/she is entered and the ways in which the entry could be certified.

Grounds for deletion from the register

Art. 172. (1) For the deletion the register of the insurance agent art. 163, par. 1 shall be applied respectively. The deputy chairman shall also write off the insurance agent from the register at termination of the insurance agency contract by an order.

(2) After the deletion from the register the insurance agent can not carry out insurance intermediation. The insurance agent shall be obliged to return the issued certification for identification.

Chapter sixteen.

REQUIREMENTS FOR THE ACTIVITY OF THE INSURANCE INTERMEDIARIES

Principles

Art. 173. In carrying out their activity the insurance intermediaries shall be obliged to observe the principle of voluntariness and to explain the rights and the duties under the insurance contract conscientiously and with the due care obligations with regards to the protection of the interests of the consumers of insurance services.

Keeping a secret

Art. 174. In carrying out his/her activity the insurance broker and the insurance agent shall be obliged to keep the trade secret and the prestige of the insurer and the re-insurer, as well as the insurance secret, by not using the information received for purposes, other than those connected to exercising of the rights and for fulfilment of the duties under the insurance legal relation.

Documents for identification

Art. 175. In carrying out his/her activity the insurance broker shall establish his/her identity by the certification for registration, issued by the Commission, and the insurance agent – by the certification for identification, issued by the insurer.

Accountancy and control of the insurance agent

Art. 176. (1) The insurance agent shall report regularly to the insurer by an order and in a way, provided for in the insurance agency contract.

(2) The insurance agent shall be subject to control by the internal control unit of the insurer, for whom he/she carries out insurance intermediation.

Provision of information to consumers of insurance services

Art. 177. (1) At conclusion of insurance contract and, if necessary, at its amendment or renewal the insurance broker and the insurance agent shall provide to the consumer of insurance services at least the following information:

1. their name and address, respectively trade name, and registered office;
2. the register in which they are entered and the ways in which the registration could be certified;
3. whether they own directly or through related persons more than 10 percent of the votes in the general assembly or of the capital of the insurer;
4. (amend. – SG 59/06, in force from 01.01.2007) whether an insurer or a parent company of an insurer owns directly or through related persons stocks or shares, representing more than 10 percent of the votes in the general assembly or of the capital of the insurance broker or the insurance agent;
5. the order, by which complaints could be submitted by the consumers of insurance services and other interested persons against the insurance broker or the insurance agent, as well as the procedure of out of court disputes settlement between them;

(2) At conclusion of the insurance contract the insurance broker and the insurance agent shall also inform the consumer of insurance services whether in connection of the contract offered:

1. they give their advices on grounds of the obligation under par. 3, or

2. they have contractual duty to carry out insurance intermediation for one or more insurers; in this case upon request by the consumer of insurance services the insurance broker or the insurance agent shall present the names of those insurers, or
 3. they do not have a contractual duty to carry out insurance intermediation exclusively for one or more insurers and do not give advices on grounds of the obligation under par. 3; in this case upon request by the consumer of insurance services the insurance broker or the insurance agent shall present the names of those insurers, for which he/she can carry out insurance intermediation.
- (3) If the insurance broker or the insurance agent informs the consumer of insurance services that he/she gives advices on grounds of a just analyses, he/she shall be obliged to give these advices after an analyses of large enough number of insurances in order to be able to make a professional reference on the insurance, which would be the most appropriate in regards to the needs of the consumer of insurance services.
- (4) Prior to conclusion of a specific insurance contract on grounds of information in writing, provided by the consumer of insurance services, the insurance broker and the insurance agent shall be obliged to define his/her requirements and necessities, as well as their grounds for the advices, given to the consumer concerning the specific insurance.
- (5) The requirements for providing information under par. 1 – 4 shall not be applied in case the insurance broker or the insurance agent carries out insurance intermediation on insurance of large risks, as well as at performing reinsurance intermediation.

Requirements to the provided information

Art. 178. (1) The information under art. 177, shall be provided on a paper or another permanent carrier, accessible to the consumer of insurance services in the official language of the Member State where the risk is located, or in another language, which the parties have contracted, and it should be clear, precise and understandable to the consumer of insurance services.

(2) The information under art. 177 may be provided orally upon request by the consumer of insurance services and in case immediate coverage is necessary. In these cases the information shall be provided to the consumer of insurance services by the order of par. 1 immediately after the conclusion of the insurance contract.

Chapter seventeen.

CARRYING OUT ACTIVITY BY INSURANCE BROKER AND INSURANCE AGENT FROM THE REPUBLIC OF BULGARIA IN ANOTHER MEMBER STATE. CARRYING OUT ACTIVITY IN THE REPUBLIC OF BULGARIA BY INSURANCE BROKER AND INSURANCE AGENT FROM ANOTHER MEMBER STATE (*)

Section I.

Carrying out activity by insurance broker and insurance agent from the Republic of Bulgaria in another Member State

Right of establishment and freedom to provide services

Art. 179. The insurance broker and insurance agent, registered under the conditions and by the order of chapter fourteen, respectively chapter fifteen, can carry out activity on the territory of another Member State under the conditions of the right of establishment and the freedom to provide services.

Notifying and starting activity

Art. 180 (1) The insurance broker and insurance agent, registered in the Republic of Bulgaria, who intends to carry out activity in one or more assuming countries under the conditions of the right of establishment and the freedom to provide services, shall preliminarily notify the Commission thereof.

(2) (suppl. – SG 97/07) In one month term after receiving the notification under par. 1 the Commission shall inform the respective competent authority of the assuming country, in case the country wishes to be informed, about the intention of the insurance broker and insurance agent to carry out activity on its territory. The Commission shall inform immediately the insurance broker, respectively the insurance agent about the notifying of the competent authority of the assuming Member State or of the fact that the assuming Member State does not wish to be informed.

(3) The insurance broker, respectively the insurance agent can start carrying out activity on the territory of the assuming Member State after the expiry of one month from the notification according to par. 2. If the assuming Member State does not wish to be informed, the insurance broker, respectively the insurance agent can start performing his/her activity immediately, observing the law of the assuming Member State.

(4) The Commission shall immediately notify the competent authority of the assuming country in case the insurance broker, respectively the insurance agent is being written off the register under art. 33, par. 1, item 9 from the Law of the Commission for financial supervision.

Section II.

Carrying out activity in the Republic of Bulgaria by insurance broker and insurance agent from another Member State

Right of establishment and freedom to provide services

Art. 181. An insurance intermediary, registered in a Member State, can carry out activity in the Republic of Bulgaria under the conditions of the right of establishment and the freedom to provide services.

Starting activity

Art. 182. An insurance intermediary under art. 181 can start carrying out activity in the Republic of Bulgaria under the conditions of the right of establishment or the freedom to provide services after the expiry of one month from the notification of the Commission by the respective competent authority of the country of origin about the intention of the insurance intermediary to carry out activity in the Republic of Bulgaria.

Part four. INSURANCE CONTRACT

Chapter eighteen. GENERAL PART

Definition

Art. 183. (1) Under an insurance contract the insurer shall be obliged to undertake certain risk against paying a premium and at occurrence of insurance event to pay to the insured person or to third party beneficiary an insurance indemnity or a cash sum.

(2) To the insurance contracts shall be applied the general regulations of the Commercial law and the Law of obligations and contracts, unless otherwise provided by this code.

Form

Art. 184. (1) The insurance contract shall be concluded in writing in the form of insurance policy or another instrument in writing. Upon request by the insured person for certification of a concluded insurance contract the insurer shall also issue an insurance certificate or a certification document. The insurer shall obligatorily issue an insurance certificate, a certification document or another written document, certifying a concluded insurance contract, if this is provided by a law.

(2) The written proposal or request to the insurer for concluding an insurance contract or the answers in writing of the insured person to questions concerning circumstances of importance for the nature and the extent of the risk, raised by the insurer, shall be an inseparable part of the insurance contract.

(3) The insurance contract shall contain:

1. the names and addresses of the parties;
2. the subject matter of the insurance contract;
3. the insurance risks covered;
4. the term of the contract, including the commencement and the end of the insurance coverage;
5. the sum insured or the manner of its calculation;
6. the insurance premium or the manner of its calculation, as well as the terms and the order for its payment;
7. the amount of the self-participation, in case such has been contracted by the parties;
8. the name and the address of the insurance intermediary, if the contract has been concluded through/by an intermediary, and for the insurance agents – also the number of their identification document;
9. the date and the place of conclusion of the contract;
10. the signatures of the parties.

(4) At concluding insurance contract in favour of a third party the contract should contain the names, respectively the trade name and the address of the third party beneficiary or the way in which it could be defined.

(5) In case the contract is concluded with insurer performing activity in the Republic of Bulgaria under the conditions of the freedom to provide services, in the contract shall be entered the name (trade name) and the address of the representative under art. 55, par. 3, respectively of the branch or of the representative under art. 269, par. 7, assigned to execute his/her functions.

(6) The written form of the insurance contract shall be considered observed also in case it is prepared in the format of electronic document within the meaning of the Law for the electronic document and electronic signature.

(7) (amend. – SG 105/06, in force from 01.01.2007) The insurance contract may also be concluded by means of distant communication, observing the provisions of this code, in case it is stipulated by a law.

(8) The insurer shall be obliged to supply the insured person with a certified copy of the instrument in writing under par. 1 within 7 days term from the request. The lack of the original copy shall not serve as a ground for refusal or for reduction of the insurance payment.

Information for the consumers of insurance services

Art. 185. (1) Before the conclusion of the insurance contract under section I from appendix No 1 the insurer shall be obliged to concede in appropriate written form information to each consumer of insurance services about the respective kind of insurance, which must contain:

1. the name (trade name) of the insurer and his/her legal organization form;
2. the seat, the registered office of the insurer and the address of the branch, concluding the contract;
3. the covered risks, the exceptions from coverage, the opportunities for amendment of the insurance contract according to the general conditions;
4. the term and the ways for termination of the contract;
5. the term and the ways for payment of the premiums, the consequences of non payment, the amount of the premium, which corresponds to the basic and the additional coverage;
6. the prerequisites and the term for payment of insurance indemnity or pecuniary sum;
7. the methods of calculation and distribution of bonuses, if such are provided;
8. the manner of calculating the buy-out values and the reduced sum insured in case of cancellation of the payments prior to expiry of the contractual term, as well as the value, up to which they are insured – under the contracts for insurances of section I, item 1, 2, 3 and 5 from appendix No 1;
9. upon Life insurance contract, connected with an investment fund under section I, the specific investment funds, where the resources can be invested, shall be comprehensively enumerated;
10. the procedures for settlement of disputes between the parties to the insurance contracts, according to the internal rules of the insurer, without affecting the right to claim by judicial order;
11. the conditions, under which unilateral termination of the contract is possible;
12. general information on the taxes and the fees in connection to the contract;

13. the law, applicable to the contract, when the parties do not have a free choice of applicable law, respectively the applicable law, proposed by the insurer, in case the parties do have a free choice.

(2) At the time of the effect of the contract the insurer under par. 1 shall be obliged to provide to the insured person:

1. information on every change in the circumstances under par. 1, items 1 and 2;
2. the information under par. 1, items 3 – 9 in case of amendment of the general conditions of the contract or the law, applicable to the insurance contract, and
3. annual information on the condition of the bonuses.

(3) Prior to the conclusion of an insurance contract under section II from appendix No 1, the insurer shall be obliged to provide every consumer of insurance services – natural person, with information on the respective kind of insurance in appropriate written form, containing the circumstances under par. 1, item 1, 2, 10 and 13. The information under par. 1, item 1 and 2 shall be indicated in every document, which shall be sent to the insured person.

(4) In case the insurance contract is concluded via an insurance broker or an insurance agent, the information under par. 1 or 3 shall be provided by them.

(5) The provisions of par. 1 – 4 shall not be applied to insurance contracts on large risks.

General conditions

Art. 186. (1) The general conditions of the insurer, established in advance for the conclusion of a definite kind of insurance, shall bind the insured person, if they have been given at the conclusion of the insurance contract and he/she has declared in writing that accepts them. Upon non-compliance between the insurance contract and the general conditions the stipulated within the contract shall have an effect.

(2) The general conditions of the insurer shall be adopted by its managing body, provided that the date of the adoption and of their consequent amendments and supplements shall obligatorily be indicated in them.

(3) (suppl. – SG 97/07) The general conditions of the insurances shall not comprise a legally protected secret and the insurer may not refuse access there to. The insurer shall be obliged to present to the consumer of insurance services the general conditions of the insurance before the conclusion of the insurance contract. In case there is a questionnaire prepared for the insurance, the general conditions shall provide along with it.

(4) The amendment or the replacement of the general conditions with new ones throughout the duration of the insurance contract shall have an effect for the insured person only if the amendments or the new general conditions have been given to him/her and he/she has confirmed them in writing.

(5) The general conditions must define clearly and unambiguously:

1. the risks covered and the exemptions from coverage;
2. the conditions of payment and the premiums on behalf of the insured person and the consequences of non payment or of inaccurate payment;
3. the duties of the insurer, the term of payment and the manner of determining the amount of the payments;
4. the obligations of the insured person upon occurrence of the insurance event and for its proving;
5. the circumstances, connected with changes in the insurance legal relation;
6. the conditions and the amount of the preliminary payments or loans against insurance Life policies and their buying-up.

Entering into force of insurance contract

Art. 187. The insurance contract shall enter into force after the payment of the whole premium due or the first premium of it in case of deferred payment of the premium, unless otherwise provided by a law or in the contract is stipulated otherwise.

Obligation for declaration

Art. 188. (1) (suppl. – SG 97/07) Upon conclusion of the insurance contract the insured person, his/her proxy or insurance broker shall be obliged to declare precisely and exhaustively the material circumstances of his/her knowledge and of importance to the risk.

- (2) Material circumstances under paragraph 1 shall be considered to be those for which the insurer has put questions in writing.
- (3) A failure to answer a question, without concealing material circumstances to the risk, shall not be reason for unilateral termination of the insurance contract, for request of its modification or for refusal of paying an indemnity under art. 189.

Intentional incorrect declaration or holding back

Art. 189. (1) If the insured person has intentionally declared incorrectly or held back a circumstance under which the insurer would not have concluded the contract if had he/she been of knowledge thereof, the insurer may terminate the contract. He/She may exercise that right within one month after coming of knowledge of the circumstance.

(2) In cases under par. 1 the insurer shall retain the paid part of the premium and shall be entitled to claim its payment for the period till the termination of the contract.

(3) Where the intentionally incorrectly declared or held back circumstance is of such nature that the insurer would have concluded the contract, but under different conditions, he/she may request modification of the contract. This right may be exercised within one month after coming of knowledge of such circumstance. If the insured person does not accept the proposal for modification of the contract within two weeks following the receipt of such proposal, the contract shall be terminated with the consequences pursuant to par. 2.

(4) Where in the cases under par. 1 or 3 an insurance event occurs, the insurer may refuse to pay entirely or partially insurance indemnity or the sum insured, only provided that the incorrectly declared or held back circumstance has affected the occurrence of the event. In case a circumstance under par. 1 or 3 has only had the effect of increasing the amount of the damages, the insurer can not refuse payment, but he/she may reduce it according to the ratio between the amount of the premium paid and the premium, which has to be paid in compliance with the actual insurance risk.

(5) If the insured person has concluded the contract through a representative or on account of a third party, it shall be sufficient that the concealed circumstance was known by the insured person or his/her representative, or the third party, respectively.

Unintentional incorrect declaration

Art. 190. (1) In case upon conclusion of the contract the parties have not been of knowledge of the circumstance under Art. 188, par. 1, each of them may, within two weeks after coming of knowledge of that, propose amendment to the contract.

(2) If the other party does not accept the proposal under par. 1 within two weeks following its receipt, the proposing party may terminate the contract and notify the other party in writing thereof.

(3) Should the contract be terminated, the insurer shall reimburse a part of the premium corresponding to the unexpired term of the insurance contract.

(4) In case of occurrence of an insurance event before the amendment or the termination of the contract, the insurer may not refuse to pay insurance indemnity or the sum insured, but may reduce them according to the ratio between the amount of premiums paid and the premiums to be paid in compliance with the actual risk.

Declaration of newly occurred circumstances

Art. 191. (1) Throughout the duration of the contract the insured person shall be obliged to declare before the insurer any newly occurred circumstances, for which the insurer has put questions in writing at the time of conclusion of the contract. The declaration of circumstances should be performed instantly after coming of knowledge thereof.

(2) In the case of non-fulfillment of the obligation under par. 1, art. 189 and 190 shall be applied.

(3) The insured person shall be obliged to notify immediately the insurer of a change of the address, indicated in the insurance contract and to inform the insurer of his/her new address. Till the receipt of the notice for the change of the address of the insured person, the notices, sent by him/her to the address of the insured person, declared in the insurance contract, shall be considered to be delivered and received by the insured person with all the legal consequences, provided in the law or in the contract.

Insurance premium

Art. 192. (1) The whole insurance premium or the first installment under deferred payment of the premium, shall be paid upon the conclusion of the insurance contract, unless otherwise agreed.
(2) In case throughout the duration of the contract the insurance risk increases or reduces considerably, each of the parties may request respective increase or decrease of the insurance premium and a termination of the contract.

Payment of insurance indemnity or sum insured

Art. 193. (1) At occurrence of the insurance event the insurer shall be obliged to pay to the insured person insurance indemnity or sum insured.

(2) The insurer may not be obliged above the sum insured, unless this is provided under this code or agreed between the parties.

Self- participation

Art. 194. (1) The parties to the insurance contract may agree a self-participation for the insured person, which shall mean undertaking part of the responsibility by him/her in case of occurrence of the insurance event. The self-participation can be conditional and unconditional.

(2) At the unconditional self-participation the insured person shall undertake the responsibility of occurrence of the insurance event up to a fixed amount upon every damage.

(3) At the conditional self-participation the insured person shall pay the full amount of the damage, if it exceeds the amount of the self-participation, determined in the insurance contract. The damages, which do not exceed the amount of the conditional self-participation, determined within the insurance contract, shall be undertaken by the insured person.

(4) The amount of the self-participation can not exceed 50 percent of the sum insured under the contract.

(5) A self-participation shall not be allowed under obligatory insurances of risks in connection to the life and the health of natural persons under the obligatory Civil liability insurance of the motorists as well as under Life insurance.

Insurance interest

Art. 195. (1) An insurance contract where there is no interest in the insurance shall be invalid.

(2) The insured person shall be entitled to claim reimbursement of the whole premium paid, or the part of it paid under deferred payment, except where he/she has been or should have been aware of the lack of interest.

(3) The insurance contract shall be terminated, if the interest ceases to exist in the course of the duration of the contract. The insurer shall be entitled to keep the part of the premium, corresponding to the expired term of insurance contract till its termination.

Termination

Art. 196. (1) The insurance contract shall be terminated by the expiry of the term, for which it has been concluded, as well as in the cases, stipulated under this code.

(2) The insurance contract may also be terminated on grounds, provided in it, if they do not contradict the rules of good ethics and the interests of the consumers of insurance services are not affected without a ground.

Limitation

Art. 197. The rights under an insurance contract shall expire by limitation after three years, and under insurances Life and Accident and at Civil liability insurances under item 10 – 13 of section II, letter "A" from appendix No 1 - after five years from the date of occurrence of the insurance event.

Exemption from seizure

Art. 198. (1) Compulsory execution for the sum insured under Life and Accident insurances shall not be allowed, as well as for the indemnity under Civil liability insurance.

(2) Compulsory execution for insurance indemnity under a property insurance shall be allowed in cases where it may be directed against the property insured.

Co-insurance contract

Art. 199. (1) By the co-insurance contract two or more insurers share between them the responsibility under an insurance contract, concluded already with one of them, or under a contract, which is to be concluded.

(2) In the co-insurance contract the parties shall obligatorily define:

- a) the leading insurer;
- b) the ratio, in which the insurers undertake the responsibility;
- c) the distribution of the insurance premium;
- d) the applicable general conditions.

(3) The relations with the insured person under the insurance contract shall be performed by the leading insurer, unless otherwise agreed.

(4) Within seven days term from the conclusion of the insurance contract the leading co-insurer shall inform the insured person of the circumstances under par. 2, if they are not evident from the insurance contract. If the insured is a natural person, the notifying shall be performed by the order of art. 185.

(5) The insured person shall have the right to wind up the insurance contract by a notice in writing to the leading co-insurer in seven days term after the notifying under art. 4.

(6) If the insured person has been informed pursuant to par. 4, the co-insurers shall be liable to him/her, each of them for their part, according to the ratio in which they have undertaken the responsibility, unless otherwise agreed in the insurance contract.

Insurance concluded in favour of a creditor

Art. 199a. (*) (new – SG 97/07) (1) In case of insurance concluded in favour of a creditor, and in case insurance event has occurred, the insurer shall be responsible to the creditor up to the amount of the outstanding part of the obligation, for the securing of which the insurance contract has been concluded, together with the interest and expenditures by the date the insurance event occurs. Where the compensation or the insurance sum, due according to the contract's terms, exceed the size under sentence one, it shall be paid to the debtor, his/her successors or the beneficiary parties.

(2) An insurance contract between a creditor and insurer in relation to tangible and intangible property belonging to a debtor shall be concluded in favour of a creditor in order to secure a claim of the latter only if explicit consent in writing has been expressed by the debtor in advance.

(3) The contract referred to in para 2 shall obligatory be concluded under general terms and conditions according to Art. 186. Where there is any non-conformity between the insurance contract and the general terms and conditions, shall be applied the regulations of which the debtor has been informed in advance in writing.

(4) The creditor shall be obliged to provide the debtor in advance with the whole information relating to the conclusion and the fulfillment of the contract, including:

1. general terms and conditions with regards to the insurance and information concerning the insurer, the subject of activity, insurance sum, the insurance's term and the beneficiary parties;
2. the questions raised by the insurer as per Art. 188;
3. the answers, given by the creditor.

(5) By the 15th of the month following the month during which the contract under para 1 has been concluded, the creditor shall be obliged to provide the debtor with a certificate, containing information about the insurer, insurance subject, insurance sum, the term of the insurance and the beneficiary parties.

(6) The creditor shall be obliged to inform in writing the debtor of any changes, actions, inactions or other circumstances which are likely to result in termination of the contracts, reduction of the amount of insurance indemnity or sum or may affect the debtor's interests in another way. An insurer may not refuse to the debtor upon request of the latter to provide information under sentence one.

Chapter nineteen. PROPERTY INSURANCE

Section . General provisions

Subject of the insurance contract

Art. 200. Subject of the insurance contract for property insurance may be any right, which could be evaluated in money for the insured person.

Conclusion of a contract without authorization

Art. 201. (1) A person, who in his/her own name insures the property of another, shall be personally liable for payment of the insurance premium.

(2) The insurance contract for someone else's property shall be valid, if an approval by the owner of the insured property is available.

(3) If the premium has been regularly paid, the approval of the insurance contract shall have an effect, even if it is provided after the occurrence of the insurance event.

Deferred payment of the insurance premium

Art. 202 (1) In the cases of deferred payment the installments of the insurance premium shall be paid in the term, set in the insurance contract. When the deferred installment of the insurance premium has not been paid, the insurer may reduce the sum insured, modify the contract or terminate it.

(2) The insurer may exercise the rights under par. 1 no earlier than 15 days, considered from the date, when the insured person has received a written notification. The written notification shall also be considered delivered when the insurer has explicitly pointed out in the insurance policy which one of the rights under par. 1 he/she will exercise after the expiry of the 15 days term from the due date of deferred installment.

(3) When an insurance event had occurred before the insured person has paid in full the whole insurance premium, the insurer may deduct the amount of the premium due from the amount of the insurance indemnity.

(4) Where it has been negotiated that the insurance coverage should start, before the payment of the whole premium or the first installment at deferred payment, the insurer shall be entitled to request its payment along with the lawful interest from the date of the default.

Sum insured

Art. 203. (1) The sum insured may not exceed the actual or the replacement value of the property.

(2) Actual value shall be considered the one, for which another property of the same quality could be purchased instead of the insured property.

(3) Replacement value shall be considered the cost for replacement of the property of the same quality, including all inherent expenses for delivery, construction, installing and others with no deduction for depreciation.

(4) When there is nothing else agreed, it shall be assumed, that the sum insured is specified according to the actual value of the property. The insurer shall be entitled to inspect the property in order to ascertain the actual value.

Over insurance

Art. 204. (1) Where a sum insured has been agreed, which exceeds the actual, respectively the replacement value of the property insured, the contract shall remain in force, whereas the sum insured shall be reduced to the amount of the actual, respectively the replacement value.

(2) The insurer shall not be obliged to return the part of the premium corresponding to the difference between the sum insured and the actual, respectively the replacement value of the property insured, unless the insured person has acted in good faith.

Under insurance

Art. 205. (1) (1) Where a sum insured has been agreed which is less than the actual, respectively the replacement value of the property insured, and it is destroyed or damaged, the indemnity shall be determined in accordance with the ratio of the sum insured to the actual, respectively the replacement value.

(2) Where the insurance contract has been concluded with a clause against first risk, the full amount of damages shall be compensated, provided it does not exceed the sum insured.

(3) (new – SG 97/07) In case an insurance as per Art. 199a has been concluded, the debtor shall be entitled to demand the calculation of the insurance sum to be carried out on the basis of actual or replacement value of the property insured, provided that the latter commits himself/herself to pay the additional insurance premium.

Obligation for notification

Art. 206. (1) In the case of occurrence of the insurance event the insured person shall be bound to notify the insurer within seven days after becoming aware of it, unless the contract provides another appropriate term.

(2) The term for notification under the contract may not be shorter than 3 days after coming of knowledge. In case of insurances against theft or larceny risk, the term for notification under the contract may not be shorter than 24 hours after the coming of knowledge.

(3) The insurer shall have the right to refuse the payment, if the insured person has not fulfilled his/her obligations within the terms under par. 1 and 2, aiming to prevent the insurer from establishing the circumstances, at which the event has occurred, or if the non-fulfillment has made it impossible for the insurer to establish the circumstances.

Preventing and limiting the damages

Art. 207. (1) The insured person shall be obliged to take measures for protection of the property insured from damages, to comply with the instructions of the insurer and the competent bodies for elimination of sources of danger of causing damages and to allow access of the insurer for inspections.

(2) Upon non-fulfillment of the obligations under par. 1, the insurer shall be entitled to terminate the insurance contract only if the insurance event has not occurred. In case the insurance event has occurred, the insurer may reduce the insurance indemnity respectively. If the occurrence of the insurance event is a consequence of the non-fulfillment of the obligations under par. 1, the insurer may refuse to pay, only in case he/she has explicitly pointed that out in the contract.

(3) When an insurance event has occurred, the insured shall be obliged to allow the insurer to make visual inspection of the damaged property and to provide the documents, requested by the insurer, that are relevant to the ascertainment of the event and the amount of the damages.

(4) The insured person shall be obliged to perform the activities necessary for limiting the damages from the insurance event and to comply with the instructions of the insurer.

Insurance indemnity

Art. 208. (1) At occurrence of an insurance event the insurer shall be obliged to pay the insurance indemnity within the agreed time period. The term may not be longer than 15 days and shall commence from the day, on which the insured person has fulfilled his/her obligations under art. 206, par. 1 or 2 and art. 207, par. 3.

(2) The insurer shall indemnify the insured person separately for expenses, he/she has made for restriction of the damages, provided he/she has acted with the appropriate care for the case, even if his/her efforts have been unsuccessful. In this case the insurer may be liable for amounts exceeding the sum insured, when the expenses have been made in compliance with his/her instructions.

(3) The indemnity shall be equal to the amount of damage by the date of occurrence of the event. The insurer shall not owe compensation for lost profits, unless otherwise agreed in the insurance contract.

(4) When two or more insurance contracts have been concluded for one property right upon equally covered risks insured, provided that the sum of the separate sums insured exceeds the actual value of the property insured, each insurer shall be responsible in such proportion, in which the sum insured under the concluded by this insurer insurance, shall be related to the common sum insured of all insurances. The insured person shall be obliged to notify each of the insurers for the existence of other

insurance contracts, by indicating the other insurers and the sums insured from the contracts concluded.

(5) If after paying the insurance indemnity, the illegally deprived or lost insured property, is found, the insured person shall be obliged to transfer the property right to the insurer or to a person, pointed out by the insurer in writing. In case the insured person expresses will to keep the property found, he/she shall be obliged to pay back to the insurer the received indemnity.

Restoration of damages

Art. 209. (1) At occurrence of the insurance event, with the consent of the insured person, the insurer may also restore in kind the damages endured by him/her.

(2) The term for restoration of damages can not be longer than 45 days, considered from the date, on which the insured person has fulfilled his/her obligations under art. 206, par. 1 or 2 and art. 207, par. 3.

Partial loss

Art. 210. In case of partial loss of the insured property, it shall be considered insured till the expiry of the term of the insurance contract at an amount, equal to the difference between the initial sum insured and the insurance indemnity paid, unless otherwise provided in the insurance contract.

Refusal to pay the insurance indemnity

Art. 211. The insurer may refuse to pay insurance indemnity only:

1. when the insurance event has been deliberately caused by the insured person or by a third party beneficiary;
2. in case of non-fulfillment of obligation under the insurance contract, which is significant regarding the insurer's interest and it has been stipulated by a law or by the insurance contract;
3. in other cases, stipulated by law.

Transfer of the insured property

Art. 212. (1) If the insured property has been transferred, the successor shall subrogate to the rights under the insurance contract, unless otherwise agreed. The transferor or the successor shall notify in writing the insurer of the transfer within 7 days period of time.

(2) The successor shall be jointly liable for the part of the premium till the subrogation.

(3) The insurer shall be entitled to claim the premium from the transferor, as long as he/she has not been informed about the transfer.

(4) The insurer and the successor may terminate the contract by a notice to the other party, made no later than 30 days from the notification under par. 1.

Subrogation to the rights of the insured person

Art. 213 (1) (*) (suppl. – SG 97/07) By the payment of the insurance indemnity the insurer shall subrogate to the rights of the insured person against the person who has caused the damage – to the amount of the indemnity paid and the usual expenses for its determination. In cases when the person who has caused the damage has a Civil liability insurance, the insurer under the property insurance shall subrogate into the rights of the insured person against the person, who has caused the damage or to the rights of his/her insurer under Civil liability insurance – to the amount of the indemnity paid and the usual expenses for its determination. The insurer under the property insurance may submit his/her claims directly before the insurer under the Civil liability insurance. In case the damage has been caused by a driver of motor vehicle, who has valid obligatory Civil liability insurance of the motorists, the insurer under property insurance, who has subrogated to the rights of the damaged party, may submit his/her claim to the person who has caused the damage only to the amount of the damages caused, exceeding the size of the insurance sum under the obligatory insurance contract, and the damages, caused by the driver of the motor vehicle, for which the insurer under the obligatory Civil liability insurance of the motorists has refused to pay indemnity on the ground of Art. 268.

(2) If the person, who has caused the damage, is a relative of ascending or descending line or his/her spouse, as well as if he/she belongs to the household of the insured person, the latter shall have the rights under paragraph 1 if the person has acted intentionally.

- (3) The insured person shall be obliged to cooperate with the insurer at exercising his/her rights against the person, who has caused the damage.
- (4) If the property of the person, who has caused the damage, is insufficient, the insurer shall be satisfied after the insured.
- (5) In case the person, who has caused the damage, has fully indemnified the insured person, the insurer shall be released from his/her obligation to pay the insurance indemnity.

Settlement of claims between an insurer under property insurance and an insurer under Civil liability insurance of the person who caused the damage

Art. 213a. (new – SG 97/07) (1) An insurer under property insurance who has subrogated to the rights of the insured person against the insurer under Civil liability insurance of the person, who has guiltily caused the damage to the insured property, shall submit his/her claim against the said insurer, attaching the file which contains the evidence available, including proof of certifying the traffic accident. Insurers under Civil liability insurance shall certify each claim, submitted according to sentence one.

(2) Where an insurer under property insurance has not provided all the evidence or in case further evidence is required for the purpose of ascertainment of the ground or the amount of the damage, the necessity of which could not have been envisaged by the date of submission of the claim, insurers under Civil liability insurance shall be entitled to require them within a period of 45 days from the date of submission of the claim. Art. 105, para 5 shall be applied respectively.

(3) Within 30 days from providing all evidence the insurer must:

1. determine and pay the amount of his/her obligation under the submitted claim, or
2. refuse payment providing grounds thereof.

Insurance subscription agreement

Art. 214. (1) Under the insurance subscription agreement there shall be provided coverage of rights and obligations of the insured person for a certain period of time.

(2) The insured person shall be obliged to notify in advance the insurer about the property insured in each individual case, by an order, provided in the insurance contract. In such cases the insurer shall be obliged to issue a separate document upon request by the insured person.

(3) Each of the parties may terminate the agreement by a one-month advance notice in writing, unless otherwise agreed.

Insurance against transportation risks

Art. 215 (1) The insurance contract for land, air and river transportation shall cover all risks to which the cargo is exposed, unless otherwise agreed.

(2) The cargos transported may be insured to the market price they have at the point of destination.

(3) The insurance contract shall come into force by delivery of the cargo for transportation and shall continue until the delivery to the consignee, including re-loading and warehousing, unless otherwise agreed.

(4) The insurer shall not cover risks after discontinuing the transportation or deviation from the route, unless otherwise agreed.

(5) If the consignee under the transportation contract accepts the cargo before the damages have been ascertained, the insurer shall not be liable for indemnity.

(6) If the damages could not be visually noticed on the outside upon delivery, but have been ascertained thereafter within the term according to the rules for the respective type of transportation, the insurer shall owe indemnity only if the consignee notifies him thereof, but not later than fifteen days following the receipt of the cargo.

Marine insurance contract

Art. 216. The marine insurance contract shall be regulated by the Trade sailing code.

Section II. Legal expenses insurance

Essence

Art. 217. (1) Under the legal expenses insurance contract the insurer shall be obliged to undertake all the expenses of the insured person in connection with his/her participation in court, pre-court, administrative and arbiter proceedings and to provide other services, directly related to the insurance contract, and especially when the insured person:

1. claims indemnity for damages endured, or
2. is being represented or defended in connection with all the claims against him.

(2) The provisions of this Section shall not apply to:

1. cases of legal disputes and risks, arising out of, or in connection with the use of sea-going vessels;
2. cases of representation and defence of the insured person in connection with the contract for Civil liability insurance, where the insurer provides protection of his/her own interests too.

(3) Insurance against obligations for payment of fee, confiscation or other property sanction according to penal or administrative punitive provision, shall not be allowed.

Form of legal expenses insurance contract. Compulsory content

Art. 218. (1) The legal expenses insurance contract shall be concluded:

1. separately from the contract for coverage of other risks, or
2. as a specified part of a contract for coverage of other risks, where shall be pointed out the amount of the premium and the kinds of the legal expenses covered.

(2) In the legal expenses insurance contract shall be explicitly pointed out:

1. the order for settlement of claims under art. 92, adopted by the insurer;
2. the rights of the insured person under art. 219 and 220.

Right of choice

Art. 219. (1) The insured person shall be entitled at his/her own choice to authorize an attorney or other person, who shall give him/her legal advices and shall carry out legal representation in the procedure under art. 217, par. 1 in compliance with the legislation at the seat of the body, before which the procedure is carried out.

(2) The insured person shall also have the right under par. 1 in case of conflict of interests in his/her relations with the insurer.

(3) The persons, authorized by the insured person in compliance with par. 1 or 2, may not receive instructions from the insurer in connection with their activity.

Out of court disputes settlement

Art. 220. The insured person shall be entitled to refer to objective and impartial body for out of court dispute settlement in any case of disagreement with the insurer in connection to the legal expenses insurance contract. The right of claim before court may not be restricted.

Notification of the insured person

Art. 221. The insurer, respectively the person, responsible for settlement of claims under art. 92, item 2, shall be obliged to notify the insured person for his/her rights under art. 219 and 220 in any case of conflict of interests or disagreement with the insured.

Section III. Travel assistance insurance

Essence

Art. 222. (1) Under the Travel assistance insurance contract the insurer shall be bound, in return for payment of insurance premium, to provide immediate aid to a person, who has found himself/herself in difficulty during travel as a consequence of accidental event. The events and the circumstances for providing the aid shall be specified by the insurance contract.

(2) The insurer shall provide the assistance in kind or money according to what has been agreed in the contract.

(3) The Travel assistance insurance contract shall not cover repair, fix and warranty service of the property, as well as the expenses, made for assistance for finding and providing aid.

Chapter twenty. Insurance against Civil liability

Definition

Art. 223. (1) Under the contract for Civil liability insurance the insurer shall be obliged to cover, within the sum provided in the contract, the liability of the insured person for property and non-property damages which he/she has caused to third parties. Under the Civil liability insurance contract the insurer may be obliged to cover within the sum insured, agreed in the contract, the liability of the insured person for non-fulfillment of his/her contract obligation.

(2) The insurer shall pay indemnity, including for lost profits, that represent direct and immediate result of tort, and for default interest, when the insured person is responsible for their payment to the damaged party. The insurer shall be liable for the default interests, which have been awarded against the insured person, considered from the date of the notification under art. 224, par. 1.

(3) In return for payment of additional premium, the insurer may provide coverage for lost profits liability caused by non-fulfillment of a contract obligation, unless otherwise agreed.

(4) The insurer, in the cases he/she has been summoned as a party to the proceedings, shall also pay up to the amount of the sum insured the expenses for suits against the insured person for establishing his/her civil liability.

Notification and summoning as a party. Representation

Art. 224. (1) The insured person shall be obliged to notify the insurer within seven days term from becoming aware of the circumstances that could result in occurrence of civil liability. Within the same term the insured person shall be obliged to notify the insurer of claims submitted against him/her, or of payments that he/she has implemented.

(2) In the case of claim filed by the damaged party, the insured person shall be obliged to request the summoning of the insurer as a party to proceedings before the court, in case this is allowed by the law.

(3) The insurer or a person, appointed by him/her may, under authorization on behalf of the insured person, represent the latter in proceedings before the court or in out of court settlement of claims, related to his/her civil liability, in case this is also in the insurer's interest. The expenses for the authorization and representation shall be borne by the insurer up to the amount of the sum insured. The circumstances, established in the acts of court, ruled in the presence of persons under sentence one, shall bind the insurer.

Applying the rules for property insurance

Art. 225. Upon Civil liability insurance shall be applied the regulations under art. 202, art. 207, par. 3 and 4 and art. 208, par. 1.

Direct claim

Art. 226 (1) The damaged party, to whom the insured person is liable, shall be entitled to claim indemnity from the insurer directly.

(2) (suppl. – SG 97/07) The insurer shall be entitled to make the objections ensuing from the contract and from the civil liability of the insured person, except for the objections under Art. 207, par. 3 and 4 and art. 224, par. 1. When the Civil liability insurance is obligatory by law, the insurer may not also raise the objections for the self-participation of the insured person. Under obligatory Civil liability insurance of the motorists insurers are not entitled to make the objections referred to in Art. 189, para 4, Art.190, para 4 and Art. 191, para 2 in relation to ñ Art. 189, para 4 and Art.190, para 4.

(3) Under obligatory Civil liability insurance, the insurer shall also be liable towards the damaged party when the latter has caused the damages thereto intentionally.

Recourse claim

Art. 227. The insurer shall have the right of a recourse claim against the insured:

1. for everything, paid to the damaged party – in the cases under art. 226, par. 3;
2. for the paid default interests, corresponding to the period from the date of the occurrence of the insurance event to the date of announcement of the circumstances under art. 224, par. 1 by the insured person or to the date of submitting the direct claim under art. 226, par. 1, unless the insured person has not fulfilled his/her obligations due to reasons, which may not be imputed upon him/her;
3. for the amount of the self-participation agreed in the cases under art. 226, par. 2, sentence two.

Agreement

Art. 228. (1) The agreement between the damaged party and the insured person, as well as the recognition of the obligation by the insured person, shall have effect for the insurer provided he/she approves them.

(2) The agreement, reached with the knowledge and approval of a representative under art. 224, par. 3, shall be considered approved by the insurer.

Right of the insured person

Art. 229. The insured person shall be entitled to receive the insurance indemnity, provided that he/she has satisfied the damaged party.

Chapter twent and one. Life and Accident insurances

Subject of the insurance contract

Art. 230. (1) The Life and Accident insurance contracts shall be concluded against events relevant to the life, health or bodily integrity of a natural person.

(2) The Life insurance contract may provide full coverage in case of death or living up to a certain age, or it may provide mixed coverage.

(3) The Life or Accident insurance contract shall be invalid, if it provides coverage against events of death of an underage person or of a person under judicial disability, as well as if it covers the risk of abortion or delivery of a still-born. The insurer shall be obliged to return the insurance premiums received in fulfillment of Life or Accident insurance contract, providing coverage of these risks. When the insured person intentionally has hidden information relevant to the persons under sentence one, whose life is a subject of Life or Accident insurance contract, the insurer shall be entitled to deduct the amount of the expenses made for concluding the insurance contract from the amount of the premium, that is a subject to retrieval.

Retirement or rent insurance

Art. 230a. (new – SG 97/07) (1) By retirement or rent insurance contract an insurer shall be obliged to make payments for life or periodical installments against payment of one-time or periodical premium.

(2) Contracts concluded by occupation, containing operations regarding acquisition of property rights over real estate via payment of lifelong or periodic pension or rent, shall be regulated by this Code. In those cases referred to in sentence one the transfer of property rights shall be deemed as payment of insurance premium.

(3) Where there have been concluded retirement or rent insurance contracts under para 2 the value of the real estate shall be determined by at least two independent real estate assessors.

Group insurance

Art. 231 (1) Under one Life or Accident insurance contract may be insured two or more persons, whose number is definite or definable. In this case it shall not be necessary for the contract to contain the names and addresses of the insured persons, if they have been specified in other unambiguous way, including by pointing out their specific quality.

(2) The group insurance may be concluded by an employer, provided that the insured persons shall be his/her employees and/or workers, whose life, health and working capacity are subject to the insurance.

(3) The employer under par. 2 shall be obliged to provide his/her employees and/or workers with the whole information, that he/she has received from the insurer regarding the concluded Life or Accident insurance contract, and which is necessary for the insured persons to exercise their rights under the insurance contract.

Mutual insurance

Art. 232. (1) Mutual insurance contract may be concluded by spouses, persons, actually living together in extramarital relationship, persons in ties of relationship, associates in an undertaking, pursuant to art. 357 of the Law of obligations and contracts, as well as associates in general, limited or attorney partnership.

(2) At divorce of the spouses, the mutual insurances shall be divided. This rule shall not apply to the case when the contract has been in favour of a child, born of the dissolved marriage.

(3) At termination of the partnerships under par. 1, the mutual insurances shall be divided.

(4) At winding up the relationship between the persons, actually living together in extramarital relationship, they may request splitting the insurances, unless the contract has been concluded in favour of a child, who has been born and acknowledged formally by these persons.

Life or Accident insurance for a third party

Art. 233. (1) The insured person may conclude Life or Accident insurance contract, whose subject is the life, health or bodily integrity of a third party. This contract shall have effect only if it is concluded with the consent of the third party provided in writing.

(2) The party, whose life is a subject to insurance, shall always be able to terminate the contract by a unilateral statement in writing, sent to the insurer. In this case, if the contract has been maintained for at least two years, the insurer shall be obliged to pay the premium reserve under the insurance to the insured person.

(3) If the insured person dies before the third party, for whose life, health or bodily integrity the contract has been concluded, the contract shall be terminated, unless otherwise agreed.

(4) In the case under par. 3, if the Life insurance contract has been maintained for at least two years, the insurer shall be obliged to pay to the heirs of the insured person or to the third party beneficiary the premium reserve under the insurance.

(5) The insurer shall not pay any amounts under the contract if the insured person has caused deliberately the insurance event.

Life and Accident insurance in favour of a third party

Art. 234 (1) The insured person may specify the third party beneficiary at any time upon the conclusion of a Life or Accident insurance contract, as well as at any time of its duration.

(2) For concluding an insurance contract in favour of a third party the consent of this person shall not be necessary. The party beneficiary must provide his/her consent in writing, in case the subject of the contract under the conditions of art. 233 is the life, health or bodily integrity of a third party, different from the insured person.

- (3) Where the insurance contract has been concluded in favour of the children of the insured person, the children born after the conclusion of the contract shall also be parties beneficiary, unless otherwise provided.
- (4) Where the insurance contract has been concluded in favour of a spouse of the insured person, the right shall belong to the person married to the insured person by the date of the occurrence of the event, unless otherwise agreed.
- (5) Where there are several parties beneficiary, they shall have equal rights, unless otherwise agreed.
- (6) Should the third party die before the insured person and there are not other parties beneficiary specified in the contract, the sum insured shall be paid to the insured person or to his/her heirs.
- (7) The third party beneficiary shall forfeit his/her rights under the contract if he/she has intentionally caused the insurance event. If there are several parties beneficiary, the share of the party beneficiary, who has intentionally caused the insurance event, shall be equally split between the rest, unless otherwise provided.
- (8) Where in the case under art. 7 there are not other parties beneficiary specified, the sum insured shall be paid to the insured person, respectively to his/her heirs.
- (9) If the insurance contract has been cancelled by claim of the creditors of the insured person, the third party beneficiary shall be liable to the amount of the sum received, but not more than the premiums paid.

Right of the third party beneficiary

- Art. 235 (1) The sum insured shall not be included in the inheritance property of the insured person, even where his/her heirs have been specified as parties beneficiary.
- (2) If the party beneficiary is an heir, he/she shall be entitled to the sum insured, even if he/she refuses the inheritance.

Payment of the premium

- Art. 236 (1) If the insured person under Life insurance fails to pay any current due premium at deferred premium payment, the insurer shall not be entitled to seek for payment thereof by court procedure.
- (2) The insurer shall be obliged to invite the insured person in writing to pay the current premium within a term which may not be less than one month following the receipt of the request.
- (3) Where the premium is not paid in the term under par. 2, the insurer may reduce the sum insured to the amount of the buy-off sum, provided the current premiums have been paid for at least two years. Otherwise the insurer may cancel the contract.
- (4) Should the insurance event occur before the reduction of the sum insured or the termination of the contract pursuant to par. 3, it shall be assumed that the sum insured has been reduced or that the contract has been cancelled.

Right of unilateral termination of the contract

- Art. 237. (1) A natural person, who has concluded an individual Life insurance contract for a period of time longer than 6 months, shall be entitled to cancel unilaterally the contract in 30 days from the date, on which he/she has been notified of the conclusion of the insurance contract.
- (2) (suppl. – SG 54/06) The person under par. 1 shall exercise his/her right for cancelling the contract by a written notification, sent to the insurer. From the date of notifying the insurer the insurance contract shall be cancelled and the insured person shall be discharged from his/her obligations under the contract and also shall be entitled to receive the insurance premium paid, except for the share, corresponding to the time, when the insurer has been bearing risk, if an insurance event has not occurred. The insurer shall return the part of the premium in 30 days after receiving the notification.

Sum insured

- Art. 238. (1) Upon the occurrence of an insurance event or of certain conditions specified in the contract, the insurer shall be obliged to pay the sum insured, or the part of it, fixed in the insurance contract.
- (2) The sum insured shall also be paid in the cases, where the person who has caused the damages is obliged to indemnify the insured or, has already indemnified him, as well as where the insured person has received payment under another insurance contract.

- (3) The insurer shall implement the payment in 15 days term from the date, on which the evidence, required for establishing the insurance event and the amount of the payment have been presented.
- (4) At establishing the amount of the payment for inability to work, caused by insurance event, except for the case of loss of a limb or other human organ, the insurer may set a term for stabilizing the inability to work, which shall not exceed one year, considered from the date of the occurrence of the insurance event. In this case the insurer shall determine and pay in the term under par. 3 preliminary amount, which can not be less than the minimum incontrovertible amount of the payment.
- (5) The sum insured shall be paid to the insured person or the third parties beneficiary.
- (6) In case of death of the insured person, if the insurance has not been concluded in favour of third parties beneficiary, the sum insured shall be paid to the heirs of the insured person, and if there are not such heirs – to the persons, who have lived in the same household with the insured person.
- (7) Under Life or Accident insurances an insurer who has paid the sum insured may not subrogate to the rights of the insured person against the person who has caused the event.

Risks excluded

Art. 239. (1) Unless otherwise agreed, the insurer shall be discharged from his/her obligations under the insurance contract, if:

1. the insured person commits suicide intentionally, before the expiration of one year after the conclusion of the contract;
2. the bodily injury, damage to the bodily integrity, the loss of working capacity or the death occur upon commitment of a crime of general nature, by the insured person;
3. the death has occurred as a result of execution of capital punishment, imposed by a verdict came into effect;
4. the death occurred in the course of war, martial activities or as a result of a terrorist action.

(2) The parties may also contract other risks excluded.

(3) If the current premiums a Life insurance have been paid for at least two full years, the insurer shall pay the mathematical reserve of insurance to the heirs of the insured person or to other third parties beneficiary.

Right to buy off. Right to loan

Art. 240. (1) In case of Life insurance, upon request of the insured person the insurer shall be obliged to pay the buy-off value of the insurance contract, provided that at least two years have expired from the commencement of the insurance cover and all the premiums have been paid up for this period. The buy-off value shall be paid by the insurer in 20 days term, after the request.

(2) The insurance contract should indicate the conditions, under which the insured person may request payment of the buy-off value, as well as its amount for every year of the term of the contract.

(3) If the contract has been concluded, specifying a party beneficiary and he/she has declared that accepts the clause in his/her favour, the right of the buy-off value shall belong to the party beneficiary.

(4) Upon the insurance the insured person may be granted a loan from the insurer to the amount of the buy-off value. The conditions and the way of its granting, paying off and the loan interest shall be regulated in the insurance contract. When the insurance event has occurred and the loan has not been paid off, the contract shall remain in force for reduced sum insured.

Life insurance, connected with an investment fund

Art. 241. Upon a Life insurance, connected to an investment fund, the insured person shall bear the risk of investing the mathematical reserve in actives, chosen by him/her, unless otherwise agreed.

Insurance for obligation indemnification

Art. 242. (1) Where the Life or Accident insurance has been concluded in favour of a creditor for indemnification of a natural person's obligation, he/she shall be entitled to claim against the insurer even when he/she has not been a party to the insurance contract and has paid the obligation upon insurance event occurred. Every third party, who has paid the obligation on a legal ground, shall have the same right.

(2) The insurer may raise all objections, ensuing from the insurance contract.

(3) (revoked – SG 97/07)

Provision of information

Art. 243. (1) Before concluding Life or Accident insurance contract, as well as throughout the duration of the contract, the insurer shall be entitled to receive detailed and precise information regarding the age, gender and health condition of the person, whose life, health or bodily integrity are subject to the insurance.

(2) At occurrence of the insurance event, the insurer shall be entitled to access the whole medical documentation connected to the health condition of the person, whose life has been insured, and may require it from all persons, keeping such information.

Chapter twent and two. APPLICABLE LAW TO THE INSURANCE CONTRACTS WITHIN THE FRAMEWORK OF THE EUROPEAN UNION AND THE EUROPEAN ECONOMIC AREA (*)

Applicable law to insurance contracts under Section II of Appendix No 1 (Title amend. – SG 97/07)

Art. 244. (1) (In force from 01.01.2007) (amend. – SG 97/07) The applicable law to insurance contracts under Section II of Appendix No 1, covering risks, located on the territory of Member States, shall be specified as follows:

1. when the risk is located on the territory of the Republic of Bulgaria and the insured person has a customary residence or a seat in the territory of the state, the applicable law shall be the law of the Republic of Bulgaria;
 2. when the risk is located on the territory of the Republic of Bulgaria and the insured person doesn't have a customary residence or a seat in the territory of the country, the parties may choose as applicable law the one of the Republic of Bulgaria or the law of a Member State, where the insured person has a customary residence or a seat; the parties to the contract may also determine the applicable law in correspondence with sentence one when the risk is located in other Member State and the insured person has a customary residence or a seat in the territory of the Republic of Bulgaria;
 3. when the insured person performs commercial activity or freelance profession and the contract covers two or more risks, connected to this activity or the profession, and the risks are located on the territory of the Republic of Bulgaria and in one or more Member State Member States, the parties to the contract may specify as applicable law of a Member State, where one of the risks is located, or the law of a Member State, where the insured person has a customary residence or a seat.
 4. when the respective Member State under items 2 and 3 provides larger freedom of choice of applicable law, the parties may specify as applicable law thus of another state in correspondence with the opportunity for choice provided;
 5. when the risks, covered by the contract are restricted to insurance events, that may occur in a Member State, different from the countries under items 1, 2 or 3, the parties to the contract may choose the law of the Member State until the occurrence of the insurance event;
 6. when the insurance contract cover large risks, the parties may freely choose the applicable law.
- (2) In the case under par. 1, item 6 the circumstance, which the parties to the contract have chosen as applicable the law of a state, different from the Republic of Bulgaria, the application of mandatory regulations of the Bulgarian law shall not be concerned, if all other elements of the insurance contract at the moment of the choice are connected to the Republic of Bulgaria only.
- (3) The choice of law, applicable to the insurance contract, should be explicit and to follow clearly from the clauses of the contract. If the condition under sentence one has not been fulfilled, the law, applicable to the contract shall be the law of this Member State under par. 1, with which the contract is most closely connected.
- (4) When a part of the insurance contract may be separated from its other parts and this part has a closer connection to another Member State, different from the relevant states under par. 1, to this part as an exception may be applied the law of the other Member State. It shall be presumed, that the insurance contract is most closely connected to the Member State, where the risk is located.

(5) When a certain country consists of more than one territorial units, each of them with its own legal regulations for the contracts, each of the territorial units shall be considered a separate state at specifying the applicable law under this chapter.

(6) The provisions of this chapter shall not concern applying the provisions of the law of the Republic of Bulgaria, which regulate the case mandatorily, regardless the law, applicable to the insurance contract.

(7) As far as the law of the Republic of Bulgaria provides, may be applied the mandatory regulations of the law of the Member State, where the risk is located, or these of the Member State, whose law provides obligation for insurance, if in accordance with the law of these Member States the mandatory provisions indicated shall be applied compulsorily, regardless the law, applicable to the insurance contract.

(8) When the insurance contract covers risks, located in more than one Member State, for the purposes of par. 6 and 7 it shall be considered, that there are several contracts, each of them relied only to one Member State.

Law, applicable to obligatory insurance contracts

Art. 245. (1) The Bulgarian law shall be applied to the obligatory insurances, provided by the Bulgarian legislation.

(2) When there is contradiction between the Bulgarian law, providing obligatory insurance, and the law of the Member State, where the risk is located, the Bulgarian law shall be applied.

(3) In cases, when the obligatory insurance contract includes coverage of the risks in two or more Member States, and at least one of them provides obligatory insurance, art. 244, par. 8 shall be applied.

Law applicable to Life and Accident insurance contracts

Art. 246. The law applicable to Life and Accident insurance contracts shall be specified, as follows:

1. when the risk is located in the Republic of Bulgaria, the Bulgarian law shall be applied, when the risk is located in a Member State, the law of this Member State shall be applicable;

2. when a citizen of the Republic of Bulgaria is a party to this contract, and he/she has a custom residence in a Member State, the parties to the contract may specify as applicable the law of the Republic of Bulgaria; when a party to the contract is a citizen of a Member State, who has a custom residence in the Republic of Bulgaria, the parties to the contract may specify as applicable the law of the Member State;

3. when a certain state consists of more than one territorial unit, and each of them has its own legal regulations for the contracts, every territorial unit shall be considered to be a state, when the applicable law is being specified according to this chapter;

4. regardless of the law, applicable to the insurance contract, the provisions of items 1, 2 and 3 shall not concern the application of the mandatory provisions of the law of the Republic of Bulgaria, that regulate the case;

5. as far as the law of the Republic of Bulgaria provides, the mandatory provisions of the law of the Member State may be applied, where the risk is located, or of the Member State, whose law provides obligation for insurance, if in accordance to the law of these Member States the mandatory provisions indicated are applied independently from the law applicable to the contract.

Public order

Art. 247. The concluding of insurance contracts under the conditions of this chapter shall be allowed, as long as that does not contradict to the public order.

Application of the Code of international civil law

Art. 248. Unless otherwise provided in this chapter, for the insurance contracts in the framework of the European Union and the European economic area the provisions of the Code of international civil law shall be applied.

Part five.

OBLIGATORY INSURANCE

Chapter twenty and three.

GENERAL PROVISIONS

Kinds of obligatory insurances

Art. 249. Obligatory insurances are:

1. Civil liability of motorists under section II, letter "A", item 10.1 from Appendix No 1, which shall be called from now on "obligatory Civil liability insurance of the motorists";
2. Accident of the passengers in the public transport under section II, letter "A", item 1 from Appendix No 1, which shall be called from now on "obligatory Accident insurance of the passengers";
3. other insurances, established by law or international agreement, ratified, promulgated and came into effect for the Republic of Bulgaria.

Obligatory insurance contract

Art. 250. An insurer, who carries out obligatory insurance, may not refuse to conclude a contract for the respective obligatory insurance.

Term of the obligatory insurances

Art. 251. (1) The term of the obligatory insurances shall be specified by the parties to the contract, unless otherwise provided by a normative act.

(2) The obligatory insurance contract shall be renewed before the expiration of its term, except for the cases when the insurance interest no longer exists.

Contract for obligatory insurance with a sum insured exceeding the minimal requirements

Art. 252. The obligatory insurance contract may also be concluded for a sum insured over the minimum requirements, provided by law, and in this case it shall be considered, that the obligation for concluding insurance has been fulfilled.

Control over the conclusion of obligatory insurance contracts

Art. 253. (1) The control for the presence of concluded obligatory insurance contract shall be performed by the bodies, authorized by law.

(2) (amend. SG 33/06) The control for the presence of concluded obligatory insurance contract of the kind Accident of the officials of state institutions shall be executed by the superior body from the relevant institution and when there is not such body – by the Agency for state financial inspection.

(3) The control for the presence of concluded contract for obligatory Civil liability insurance of the motorists towards the motor vehicles, which are usually situated on the territory of the Republic of Bulgaria or on the territory of a third country, shall be executed by the bodies of the Ministry of Interior.

(4) The control for the presence of concluded contract for obligatory Accident insurance of the passengers shall be executed by the bodies of the Ministry of Transport and the Ministry of Interior.

Specific rules for control over the obligatory Civil liability insurance of the motorists

Art. 254. (1) Control for the presence of a concluded contract for obligatory Civil liability insurance of the motorists as an element of the state border control, shall be executed with regards to:

1. the motor vehicles, which are usually situated on the territory of a third country and which enter the territory of the Republic of Bulgaria from a third country, as well as in the cases, when such motor vehicles leave the territory of the Republic of Bulgaria;

2. (*) the motor vehicles with special registration regime discharged from the obligation to conclude obligatory Civil liability insurance of the motorists according to the legislation of the relevant Member State and included in a list, issued by this Member State and provided to the Republic of Bulgaria;

3. (new – SG 97/07) motor vehicles which are normally based in the territory of the Republic of Bulgaria, in case the said vehicles leave the territory of the Republic of Bulgaria.

(2) (*) Control shall not be exercised for the presence of a concluded contract for obligatory Civil liability insurance of the motorists regarding the motor vehicles, that are usually situated on the territory of other Member State or the Republic of Croatia, Swiss Confederation and Principality of Andorra, as well as regarding the motor vehicles, that are usually situated on the territory of a third country, when they enter the territory of the Republic of Bulgaria from the territory of another Member State. That shall not concern the casual inspections by the authorized control bodies, that are implemented on another ground.

(3) (new – SG 97/07) The bodies of Chief Directorate "Border Police" shall not allow motor vehicles referred to in para 1, items 1 and 3 to leave the territory of the Republic of Bulgaria without proving that that obligatory Civil liability insurance of the motorists has been concluded and has become effective.

Delegation

Art. 255. (1) The Commission shall issue an ordinance for the order and conditions for carrying out the obligatory insurance under art. 249, items 1 and 2, as well as for the way of its accounting.

(2) With the ordinance under par. 1 shall also be determined the way of introducing unified numbering of the obligatory insurance policies and their minimum content.

Information, which shall be provided to the European Commission regarding the obligatory insurance.

Art. 256. (*) (1) The Commission shall notify the European Commission of the obligatory insurances, provided by the Bulgarian legislation, by pointing out:

1. the special normative regulations, relevant to these insurances;

2. the mandatory properties of the certifying documents, which the insurer shall be obliged to provide to the insured person, regarding proving, that the obligation for concluding insurance has been fulfilled.

(2) When the obligatory insurance has been concluded with an insurer from a Member State, observing the provisions of par. 1, item. 2, it shall be deemed that the obligation for concluding insurance has been fulfilled.

Chapter twenty and four. OBLIGATORY CIVIL LIABILITY INSURANCE OF THE MOTORISTS

Subject of insurance and insurance coverage

Art. 257. (1) Subject of insurance for the obligatory Civil liability insurance of the motorists shall be the civil liability of the insured natural and legal persons for caused property and non-property damages to third parties, related to the possession and/or usage of motor vehicles, for which the insured persons shall be responsible according to the Bulgarian legislation or the legislation of the state, where the damage has occurred.

(2) Insured persons shall be the owner of the motor vehicle, for which there is a valid insurance contract concluded, as well as every person, who uses the motor vehicle on legal grounds.

(3) Third parties shall be considered to be all persons, except for the one, who is responsible for the damages caused.

(4) An agreement for exemption from coverage of the civil liability for damages, caused to third party, who had known or had been obliged to know, that the driver of the motor vehicle was intoxicated or under the influence of other intoxicating substance during a traffic accident, shall not be allowed.

(5) The Civil liability insurance shall not cover the liability of the insured person as a loads carrier.

Effect of the contract for obligatory Civil liability insurance of the motorists

Art. 258. (1) The insurance contract for obligatory Civil liability insurance of the motorists shall cover the responsibility of the insured persons for damages, caused on the territory of:

1. The Republic of Bulgaria according to the Bulgarian law;

2. (*) a Member State according to its law;
3. (*) a third country, when the damages have been caused by persons from a Member State, during travel between the territories of two Member States and under a condition that there is not a national insurance bureau, bearing responsibility for this territory, in this case the liability shall be covered according to the law of the Member State, where the motor vehicle, for which the insurance has been concluded, is usually situated.
- (2) (*) The insurance contract for the obligatory Civil liability insurance of motorist shall provide coverage in the territory of the Republic of Bulgaria and in others Member States on the basis of one insurance premium and throughout the whole term of the contract, including each period within this term, while the motor vehicle has been in other Member State.
- (3) (*) The insurance contract for obligatory Civil liability insurance of the motorists shall provide the coverage in each Member State according to its law or the coverage according to the law in the territory, where the motor vehicle is usually situated, when this coverage is higher.
- (4) territory, on which the motor vehicle is usually situated, is the territory of the state:
 1. where the registration number of the motor vehicle has been issued, no matter if it is permanent or temporary;
 2. where the insurance or other distinctive sign of the motor vehicle has been issued and it is analogous to the registration number under item 1- in cases when a registration for certain motor vehicles is not necessary;
 3. where the owner of the motor vehicle has a customary residence – in the cases, when for a certain motor vehicles a registration number or insurance sign, or other distinctive mark is not required.
- (5) (*) For the purposes of submitting a claim before a Guarantee fund or National insurance bureau in cases, when the motor vehicle does not have a registration number, as well as when it has a registration number, which does not refer to this motor vehicle, and a traffic accident with its participation has occurred, territory, on which the motor vehicle is usually situated, is the territory of the state where the traffic accident has occurred.

Obligation for concluding a contract for compulsory Civil liability insurance of the motorists

Art. 259. (1) A contract for Civil liability insurance of the motorists shall be concluded by any person, who:

1. owns a motor vehicle, which is registered in the territory of the Republic of Bulgaria and has not been ceased from moving;
2. at entering the territory of the Republic of Bulgaria, drives a motor vehicle and does not have an insurance, valid in the territory of the Republic of Bulgaria.
- (2) The person under par. 1, item 2 shall conclude a frontier Civil liability insurance of the motorists at the border control checkpoint, where he/she enters the territory of the Republic of Bulgaria. The person under par. 1, item 2 must have a valid frontier Civil liability insurance of the motorists until he/she leaves the territory of the Republic of Bulgaria.
- (3) The person under par. 1, item 2 shall not be obliged to conclude an insurance contract for Civil liability of the motorists at entering the territory of the Republic of Bulgaria, if:
 1. he/she has a valid Green card certificate, or
 2. the payment of indemnity in connection with his/her civil liability is guaranteed by the competent institution of the Member State and the motorist is included in a list, issued by the competent body of the Member State and presented to the Republic of Bulgaria, which indicates the persons, discharged from the obligation for concluding an obligatory Civil liability insurance of the motorists.
- (4) The order and conditions for concluding and accounting the frontier Civil liability insurance of the motorists under par. 2, shall be provided by the ordinance under art. 255.

Deferred payment of the premium under the obligatory Civil liability insurance of the motorists

Art. 260 (1) In cases of deferred payment the rescheduled installments of the insurance premium shall be paid within the term, agreed in the insurance contract.

- (2) Upon non-payment of rescheduled installment of the insurance premium, the insurer may terminate the contract by the order of art. 202, par. 2, provided that par. 4 of the same Art. shall also be applied.

Certifying the conclusion of insurance contract

Art. 261. (1) The existence of insurance contract for obligatory Civil liability insurance of the motorists shall be certified by an insurance policy and a sign, which shall be issued by the Guarantee fund. The insurance policy under sentence one, is a form under account with numeration in a serial order, which shall be printed out by the order for issuing securities, determined by the Council of Ministers.

(2) At deferred payment of premium the sign under par. 1 shall also certify the term, for which the insurance premium has been paid.

(3) The Civil liability insurance of the motorists may also provide coverage in third countries, participating in the Green card system, if an additional premium has been paid, and in this case the insurer shall issue a Green card certificate.

(4) (new – SG 97/07) At concluding obligatory Civil liability insurance of the motorists the insurer shall provide a form from bilateral report of findings concerning road accident in two copies according to a model, approved by the ordinance as per Art. 125a, para 2 of the Road Traffic Law.

Term of the obligatory Civil liability insurance of the motorists

Art. 262. The term of the obligatory Civil liability insurance of the motorists shall be one year. The conclusion of the obligatory Civil liability insurance of the motorists for a shorter period of time, however, not less than 30 days, shall be permitted in the following cases:

1. at conclusion of insurance for motor vehicles, that have temporary or transit registration according to the Bulgarian legislation;
2. at concluding a frontier insurance;
3. at concluding insurance by companies, carrying out import and sales of motor vehicles;
4. at concluding insurance for slow moving motor vehicles;
5. at concluding insurance for self-propelled machines.

Change of the ownership

Art. 263. (1) In case of change of the ownership of the insured person's motor vehicle the contract for the obligatory Civil liability insurance, shall not be terminated. The transferor shall be obliged to pass to the acquirer the whole documentation, certifying the conclusion of the obligatory Civil liability insurance of the motorists. The transferor and the acquirer shall be obliged to notify the insurer in writing for the transfer in 7-days term.

(2) The acquirer shall be jointly liable for the part of the premium, which has not been paid till the transfer.

(3) As long as the insurer is not notified of the transfer, he/she shall have right to require the premium from the transferor.

(4) Within the term under par. 1 the acquirer may unilaterally terminate the contract, without pointing out grounds.

Motor vehicle

Art. 264. (1) (amend. – SG 97/07) For the purposes of the obligatory insurance under this chapter, a motor vehicle shall be considered any land moving vehicle, propelled by its own engine, as well as the trams, trolley-buses and self-propelled machinery under the Law for Registration and Control of the Agricultural and Forestry Machinery. As motor vehicles shall also be considered the trailers and semi-trailers.

(2) For the purpose of the obligatory insurance under this chapter, motor vehicles shall not be considered:

1. the railway vehicles, except for the trams;
2. the self propelled machinery in the sense of § 1, item 12 from the Additional provisions of the Law for registration and control of the agricultural and forestry machinery with power of the engine up to 10 kW.

(3) Movement of a motor vehicle on roads, open for public use in the sense of art. 2, par. 1 of the Traffic law shall not be allowed unless the driver has been insured under the conditions of this code.

Injured party. Damaged party

Art. 265. (1) Injured party is the one, who has died or has suffered bodily injuries, caused by motor vehicles.

(2) Damaged is the person, including the injured party, who shall be entitled to receive indemnity for damages, caused by motor vehicles.

Sum insured

Art. 266. (*) The obligatory Civil liability insurance of the motorists shall be concluded for the following minimum sums insured:

1. for non proprietary and proprietary damages, which are consequences of bodily injury or death:
 - a) 2 000 000 BGN for each event if there is one injured party;
 - b) 10 000 000 BGN for each event if there are two or more injured parties;
2. for damages of property (belongings) – 2 000 000 BGN for each event.

Insurance coverage

Art. 267. (1) The insurer under obligatory Civil liability insurance of the motorists shall cover the liability of the insured person for damages, caused to third parties, including pedestrians, cyclists and other participants in the traffic and damages, caused as a consequence of possessing or using a motor vehicle, including:

1. the non proprietary and proprietary damages, caused by bodily injury or death;
2. the damages, caused to someone else's property;
3. the lost profits, that are direct and immediate result of the damage;
4. the rational expenses, made in connection with submitting a claim under items 1-3, including the court expenses, awarded against the insured person.

(2) The insurance under par. 1 shall also cover the liability for damages, caused in connection with possessing or using the motor vehicle by a person, who:

1. has not been authorized for this explicitly or with tacit consent, under the condition that he/she has not gained possession of the motor vehicle by theft, larceny or a crime under art. 346 from the Penal code.
2. does not have a driving license or whose driving license has been temporarily divested;
3. who has violated the legal requirements for technical accuracy of the motor vehicle.

(3) The indemnity under par. 1 may not exceed the sum insured under the contract.

(4) The default interests and court expenses, awarded against the insurer, shall not be limited to the extent of the sum insured.

Exemptions

Art. 268. The insurer shall not pay indemnity for:

1. damages, endured by the guilty driver of the motor vehicle;
2. the damages, caused to the property of a passenger in the motor vehicle, driven by the guilty driver, or to the property of a member of the family of the guilty driver;
3. the damages, caused to the motor vehicle, driven by the insured person, as well as for damages, caused to property, transported by this motor vehicle;
4. damages, caused during the usage of the motor vehicle in a competition, on the condition that the observation of the traffic rules has not been obligatory for the participants in the competition and unless something else has been agreed;
5. damages, caused at using the motor vehicle during a terrorist action or war, provided that there is a direct connection between the injury of the third parties and such action;
6. damages, caused during transportation of radioactive, chemical or other materials, that represent increased danger;
7. damages, representing environmental intoxication;
8. damages, ensuing from loss or destruction of money, jewels, securities, all kinds of documents, stamps, coins or other similar collections;
9. payments restoration, implemented by the system of the state social or health insurance during or on occasion of death or bodily injury caused by insurance event;
10. interests and court expenses, except for the cases under art. 223, par. 2 and 4;
11. depreciation of the damaged property.

Representatives for settlement of claims

Art. 269. (1) An insurer, who has acquired or who wants to obtain a license for insurance under obligatory Civil liability insurance of the motorists, shall be obliged to appoint a representative for settlement of claims under this kind of insurance in every Member States. The appointment of a representative under sentence one shall not be considered as opening branch in the relevant Member State.

(2) A representative for settlement of claims under par. 1 for one Member State may be a natural person, who resides in this Member State or a legal person, which has a seat there. The natural persons, who are directly engaged in the settlement of claims, should have a thorough knowledge of the official language of the relevant Member State. Other restrictions for choosing a representative, shall not be allowed.

(3) The representative for settlement of claims may work for more than one insurer.

(4) The representative for settlement of claims shall be responsible for considering and settling claims of the damaged parties, residing in the Member State, where the representative has been appointed, when:

1. the motor vehicle, with which the insurance event has been caused, has an obligatory Civil liability insurance of the motorists concluded with the insurer, who has employed the representative;
2. the motor vehicle, with which the insurance event has been caused, is usually situated in the Member State, different from the Member State, where the damaged person resides, and
3. the insurance event has occurred in a Member State, different from the Member State, where the damaged person resides, or in the territory of a third state during traveling between two Member States.

(5) In the cases under par. 4 the representative for settlement of claims shall be entitled to collect every piece of evidence necessary for ascertaining the occurrence of the insurance event and the amount of the damages caused, as well as to negotiate the settlement of the claim out of court and to fulfill thoroughly the obligations, ensuing from these claims.

(6) The appointment of a representative under this Art. shall not restrict the right of the damaged person to submit his/her claims directly at the seat of the insurer or at the seat of her/his branch.

(7) Paragraphs 1-6 shall also be applied respectively for the activity of the representatives for settlement of claims, who act in the country on behalf of insurers with their seats outside the territory of the Republic of Bulgaria.

(8) The Guarantee fund shall maintain a register of the representatives for settlement of claims, who are appointed by the insurers of the Member States to represent them on the territory of the Republic of Bulgaria.

Obligations of the insured person at occurrence of a traffic accident

Art. 270. (1) At occurrence of insurance event, the insured person shall be obliged according to his/her abilities, to do whatever necessary for saving the damaged parties and limiting the damages, caused to property, to notify the competent bodies for control of the road traffic, as well as to fulfill his/her obligations under art. 224.

(2) The insured person shall be obliged to provide the damaged party with the information, necessary for submitting a claim, including:

1. his/her name and address;
2. the name and address, respectively the trade name, the seat and registered office of the owner of the motor vehicle;
3. the registration number of the motor vehicle;
4. the trade name and seat of the insurer, who has concluded the contract of obligatory Civil liability insurance of the motorists, also the number of the policy.

Obligations of the insurer

Art. 271. (1) The term for final statement on a claim under obligatory Civil liability insurance of the motorists shall not be longer than three months after its submission before the insurer, who has concluded the Civil liability insurance of the motorists, or before his/her representative for settlement of claims.

(2) Within the term under par. 1 the person, before whom the claim has been submitted, should:

1. specify and pay the amount of the indemnity, or
2. give reasonable opinion for the submitted claims, when he/she refuses payment or when the ground and amount of the damages have not been thoroughly established.

(3) (new – SG 97/07) An insurer may not refuse to pronounce on the grounds of a claim for compensation under obligatory Civil liability insurance of the motorists, where for the purposes of ascertainment of traffic accident any of the following documents has been submitted:

1. report of findings for the traffic accident;
2. report for the traffic accident;
3. report for the traffic accident, in case the bodies of the Ministry of Interior have not attended it on the spot;
4. another certificate, issued on a legal ground by the bodies of the Ministry of Interior, or
5. bilateral report of findings, compiled and entered in the offices of the Ministry of Interior according to the established procedure, in case only property damages have been caused as a result of the traffic accident, which do not impede the operation of the motor vehicle by its own means, and provided that the participants in the traffic accident have reached an agreement with regards to the circumstances relating to its occurrence.

(4) (new – SG 97/07) Where the documents referred to in para 1 are insufficient for the purposes of proving essential facts in relation to the occurrence of the traffic accident, the insurer may require other documents and evidence to be provided by other competent bodies or persons. The first sentence shall not restrict the users' right to provide evidence.

(5) (prev. text of para 3 – SG 97/07) The damaged party shall have the right to acquire the lawful default interest relevant to the amount of the indemnity, which shall be assigned from the date of the expiry of the term under par. 1.

Obligations of the damaged party

Art. 272. The damaged party shall be obliged to present to the insurer the documents, which he/she has at his/her disposal and which are connected to the insurance event and the damages caused, and to cooperate on the ascertainment of the circumstances connected to the event and the amount of the damages.

Insurance indemnity

Art. 273. (1) At death or bodily injury of third parties the indemnity shall be specified by an insurance expert Commission of the insurer of the guilty motorist or through court.

(2) For damages of property the indemnity may not exceed the actual value of the damage caused. The indemnities for damages of motor vehicles shall be determined in accordance with an ordinance for the method of settling claims for indemnification of damages, caused to motor vehicles, issued by the Commission.

(3) The indemnity under the obligatory Civil liability insurance of the motorists shall be specified and paid in the currency, in which the claim has been submitted, except for the cases under art. 78. par. 3. Claims for indemnity in connection with insurance events, that have occurred in the Republic of Bulgaria, shall be submitted in local currency.

(4) In case of argument between the Guarantee fund and an insurer, who has concluded obligatory Civil liability insurance of the motorists, on the subject who should indemnify the damaged party, the indemnity shall be paid by the insurer. If it has been ascertained that the Guarantee fund should bear the responsibility, it shall restore the insurer the sum, paid to the damaged party along with the lawful interest.

Right of regress

Art. 274. (1) Except for the cases under art. 227, the insurer shall be entitled to receive from the insured person the indemnity, which has been paid by the insurer, when at the occurrence of the traffic accident the insured person:

1. has driven the motor vehicle after consumption of alcohol with a concentration of alcohol in the blood over the legally permissible or under the influence of narcotic substance or its analogue, or he/she has refused to undergo a check for alcohol, narcotic substance or its analogue or guiltily deviated from it;
2. has not stopped and taken measures for removal of damage or malfunction of the motor vehicle, that had threaten the safety of the traffic, and the traffic accident occurred as a result of this damage.

(2) The insurer shall be entitled to receive the indemnity paid by the person, who has driven the motor vehicle without a driving license.

Certificate for previous insurance events

Art. 275. (1) A person, who has concluded obligatory Civil liability insurance of the motorists shall be entitled at every moment to receive from the insurer, with whom the insurance contract has been concluded, a certificate for the claims for indemnifications for damages, caused in connection with the ownership or usage of the motor vehicle, for which the contract has been concluded, or for the absence of such claims for a period of 5 years prior to the date of submitting the application.

(2) The insurer shall be obliged to issue the certificate in 15-days term following the submission of the application.

Chapter twenty and five.

OBLIGATORY ACCIDENT INSURANCE OF THE PASSENGERS IN THE VEHICLES OF PUBLIC TRANSPORT

Obligated persons

Art. 276. (1) The carriers, who perform transportation of passengers, when the start and end points of the travel are in the territory of the Republic of Bulgaria, shall be obliged to conclude and maintain obligatory Accident insurance of the passengers.

(2) The vehicles for public transport of passengers are:

1. rail vehicles;
2. trolley-buses and buses;
3. aeronautical vehicles;
4. all kinds of sea and river sailing vessels;
5. rope lines and ski lifts;
6. taxi automobiles.

Subject of insurance

Art. 277. (1) Subject of insurance under the obligatory Accident insurance shall be the health, life and bodily integrity of the passengers in the vehicles of public transport.

(2) Passengers under par. 1 shall be considered to be the persons, who are situated in the vehicles or are in immediate proximity to them before ascending and after descending.

(3) The health, life and bodily integrity of the drivers and the servicing personnel of the vehicle shall not be object of insurance.

(4) The carriers in the public transport may conclude voluntary Accident insurance for the persons under par. 3.

Effect of the obligatory Accident insurance

Art. 278. (1) The obligatory Accident insurance under art. 276 shall have an effect only if the insurance event has occurred on the territory of the Republic of Bulgaria.

(2) The ascending and the descending of the passengers during movement of the vehicle or out of the places, determined for this purpose shall terminate the effect of the insurance, unless the leaving of the vehicle in movement is caused by immediate danger for the life or the health of the passenger.

(3) When under the conditions of traveling under par. 1 emergency reasons cause deviation of aeronautical vehicle, sea or river sailing vessel for public transport, the insurance shall be in force for the time of this deviation.

Insurance coverage

Art. 279. (1) The responsibility of the insurer for paying the sum insured or a relevant part of it, shall arise in the cases when as a consequence of accident, covered by the contract under art. 276, death or permanent loss of ability to work of a passenger has been caused.

(2) At occurrence of accident the insured passenger or his/her heirs shall be entitled to require from the insurer, with whom the contract has been concluded, the payment of the sum insured or a relevant part of it.

Exemptions from coverage

Art. 280. The insurer shall not be obliged to pay, when death or permanent loss of ability to work, has been caused to the passengers as a result of:

1. war, revolts or actions of military nature, riots, social unrests and etc.;
2. terrorist action, except for the cases, when the coverage of the risk has been explicitly contracted with the insurer;
3. an attempt of committing or committing indictable crime of general nature by a passenger;
4. an attempt of committing or committing suicide by a passenger;
5. diseases of any character of a passenger, including epileptic fits or fits from other diseases, haemorrhages, paralyses, gastric – intestinal infections etc., except for the cases when as a consequence of insurance event disease sufferings occur and they cause death or bodily damage;
6. premature birth or abortion of a passenger, unless these have been caused by the accident occurred;
7. temperature influences (cold, frostbite, sunstroke or heat stroke), operations, radiation, injections and other medicinal activities for a passenger, as far as they are not a consequence of the accident occurred;
8. alcohol intoxications and the damages, caused to a passenger directly, consumption of narcotic substances or their analogues by a passenger;
9. earthquake or atomic or nuclear explosions, radioactive products and contaminations, radiation (ionizing) emission.

Sum insured

Art. 281. The minimum sum insured under the obligatory Accident insurance of the passengers for each event for each passenger shall be 20 000 BGN.

Chapter twent and six. NATIONAL BUREAU OF THE BULGARIAN AUTOMOBILE INSURERS AND GUARANTEE FUND

National bureau of the Bulgarian automobile insurers

Art. 282. (1) The national bureau of the Bulgarian automobile insurers, further called "the bureau", is a non-profit association having its seat in Sofia, and should be registered under the Law for the non-profit corporate bodies.

(2) (suppl. – SG 54/06) (*) A member of the bureau shall be every insurer, who has been granted a license under section II, letter "A", item 10.1 of Appendix No 1, or who provides obligatory Civil liability insurance of the motorists in the Republic of Bulgaria by the order, provided in this code. Membership in the Bureau shall be terminated only with deprivation of the licence issued under sentence one, respectively if the insurer from a Member State has ceased offering obligatory Civil Liability Insurance to the motorists. Activity of offering this insurance may not be performed if the insurer is not a member of the Bureau. The members of the Bureau shall be obliged to present and maintain a bank guarantee as per the Articles of Association under Para 6 and a re-insurance contract in accordance with criteria as determined by the Bureau.

(3) The bureau is a representative national bureau for the Republic of Bulgaria within the meaning of the internal rules of the bureaus, and it shall participate and cooperate for the functioning of the Green card system and the obligatory Civil liability insurance of the motorists in the Member States.

(4) (*) The bureau shall also carry out the functions of Compensatory body, by implementing payments in the cases under art. 284. The finances, needed for paying indemnities by the Compensatory body, shall be specified within the budget of the National bureau of the Bulgarian automobile insurers for the respective year.

(5) When there is a claim for indemnity, presented before the bureau, art. 271 shall be applied, except for the cases, when the bureau acts as a Compensatory body.

(6) (suppl. – SG 54/06) The organization and activity of the bureau shall be regulated by its statutes. The members of the Bureau shall pay in favour of the Bureau membership instalments and other contributions as provided by the Articles of Association. The due payments shall be established as a ground and as an amount by a decision of the Managing Board of the Bureau.

(7) (new – SG 54/06) The Bureau shall be subject to supervision under this Code under the respective application of Articles 297, Para 1; 298; 302; 303 and 304.

Providing information to the bureau

Art. 283. (1) The bodies of the Ministry of Interior shall notify the bureau of the traffic accidents on the territory of the Republic of Bulgaria with the participation of motor vehicles, which are usually situated in a Member State, of the territory, where these vehicles are usually situated, as well as for their registration numbers.

(2) The bodies of the national police shall also provide the bureau with information about the insurance according to documents and data, presented by the driver of the motor vehicle.

(3) The bureau shall send the information received to the insurer and the national insurance bureau of the Member State, where the motor vehicle is usually situated.

(4) Paragraphs 1 and 2 shall be applied to traffic accidents with the participation of motor vehicles, which are usually situated on the territory of a third country.

Compensatory body

Art. 284. (*) (1) The bureau, in its capacity as a Compensatory body, shall pay indemnity to the damaged party, residing in the Republic of Bulgaria, in case:

1. the insurer of the guilty driver or his/her representative for settlement of claims in the Republic of Bulgaria has not fulfilled his/her obligations within the term under art. 271, par. 1, or

2. the insurer of the guilty driver has not appointed a representative for settlement of claims in the Republic of Bulgaria.

(2) Right of indemnity under par. 1, shall have the damaged party, who resides in the Republic of Bulgaria, under the condition that:

1. the insurance contract of the guilty driver has been concluded with an insurer, staying in a Member State, different from the Republic of Bulgaria;

2. the insured motor vehicle of the guilty driver is usually situated in a Member State, different from the Republic of Bulgaria, and

3. the insurance event has occurred outside the Republic of Bulgaria in a Member State or on the territory of a third country during traveling between the territories of two Member States.

(3) The bureau, in its capacity as Compensatory body, shall also pay indemnity to the damaged party, residing in the Republic of Bulgaria, when:

1. the ascertainment of the motor vehicle, that has caused the insurance event in a Member State, different from the Republic of Bulgaria, is impossible;

2. in two months term from the occurrence of the insurance event in a Member State, different from the Republic of Bulgaria, it has been impossible to determine the insurer of the guilty driver, or

3. the insurance event has occurred in the Republic of Bulgaria and has been caused by a motor vehicle under art. 259, par. 3, item 2.

(4) The bureau, in its capacity as a Compensatory body, shall not pay indemnity:

1. under the conditions of par. 1, item 2, in case the damaged party has submitted his/her claim for indemnity directly before the insurer and the person has received a motivated opinion on the claim in the three months term, or

2. in case the damaged party has presented his/her claim against the insurer through court.

Proceedings before the Compensatory body

Art. 285. (*) (1) The damaged party shall submit his/her claim for paying indemnity before the Compensatory body by a written application, along with the evidence, which the person possesses.

(2) The term for pronouncing of the Compensatory body may not be longer than two months from the date of submitting the claim. After expiry of the term under sentence one the Compensatory body shall owe the lawful interest till the date of payment. The expenses for determining and paying the indemnity shall be for the account of the guilty driver or for the account of the Compensatory body in the cases under art. 284, par. 3, item 1.

(3) At receiving an application under par. 1 the Compensatory body shall notify immediately of this circumstance and the term under par. 2 the following persons:

1. the insurer of the guilty driver or his/her representative for settlement of claims;
2. the institution, authorized to carry out activity as a Compensatory body in the Member State, where the insurer resides, and
3. the guilty driver, if his/her identity and address are known.

(4) The proceedings before the Compensatory body shall be terminated, if within the term for pronouncing, the damaged party receives indemnity due from the guilty driver, from the insurer or a third party, except for the cases, when a payment for Life or Accident insurance has been received. In case the proceedings are on a claim for indemnity under art, 284, par. 1, it shall also be terminated, when in the term for pronouncing under par. 2 the insurer or his/her representative for settlement of claims issues a motivated opinion on the claim, submitted before them.

(5) The damaged party shall not be obliged to prove, that the guilty driver can not or refuses to pay the indemnity.

(6) The functions of the Compensatory body consist of settlement of claims, in cases they could be objectively ascertained, and because of that its activity shall be restricted to inspection whether there has been an indemnity claim submitted by the established order and within the terms provided, without making a decision on its merits. The refusals of payment under art. 284 shall be motivated.

Restoration of the indemnities paid and subrogation to the rights of the satisfied creditor

Art. 286. (*) (1) In the cases of payment under art. 284, par. 1 in favour of the Compensatory body, a receivable shall arise towards the institution, authorized to carry out activity as a Compensatory body in the Member State, where the insurer of the guilty driver resides,

(2) In the cases of payment under art. 284, par. 3 in favour of the Compensatory body a receivable shall arise towards:

1. the institution, analogous to the Guarantee fund under art. 287, which is authorized to implement guarantee payments in the Member State where the motor vehicle of the guilty driver is usually situated, when the insurer can not be specified;
2. the institution, authorized to implement guarantee payments, which is analogous to the Guarantee fund under art. 287, in the Member State, where the insurance event has occurred, in case the motor vehicle can not be determined;
3. the institution, analogous to the Guarantee fund under art. 287, which is authorized to implement guarantee payments in the Member State, where the insurance event has occurred, when the motor vehicle is usually situated on the territory of a third state;
4. the institution, analogous to the Guarantee fund under art. 287, which is authorized to implement guarantee payments in the Member State, which has entered the motor vehicle in list of the discharged from the obligation for conclusion of obligatory Civil liability insurance of the motorists in compliance with art. 259, par. 3, item 2.

(3) At arising receivable against the Compensatory body in favour of a compensatory body in a Member State, the Compensatory body shall restore the full amount of the indemnity, paid by this body, and shall subrogate to the rights of the damaged party against the guilty driver, or against his/her insurer.

(4) After fulfilling his/her obligation under par. 3, the Compensatory body shall address a written invitation to the guilty driver or his/her insurer, in which shall be determined one month period, from the date of receiving the invitation for redeeming the obligation. If the obligation is not being fulfilled within the term under sentence one, the Compensatory body shall acquire writs of execution for its receivables towards persons in the Republic of Bulgaria on the basis of the documents and excerpts from the accounts, with which they are being established.

Guarantee fund

Art. 287. (1) The Guarantee fund, further called "the fund", is a legal person having its seat in Sofia. All insurers, who offer obligatory Civil liability insurance of the motorists and/or obligatory Accident insurance of the passengers in the Republic of Bulgaria by means of establishment or under the conditions of freedom to provide services, shall make instalments in the fund in amount, specified according to this code. The minimum amount of the disposable resources in the fund shall be 3 000 000 BGN.

(2) The resources of the fund shall be accumulated from:

1. instalments of the insurers under par. 1, that shall be specified on the basis of the concluded obligatory Civil liability insurance of the motorists and the concluded obligatory Accident insurances of the passengers, including the frontier insurances under art. 259, par. 2;
2. additional instalments of the insurers under art. 290, par. 2, item 7;
3. (suppl. – SG 97/07) fines and proprietary sanctions under art. 315 and fifty percent of the property sanctions as per Art. 317a, para 4;
4. incomes from investing the resources in the fund
5. other sources, unless prohibited by law.

(3) (amend. and suppl. – SG 54/06; suppl. – SG 97/07) The Commission upon a proposal by the Council of the fund, upon their own initiative, shall specify the amount of the additional instalments under par. 2, item 1 and the term for implementing the instalments. The decision according to sentence one shall be promulgated in the State Gazette. The annual instalments of the insurers shall be accounted as expenses and shall be part of the insurance premium. The instalment may be indicated on a separate line in the insurance policy of in the insurance contract.

(4) (suppl. – SG 54/06) The Commission upon a proposal by the Council of the fund, or upon their own initiative, shall specify the amount of the additional instalments under par. 2, item 1 and the term for implementing the instalments. The decision according to sentence one shall be promulgated in the State Gazette.

(5) (suppl. – SG 54/06) The insurers, who do not implement the instalments due under par. 2, items 1 and 2, shall owe the lawful interest for the period of delay. The receivables of the fund from instalments and interest on them shall be determined as a ground and as amount by a decision of the Managing Board of the Fund.

(6) (suppl. – SG 54/06) The resources of the fund shall be invested by the order of investing the technical reserves of the insurers, provided in this code. The fund shall buy covering of their liabilities under this Code on the international re-insurance market in accordance with criteria as determined by a decision of the Commission. The Commission may discharge the fund from the obligation under sentence two at achieving sufficient financial capacity.

(7) The Commission shall accept a regulation for the structure and activity of the fund, which shall be promulgated in the State Gazette.

Payments by the fund

Art. 288. (1) The fund shall pay indemnities for the obligatory Civil liability insurance of the motorists for:

1. proprietary and non- proprietary damages as a consequence of death or bodily injury, when the traffic accident has occurred on the territory of the Republic of Bulgaria and has been caused by unidentified motor vehicle;
2. proprietary and non- proprietary damages as a consequence of death or bodily injury and for damages caused to someone else's property, if:
 - a) the traffic accident has occurred on the territory of the Republic of Bulgaria or of other Member State, and has been caused by a motor vehicle, that is usually situated on the territory of the Republic of Bulgaria and the guilty driver does not have obligatory Civil liability insurance of the motorists concluded;
 - b) (suppl. – SG 97/07) the traffic accident has occurred on the territory of the Republic of Bulgaria or another Member State and has been caused by a motor vehicle, that has been delivered in the Republic of Bulgaria from another Member State and has not been registered formally in the Republic of Bulgaria, in cases when the event has occurred in 30 days period from receiving the motor vehicle from the successor and the guilty driver does not have obligatory Civil liability insurance of the motorists concluded;
 - c) the traffic accident has occurred on the territory of the Republic of Bulgaria and has been caused by a motor vehicle, that is usually situated on the territory of a third state and the guilty driver doesn't have a frontier insurance or a Green card certificate;
 - d) the traffic accident has occurred on the territory of the Republic of Bulgaria or of another Member State and has been caused by a motor vehicle, that is usually situated on the territory of the Republic of Bulgaria and the possession of it which has been deprived by means of theft, larceny, or crime under art. 346 from the Penal code.

(2) (in force from 11.06.2007) At a traffic accident under par. 2, item 1, when an unidentified motor vehicle has caused death or considerable bodily injuries and these have led to hospitalization in medical establishment for hospital care, the fund shall also pay indemnity for the damages, caused to the property of all parties, damaged by the same traffic accident, exceeding 500 BGN. The bodily injuries, which are deemed considerable, shall be specified by the regulation of structure and activity of the fund.

(3) The fund shall not implement a payment for the damages, endured by a person, who has been in the motor vehicle at his/her own will and has been aware of the fact that the possession of it has been acquired through theft, larceny or a crime under art. 346 from the Penal code.

(4) The fund shall also pay indemnities under the obligatory Accident insurance of the passengers, if the carrier did not have insurance.

(5) The amount of the indemnity, paid by the fund, may not exceed the amount of the minimum sum insured for the obligatory insurances, specified for the year, in which the traffic accident has occurred. The interests for delay under par. 7, sentence one shall be calculated separately.

(6) The fund shall specify and pay indemnities, provided that art. 273 shall be applied respectively. For damages, different from the damages, caused to motor vehicles, the indemnity shall be specified by the rules, adopted by the order of art. 290, par. 2, item 9.

(7) The Fund shall pay indemnities by the order, determined with the Regulation for the structure and activity of the fund, and shall owe default interests from the date, on which expires the term for pronouncing on claim, submitted by the damaged party. The term for pronouncing may not be longer than three months from the date of filing the claim under par. 9.

(8) The expenses for determination and payment of the indemnity shall be at the guilty driver's expense, respectively at the carrier's expense, or at the fund's expense in the cases under par. 1, item 1 and par. 2.

(9) The damaged party shall submit a claim for indemnity payment before any of the insurers, who has acquired license and who offers obligatory Civil liability insurance of the motorists, or before the fund, by a written application, along with proofs of the traffic accident, his/her right to obtain indemnity in connection with the event and the amount of the damages caused. Insurer, who has obtained license and who offers obligatory Civil liability insurance of the motorists, respectively an obligatory Accident insurance of the passengers, may not refuse to accept a claim, submitted by the order of sentence one, as well to implement inspection of the damaged property, if necessary. In two months term from receiving the request of the damaged party the insurer shall be obliged to collect the necessary additional evidence, to make inspection, if such is needed, and to deliver the whole documentation considering the claim to the Fund. The collection of additional evidence, the assessment of the amount of indemnity and its paying up to the damaged party shall be carried out by the fund within the term and by the order, provided in this code. The relations between the fund and the insurer shall be arranged by a contract.

(10) The damaged party shall not be obliged to prove that the guilty driver may not or refuses to pay the indemnity.

(11) The damaged party may submit his/her claim for payment before court only if the fund does not pronounce on the request within the term under par. 7, if it refuses to pay indemnity or if the damaged party disagrees with the amount of the indemnity.

(12) After paying up the indemnity under par. 1 and 2 the fund shall subrogate to the rights of the damaged party to the amount of what has been paid and of the expenses under par. 8. When the damaged party has a writ of execution against the guilty driver, the fund may benefit from the rights under it on the basis of the documents and the excerpts from the accounts, establishing the sums paid by him/her. In case the fund has determined and paid indemnity, which is less than the amount of the writ of execution, in the execution proceedings the damaged party shall be satisfied for the difference before the fund.

(13) After paying up the indemnity under par. 4 the fund shall have a right to claim against the carrier up to the amount of what has been paid and of the expenses under par. 8.

(14) For its receivables under par. 12 and 13 the fund may get a writ of execution on grounds of the documents and the excerpts from the accounts, establishing them, if it does not receive payment in one month period from receiving the written invitation by the guilty driver, respectively the carrier.

Reimbursement of sums, paid by compensatory body of a Member State

Art. 288a. (new – SG 97/07) (1) The Guarantee fund shall reimburse sums, paid off by a compensatory body of a Member State, in case:

1. the usual location of the guilty driver's motor vehicle is in the territory of the Republic of Bulgaria and the insurer may not be identified within a period of two months from the date the insurance event has occurred;
2. the insurance event has occurred in the territory of the Republic of Bulgaria and the motor vehicle may not be identified;
3. the insurance event has occurred in the territory of the Republic of Bulgaria and has been caused by a motor vehicle, the usual location of which is in the territory of a third country, and the insurer may not be identified within a period of two months from the date on which the insurance event has occurred.

(2) The sums referred to in para 1 shall be reimbursed in their full amount within 15 days from the written application of the respective compensatory body.

(3) Art. 288, paras 12 and 14 shall be applied after an indemnity under para 1 has been paid off.

Payments for prevention events

Art. 288b. (new – SG 97/07, in force from 01.01.2008) (1) Five percent of the Fund's resources, raised according to Art. 287, para 2, item 1 during the previous year under the obligatory Civil liability insurance of motorists, shall be spent for investment costs for technical equipment and information and communication technologies for the purpose of improvement of the condition of road traffic safety, developed by State Public Consultative Committee on Road Traffic Safety Problems, and adopted by the Council of Ministers.

(2) The programmes referred to in para 1 are annual and shall contain financial grounds, in which shall be enlisted the specific activities for the implementation thereof, also specifying the resources required for that purpose.

(3) The resources referred to in para 1 shall be provided on the ground of concluded contracts in fulfillment of approved programmes of the persons responsible for the implementation thereof.

(4) The resources referred to in para 1 planned for the respective year, which have not been utilized under programmes, adopted for the same year, shall remain in favour of the Fund.

(5) The statement for the activity of the Fund shall include detailed report on the spent resources referred to in para 1.

(6) Para 1 shall not apply where the amount of the Fund's available resources is less than BGN 20 million after deducting the resources under para 1. In case the shortage occurs after the annual expenditure program has been approved, the managing board shall immediately notify the Commission, the Minister of Interior and the persons, who are party to the contracts under para 2, and shall cease the financing. A person, party to a contract, financed by resources under para 1 shall not be liable for penalty and other damages, if the financing under the contract has been ceased pursuant to the first sentence.

Bodies of the Fund

Art. 289. Bodies of the Fund are:

1. the Council;
2. administrative board;
3. executive director.

Council of the Fund

Art. 290. (1) The Council of the Fund consists of representatives of all insurers, who offer obligatory Civil liability insurance of motorists and/or obligatory Accident insurance of the passengers, in the Republic of Bulgaria by means of establishment or under the conditions of the freedom to provide services.

(2) The Council shall:

1. specify the number, elect and discharge the members of the administrative board and shall determine their remunerations;
2. elect and discharge the executive director amongst the members of the administrative board and shall determine his/her remuneration;
3. execute supervision over the activity of the administrative board;

4. (suppl. – SG 97/07) adopt the annual financial account and report of the administrative board for the activity of the fund;
 5. adopt the annual budget of the fund;
 6. suggest to the Commission the amount of the installments under art. 287, par. 2, item 1;
 7. in case that the disposable resources in the fund drop below the minimum amount under art. 287, par. 1, sentence three or upon another necessity of financing the fund's activity, the Council shall suggest to the Commission the amount of the additional installments under art. 287, par. 2, item 2, according to the average market portion of the insurers on these insurances for the last three years;
 8. adopt decisions concerning the common principles of investing the resources of the fund;
 9. adopt rules, in compliance with the judiciary practice, regarding the settlement of claims procedure concerning damages as a consequence of death or bodily injuries.
- (3) The council shall gather for a meeting at least twice a year. The meeting shall be lawful, if more than half of the insurers under par. 1 are represented on it.
- (4) A meeting of the Council shall be summoned by the Administrative board of the fund on its initiative or upon a request by at least one third of the insurers under par. 1. The meeting shall be summoned by a written invitation, received by each of the insurers under par. 1 no later than 14 days before the date of the meeting, or following an invitation, promulgated in the State Gazette no later than 14 days before the date of the meeting.
- (5) The invitation for the meeting should include the date, time and place, where it would be held, as well as the issues, included in the agenda, and the projects for their solving. The Council may adopt decisions on issues, not included in the agenda, only if the meeting is attended by the representatives of all the insurers under par. 1 and all of them agree to discuss the issue.
- (6) Each insurer under par. 1 shall have one vote right in the meetings of the Council.
- (7) The decisions of the Council shall be taken by a majority of more than half of the present insurers.

Administrative body and executive director

Art. 291. (1) The Administrative body of the fund shall consist of 5 to 7 members.

(2) The Administrative board shall have a four-year mandate. A member of the Administrative board may be eligible for re-election without limitation.

(3) The Administrative board:

1. shall elect chairman of the Administrative board amongst its members, who shall summon and govern the meetings of the board;
2. shall determine the administrative-management structure, it shall adopt the personnel list and the rules for the remuneration in the fund;
3. shall organize the accumulation of the resources in the fund;
4. shall pronounce on claims for indemnity;
5. shall take decisions regarding the investment of the resources of the fund, observing the legal provisions and the decisions of the Council of the fund;
6. shall adopt the project of the annual budget of the fund and shall present it to the Council of the fund;
7. shall organize and bear responsibility for spending the resources of the fund;
8. (suppl. – SG 97/07) shall prepare annual financial account and report for the activity of the fund and shall present it to the Council of the Fund;
9. shall take decisions for the participation of the fund in specialized international organizations of structures with the same subject of activity;
10. shall approve agreements for cooperation of the fund with state institutions and civil organizations in connection with the activity, performed by the fund;
11. shall consider and solve other issues, related to the activity of the fund, that are not of exclusive competence of the Council of the fund.

(4) The Administrative board shall gather for meetings at least once a month. The meetings shall be summoned by the chairman at his/her initiative or upon a request by any of its members.

(5) The meetings of the Administrative board shall be considered valid, if more than half of its members are present. The decisions of the Administrative board shall be taken with a majority of more than half of its members.

(6) The executive director:

1. shall represent the fund and maintain the current management of the fund;

2. shall employ and discharge the employees of the fund;
 3. shall perform the legal and the actual activities in connection with the investment of the resources of the fund according to the decisions of the Administrative board and regarding the legal provisions;
 4. shall dispose of the resources of the fund according to the decisions of the Administrative board, the regulation for structure and activity of the fund and this code;
 5. shall implement other activities, assigned by the Administrative board.
- (7) Articles 13 and 14 shall be applied respectively in regard to the chairman, the members of the Administrative board and the executive director of the fund.

Information centre

Art. 292. (1) For the purposes of giving the damaged party an opportunity to receive indemnity under the insurances Civil liability and Accident, an Information centre shall be created at the fund in order to maintain a register of:

1. the registration numbers of motor vehicles, that are usually situated on the territory of the Republic of Bulgaria, and this information shall be provided to the Information centre by the Ministry of Interior by the order of the ordinance under art. 295, par. 6;
 2. the insurers, who offer obligatory Civil liability insurance of the motorists in the Republic of Bulgaria by means of establishment or under the conditions of the freedom to provide services;
 3. (suppl. – SG 54/06) data from the contracts for obligatory Civil liability insurance of the motorists, from the Green card certificates, and from the contracts for frontier insurance, regarding number of the insurance policy, name of the insurer, start and end date of the coverage, the registration number and number of the frame (chassis) of the motor vehicle, name/firm and address/address of management of the owner of the motor vehicle;
 4. a list of the representatives for settlement of claims of the insurers, who offer the obligatory Civil liability insurance of the motorists, appointed for the Republic of Bulgaria by insurers, having their seats in a Member State, and appointed for the Member States by insurers, having their seats in the Republic of Bulgaria.
 5. data for the carriers, who have obtained a permission to implement public transport of passengers, provided that this information shall be provided to the Information centre by the Ministry of Transport by the order of the ordinance under art. 295, par. 6;
 6. the insurers, who offer obligatory Accident insurance of the passengers in the Republic of Bulgaria by means of establishment or under the conditions of the freedom to provide services;
 7. data from the contracts for obligatory Accident insurance of the passengers concerning the number of the insurance contract, the name of the insurer, start and end date of the coverage, the registration number of the vehicle for public transport;
 8. (amend. – SG 54/06) information for the motor vehicles in every Member State, that have been exempted from the obligation to conclude obligatory Civil liability insurance of the motorists, as well as for the bodies, responsible for paying indemnity to the persons, damaged by such vehicles; the data under this item shall be gathered by the order of art. 293, par. 4.
- (2) (amend. – SG 54/06; amend. – SG 97/07) The Information centre shall gather, process and store the information under par. 1 and shall distribute it to the entitled persons under the conditions and by an order, stipulated by this code and the Regulation under art. 287, par. 7. The term for preserving the information under par. 1, items 1 to 4 and 9 shall be seven years, from the date of termination of the registration of the motor vehicle or from the termination of the insurance contract. The term for preserving the information under par. 1, item 7 shall be 5 years from the date of terminating the activity as a carrier of passengers by means of public transport vehicles or from terminating the insurance contract.
- (3) At processing the personal data the Law for protection of the personal data shall be applied.
- (4) The structure and the activity of the Information centre shall be regulated by the Regulation under art. 287, par. 7.
- (5) The National bureau of the Bulgarian automobile insurers shall have right of access to the information, preserved in the Information centre, necessary for performing the activity of the bureau under this code, under the conditions and by order, determined in the Regulation under art. 287, par. 7.

Information disclosure before the damaged party

Art. 293. (1) The Information centre shall be obliged to deliver to the damaged party, in connection with his/her right to receive indemnity under the obligatory Civil liability insurance of the motorists, the following information:

1. name of the undertaking, the seat and the registered office of the insurer;
2. number of the insurance contract;
3. name and address, respectively the trade name, the seat and the registered office of the representative for settlement of claims in the Member State, where the damaged party resides.

(2) The Information centre shall also provide information about the identity and address of the owner, the usual driver or the registered possessor of the motor vehicle according to the documents for its registration, in case the damaged party has a legal interest to receive the data.

(3) The Information centre shall provide the damaged party, in connection with his/her right to acquire indemnity under the Accident insurance of the passengers in the public transport vehicles, with the trade name, the seat and registered office of the insurer and the number of the insurance contract concluded, as well as with information about the trade name, the seat and the registered office of the carrier, in case the damaged party has a legal interest of its receiving.

(4) In connection with the provision of the information under par. 1 concerning the insurance contracts, concluded outside the Republic of Bulgaria, or in connection with motor vehicles, usually situated outside the Republic of Bulgaria, the Information centre shall request for the necessary data from the Information centres of the Member States. At a request on behalf of the information centres in the Member States, the Information centre shall be obliged to provide the information from the register.

(5) In case the Information centre does not have information about the identity or the address of the persons under par. 2, respectively the trade name, the seat or the registered office of the persons under par. 3, it shall obtain it on grounds of a written request by the insurer, who has concluded the relevant insurance contract, or from the competent state body, who maintains the registers of the owners of motor vehicles or of the carriers.

(6) For obtaining the information under par. 1, 2 or 3 the damaged party shall point out in his/her request the exact date and place of the occurrence of the insurance event and the registration number of the vehicle, as well as other information for its establishing if he/she is aware of such data.

(7) The Information centre shall deliver the information under this Art., which is at its disposal, no later than 3 days after receiving the written request from the damaged party. For the information under par. 5 the term may be prolonged, but it may not be longer than 15 days after receiving the written request from the damaged party. The information shall be provided for free.

(8) The right of access to the information under par. 1 and 2 shall be guaranteed to the damaged party for a period of seven years from the date of the insurance event. The right of access to the information under par. 3 of the persons, who exercise rights under the obligatory Accident insurance of the passengers, shall be guaranteed for a period of three years from the date of the insurance event.

Providing information by the insurers

Art. 294. (1) Each insurer, who offers obligatory Civil liability insurance of the motorists and/or obligatory Accident insurance of the passengers in the Republic of Bulgaria by means of establishment or under the conditions of the freedom to provide services, shall provide to the Information centre weekly up to the second work day of the next week a reference for the concluded and terminated insurance contracts by the end of the previous week.

(2) The reference under par. 1 shall include the information under art. 292, par. 1, items 3 and 7 and shall be submitted in a way and in a form, determined by the Administrative board of the fund in connection with the requirements of the system for automated processing of information, provided that the authenticity and the security of the submitted data are guaranteed.

(3) The insurers under art. 292, par. 1, item 2 shall present annually to the Information centre a list of the places of their activity in the framework of the Member States, as well as their representatives for settlement of claims under art. 269, and shall update it in 15 days period of time, considered from the date of change of the relevant circumstances.

(4) The reference under par. 1 shall also be presented to the Commission.

Information exchange and cooperation with the competent state bodies

Art. 295. (1) For the purposes of maintaining a register under art. 292, par. 1 the Information centre shall exchange information with the competent state bodies, which register the motor vehicles in the Republic of Bulgaria and implement the state supervision over the carriers of passengers by means of public transport vehicles.

(2) (suppl. – SG 97/07) The competent bodies under par. 1 shall present to the Information centre weekly to the first work day of the next week an actual list of the registered motor vehicles in the Republic of Bulgaria and of the registered carriers of passengers by means of the public transport. The information referred to in sentence one shall also be provided to the Commission.

(3) (amend. – SG 54/06) The information centre shall provide to the competent bodies under para 1 weekly to Friday, updated by the end of the previous calendar week information, about all motor vehicles, which have concluded and effective insurance contracts of Civil liability insurance of the motorists and for the carriers of passengers by means of public transport, who have concluded and effective Accident insurance contract. The Information centre shall notify the owners of motor vehicles for which obligatory contract on Civil Liability has not been concluded or the concluded contract has been terminated and has not been renovated and gives a 14 days term from the date of sending of the notification to submit evidence of existence of concluded and effective insurance contract on this insurance. The information centre shall provide weekly to the competent bodies of the Ministry of Interior a list of the motor vehicles for which evidence under sentence two has not been presented. The information centre shall notify the bodies which execute the state supervision over the carriers of passengers by means of public transport, about the carriers who did not conclude obligatory Accident insurance for the passengers.

(4) (amend. and suppl. – SG 54/06) The competent bodies under par. 1 shall immediately take measures for ceasing from movement the motor vehicles or the public transport vehicles under par. 2 and for applying the respective administrative penalties, if obligatory insurance has not been concluded.

(5) (suppl. – SG 97/07) The Information centre shall exchange information with the competent state bodies, that register the traffic accidents, occurred on the territory of the Republic of Bulgaria. Each month, by the 25th date the Ministry of Interior shall provide the Information centre with information, containing individualised data pursuant to the ordinance as per Art. 125, para 2 of the Road Traffic Law concerning the traffic accidents occurred during the previous month and the persons, who have taken part therein.

(6) The forms and the method of information exchange and cooperation under this Art. shall be determined by an Ordinance, issued jointly by the Minister of Interior, the Minister of Transport and the Commission, provided that the opinion of the fund should also be taken into account. In the ordinance under sentence one shall be provided measures for keeping the secret, protected by the law.

(7) (new – SG 54/06) The documents prepared by the fund on the base of the data from the Information centre, until the opposite is proved, shall certify the insurer, the number of the contract of obligatory insurance Civil Liability of the motorists or Accident insurance for the passengers, the initial and final date of the coverage, the registration number and number of the frame (chassis) of the motor vehicle, name/firm and address/address of management of the owner of the motor vehicle or of the carrier of passengers by means of public transport.

Supervision over the activity of the fund

Art. 296. The fund shall be subject to supervision under this code, by applying respectively the regulations for supervision over the insurers.

Part six.

CURRENT SUPERVISION. COMPULSORY ADMINISTRATIVE MEASURES

Chapter twent and seven. CURRENT SUPERVISION

Range of the current supervision

Art. 297. (1) The current supervision over the insurers and re-insurers having their seat in the Republic of Bulgaria shall be implemented by the Commission and by the deputy chairman for their whole activity in the Republic of Bulgaria. The supervision under art. 88 shall be executed by the Commission and the deputy chairman also for their activity in the framework of the Member States.

(2) The current supervision over the insurers from Member States, who carry out activity in the Republic of Bulgaria under the conditions of the right of establishment and the freedom to provide services, shall be exercised by the Commission and the deputy chairman for their activity in the state, except for the supervision over their financial standing within the meaning of art. 88, which supervision shall be implemented by the Member State at their seat.

(3) The current supervision over the insurers from a third country, who carry out activity in the Republic of Bulgaria through a branch, shall be implemented by the Commission and the deputy chairman regarding their whole activity in the State. In case under the conditions of art. 47, par. 3 the competent supervision bodies have been elected under this code, the current supervision shall be executed by the order of par. 1, and if they have been elected by the authorities of another Member state, the current supervision shall be exercised by the order of par. 2.

(4) The deputy chairman shall exercise current supervision over the whole activity of the insurance intermediaries, who constantly reside or have their seat in the Republic of Bulgaria, and shall observe whether the conditions for performing the activity are being fulfilled and shall take the measures under this code for elimination of the offences established.

Authorities of the competent bodies

Art. 298. (1) (suppl. – SG 97/07) At the execution of the current supervision, art. 18 and 19 of the Law of the Commission of financial supervision shall be applied. The deputy chairman may order the implementation of inspections of the places, where the insurer, respectively the re-insurer carries out his/her activity.

(2) (amend. and suppl. – SG 97/07) Insurers and re-insurers having their seat in a Member State shall be obliged to present to the Commission and the deputy chairman the documents and the information, necessary for the implementation of the supervision under art. 297, para 3.

(3) (suppl. – SG 97/07) The Commission and the deputy chairman shall publish the annual and periodical financial reports of insurers and re-insurers, as well as the administrative measures applied and the administrative penalties imposed and under conditions and by order, provided in the ordinance under art. 30, par. 2 of the Law of the Commission of financial supervision.

Additional supervision over insurers and re-insurers, part of an insurance or reinsurance group (suppl. – SG 97/07)

Art. 299. (1) (suppl. – SG 97/07) Additional supervision shall be exercised over insurer or re-insurer, who has obtained license for carrying out activity under this code and:

1. (suppl. – SG 97/07) is a participating company into at least one insurer, re-insurer or an insurer or re-insurer from a third country;

2. (amend. – SG 59/06, in force from 01.01.2007; amend. and suppl. – SG 97/07) whose parent company is an insurance holding, an insurer from a third country or a re-insurer or an insurer from a third country;

3. (amend. – SG 59/06, in force from the date on which the Treaty of Accession of the Republic of Bulgaria to the European Union becomes effective) whose parent company is an insurance holding of mixed activity.

(2) (amend. – SG 97/07) At the execution of the supervision under par. 1 it shall be taken into account the activity of the companies, which are:

1. related to the insurer or the re-insurer;

2. participating in the insurer or the re-insurer, and

3. related to the companies participating in the insurer or the re-insurer.

(3) (suppl. – SG 97/07) An insurer, respectively a re-insurer under par. 1 shall provide information on the objectives of the additional supervision of the Commission under the conditions and by the order of this code. In case the information is not provided by the order of sentence one, the deputy chairman may require it from each of the persons under par. 2, as well as to make an inspection on the spot for each of the persons under par. 2 in order to establish and confirm the information.

(4) (suppl. – SG 97/07) At implementing the additional supervision under par. 1 the Commission and the deputy chairman may take into consideration the condition of any of the persons under par. 2, which is located in a third country, where exist legal limitations for providing the necessary information. In this case shall be applied the rules for consideration of the indicators of the insurer or the re-insurer in case of lack of information.

(5) (suppl. – SG 97/07) At implementing the additional supervision under par. 1 the deputy chairman in a certain case may not take into consideration the condition of a person under par. 2, when regarding the purposes of the additional supervision over the insurer or the re-insurer, the person is not of significant interest, or in case reporting his/her financial standing shall be inappropriate or misleading regarding the purposes of the additional supervision over the insurer or the re-insurer.

(6) (suppl. – SG 97/07) The additional supervision under par. 1 is not supervision over insurer from a third country, re-insurer from a third country, insurer holding or insurer holding with mixed activity individually.

(7) (amend. – SG 59/06, in force from 01.01.2007) In case insurers or re-insurers from one insurance or reinsurance group have their seat in different Member States and have as a parent company one and the same insurance holding, insurer from a third country, re-insurer from a third country or insurance holding with mixed activity, the Commission may by virtue of an agreement, concluded with a competent body of a Member State, assign its authority for implementing additional supervision to an insurer under par. 1, respectively to be authorized to exercise additional supervision over insurer having his/her seat in another Member State.

(8) (suppl. – SG 97/07) For the purposes of establishment or confirmation of significant information, necessary for the additional supervision under par. 1, which is at disposal of a person under par. 2 having a seat in a Member State, the Commission or the deputy chairman may require the cooperation of the competent bodies of this Member State, observing the local legislation. The chairman of the Commission shall order an inspection by the order of art. 19 of the Law of the Commission of financial supervision, in case the Commission has received an application from a competent authority of a Member State for cooperation for establishing or confirming significant information, which is necessary for the implementation of the additional supervision and which is at disposal of a person, having a seat in the Republic of Bulgaria, who is a related person to the insurer or the re-insurer in the Member State, a person participating in this insurer or re-insurer, or a person who is a related person to a party, participating in this insurer or re-insurer. Upon a request by the authority of the Member State, in the inspection may participate its officials or experts, appointed by it.

Information exchange with the competent bodies

Art. 300 (1) The Commission and the deputy chairman shall acquire the opinion of the competent authorities, implementing the insurance supervision in the Member States:

1. (amend. – SG 59/06, in force from 01.01.2007; suppl. – SG 97/07) before issuing license to an insurer or a re-insurer, whose parent company is an insurer or a re-insurer having a seat in a Member State or who is being controlled by another natural or legal person, who exercises control over an insurer or a re-insurer having a seat in a Member State;

2. (amend. – SG 59/06, in force from 01.01.2007; suppl. – SG 97/07) when an insurer or a re-insurer having a seat in a Member State or other legal or natural person, who exercises control over an insurer or a re-insurer having a seat in a Member State, has submitted an application under art. 16, par. 3.

(2) The Commission and the deputy chairman shall acquire the opinion of the Bulgarian national bank and the bodies, implementing bank supervision in the Member State:

1. (amend. – SG 59/06, in force from 01.01.2007; suppl. – SG 97/07) before issuing a license to an insurer or a re-insurer, whose parent company is a bank, licensed in the Republic of Bulgaria or in a Member State, or who is controlled by another legal or natural person, who exercises control over a bank, licensed in a Member State;

2. (amend. – SG 59/06, in force from the date on which the Treaty of Accession of the Republic of Bulgaria to the European Union becomes effective) in case a bank having a seat in the Republic of Bulgaria or in other Member State, or other legal or natural person, who exercises control over a bank having a seat in the Republic of Bulgaria or in a Member State, has submitted an application under art. 16, par. 3.

(3) (amend. – SG 97/07) The Commission and the deputy chairman shall acquire the opinion of the competent bodies, exercising supervision over the investment brokers in the Member States:

1. before issuing a license to an insurer or a re-insurer, whose parent company is controlled by an investment broker, having a seat in a Member State or by other legal or natural person, who controls an investment broker, having a seat in a Member State;

2. where an investment broker, having a seat in a Member State or other legal or natural person, who controls investment broker, having its seat in a Member State, has submitted an application under art. 16, par. 3.

(4) (amend. – SG 59/06, in force from 01.01.2007; amend. and suppl. – SG 97/07) The Commission and the deputy chairman shall provide an opinion upon a request by the competent authorities under paras 1 to 3 in the cases, where an insurer or a re-insurer, having a seat in the Republic of Bulgaria or natural or legal person, who controls an insurer or a re-insurer having a seat in the Republic of Bulgaria, who exercises control over an insurer or a re-insurer, a bank or an investment broker, which are subject to the supervision of these bodies, or he/she has submitted an application for acquiring qualified participation in their capital.

(5) Subject to exchange shall be the information concerning the suitability of the stock-holders and the reputation and professional experience of the members of the managing and control bodies within the framework of the group.

(6) (suppl. – SG 97/07) In case an insurer or a re-insurer having a seat in the Republic of Bulgaria is directly or indirectly connected to an insurer or a re-insurer having a seat in a Member State or if these insurers or re-insurers have common participating undertaking, the Commission and the deputy chairman shall exchange with the competent bodies in such a state whatever information, which is significant for the additional supervision over the insurers or re-insurers, according to art. 299, par. 1. The information shall be provided upon a request by the interested party, as well as ex-officio, when an estimation has been made, that the information is significant for the relevant supervision body.

(7) (new – SG 97/07) The Commission and the deputy chairman shall exchange information with the competent authorities carrying out insurance supervision in the Member States and other documents and information for the purposes of supervision over insurers and re-insurers.

Supervision over the technical basis

Art. 301. The insurers, who carry out activity under Section I from appendix No 1, shall be obliged, following a direction of the deputy chairman, to present the technical basis, used by them for calculating the insurance tariffs and for forming the technical reserves. The deputy chairman shall give instructions for their change, when deviation from the provisions of a normative act has been established.

Chapter twent and eight. COMPULSORY ADMINISTRATIVE MEASURES

Section I.

Types of compulsory administrative measures. Proceedings

Types of measures

Art. 302. (1) (amend. – SG 97/07) The deputy chairman may apply the measures under par. 2, when he/she establishes, that an insurer, re-insurer, his/her employees, each of the persons under art. 13, 22, 26, art. 41, par. 2, item 4 or art. 47b, para 2, persons, who conclude transactions at the expense of the insurer or the re-insurer, stock-holders or members of a cooperation, who own directly, jointly or through related persons 10 or more than 10 percent of the votes in the general assembly or of the capital of the insurer or the re-insurer, have performed actions, that have led to, or through their inactions have admitted:

1. (suppl. – SG 97/07) violation of the provisions of this code, of the subordinate acts of its implementation, of the acts of the Commission or of the deputy chairman, or of the program for the activity of the insurer or the re-insurer;
2. obstruction of the implementation of the insurance supervision;

3. (suppl. – SG 97/07) execution of transactions or actions, which affect the financial or organizational stability of an insurer or a re-insurer;
 4. (amend. – SG 97/07) threatening the interests of the consumers of insurance services.
- (2) In the cases of par. 1 the deputy chairman shall apply the following compulsory administrative measures:
1. order in writing the respective measures to be undertaken for suspending the violations admitted and for removing the harmful consequences from them;
 2. give prescriptions for acquiring: profitability, which for the insurers, offering Life insurance, shall be at least equal to the technical interest; security and liquidity of the investments and the technical reserves and of the own capital;
 3. (suppl. – SG 97/07) apply measures for rehabilitation of the financial status of the insurer or the re-insurer;
 4. (suppl. – SG 97/07) oblige in writing the insurer or the re-insurer to increase his/her own funds within instructed term;
 5. (suppl. – SG 97/07) determine the structure of the assets with objective the payments under the insurance or reinsurance contracts to be guaranteed;
 6. following a determined by him/her agenda, general assembly of the stock-holders, respectively of the members of the cooperation, shall be summoned, or he/she shall appoint a meeting of the managing or control bodies for taking a decision concerning the measures, which have to be taken, and shall send representatives of the Commission to the meetings of the general assembly of the stock-holders, respectively of the members of the cooperation, the managing and the control bodies.
 7. prohibit temporarily the payment of dividends;
 8. oblige an insurer, offering obligatory insurance, to conclude contract with a person, to whom he/she has refused conclusion;
 9. prohibit temporarily for a period of time up to 12 months a stock-holder to exercise his/her right to vote;
 10. prohibit the conclusion of new insurance or re-insurance contracts for all or some of kinds of insurances, prolonging of the term of concluded contracts and expanding the coverage under them for a term not longer than 6 months;
 11. (suppl. – SG 97/07) restrict or prohibit the free assets disposition in the cases under art. 72, par. 2, art. 86, par. 1 or 2, as well as in case of withdrawal of the license of the insurer or the re-insurer;
 12. (suppl. – SG 97/07) set additional requirements for the insurer or the re-insurer in connection with the book-keeping;
 13. (suppl. – SG 97/07) oblige the insurer or the re-insurer to dismiss the manager of the internal control unit, persons, who are at managerial positions, and/or to terminate the authority of persons, who conclude transactions at the expense of the insurer or the re-insurer;
 14. (suppl. – SG 97/07) order the insurer or the re-insurer to terminate a contract under art. 60;
 15. (suppl. – SG 97/07) appoint registered auditor, actuary with recognized legal capacity or expert, who will implement financial, actuary or other inspection at the expense of the insurer or the re-insurer.
- (3) In the cases under par. 1 the Commission at a proposal by the deputy chairman may:
1. (amend. and suppl. – SG 97/07) order in writing to the insurer or the re-insurer to take the necessary measures to discharge one or more persons authorized to manage or represent him, or each of the persons under art. 13, art. 22, 26, art. 41, par. 2, item 4 or art. 47b, para 2, item 4, as well as the liable actuary under art. 95;
 2. order in writing to a stock-holder to transfer the shares he/she owns within a fixed term;
 3. appoint a receiver for a term up to one year.
- (4) A compulsory administrative measure shall also be considered the license withdrawal under art. 36, except for the cases when the person has refused the license issued.
- (5) The Commission may inform the society about the measures, applied under par. 2, 3 and 4 or about activity, that threatens the interests of the insured persons.
- (6) (Amend. SG 30/06, in force from 12.07.2006) At imposing the compulsory administrative measures under par. 2, item 5, 7, 9 and 11, par. 3, item 3 and par. 4 the provisions of the Administrative Procedure code, they shall not be applied regarding the explanations and objections of the interested persons.

(7) The compulsory administrative measures under par. 2, item 1 and 4 and par. 3, item 1 may also be applied regarding the insurance brokers.

(8) (amend. - SG 34/06, in force from 01.10.2006) Upon a request by the deputy chairman, respectively by the Commission, in the trade register shall be entered the circumstances, respectively announced the acts under par. 2, items 3, 7, 9, 10 and 11 and under par. 3.

Proceedings for application of compulsory administrative measures

Art. 303. (1) The proceedings for application of compulsory administrative measures shall start at the initiative of the deputy chairman.

(2) The notifications and the announcements in the proceedings for application of compulsory administrative measures may be performed by registered letter with return of service, by telephone or facsimile. The notifications and announcements by registered letter with a return receipt shall be certified by a delivery notice, those by the telephone – in writing by the official, who has done them, and by facsimile – by a written confirmation of a sent notice.

(3) If the notifications and announcements are not received at the address, telephone number or fax indicated by the persons or entered in the relevant register under art. 30, par. 1 of The Law of the Commission of financial supervision, they shall be considered implemented by setting them at a place, especially specified for that purpose in the building of the Commission. This circumstance shall be certified by a protocol, compiled by the officials, authorized by the deputy chairman with an order.

(4) The compulsory administrative measures under art. 302, par. 2 shall be applied by a motivated decision in writing of the deputy chairman, and the compulsory administrative measures under art. 302, par. 3 –by a motivated decision of the Commission in writing. The decisions shall be announced to the interested person in 7 days term from their pronouncing.

(5) The decision for applying compulsory administrative measures shall be subject to immediate fulfilment, regardless of the fact whether if it has been appealed. The appeal of the decision for applying compulsory administrative measure shall not stop its fulfillment.

Applicability of the Administrative Procedure code (Title amend. SG 30/06, in force from 12.07.2006)

Art. 304. (amend. SG 30/06, in force from 12.07.2006) For the proceedings for application of compulsory administrative measures the Administrative Procedure code shall be applied as far as this code does not provide otherwise.

Section II.

Special rules in the proceedings for application of compulsory administrative measures

Notifying the Member States of the undertaken compulsory administrative measures

Art. 305. (1) (suppl. – SG 97/07) The deputy chairman shall notify the competent bodies of the Member States, where an insurer or a re-insurer having a seat in the Republic of Bulgaria carries out activity under the conditions of the right of establishment and the freedom to provide services, of the compulsory administrative measures applied under art. 302, par. 2, items 3 and 11, and shall point out whether it is necessary for them to take the same measures.

(2) (suppl. – SG 97/07) When in connection with withdrawal of license of an insurer or a re-insurer having a seat in the Republic of Bulgaria, who carries out activity under the conditions of the right of establishment and the freedom to provide services, the deputy chairman has imposed a compulsory administrative measure under art. 302, par. 2, item 11, he/she shall offer to the competent bodies of the respective Member States to impose the same measure.

Actions of the Commission at notification of compulsory administrative measure, imposed on insurer or re-insurer having his/her seat in another Member State (Title suppl. – SG 97/07)

Art. 306. (1) (suppl. – SG 97/07) When the Commission is notified by the respective competent authority of the Member State of origin of limitation imposed or prohibition of disposition of assets, as well as of the measures undertaken in connection to the applying of a short term plan towards an

insurer or a re-insurer, who carries out activity in the Republic of Bulgaria under the conditions of the right of establishment and the freedom to provide services, the Commission shall undertake the same measures towards the insurer or the re-insurer, if a request thereof is available.

(2) When the Commission is notified by the relevant competent body of a Member State of origin of withdrawal of license of an insurer, who carries out activity in the Republic of Bulgaria under the conditions of the right of establishment and the freedom to provide services, the Commission shall undertake the respective actions to prevent the conclusion of new insurance contracts by the insurer, extending the term of concluded contracts, increasing of the sums insured and expanding the coverage under the contracts. In collaboration with the competent authorities of the Member State of origin, the Commission shall undertake all necessary measures for protecting the interests of the insured persons, including limiting the right of the insurer to dispose of his/her assets.

(3) (new – SG 97/07) Para 2, first sentence shall also apply in case the Commission is notified by the respective competent body of a Member State of origin of withdrawal of license of a re-insurer, carrying out activity in the Republic of Bulgaria under the terms of the right of establishment and the freedom to provide services.

Compulsory administrative measures towards an insurer or a re-insurer having his/her seat in another Member State (Title suppl. – SG 97/07)

Art. 307. (1) In case the deputy chairman establishes, that an insurer having his/her seat in another Member State, who carries out activity in the Republic of Bulgaria under the conditions of the right of establishment and the freedom to provide services, violates this code or the acts of its implementation, the deputy chairman shall order in writing the violations admitted and the harmful consequences from them to be terminated and eliminated within a fixed term.

(2) In case the violations are not eliminated within the fixed term, the deputy chairman shall notify the competent authority in the Member State of origin of the insurer of this fact and also of the necessity of undertaking respective measures.

(3) (suppl. – SG 97/07) If despite the measures, imposed by the competent authorities of the Member State of origin, or in case they have turned out to be improper or insufficient, or in case no such measures have been undertaken, the insurer continues committing violations of this code or of the acts of its implementations, the deputy chairman may, after notifying the competent bodies of the Member State of origin of the insurer thereof, undertake the necessary measures for discontinuance of the violations and for imposing penalties, and in especially harsh cases the deputy chairman can prohibit him/her to conclude new insurance contracts in the Republic of Bulgaria.

(4) In extraordinary cases the deputy chairman may impose the measures under par. 3 without a notification in advance of the competent authority of the Member State of origin of the insurer according to par. 2 and 3.

(5) (new – SG 97/07) Paras 1, 3 and 4 shall also apply to re-insurers, having seat of business in a Member State. The notification referred to in para 2 shall be made simultaneously with the order referred to in para 1.

Actions of the Commission

Art. 308. (suppl. – SG 97/07) When the Commission is informed by the respective competent authority of the Member State of the branch or by the authority on provision of services, about an insurer or a re-insurer having his/her seat in the Republic of Bulgaria, who violates the legislation of the country, on which territory he/she carries out activity under the conditions of the right of establishment or the freedom to provide services, the Commission, respectively the deputy chairman, shall impose the relevant compulsory administrative measures under art. 302 and shall notify the competent authority of the respective Member State of the measures undertaken.

Special regulations concerning administrative, administrative-punitive and court procedures. Delivery of documents

Art. 308a. (new – SG 97/07) (1) An insurer, re-insurer, insurance and reinsurance intermediary from a Member State or from a third country, who has opened a branch in the Republic of Bulgaria within the meaning of § 1, item 8 from the Additional provisions, shall take part in administrative, administrative-

punitive and court procedures before Bulgarian administrative or judicial authorities through an authorised representative of the branch. The actions carried out by and towards the authorised representative shall bind the insurer, re-insurer or the intermediary. The documents, delivered according to the established order to the registered office of the branch, shall be considered handed over to the insurer, re-insurer and insurance intermediary. This provision shall be applied respectively to insurers, re-insurers and insurance intermediaries, having seat of business in the Republic of Bulgaria, carrying out activity in a Member State under the terms of right of establishment.

(2) In proceedings for application of compulsory administrative measures and for imposing penalties for violations, committed by an insurer, re-insurer, insurance or reinsurance intermediary from a Member State, carrying out activity in the territory of the Republic of Bulgaria under the terms of freedom to provide services, the Commission, its chairman or deputy chairman shall send documents and notifications according to the procedure provided for in the laws of the Member State of the seat of the person, and may request assistance from the competent bodies of the other Member States regarding the delivery or notification. In case no such procedure has been provided for and the delivery of documents or the notification may not be carried out with the assistance of the competent bodies, the documents and notifications shall be sent by registered letter with return of service to the registered office of the person in the Member State of its seat and shall be considered delivered on the date of receipt, indicated on the return of service.

(3) In proceedings for application of compulsory administrative measures and for imposing penalties for violations, committed by an insurer, re-insurer, insurance or reinsurance intermediary, having seat of business in the Republic of Bulgaria, carrying out activity in the territory of a Member State under the terms of freedom to provide services, the competent body from the state where the services are being provided shall send documents and notifications via registered letter with return of service to the registered office of the person in the Republic of Bulgaria. The documents and notifications shall be considered delivered on the date of their receipt, entered on the return of service. In case the laws of the state where the services are being provided does not allow notification according to the first and second sentence, the deputy chairman shall organise the delivery of the documents and notifications on behalf of the competent body of the Member State.

Chapter twenty and nine. RECEIVER

Requirements

Art. 309. (1) The receiver should meet the requirements of art. 13, par. 1, items 3-5 and 7, as well as:

1. not be a spouse, a relative on the direct or collateral line up to sixth degree including, or by marriage up to third degree, inclusive of a member of the managing or control body of the insurer, whose legal authorities have been terminated by the act for appointment of the receiver;
2. not to have relations with the insurer or his/her debtor, which give rise to grounded doubts of his/her impartiality;

(3) The receiver shall declare in writing before the Commission the circumstances under par. 2 and if there are any changes he/he should inform immediately the Commission.

Grounds for appointment of receiver

Art. 310. (1) The Commission may appoint one or several receivers, in case:

1. the insurer presents incorrect information for the results of his/her activity or obstructs in other way the implementation of the insurance supervision;
2. the insurer is in a procedure of a short-term plan execution;
3. (amend. - SG 34/06, in force from 01.10.2006) the license of the insurer has been withdrawn - until the appointment of an assignee by the court or the registration in the commercial register of a liquidator.

(2) After issuing the act for appointing a receiver, the Commission shall immediately hand it over to the relevant insurer and shall publish an announcement for this in a central daily newspaper. The receiver shall take up the post immediately.

(3) The Commission may issue obligatory instructions to the receiver in connection with his/her activity, it also may terminate his/her authority at any time and appoint another receiver instead. The acts under sentence one shall not be subject to appeal.

Rights and obligations of the receiver

Art. 311. (1) With the appointment of a receiver all the authorities of the managing and control body of the insurer shall be terminated and shall be exercised by the receiver, inasmuch as in the appointment act restrictions are not provided. The receiver shall undertake all the necessary measures for protection of the interests of the insured persons.

(2) The receiver shall have the right to receive remuneration in amount, determined by the Commission. The remuneration shall be at the insurer's expense.

(3) Actions and transactions carried out on behalf and for the account of the insurer, without prior authorization by the receiver, shall be invalid.

(4) If two or more receivers have been appointed, they shall take decisions by unanimity and shall exercise their authorities jointly, unless otherwise decided by the Commission.

(5) The receiver shall have unlimited control and access to the premises of the insurer, the accounting records and other documentation and to his/her property.

(6) All the employees of the insurer shall be obliged to collaborate with the receiver at execution of his/her authorities.

(7) The receiver shall report on his/her activity only before the Commission and upon request he/she shall immediately present a report for his/her activity.

report their activities only to the Commission and, upon request, shall immediately present a report.

(8) During the receiver's management the general assembly of the stock-holders or of the members of the cooperation of the insurer may be summoned only by the receiver and it shall take decision on the agenda, announced by him/her, except for the cases of taking decision for termination of the insurer.

(9) Upon a request by the receiver the prosecution and the bodies of the Ministry of the Interior shall be obliged to cooperate with him/her in exercising his/her authorities under par. 1.

(10) The receiver shall exercise his/her powers with due diligence. He/she shall only be responsible for damages, caused by him/her intentionally or due to his/her gross negligence.

Receiver of a re-insurer

Art. 311a. (new – SG 97/07) This chapter shall also apply to receivers of re-insurers

Part six.

"A" GUARANTEING INSURANCE CLAIMS IN CASE OF INSOLVENCY OF AN INSURER (NEW - SG 97/07)

Scope

Art. 311b. (new – SG 97/07) (1) Under the terms of this Part shall be guaranteed the claims of consumers of insurance services in case of insolvency of an insurer having a seat of business in the Republic of Bulgaria or an insurer from a third country, who has registered a branch under the Commercial law in the Republic of Bulgaria.

(2) Insurers, who are licensed to offer insurances as per Art. 311c, para 2, shall pay installments in a Fund for Hedging Insurance Claims, called hereinafter Hedge fund, under the terms and following the procedure laid down in this Part. Insurers from a third country shall make installments in a Hedge fund only with regards to the activity, carried out by the branch, registered in the Republic of Bulgaria.

Guaranteed insurance claims

Art. 311c. (new – SG 97/07) (1) The claims under para 2 shall be guaranteed to natural persons, not-for-profit legal persons and traders representing micro-enterprises within the meaning of the Law for the Small- and Medium-Size Enterprises.

(2) Guaranteed shall be all insurance claims of the persons referred to in para 1, ensuing from insurance contract for obligatory Civil liability insurance of motorists or for Accident insurance of

passengers, or for an insurance under Section I of Appendix No 1. Claims for interest on arrears of an insurer under due insurance claims shall not be guaranteed.

(3) Insurance claims shall be guaranteed:

1. under obligatory Civil liability insurance of motorists and under obligatory Accident insurance of the passengers – in full amount up to the size of the compulsory minimum insurance sum, fixed in this Code;

2. under insurances under Section I of Appendix No 1 – amounting to 70 percent of their value, not exceeding 8000 BGN.

(4) For the purposes of this Part shall be regarded as insurance claims the ones, ensuing from:

1. insurance event, covered by an insurance contract, including claims with regards to direct action under Civil liability insurance;

2. termination or redemption of insurance contract.

Exceptions

Art. 311d. (new – SG 97/07) (1) Guaranteed insurance claims as per Art. 311c, para 3, item 2 shall not be paid to:

1. persons who have stocks, providing them with 1 or more percent of the votes in the general assembly of the insurer;

2. members of managing and control bodies of an insurer, manager of a branch of insurer from a third country, registered in the Republic of Bulgaria under the Commercial law, as well as other persons, who have been authorised to manage or represent an insurer or a branch of insurer from a third country, registered in the Republic of Bulgaria under the Commercial law;

3. the head and the employees of the specialized internal control unit of the insurer and the auditors, selected according to the procedure laid down in the law to authenticate the annual report of the insurer;

4. companies as per Art. 299, para 2, as well as persons under items 1 to 3 in such companies;

5. persons who are liable for insolvency of an insurer or have benefited out of it;

6. spouses, relatives on direct line of descent and on collateral line of descent up to second grade, including natural persons under items 1 to 5.

(2) Guarantee shall not be provided for insurance claims, occurred along with transactions and activities which are money laundering within the meaning of Art. 2 of the Law for the Measures Against Money Laundering or claims related to such transactions and activities, in case the perpetrator has been the subject of a conviction by final judgment.

(3) The circumstances which determine the exceptions under para 1 and 2 shall be ascertained by the date the decision of the commission for withdrawal of the issued license for carrying out insurance activity.

Fund for Hedging Insurance Claims. Status

Art. 311e. (new – SG 97/07) (1) Fund for Hedging Insurance Claims shall be established.

(2) The Hedge fund shall be individual account managed by the bodies of the Guarantee fund as per Art. 287, supported in the said activity by the administration of the Guarantee fund.

(3) The Hedge fund shall be transformed, terminated and winded up by a law.

(4) In case of winding up of the Hedge fund after its obligations have been paid off, the rest of its property shall be allocated between the insurers proportionally to the installments they have made, except the insurers, whose obligations to the consumers of insurance services have been paid off by the Hedge fund.

Functions of the Guarantee fund in relation to the Hedge fund

Art. 311f. (new – SG 97/07) (1) The Guarantee fund under the terms and following the procedures laid down in this Part shall:

1. collect the annual installments of the insurers:

2. pay off the guaranteed amounts of the insurance claims.

(2) The resources of the Hedge fund may not be used for other payments of the Guarantee fund.

Powers of the Governing Council of the Guarantee Fund in relation to management of the Hedge fund

Art. 311g. (new – SG 97/07) (1) The Governing Council of the Guarantee Fund shall:

1. carry out actions in relation to collecting installments from the insurers;
2. invest the resources of the fund observing the requirements for security and for permanent liquidity;
3. organise the payment of the guaranteed extents of the guaranteed amounts of the insurance claims under the terms and following the procedures laid down in this Part;
4. work out and adopt separate annual financial report concerning the activity of the Hedge fund and present it to the Commission;
5. annually by March 31 approve and promulgate in State Gazette annual financial report for the previous year.

Fund-raising Sources of the Hedge fund

Art. 311h. (new – SG 97/07) (1) Fund-raising sources of the Hedge fund are the following:

1. the installments of the insurers;
2. the income from investing the resources of the Hedge fund;
3. the sums received by the Hedge fund from the property of the insurer in the cases of subrogation;
4. income from claims under recourses;
5. other sources (land, grants, foreign aid etc.).

Annual installment and its calculation base

Art. 311i. (new – SG 97/07) (1) Each insurer shall make an annual installment in the Hedge funds, as follows:

1. for each person, who has been insured under every contract for risk insurance under Section I of Appendix No 1, providing coverage during the respective year – per 0,70 BGN;
2. for each person, who has been insured under all the rest contracts for insurances under Section I of Appendix No 1, providing coverage during the respective year – per 1,00 BGN, however, not more than 2 percent of the amount of the annual premium due;
3. for each motor vehicle in relation to which obligatory Civil liability insurance of motorists has been concluded during the respective year – per 1,50 BGN;
4. for each place, except the one of the driver, with regards to which has been concluded Accident insurance of passengers during the respective year – per 0,20 BGN.

(2) Insurers, including the branches of insurers from a third country, shall deposit the annual installment due by 31 May of the year following the year to which the installment relates.

(3) In case the installment has not been paid within the fixed term, interest will be charged for the period of delay over the sum due amounting to the statutory rate.

(4) The annual installments of insurers shall be accounted as expenditure and shall be part of the insurance premium. The installment may be indicated on a separate line in the insurance policy or in the insurance contract.

Non-refundable installments

Art. 311j. (new – SG 97/07) The installments made by insurers shall not be subject to refund, including in case of termination of an insurer, except in those cases referred to in Art. 311e, para 4 or if a law provides otherwise.

Covering shortage of resources of the Fund

Art. 311k. (new – SG 97/07) (1) In the event that the resources of the Hedge fund are not sufficient for covering its liabilities under this Code, upon decision of the governing council of the Guarantee fund, the shortage shall be covered in one of the following ways:

1. by obliging the insurers to pay annual instalments in advance, provided that the calculation of the amount of the advance installments shall be made on the basis of the size of the annual installments for the previous year;
2. increase of the annual instalment;
3. use of loans under terms and following a procedure, approved by the governing council of the Guarantee fund; the governing council of the Guarantee fund may not approve loans which are less favourable than the market ones.

(2) The sum paid in advance as per para 1, item 1 shall be deducted from the annual installment due by the insurer for the following year, provided that the sums paid in excess shall be returned in the term as per Art. 311i, para 2.

(3) In case of shortage of resources the fund can take loans:

1. from Bulgarian and foreign banks, as well as from other persons;
2. from the state budget after a decision has been taken by the National Assembly.

(4) Loans taken by the Hedge fund may be secured by a guarantee, issued by the state, or by assets of the fund, including by future claims of the fund towards insurers for annual installments

Consequences of non-payment of annual payments

Art. 311l. (new – SG 97/07) In case an insurer does not pay the installment or the interest due as per Art. 311i, para 3 the governing council of the Guarantee fund shall notify the Commission thereof in order measures under Art. 302 to be applied.

Gathering information by the Hedge fund

Art. 311m. (new – SG 97/07) (1) Upon request by the governing council of the Guarantee fund, the Commission shall provide the necessary information concerning calculation of the installments due by insurers.

(2) The governing council of the Guarantee fund may use the received information only for the purpose of performing its functions.

(3) Members of the governing council of the Guarantee fund and employees of the Guarantee fund may not disclose personally or through other persons information which has become known to them in relation to their occupation, in case the said information is insurance, commercial or other secret, protected by a law.

Utilization of hedge fund resources

Art. 311n. (new – SG 97/07) (1) Hedge fund resources may only be utilised for payment of guaranteed insurance claims up to the guaranteed amounts in the cases provided for in this Part and of the principal and interest under loans, taken by the fund according to Art. 311k, para 3.

(2) Hedge fund resources shall be invested in:

1. securities, issued or guaranteed by the state or by other Member States;
2. short-term deposits in banks, having investment credit rating of at least one of the rating agencies, specified by a decision of the Commission.

Terms and procedure for payment of sums under guaranteed insurance claims

Art. 311o. (new – SG 97/07) (1) The liabilities of the respective insurer to the consumers of insurance services referred to in Art. 311c, para 1 shall be paid from the resources of the Hedge fund after the entry into force of the decision announcing the insurer's insolvency.

(2) The guaranteed amounts of the insurance claims shall be paid from the resources of the Hedge fund through a bank, determined by the governing council of the Guarantee fund

(3) The assignee of an insurer in insolvency proceedings shall also present the list as per Art. 689 of the Commercial law to the governing council of the Guarantee fund as soon as it is compiled. The governing council of the Guarantee fund may submit a written objection to the court along with a copy to the assignee against a claim which has or has not been accepted by the latter according to Art. 690 of the Commercial law. Within 15 days from the date on which the final list of the accepted claims as per Art. 692 of the Commercial law the assignee shall be obliged to submit it to the governing council of the Guarantee fund. In case the latter has lodged an objection as per Art. 690, para 1 of the Commercial law, the governing council of the Guarantee fund may submit a claim in order to ascertain that non-accepted claim exists or that an accepted claim does not exist pursuant to Art. 694 of the Commercial law.

(4) Within 15 days from receiving the final list under para 3, sentence three the governing council of the Guarantee fund shall announce in at least two central daily newspapers the date on which the authorised consumers of insurance services may start receiving payments from the Hedge fund, as well as the bank via which these payments shall be made.

(5) Making payments by the Hedge fund under indisputable insurance claims shall commence not later than 45 days from the publication date as per para 4. Regarding subsequent claims, which have been lodged and accepted additionally, the term under the first sentence shall be 15 days.

(6) In case the guaranteed claim has been denominated in foreign currency, the lev equivalent of the guaranteed amount of the claim shall be paid to the consumer of insurance services according to the exchange rate of the Bulgarian National Bank on the initial date of payment of the guarantee under the claims.

(7) The amount of the liabilities of the respective insurer to the consumers of insurance services shall be deducted by the extent of the sums which have been paid off.

(8) The governing council of the Guarantee fund shall regularly inform the assignee of the amount of the claims which have been paid off to each consumer of insurance services.

(9) With regards to the claims which exceed the amounts received from the Hedge fund the consumers of insurance services shall be satisfied from the property of the insurer pursuant to this Code.

Subrogation

Art. 311p. (new – SG 97/07) (1) From the date on which the final list of admitted claims is published the Hedge fund shall subrogate to the rights of consumers of insurance services to the insurer up to the amount of the sums which are guaranteed, regardless of the amount and the date on which the fund has made payments to the guarantee to each of the consumers of insurance services.

(2) The Guarantee fund shall not owe interest under the sums which are guaranteed.

Advertisement restriction

Art. 311q. (new – SG 97/07) Insurers falling within the system for guaranteeing insurance claims may not advertise guaranteeing insurance claims in amounts exceeding the ones fixed in this Part.

Part seven. ADMINISTRATIVE PENAL PROVISIONS

Responsibility at performing activity in violation of the conditions and the order under this code

Art. 312. (1) Who carries out or admits the performing of insurance, without having obtained a license by the order of this code or in violation of the regulations for the right of establishment and the freedom to provide services, shall be punished with:

1. a fine from 2 000 BGN to 10 000 BGN – for a natural person;

2. proprietary sanction from 50 000 BGN to 200 000 BGN. – for a legal person or a sole trader.

(2) With proprietary sanction under par. 1, item 2 shall also be punished an insurer, who carries out insurance on kinds of insurances, for which he/she has not obtained a license.

(3) For repeated offence the punishment under par. 1, item 1 shall be from 4 000 BGN to 20 000 BGN, and under par. 1, item 2 and par. 2 – from 100 000 BGN to 400 000 BGN.

(4) Who carries out or admits performing activity as an insurance broker or an insurance agent without being entered by the order of this code in the register under art. 30, par. 1, item 9 of the Law of the Commission of financial supervision or in violation of the rules for the right of establishment or the freedom to provide services, shall be punished with:

1. a fine from 2 000 BGN to 10 000 BGN – for a natural person;

2. proprietary sanction from 50 00 BGN to 50 000 BGN. – for a legal person or a sole trader.

(5) For repeated offence the penalty under par. 4, item 1 shall be from 4 000 to 20 000 BGN, and under par. 4, item 2 – from 10 000 to 100 000 BGN.

(6) Paragraphs 4 and 5 shall not be applied to the persons, who carry out insurance by the order of art. 150, par. 3.

(7) The sanction under par. 4, item 2 and par. 5 shall be imposed on an insurer or re-insurer, who uses mediation services of persons under par. 4 in his/her activity on the territory of the Republic of Bulgaria, if these persons do not carry out activity on insurance intermediation by the order of art. 150, par. 3.

Responsibility at non-observance of the requirements for the technical reserves

Art. 313. (amend. – SG 97/07) An insurer, respectively a re-insurer, who commits or admits the commitment of violation of art. 66, par. 1 or 3, art. 68, par. 1 - 4, art. 72, par. 1 and art. 77, shall be punished with proprietary sanction from 10 000 to 40 000 BGN, and for repeated offence – from 20 000 to 80 000 BGN.

Responsibility for non-fulfillment of a compulsory administrative measure

Art. 314. (1) Who doesn't fulfill compulsory administrative measure, applied by the Commission or the deputy chairman, shall be punished with:

1. a fine from 1 000 BGN to 2 000 BGN – for a natural person;
2. a proprietary sanction from 4 000 BGN to 40 000 BGN. – for a legal person.

(2) For repeated offence the punishment under par. 1, item 1 shall be from 2 000 to 4 000 BGN, and under par. 1, item 2 – from 8 000 to 80 000 BGN.

Responsibility for non-concluded obligatory insurance

Art. 315. (1) (suppl. – SG 54/06) A person, who does not fulfil his/her obligation to conclude obligatory insurance under art. 249, items 1 or 2, or drives a motor vehicle in connection with the possession and use of it he has not a concluded and effective contract on the obligatory Civil Liability Insurance of the motorists shall be punished with:

1. (amend. – SG 54/06) a fine from 400 BGN to 600 BGN – for a natural person;
2. (amend. – SG 54/06) proprietary sanction from 2000 BGN to 5 000 BGN. – for a legal person.

(2) (amend. – SG 54/06) For repeated offence the punishment under par. 1, item 1 shall be from 2000 BGN, and under par. 1, item 2 - 10 000 BGN.

(3) An insurer, who violates art. 250, shall be punished with proprietary sanction from 5 000 to 20 000 BGN, and for repeated offence – from 10 000 to 40 000 BGN.

Responsibility for violating the order of acquiring and disposition of the qualified participation in insurance company

Art. 316. A person, who acquires or transfers stocks from insurance company in violation of art. 16, par. 3, 4 and 10 or of the prohibition under art. 16, par. 6, shall be punished with:

1. a fine from 2 000 BGN to 10 000 BGN – for a natural person, no matter whether he/she acquires or transfers the stocks on his/her behalf or for someone else's behalf.
2. proprietary sanction from 5 000 BGN to 10 000 BGN. – for a legal person.

Responsibility for provided misleading information

Art. 317. (1) A member of managing or control body of an insurer or re-insurer or other person, who manages or represent them, who provides or admits to be provided misleading information in connection with the execution of the insurance supervision, shall be punished with a fine from 10 000 BGN to 50 000 BGN, if the action does not constitute a crime.

(2) The deputy chairman may also order temporary deprivation of right to perform activity as a person under par. 1.

(3) For the offence under par. 1 the insurer shall be punished with a proprietary sanction from 20 000 BGN to 100 000 BGN.

Responsibility for violations in case of provision of information as per Art. 294

Art. 317a. (new – SG 97/07) (1) An insurer, who has not provided the information for concluded insurance contract under obligatory Civil liability insurance of motorists pursuant to Art. 294, para 1 and 4 within the period from the 8th to the 45th day, including the date on which it has been concluded, shall be punished with a property sanction amounting to 20 BGN with regards to each individual contract.

(2) With regards to insurance contracts under obligatory Civil liability insurance of motorists, concluded during the period from 15 December to 14 February, the sanction referred to in para 1 shall be imposed, if the information has been provided within the period from the 45th to the 65th day from the date on which the contract has been concluded.

(3) Where the information about concluding insurance contract under obligatory Civil liability insurance of motorists has been provided with a delay exceeding the one under para 1 or 2, the punishments referred to in Art. 319 shall be applied.

(4) (In force from 01.04.2008) An insurer, who has provided incomplete or incorrect data record of a registration number, number of the frame, name or address of an owner of a motor vehicle, with regards to which obligatory Civil liability insurance of motorists has been concluded, shall be punished with a property sanction amounting to 20 BGN with regards to each individual record.

Responsibility of the receiver, liquidator and the assignee

Art. 318. (amend. - SG 97/07) Receiver, liquidator or assignee, who does not fulfill or violates a provision or an order of the Commission, its chairman or the deputy chairman, shall be punished with a fine from 1 000 to 10 000 BGN.

Responsibility for violations of the statutory regulations

Art. 319. (1) (amend. - SG 97/07) Who commits or admits the commitment of violation of the provisions of this Code, the acts of its implementation, regardless of the cases under art. 312 - 318, or of a command or an order of the Commission, its Chairman or deputy chairman shall be punished with:

1. a fine from 500 BGN to 3 000 BGN – for a natural person;

2. proprietary sanction from 1 000 BGN to 20 000 BGN. – for a legal person.

(2) For repeated offence the punishment under par. 1, item 1 shall be from 1000 to 6 000 BGN, and under par. 1, item 2 – from 2 000 to 40 000 BGN.

Procedure for imposing administrative penalty

Art. 320. (1) (amend. – SG 54/06) The acts for establishing administrative offence shall be drawn up by officials, empowered by the deputy chairman, and in the cases under art. 315, par. 1 and 2 – by the officials of the Control bodies under the Traffic law.

(2) (suppl. - SG 54/06; amend. - SG 82/06; amend. - SG 97/07) The penal provision shall be issued by the deputy chairman, and for offences under art. 315, par. 1 and 2 - by the director of the District Directorate "Police", where the offence has been established or by an empowered by him official.

(3) The establishment of offences, the issuance, the appeal and the execution of the penal provisions shall be carried out by the order of the Law for the administrative offences and sanctions.

(4) (new - SG 97/07) The property sanctions as per Art. 317a, paras 1, 2 and 4 shall be imposed according to the procedure laid down in Art. 39, para 2 of the Law for the Administrative Offences and Sanctions by officials, authorised by the deputy chairman. The penal decrees for imposing property sanctions as per Art. 317a, paras 1 and 2 shall not be subject to appeal.

Additional provisions

§ 1. Within the meaning of this code:

1. "A consumer of insurance services" shall be the insured person, the third party beneficiary, the third damaged party and the other parties, for whom rights have originated under/ensued from an insurance contract, as well as the natural or legal persons, who show interest to benefits from the services, provided by the insurer or by an insurance intermediary in connection with the subject of his/her activity.

2. "Risk insured" is the objectively existing possibility of damaging property or non-property good, whose implementation is uncertain, unknown and not dependent on the will of the insured person.

3. "Insurance event" shall be the occurrence of a covered risk under an insurance during the term of the insurance coverage.

4. "Insured person" shall be the party, whose property and/or non-property goods are subject to an insurance contract.

5. "Sum insured" (limit of liability) shall be a pecuniary sum, agreed or determined by a normative act and indicated in an insurance contract, which represents upper limit of the liability of the insurer to the insured person, the beneficiary or the third damaged party.

6. "Member state" shall be a state, which is a member of the European Union, or other state, which belongs to the European Economic Area.

7. "Third country" shall be a country, which is not a member state within the meaning of item.

8. (suppl. - SG 97/07) "Branch" shall be a legal form, in which the insurer enduringly presents on the territory of a member state. By creating an office, managed by his/her employees or by other persons, who are explicitly permanently authorized by the insurer to act on his/her behalf. "Branch of an insurer or a re-insurer from a third country" shall be a branch, registered by the order of the Commercial law by an insurer or a re-insurer having his/her seat in a third country.

9. (amend. - SG 59/06, in force from the date on which the Treaty of Accession of the Republic of Bulgaria to the European Union becomes effective) "Control" exists in the cases, where a definite person (controlling person):

a) owns more than the half of the votes in the general assembly of another legal person (affiliate), or
b) is entitled to determine more than half of the members of the managing or of the controlling body of another legal person (affiliate) and is a stockholder or a partner in this person at the same time, or
c) is entitled to exercise decisive influence on a legal person (affiliate), under a contract concluded with this person, or in accordance with its articles of association or statutes, if this allowed under the applicable legislation to the affiliate, or

d) when he/she is a stock-holder or a partner in a company and:

aa) more than half of the members of the managing or controlling body of this legal person (affiliate), who have executed the respective functions during the precedent and current financial year and up to the moment of preparation of the consolidated financial statements, have been defined only as a result of exercising his/her voting right, or

bb) who controls independently, by virtue of a contract with other stock-holders or partners in this legal person (affiliate), more than the half of the votes in the general assembly of this legal person, or

e) may, upon assessment of the competent bodies, exercise in another manner decisive influence on the taking decisions concerning the activity of the legal person (affiliate)

In the cases under letters "a", "b" and "d" the votes of the controlling person shall be added the votes of his/her affiliates, who he/she exercises the control over, as well as the votes of the persons, who act on their behalf, but at his/her expense or at expense of the owned by him/her affiliate.

In the cases under letters "a", "b" and "d" the votes of the controlling person shall be reduced by the votes of the shares, held at expense of a person, who is neither the controlling person, nor his/her affiliate, controlled by him/her, as well as by the votes of the shares, that are subject to a pledge if the rights on them are being exercised by order and to the interest of the pawner.

In the cases under letters "a" and "d" the votes of the controlling person shall be reduced by the votes of the shares, owned by the affiliate itself via a person, controlled by him, or through a person, who acts on his/her behalf, but on expense of the controlling person and the affiliate.

10. (amend. - SG 59/06, in force from the date on which the Treaty of Accession of the Republic of Bulgaria to the European Union becomes effective) "Participation" exists if one person owns directly or indirectly 20 or more than 20 percent of the capital or of the votes of the general assembly of a company, as well as if one person owns rights in the capital of another company, which, by establishing of a stable relation with this company, are purposed to contribute to the activity of the company.

11. "Participating company" is:

a) (amend. - SG 59/06, in force from the date on which the Treaty of Accession of the Republic of Bulgaria to the European Union becomes effective) a parent enterprise, or

b) company, that owns participation in the sense of item 10, or

c) company, related to other company through common managing, according to a contract between them or according to their articles of the association, or

d) company, more than half of the members of the managing or control body of which are at the same time more of half of the members of the managing or control body of another undertaking for a period, including one financial year and to the moment of preparation of the consolidated financial statements of the undertakings for this year.

12. (amend. - SG 59/06, in force from the date on which the Treaty of Accession of the Republic of Bulgaria to the European Union becomes effective) "Related persons" exist, when two or more natural or legal persons, are connected between themselves in some of the following manners:

- a) by relations of control;
- b) durably with one and the same person through relation of control;
- c) through possessing by one of them, directly or through a controlled by him/her person, 20 percent or more than 20 of the votes of the general assembly of the capital of the other person, or
- d) through possession directly or through control over 20 or more than 20 per cent of the votes in the general assembly or of the capital of the third person;
- e) a third person owns directly or through control 20 or more than 20 per cent of the votes in the general assembly or of the capital of these persons.

Related persons shall also be the spouses, the relatives on direct line of descent - without any restrictions, the relatives on collateral line of descent up to third grade and including in-law lineage - up to third degree inclusive.

13. (amend. - SG 59/06, in force from the date on which the Treaty of Accession of the Republic of Bulgaria to the European Union becomes effective) "Related company" shall be an affiliate, an undertaking, in which a participation in the sense of item 10 is being possessed, or a company, connected to other undertaking under the conditions as per item 11, letters "c" and "d".

14. "General conditions" are typified provisions, applicable to unlimited number of insurance contracts, regardless of their name.

15. (suppl. - SG 97/07) "Establishment of an insurer or a re-insurer in a Member State" shall be a seat, representation or a branch of an insurer or a re-insurer, including every permanent presence of an insurer or a re-insurer in the territory of a Member State, even when that presence is not in the form of representation or a branch, but via permanent office, managed by own personnel of the insurer or the re-insurer or by a person, who is independent, but has permanent authorities to act on behalf of the insurer or the re-insurer.

16. "Household" are the persons, regardless of the ties of relationship between them, who live together in specified domiciles and have a mutual budget.

17. "Administrative expenses" shall be the expenses for the service of the insurance and the re-insurance contracts and the management of the insurance portfolio.

18. (suppl. - SG 97/07) "Member State of the branch" shall be the Member State, where the branch of the insurer, who has concluded the contract, covering the risk, is located, respectively the Member State, where is situated he branch of the re-insurer.

19. "Member State for provision of services" shall be a Member State, where the risk is located, if the risk is covered by an insurer or a branch, that are situated in other Member State.

20. "Member State of origin" shall be a Member State:

- a) (suppl. - SG 97/07) where is the seat of business of the insurer, who covers the risk, respectively the Member State, where is located the seat of business of the re-insurer;
- b) where the insurance broker or the insurance agent - natural person usually resides and where he/she performs his/her activity; the Member State, where is the seat of the insurance broker or the insurance agent - legal person.
- c) where the insurer has received a license at transformation of an insurer under chapter eleven.

21. "National insurance bureau" is a professional organization, created in accordance with Recommendation No 5, adopted on 25 January 1949 by the Subcommittee of the Road Transport Committee of the United nations Economic Commission for Europe and unites the insurers, that has received license for performing insurance activity on the territory of a given state, that has right to make insurance under section II, letter "A", item 10 of Appendix No 1, except for the Liability of the carrier insurance under section II, letter "A", item 10.2 from Appendix No 1.

22. "Member State, where the risk is located" is:

- a) the Member State, where the real estate is situated, when the insurance contract covers risks regarding real estate, including buildings and the commodities in them, if they are insured under the same contract;
- b) The Member State, where the motor vehicle is registered, if the insurance is related to risks, connected to motor vehicle of any kind; when the motor vehicle is delivered from one Member State to another, it is considered, that the risk is located in the country of the destination from the moment

of receiving the delivery from the transferee for a period of 30 days, even if the motor vehicle has not been actually registered.

c) the Member State, where the insurer has concluded insurance contract in connection with the risks at travel or tourism, under the condition that the maximum duration of the contract does not exceed four months;

d) in all other cases the risk is located in:

aa) the Member State, where the natural person who has concluded the insurance, usually resides, or

bb) the Member State, where the legal person or its branch, that have concluded the insurance contract, have their seat.

23. "Co-insurance within the frames of the European Union" is co-insurance, at which large risks in the sense of item 29 are being covered, at the presence of the following additional conditions:

a) the amount of the risk - subject of the insurance, necessitates the participation of more than one insurer for its coverage;

b) the risk - subject of the insurance, is covered under one contract and at one premium for the same period by two or more insurers (co-insurers), each of them being directly responsible before the insured person for a certain part of the insurance indemnity;

c) one of the co-insurers is a leading co-insurer and defines the terms and conditions under the insurance contract (the insurance), as well as the amount of the premium rate.

d) the risk covered is in the frames of the European Union;

e) for the purposes of the coverage of this risk it shall be considered, that the leading co-insurer covers the whole risk, and

f) at least one of the co-insurers - party to the co-insurance contract, has a seat in a Member State, different from the Member State at the seat of the leading co-insurer, or is a party to the contract via a branch, whose seat is in such Member State.

24. (suppl. - SG 97/07) "Assigner" is an insurer or co-insurer, who transfers all or part of the risks under concluded insurance contracts and pays reinsurance premiums to a re-insurer or an insurer, carrying out active reinsurance activity.

25. "Deferred acquisition expenses" are the acquisition expenses, related to the unexpired period of the insurance coverage under insurance contracts, effective at the end of the period under review and in force for the same period, which are transferred to following periods under review.

26. "Acquisition expenses" are the expenses, ensuing from the conclusion or the renovation of the insurance contracts, that may be:

a) direct - acquisition Commissions (the collection Commissions at the payment of periodical premiums under long-term insurances under section II of Appendix No 1 shall not be included), expenses for preparing insurance contracts and for their including in the insurance portfolio;

b) indirect - for advertisement and administrative expenses, connected to preparing offers, concluding contracts and renovation of already concluded ones.

27. "Buy-out value" is the sum negotiated under the insurances under section I, items 1, 2, 3 and 5 of Appendix No 1, that the insurer will pay up to the insured person or to the third party beneficiary at termination of the contract before the agreed date.

28. "Members of the family" are the husband, the wife, the children under 18 years of age, and if they continue their education -under 26 years of age, and if they are incapacitated or permanently unable to work - regardless of the age.

29. "Large risks" shall be the risks under the insurances under section II from appendix No 1, as follows:

a) under items 4, 5, 6, 7, 11 and 12 - in all cases;

b) under items 14 and 15 - if the insured person carries out commercial activity or freelance profession and the risks are connected to this activity or profession;

c) under items 3, 8, 9, 10, 13 and 16 - under the condition that the insured person meets at least two of the following criteria:

aa) balance number - more than 12, 4 millions BGN;

bb) net turnover - more than 25, 6 millions BGN;

cc) average amount of persons, employed by the insured person during the financial year - 250 persons.

If the insured is a part of a group, for which consolidated financial statements are implemented according to art. 37, par. 2 from the Accountancy law, the criteria under letter "b" shall be applied on the basis of the consolidated financial statement.

30. "Permanent carrier" is a paper document, diskette, compact disk and every other carrier, that gives the user opportunity to store information, personally addressed to him/her, in a way, providing future access to this information for a period, corresponding to the purposes, for which it has been provided, and which allows the interpretation of this information, without changing it.
31. "Assuming Member State" is the Member State:
- a) that is not a Member State of origin and where the insurer has a branch;
 - b) (suppl. - SG 97/07) where the re-insurer, the insurance broker or the insurance agent has a branch or provides services.
32. "Third party beneficiary" is another person, indicated in the insurance contract by the insured person as entitled to receive the full amount or a part of the insurance indemnity or the sum insured.
33. "Period of insurance coverage" is the period, during which the insurer covers the risk insured.
34. "Insurance interest" is legally acknowledged necessity for protection against the consequences of an insurance event.
35. "Motorist" is the owner, the user, the holder or the driver of a motor vehicle, who in connection with its ownership or its usage may cause damages to third parties.
36. "Green card certificate" is international insurance certificate, issued by the national bureau under item 21 in accordance with Recommendation No 5, adopted on 25 January 1949, by the Subcommittee of the Road Transport Committee of the United Nations Economic Commission for Europe.
37. "Repeated offence" is the offence, committed in one year term from the coming in force of the penal provision, with which a punishment for the same violation has been imposed.
38. "Systematical offences" are three or more administrative violations under this code or the acts of its implementation, committed in one year term, or three or more same administrative violations, committed for a period of three consecutive years.
39. (new - SG 59/06, in force from 01.01.2007) "Parent company" shall be a legal person, who exercises control over one or more companies (affiliates).
40. (new - SG 59/06, in force from 01.01.2007) "Affiliate" shall be a legal person, controlled by another legal person (parent company). The legal person which are affiliates of the affiliate, shall also be assumed affiliates of the parent company.
41. (new - SG 59/06, in force from 01.01.2007) "Financial holding of mixed activity" shall be a financial holding of mixed activity in the sense of § 1, item 14 of the Additional Provisions of the Law of the Supplementary Supervision over the Financial Conglomerates.
42. (new - SG 97/07) "Retrocession" shall be transfer of risks taken under an insurance contract to another re-insurer or insurer, carrying out active reinsurance activity.
43. (new - SG 97/07) "Financial undertaking" is one or more than one of the following persons, carrying out activity in a Member State or in a third country:
- a) credit institution referred to in Art. 3, para 1 of the Law of Credit Institutions or a company providing subsidiary services under Art. 2, para 4 of the same Law;
 - b) insurer, re-insurer under Art. 8, para 2, insurance holding under Art. 27, para 1 or health insurance company;
 - c) investment undertaking;
 - d) financial holding with mixed activity.
44. (new - SG 97/07) "Special purpose alternative insurance risk transfer mechanism" is a legal person or a partnership, other than an insurer or a re-insurer, which undertakes risks from an insurer or a re-insurer on the grounds of a contract and which finances entirely its risk exposition by issue of debt or by other financing mechanism, on the condition that the rights of the creditors, respectively of the participants in the financing mechanism are subject to the reinsurance obligations of the said system.
44. (new - SG 97/07) "Reinsurance activity transferring limited amount of risk" (finite reinsurance) means reinsurance under which the explicit maximum loss potential, expressed as the maximum economic risk transferred, arising both from a significant underwriting risk and timing risk transfer, exceeds the premium over the lifetime of the contract by a limited but significant amount, together with at least one of the following two features:
- a) explicit and material consideration of the time value of money,
 - b) contractual provisions to moderate the balance of economic experience between the parties over time to achieve the target risk transfer.
46. (new - SG 97/07) "Duration" is the average-weighted term of the maturity of payments under insurance or reinsurance claims.

47. (new - SG 97/07) "Investment with a considerable share" means investment, which, in the event of unfavourable development of its inherent risks, may threaten the solvency of the person who has undertaken it only by its size.

48. (new - SG 97/07) "Considerable risk exposition" means undertaking separate credit, investment, insurance, market or other risk, which, in the event of unfavourable development of this risks, is may lead to loss large enough to threaten the solvency of the person who has undertaken it.

49. (new - SG 97/07) "Excessive risk concentration" is a combination of several considerable expositions to one risk or of expositions, each one of them not being considerable, however, jointly and interacting with one another large enough to threaten the solvency or the financial position of the person who has undertaken them.

50. (new - SG 97/07) "Prudence" is an objective criterion for good behaviour, which is being applied by a cautious and competent person acting in good faith, who judges the available information with regards to circumstances relating to decision-making process seriously and comprehensively.

51. (new - SG 97/07) "Disastrous event" shall be the occurrence of covered risk, to which are exposed large number of persons at the same time, as a result of which have been caused significant damages.

§ 2. Advertisement materials and other marks, indicating the relationships between an insurer and an insured person, may not be placed over insured moveable or immoveable property, unless otherwise provided by law.

§ 3. The documents, requested by the way of this code and issued on a language, different from the Bulgarian, should be accompanied by a translation into Bulgarian and should be legalized in accordance with the requirements of the legislation in force. At discrepancy between the texts as true shall be considered those, translated into Bulgarian.

§ 4. (1) (amend. - SG 97/07) The minimum amounts under art. 82, par. 1 shall be updated annually, provided that their value in euro shall be increased by the percentage increase of the European index of consumer prices, promulgated in Eurostat, if this percentage does not exceed 5 percent of the last re-calculation. The result shall be rounded up to full 100 000 euro.

(2) The minimum amounts of the sum insured under the obligatory insurance and of the own funds of the insurance intermediary shall be updated in every 5 years, provided that their value in euro shall be increased by the percentage increase of the European index of consumer prices, promulgated in Eurostat, for periods from the last update. The first update should be done by the 15th of January 2008. The result shall be rounded up to a full euro.

(3) The minimum amounts of the sum insured under art. 266, respectively under § 27, par. 2, shall be updated in every 5 years, considered from the 11th of July 2005, by the European index of the consumer prices, as they are increased by the percentage, pointed by this index, and the result shall be rounded up to full 10 000 euro.

(4) The Commission shall timely prepare offers for amendment of the regulations of this code in accordance with par. 1-3.

§ 4a. (new – SG 48/07) (1) According to Council Directive 91/371/EEC of 20 June 1991 the Agreement between the European Economic Community and the Swiss Confederation concerning direct insurance other than life assurance shall apply to opening a branch and carrying out insurance activities by insurance types under Section II of Annex No 1 in the Swiss Confederation by insurer with seat in the Republic of Bulgaria, respectively in the Republic of Bulgaria by insurer with seat in the Swiss Confederation, as well as to the supervision of this activity.

(2) The Commission of Financial Supervision shall announce the practice of application of the Agreement according to the order of Art. 9, par. 1 of the Law of the Commission of Financial Supervision.

§ 4b. (new - SG 97/07) This Law shall introduce the provisions of:

1. Council Directive 64/225/EEC on the abolition of restrictions on freedom of establishment and freedom to provide services in respect of reinsurance and retrocession
2. Council Directive 72/166/EEC on the approximation of the laws of Member States relating to insurance against civil liability in respect of the use of motor vehicles, and to the enforcement of the obligation to insure against such liability
3. Council Directive 72/430/EEC amending Council Directive 72/166/EEC of 24 April 1972 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles and to the enforcement of the obligation to insure against such liability
4. First Council Directive 73/239/EEC on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance
5. Council Directive 73/240/EEC abolishing restrictions on freedom of establishment in the business of direct insurance other than life assurance
6. Council Directive 76/580/EEC amending Directive 73/239/EEC on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct insurance other than life assurance
7. Council Directive 78/473/EEC on the coordination of laws, regulations and administrative provisions relating to Community co-insurance
8. Council Directive 84/5/EEC on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles
9. Council Directive 84/641/EEC amending, particularly as regards tourist assistance, the First Directive (73/239/EEC) on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance
10. Council Directive 87/343/EEC amending, as regards credit insurance and suretyship insurance, First Directive 73/239/EEC on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance
11. Council Directive 87/344/EEC on the coordination of laws, regulations and administrative provisions relating to legal expenses insurance
12. Second Council Directive 88/357/EEC on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive 73/239/EEC
13. Third Council Directive 90/232/EEC on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles
14. Council Directive 90/618/EEC amending, particularly as regards motor vehicle liability insurance, Directive 73/239/EEC and Directive 88/357/EEC which concern the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance
15. Council Directive 91/371/EEC on the implementation of the Agreement between the European Economic Community and the Swiss Confederation concerning direct insurance other than life assurance
16. Council Directive 91/675/EEC setting up an insurance committee
17. Council Directive 92/49/EEC on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 73/239/EEC and 88/357/EEC (third non-life insurance Directive)
18. European Parliament and Council Directive 95/26/EC amending Directives 77/780/EEC and 89/646/EEC in the field of credit institutions, Directives 73/239/EEC and 92/49/EEC in the field of non-life insurance, Directives 79/267/EEC and 92/96/EEC in the field of life assurance, Directive 93/22/EEC in the field of investment firms and Directive 85/611/EEC in the field of undertakings for collective investment in transferable securities (Ucits), with a view to reinforcing prudential supervision

19. Directive 98/78/EC of the European Parliament and of the on the supplementary supervision of insurance undertakings in an insurance group
20. Directive 2000/26/EC of the European Parliament and of the Council on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles and amending Council Directives 73/239/EEC and 88/357/EEC (Fourth motor insurance Directive)
21. Directive 2000/64/EC of the European Parliament and of the Council amending Council Directives 85/611/EEC, 92/49/EEC, 92/96/EEC and 93/22/EEC as regards exchange of information with third countries
22. Directive 2001/17/EC of the European Parliament and of the Council on the reorganisation and winding-up of insurance undertakings
23. Directive 2002/13/EC of the European Parliament and of the Council amending Council Directive 73/239/EEC as regards the solvency margin requirements for non-life insurance undertakings
24. Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance
25. Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council
26. Directive 2002/92/EC of the European Parliament and of the Council on insurance mediation
27. Directive 2005/1/EC of the European Parliament and of the Council amending Council Directives 73/239/EEC, 85/611/EEC, 91/675/EEC, 92/49/EEC and 93/6/EEC and Directives 94/19/EC, 98/78/EC, 2000/12/EC, 2001/34/EC, 2002/83/EC and 2002/87/EC in order to establish a new organisational structure for financial services committees
28. Directive 2005/14/EC of the European Parliament and of the Council amending Council Directives 72/166/EEC, 84/5/EEC, 88/357/EEC and 90/232/EEC and Directive 2000/26/EC of the European Parliament and of the Council relating to insurance against civil liability in respect of the use of motor vehicles
29. Directive 2005/68/EC of the European Parliament and of the Council on reinsurance and amending Council Directives 73/239/EEC, 92/49/EEC as well as Directives 98/78/EC and 2002/83/EC Text with EEA relevance.

Temporary and concluding provisions

§ 5. The Law for the insurance (Prom. SG 86/11 Oct 1996, suppl. SG 1/3 Jan 1997, amend. SG 21/11 Mar 1997, amend. SG 58/21 Jul 1997, amend. SG 21/20 Feb 1998, suppl. SG 52/8 May 1998, amend. SG 93/11 Aug 1998, amend. SG 132/5 Nov 1998, amend. SG 88/8 Oct 1999, amend. SG 97/28 Nov 2000, amend. SG 1/2 Jan 2001, amend. SG 102/27 Nov 2001, amend. SG 110/21 Dec 2001, amend. SG 96/11 Oct 2002, amend. SG 107/15 Nov 2002, amend. SG 8/28 Jan 2003, amend. SG 85/28 Sep 2004, amend. SG 88/4 Nov 2005) shall be repealed.

§ 6. (1) The issued in the way of the revoked Law for the Insurance permissions for insurance and re-insurance activity and additional permissions for new types of insurances shall be in force, and after entering in force of the code they shall have the force of a license within the meaning of art. 24, except for the cases under par. 2 of this paragraph. The issued permissions and additional permissions under items 10-13 of Section II, letter "A" of the Appendix No 1 to art. 6, par. 2 from the revoked Law for the insurance, shall correspond to the license under items 10-13 from Section II, letter "A" from Appendix No 1, except for the cases under par. 2 of this paragraph.

(2) (amend. and suppl. – SG 54/06) The found insurance companies, which have received permissions and additional permissions under item 10, Section II, letter "A" of Appendix No 1 to art. 6, par. 2 from

the repealed Law for the insurance, shall be obliged before the 1st of September 2006 to submit in the Commission the necessary documents for issuing a new license. They should apply to the application a program for their activity for the kind of insurance for a period of three years forward, the tariff stipulated in accordance with the requirements of art. 65, a bank guarantee as per the Articles of Association of the National Bureau of the Bulgarian Automobile Insurers, as well as a reinsurance contract in accordance with criteria determined by a decision of the Commission and an actuary rationale. The issued permissions and additional permissions under item 10, Section II, letter "A" of Appendix No 1 to art. 6, par. 2 from the revoked Law for the insurance, shall be valid to the pronouncing of the Commission, respectively to the expiry of the term for submitting an application under sentence one, if the application has not been filed. When there is refusal for issuing a license under item 10.1 from Section II, letter "A" of Appendix No 1 the Commission shall confirm the license under item 10.2 from Section II, letter "A" of Appendix No 1 by its decision.

(3) The found insurance companies and re-insurers shall reassign their capitals in compliance with the requirements of the code up to 1 January 2007.

(4) The found insurance companies and re-insurers shall reassign their shares in compliance with the requirements of art. 12, par. 4 in a 6 months term considered from the date of coming in force of this code.

(5) The found insurers and re-insurers shall adopt and present in the Commission the acts and documents under art. 57, par. 1, art. 62, par. 8, art. 90, par. 7, art. 98, par. 2, the rules of the organization and management of the information system, shall create specialized internal control unit, shall appoint its manager and shall reassign the rest of their activity in compliance with the provisions of the code up to one year period of time, considered from its coming in force. The rules under art. 104, par. 2 shall be adopted and be present in the Commission in a term up to 6 months, considered from the date this code enters in force.

(6) The insurers, who have license under item 10.1 from Section II, letter "A" of Appendix No 1, shall present in the Commission and the Guarantee fund the lists of their representatives for solving claims, assigned in the Member States until the date of entering in force of the Treaty of Accession of the Republic of Bulgaria to the European Union.

(7) The National bureau of the Bulgarian automobile insurers may not refuse to accept as a member an insurer, who meets the requirements of the Code and the statute under art. 282, par. 6. From the date on which the Treaty on the Accession of the Republic of Bulgaria to the European Union becomes effective, the National Bureau of the Bulgarian Automobile Insurers shall execute their obligations under the Internal Rules of the Council of the Bureaus, adopted in Rethymnon, island of Crete, on 30 May 2002 concerning the insurance contracts on the obligatory Civil Liability insurance of the motorists, concluded effectively by any of the insurers in the Republic of Bulgaria, not depending on if the insurer has obtained a license of item 10.1, Section II, letter "A" of Appendix 1 under the procedure of Para 2.

Art. 6a. (new - SG 48/07) The existing insurers and re-insurers shall make their capital compliant with Art. 82, par. 1 and 3 by 31 August 2007.

§ 7. (1) The ordinance under art. 95, par. 2, item 5 and par. 3 and art. 97, par. 6 shall be adopted in one year term, considered from entering in force of this code. The first exam for acquiring actuary capacity shall be held in term of six months from coming in force of the ordinance under sentence one.

(2) three years term from the entering into force of this code the insurers and re-insurers shall be obliged to conclude contracts for actuary servicing with parties with recognized capacity of liable actuary.

(3) Until the expiry of the term under par. 2 the persons, who have been recognized as actuaries of insurer by the meaning of art. 10, par. 6 and art. 25 of the repealed Law for the insurance, may perform their obligations of liable actuary at implementing the actuary servicing of an insurer or re-insurer, as well as to be assigned as responsible actuaries of insurers or re-insurers. Until the expiry of the term under par. 2 for liable actuaries of insurers and re-insurers may be chosen persons, who are

recognized for actuaries of health insurance companies or are licensed for actuaries of pension insurance companies and the funds for additional pension insurance, managed by them.

§ 8. (1) The found insurance mediators shall reassign their activity in compliance with the requirements of the code in three months term from its entering in force.

(2) The found insurance brokers, who perform insurance intermediation activity for more than five years, shall submit application for entering in the register of the Commission under art. 30, par. 1, item 9 of the Law of the Commission of financial supervision in three months period of time from coming into force of the code.

(3) For the found insurance brokers, except for those under par. 2, the Commission shall adopt the ordinance under art. 157, par. 7 and shall organize conducting of an exam in a term of 6 months after the code has entered into force.

(4) (amend. – SG 54/06) In a term of 10 months after the code has entered into force, the insurers shall be obliged to renovate the insurance agency contracts with the agents, who have chosen to work for them and who have passed successfully the education and exam under art. 168, par. 2.

(5) In the term under par. 4 the insurers shall submit application for entering the register under art. 30, par. 1, item 9 of the law of the Commission of financial supervision of the insurance agents, with whom the insurers have concluded insurance agency contracts and who meet to the requirements of the code. To the application shall be attached a copy of the insurance policy concluded under art. 167, par. 2 or a declaration under art. 167, par. 4 for each insurance agent.

§ 9. (1) The found procedures before the Commission or the deputy chairman for issuing license, permissions or approvals at the moment of entering into force of the code shall continue in the way of the repealed Law for the insurance.

(2) The found procedures for imposing compulsory administrative measures and for withdrawal of issued permissions of insurers and insurance brokers shall continue by the order of the Code.

§ 10. (1) The found insurers by the meaning of § 1, item 11 of the additional provisions of the repealed Law for the insurance shall terminate the liquidation, respectively insolvency proceedings, by the order of the repealed law.

(2) For persons under par. 1, who do not have enough resources to cover the expenses for liquidation or insolvency, the court shall pronounce the deletion of the company along with the decision for declaring the insolvency by a request of the deputy chairman. An assignee shall not be assigned.

(3) For the persons under par. 1, who according to the gathered evidence do not have neither funds, nor obligations, by a request of the deputy chairman the court shall pass judgment for winding up the undertaking.

(4) For persons under par. 1, whose liquidation or insolvency has concluded with settlement of the obligations towards third parties, the deputy chairman shall issue a decision for terminating the liquidation. The relations between the shareholders shall be settled under by the way of the Commercial law.

§ 11. (1) Until the date of entering into force of the Treaty for accession of the Republic of Bulgaria to the European Union "the Member States" by the meaning of the code shall be considered to be third states, as for them and for their persons shall be applied the provisions regarding the third states.

(2) From the date of entering into force of the Treaty for accession of the Republic of Bulgaria to the European Union the activity of a branch of an insurer, having a seat in a Member State, who has acquired permission under art. 36 of the repealed Law for the insurance or a license under art. 41 of the code, shall be performed under the conditions of the right of establishment.

(3) Until the date of coming in force of the Treaty for accession of the Republic of Bulgaria to the European Union the technical reserves under the insurance contracts, covering the risks in the Republic of Bulgaria, shall be covered by actives, located on the territory of the Republic of Bulgaria.

- (4) Until the date of coming in force of the Treaty for accession of the Republic of Bulgaria to the European Union the insurer may cover the technical reserves with actives, situated in a foreign state, after receiving permission by the deputy chairman.
- (5) Until the date of coming in force of the Treaty for accession of the Republic of Bulgaria to the European Union the own funds of a branch of an insurer from third state shall be invested in the Republic of Bulgaria.
- (6) Until the date of coming in force of the Treaty for accession of the Republic of Bulgaria to the European Union the minimum sum insured under art. 156, par. 1, sentence two and art. 167, par. 2, sentence two shall be 200 000 BGN for each insurance event and 300 000 BGN for all insurance events for an year. Until the date of coming in force of the Treaty for accession of the Republic of Bulgaria to the European Union the insurance under sentence one shall cover the responsibility for damages, that have occurred in the territory of the Republic of Bulgaria.
- (7) Until the date of coming in force of the Treaty for accession of the Republic of Bulgaria to the European Union the Commission of financial supervision shall notify the European Commission for the desire of the Republic of Bulgaria to be informed in compliance with rt. 6, par. 1 from Directive 2002/92/EO for the intention of the insurance intermediaries from Member States to perform activity in the Republic of Bulgaria under the conditions of the right of establishment or freedom to provide services.
- (8) Until the date of coming in force of the Treaty for accession of the Republic of Bulgaria to the European Union the insurance contract for obligatory Civil liability insurance of the motorists shall provide coverage in the territory of the Republic of Bulgaria. For Civil liability insurance of the motorists for a foreign state - Green card, a separate contract shall be concluded.
- (9) The National bureau of the Bulgarian automobile insurers, constituted in accordance with art. 82 of the repealed Law for the insurance, and the Guarantee fund, constituted according to art. 87 of the repealed Law for the insurance, shall reassign their activity in compliance with the requirements of the code in 6 months term after it has entered in force.

§ 11a. (new – SG 100/07, in force from 20.12.2007) (1) The By 30 September 2012 the Commission of Financial Supervision shall adopt a report on the implementation of Art. 65a, para 1, containing conclusions concerning use of sex as an actuarial factor at calculation of insurance premiums, taking into consideration the latest actuarial and statistical data, as well as the report of the European Commission regarding the implementation of Art. 5 of Council Directive 2004/113/Ec of 13 December 2004 Implementing the Principle of Equal Treatment Between Men and Women in the Access to and Supply of Goods and Services.

(2) The report under para 1 shall be presented to the Minister of Labour and Social Policy for the purposes of notification of the European Commission.

§ 12. (1) The acts of secondary legislation for implementation of the repealed Law for the insurance shall preserve their effect, as long as they do not contradict the code.

(2) The Commission shall adopt the acts of secondary legislation for implementation of the code, as well as the amendments and supplements of the acts under par. 1, if their explicit revoking is not necessary, in a term of one year after the code has come in effect, unless other term has been specified.

(3) The administrative acts, issued on grounds of the revoked Law for the insurance shall preserve their effect as far as they don't contradict to the code.

§ 13. In the Law of the Commission of financial supervision (Prom. SG 8/2003; amend. SG 31, 67 and 112/2003, amend SG 85/2004 and SG 39/05) the following amendments and supplements shall be made:

1. In art. 10:

a) a new par. 10 shall be created:

"(4) In event of ahead termination of the mandate of the Deputy Chairperson, the Commission, upon a proposal by the Chairperson, shall determine another member for his/her deputy, who shall execute his/her powers until the new Deputy Chairperson takes position.";

b) the current par. 4 shall become par. 5.

2. In art. 13:

à) in par. 1:

àà) items 12, 13, 14, 15 and 16 shall be revoked;

bb) a new item 21 shall be created:

"21. execute other powers, explicitly provided by law.";

b) (*) par. 3 shall be amended in the following way:

"(3) The individual administrative acts of the Commission shall be motivated and be subject to appeal before the Supreme Administrative Court. The appeal shall not suspend the execution of the individual administrative act."

3. (*) In art. 15, par. 4 shall be amended as follows:

"(4) The individual administrative acts of the deputy chairman, managing department "Supervision of the investment activity" may be appealed by court order before the Supreme Administrative Court."

4. In art. 16:

à) in par. 1:

àà) item 2 shall be revoked;

bb) in item 3 the words "art. 9 of the law for the insurance" shall be replaced by "art. 16 of the Insurance code";

cc) in item 4 the words "joining of insurers and sale of enterprise of an insurer in liquidation" shall be written off.

dd) item 5 shall be amended as follows:

"5. enter, refuse entry or delete insurance broker and insurance agent from the register of the Commission";

ee) item 6. shall be amended as follows:

"6. approve the persons under Art. 13, 22 and 26 of the Insurance Code;"

ff) items 7 and 8 shall be revoked;

gg) item 13 shall be amended as follows:

"13. approve or prescribe the creating of other technical reserves in the context of Art. 68 of the Insurance Code";

hh) in item 17 after the word "insurers" the Art. "and" shall be written off and a comma shall be placed, and after the words "insurance brokers" shall be added "and the insurance agents";

ii) item 20 shall be revoked;

b) par. 2 shall be amended as follows:

"(2) The proposal of art. 13, para 1, item 5 – for issuing of license, and of item 6 – for transformation, shall be made not later than one month before the elapse of the term for pronouncing by the Commission, and in case of voluntary termination of insurer – not later than 14 days before the elapse of term for pronouncing by the Commission, and to it all needed documents shall be attached."

c) (*) par. 4 shall be amended as follows:

"(4) The individual administrative acts of the deputy chairman, managing department "Insurance supervision", can be appealed by judicial order before the Supreme Administrative Court by the order of the Law of the administrative procedures, except the acts of para 1, item 15, which are not subject to appeal by judicial order."

5. (*) In art. 17 par. 4 shall be amended as follows:

"4. The individual administrative acts of the deputy chairman, managing department "Public insurance supervision", can be appealed by judicial order before the Supreme Administrative Court."

6."(3) Upon a written request by the Chairperson of the Commission for the purposes of the exercised by the Commission supervision, the banks shall be obliged to provide information about the assets and transactions in the accounts and deposits of the supervised persons, as well as of other persons for which data that offence the provisions of this law, the Insurance Code, the Code of Social Insurance, the Law of Public Offering of Securities, the Law of Health Insurance and the Law of the Companies of Special Investment Purpose. Providing information under sentence one may not be refused or limited for bank or trade secret reasons."

7. Art. 24 shall be amended as follows:

"Professional secret

Art. 24. (1)The information, which the Commission creates and obtains in connection with the execution of their functions and which constitutes trade, bank or other protected by the law secret and

which divulging can damage the commercial interest of the supervised persons, shall be professional secret. The professional secret shall not official secret in the sense of the Law of protection of the classified information.

(2) The information, which is subject to public announcement under this or other law, shall not be professional secret.

(3) The members of the Commission and the employees of its administration shall be obliged to preserve the professional secret, including after their dismissal from position, respectively after the termination of their labour legal relationships.

(4) Para 3 shall be also applied to the auditors and all other persons, executing functions assigned to them by the Commission.

(5) The information constituting professional secret, may be used by the Commission and its bodies only in connection with the execution of its functions:

1. for check of the observation of the requirements for issuance of the provided in the Law of Public Offering of Securities and the law of Health Insurance permissions (licenses for performance of activities regulated by these laws, as well as for performance of supervision over this activity.
2. for imposing compulsory administrative measures and imposing administrative penalties;
3. in court appeal of acts of the Commission and its bodies."

8. Art. 8 shall be amended as follows:

"Disclosure of professional secret

Art. 25. (1) Information, being professional secret, cannot be disclosed, except:

1. before bodies of the court, the prosecution, the investigation bodies and police bodies observing the order, established by the law;
2. before the bodies of bank supervision and Agency for financial intelligence under conditions and by order, determined with joint instructions as far as this is needed for execution of their functions;
3. before auditors performing audit of supervised persons, the Fund for Compensation of the Investors in Securities and the National Guarantee Bureau, as far as this is needed for execution of their functions.
4. with the explicit written consent of the person whom it refers to;
5. as resumed data in a manner, which does not allow individualization of the persons it refers to.

(2) Information, referring to the health status of individuals, obtained in connection with the implementing of financial supervision, can be disclosed only with their explicit written consent or by order of the court upon existing of data about committed crime.

(3) The persons and the bodies under Para 1 shall be obliged to keep the confidentiality of the obtained information.

(4) Information, being professional secret, can be conceded to the bodies of a Member State executing financial supervision, under the condition, that they shall keep the confidentiality of the obtained information and use it only in connection with the execution of their functions:

1. for check of the observation of the requirements for issuance of permissions for performing activity on the financial markets, as well as for the execution of supervision over the performance of this activity;
2. to impose sanctions;
3. upon appeal under administrative or court procedure their acts.

(5) Information constituting professional secret may be conceded to a foreign body of a third country, executing financial supervision, on the basis of agreement on assistance and information exchange, and under the condition, that the body to which information is conceded:

1. ensure at least the same level of confidentiality of the conceded information;
2. has the authority and agrees to concede information of the same kind on request by the Commission;
3. has need of the required information for execution of its functions.

(6) The Commission may provide under the order of Para 5 information constituting professional secret, obtained by the bodies of a Member State, performing financial supervision, only with their explicit consent and for the purposes for which the consent is given."

9. In art. 30, par. 1

a) item 7 shall be amended as follows:

"7. the insurers and re-insurers;"

b) in item 9 at the end shall be added "and insurance agents";

c) a new item 12 shall be created:

"12. the persons who have recognized capacity of liable actuary."

10. In § 1 of the Additional provisions items 7 and 8 shall be created:

"7. "Member State" shall be a state which is a member of the European Union or other state which belongs to the European Economic Area.

8. "Third country" shall be a country which is not a Member State in the meaning of item 7."

11. In the Appendix to art. 27, par. 2 the following amendments and supplements shall be made:

a) item 2.1 shall be amended as follows:

"2.1. For issuance of a license for carrying out of a stock-holding company or a branch of an insurer with a seat in a foreign country:

a) for carrying out of life and accident 30 000 BGN and 2000 BGN for each type of insurance

b) for carrying out of insurance in property insurances - 90 000 BGN and 3000 BGN for each type of insurance;

c) for carrying out of re-insurance and for insurance and re-insurance - 120 000 BGN and 2000 BGN for each type of insurance."

b) in item 2.2. the words "permission for carrying out of insurance activity" shall be replaced by "license for carrying out of insurance activity";

c) item 2.3. shall be amended as follows:

"2.3 For inscribing of an insurance broker in the register -5000 BGN";

d) a new item 2.3a shall be created:

"2.3a. For enlarging the scope of the license by additional license for:

a) for carrying out of life and accident insurance - 30 000 BGN and 2000 BGN for each type of insurance

b) for carrying out of insurance in property insurances - 90 000 BGN and 3000 BGN for each type of insurance

c) for carrying out of re-insurance and for insurance and re-insurance - 120 000 BGN and 4000 BGN for each type of insurance."

e) in item 2.6 the text before letter "a" shall be amended as follows:

"For enlarging of the scope of the license by additional license for carrying out a new type of insurance of an insurance joint-stock company or of a branch of insurer with a seat in a third country:";

f) item 2.7. shall be amended as follows:

"2.7. For enlarging the scope of the license by additional license for carrying out a new type of insurance to a mutual insurance cooperation - 1000 BGN for each type of insurance";

g) item 2.9. shall be amended as follows:

"2.9. For considering documents:

a) for issuing license and permits for carrying out insurance activity, merger, incorporation division and separation of insurers and re-insures - 500 BGN

b) on application for inscribing an insurance broker - 50 BGN

c) for enlarging the scope of the by additional license for carrying out a new type of insurance - 100 BGN

d) for approval of a registered auditor - 20 BGN"

h) item 4.7 shall be revoked.

i) in item 4.8. letter "b" shall be revoked.

j) a new item 5 shall be created:

"5. For recognition of the capacity of responsible actuary:

a) for attending an exam – 300 BGN;

b) for issuing a certificate – 200 BGN"

12. Everywhere in the law the words "Law for the insurance" shall be replaced by "the Insurance code".

§ 14. In the Law for the health insurance (prom. SG 70/1998, amend. SG 93, 153/1998, amend. SG 62, 65, 67, 69, 110, 113/1999, amend. SG 1, 64/2000, suppl. SG 41/2001, amend. SG 1, 54, 74, 107, 112, 119, 120/ 2002, amend. SG 8/2003, suppl. SG 50/2003, amend. SG 107/2003, suppl. SG 114/2003, amend. SG 28/2004, suppl. SG 38/2004, amend. SG 49, 70, 85 and 111/2004, amend. SG 39, 45, 76/05) the following amendments and supplements shall be made:

1. In art. 82, par. 4, item 1 the words "Appendix No to art. 6, par. 2 of the law for the insurance" shall be replaced by " Appendix No 1 to the Insurance Code."
2. In art. 84, par. 5 the words "Law for the insurance" shall be replaced by "the Insurance code."
3. In art. 94 par. 2 shall be amended as follows:
 "(2) Stock holder in a health insurance company cannot be, directly or through related persons, a person regarding whom a grounded conclusion that he/she may use the activity of health insurance for achieving purposes incompatible with the purposes and principles pronounced in Art. 82, Para 3 of this law and in Art. 11 of the Law of the Commission of Financial Supervision."
4. In art. 95, par. 2, item 6 the words "§ 1, item 10 of the Law for the insurance" shall be replaced by "§ 1, item 12 of the Insurance code".
5. In art. 97:
 - à) in par. 2:
 àà) item 9 shall be amended as follows:
 "9. does not meet the conditions of Art. 94, Para 2;"
 - bb) item 10 shall be amended as follows:
 "10. has not been and is not a partner or stock holder, as well as a member of a managing or control body of a trade company for which the hypothesis of Art. 94, Para 2 occurs."
 - b) para 5 shall be revoked
6. Articles 97a, 97b and 97c shall be created:
 "Art. 97a. The actuary servicing of the health-insurance company shall be performed only by a liable actuary. Liable actuary shall be a natural person of recognized by the Commission capability, which shall organize, manage and care liability for the actuary servicing of the health-insurance company.
 (2) The liable actuary shall:
 1. not be convicted for a malicious crime of general nature;
 2. not be, for the previous three years before the determined by the court initial date of insolvency, a member of managing or controlling body or unlimited-liable partner in a company for which an insolvency procedure has been instituted or of a terminated due to insolvency company if not-satisfied creditors left;
 3. not be announced in insolvency and is not in pending insolvency procedure;
 4. not be deprived from right to occupy materially responsible position;
 5. have a higher education with obtained educationally-qualification degree not lower than "master" and a covered teaching hours in higher mathematics as per requirements determined by an ordinance of the Commission of Financial Supervision;
 6. has at least three years experience as an actuary in national insurance institutions, actuary or insurer, re-insurer, health-insurance company, pension-insurance company, or in bodies performing supervision over the activity of these persons, or as habilitated teacher in insurance or actuary;
 7. has recognized capability of liable actuary by the Commission after successful passing an examination.
 (3) The terms and procedure of recognition of the capability and conduction of the examination for recognition of the capability under Para 2, item 7, as well as for recognition of capability, obtained in a Member State, shall be determined by an ordinance of the Commission of Financial Supervision. For the purposes of this code, the capability of the liable actuary recognized under the procedure of Insurance Code or under the Code of Social Insurance, where the passed examination for capability includes assessment of the knowledge in the field of health insurance shall be recognized.
 (4) The Commission of Financial Supervision, upon proposal of Deputy Chairperson of the Commission, who governs the "Insurance Supervision" Department, shall deprive the capability of liable actuary if is found that the person:
 1. does not meet any more the requirements of Para 2, items 1 – 4;
 2. upon performing activity of actuary servicing of a health-insurance company has performed gross or systematical breaches of this law or of secondary legislation on its application.
 3. has submitted incorrect data and documents of incorrect content, on the basis of which his/her capability has been recognized.
 (5) In the cases of deprivation of capability under Para 4 the person may require recognition of capability of liable actuary not earlier than three years from the decision enters in force. With the deprivation of the capability on some of the grounds of Para 4, the capability of the person as an liable actuary

recognized under the Insurance Code or under the Law of the Health Insurance shall be considered deprived too.

Art. 97b. (1) The liable actuary of the health- insurance company shall not be a spouse or relative up to fourth degree including of direct or collateral or in-law relationship to the manager or to the controlling body of the health-insurance company, as well as a member of managing or controlling body of another health-insurance company.

(2) The liable actuary shall be elected by the general assembly of the health-insurance company, before which he/she shall in advance certify by an affidavit about lack of circumstances of Para 1. The health-insurance company shall notify the Deputy Chairperson about the taken decision for election of a liable actuary within 7-days period from the date of taking the decision, and shall also submit certified copy of affidavit.

(3) In case of change of circumstances under Para 1 or in case of deprivation of capability of liable actuary under Art. 97a, Para 4, the general assembly of the Shareholders of the health-insurance company shall dismiss the liable actuary and elect new one within three months period from learning the circumstances.

Art. 97c. (1) The liable actuary shall bear the liability for the development of sufficient amount bonuses and for the instituting of enough amounts of technical reserves, for the correct calculation of the limit of solvency, as well as for the correct usage of the actuary methods in the practice of the health-insurance company.

(2) In connection with the activity under Para 1, the liable actuary:

1. shall make out and certify the statements of the health-insurance company in relation with the actuary activity;

2. shall make out annual actuary report to 31st of March of the year, following the year which the report refers to.

(3) Upon execution of his/her obligations, the liable actuary shall have access to the all needed information, and the managing bodies and the officers of the health-insurance company shall provide assistance.

(4) The actuary shall notify immediately the Commission about each circumstance which became known to him/her upon execution of his/her obligations and which refers to the health-insurance company and appears to be a significant offence of the this law or of acts on its application or may influence unfavourably on the performance of the activity of the health-insurance company.

(5) In the cases of Para 4 the limitations for revealing information provided by a law, secondary legislation act or agreement shall not be applied. The liable actuary shall bear liability for diligent revealing of information under Para 4 before the Commission of Financial Supervision and the Deputy- Chairperson of the Commission of Financial Supervision, who governs the "Insurance Supervision" Department.

(6) The form of actuary certification and the form and content of the actuary report and of the statements which the liable actuary shall certify shall be determined by an ordinance of the Commission of Financial Supervision."

7. In art. 99g:

a) in par. 1 after the word "merger" shall be added "fusion";

b) par. 2 shall be revoked;

c) par. 3 shall be amended as follows:

"(3) Transformation of health insurance companies shall be carried out under the conditions and under the order of Chapter Eleven of the Insurance Code and of the Law of the Commission for financial supervision."

8. In art 99h, par. 4 the words "Chapter nine of the law for the insurance" shall be replaced by "Chapter Twelve of the Insurance Code".

9. In art. 99i, sentence two "chapter eleven of the law for the insurance" shall be replaced by Chapter Twelve, Section II of the Insurance Code".

10. In art. 99k:

a) par. 3 shall be amended as follows:

"(3) The health insurance companies shall notify in written the Commission of Financial Supervision about:

1. all newly occurred facts and circumstances which are subject to entry into the registers of the Commission of Financial Supervision;

2. the changes in the inscribed circumstances in the trade register."

b) par. 4 shall be created:

"The obligation under Para 3 shall be executed within seven days period from the occurrence of the facts and circumstances, and to the notification the documents certifying the performed change shall be attached. In the cases where the respective fact or circumstance is a subject to entry in the trade register, the term for notification shall be 7 days from pronouncing the entry."

11. A new § 19g shall be created in the Transitional and concluding provisions:

"§ 19g. The Ordinance under Art. 97a, Para 2, item 5, Para 3 and Art. 97c, Para 6 shall be adopted within one year from the Insurance Code becomes effective. The first examination for obtaining actuary capability shall be conducted within six months from the entering of the ordinance in force.

(2) Within three years term from the entering of the Insurance Code in force, the health insurance companies shall be obliged to conclude contracts for actuary servicing with persons with recognized capability of liable actuary.

(3) Till the elapse of the term under Para 2, the persons who have been approved for actuaries of the health insurance company in the procedure for issuance of approval under Art. 97 and under the order of Art. 99, may execute the obligations of liable actuary, as well as to be elected for liable actuaries of health insurance companies. Till the elapse of the term under Para 2 for liable actuaries of health insurance companies may be elected persons, who have been approved for actuaries of insurance or re-insurance companies or have acquired license for actuaries of pension insurance companies and the managed by them funds for additional pension insurance."

§ 15. In the Commercial law (prom SG 48/1991 ã.; amend SG 25/1992, amend. SG 61 and 103/1993, amend. SG 63/1994, amend. SG 63/1995, 42, 59, 83, 86 and 104/1996, amend. SG 58, 100 and 124/1997, amend. SG 52 and 70/1998, amend. SG 33, 42, 64, 81, 90, 103 and 114/1999, amend. SG 84/2000, amend. SG 28, 61 and 96/2002, amend. SG 19, 31 and 58/2003, amend. SG 31, 39, 42, 43 and 66/05) chapter twenty seven "Insurance contract" shall be revoked.

§ 16. In the Law for local taxes and fees (prom. SG 117/1997, amend. SG 71, 83, 105 and 153/1998, amend. SG 103/1999, amend. SG 34 and 102/2000, amend. SG 109/2001, amend. SG 28, 45, 56 and 119/2002, amend. SG 84 and 112/2003, amend. SG 6, 18, 36, 70 and 106/2004, amend. SG 87 and 94/05) in § 1 from the additional provision item 19 shall be amended as follows:

"19. "Insurance value" of a vehicle is its market, against which instead of the insured property may be bought another one of the same type and quality to the moment of the issuance of the certificate of insurance value."

§ 17. In the Law for the export insurance (prom SG 61/1998, amend. SG 112/2001 and amend. SG 92/2004 ã.) art. 10a shall be amended as follows:

"Art. 10a. "BAEI" AD shall be an insurer in the meaning of the Insurance Code. The Insurance Code shall be applied for the "BAEI" AD as far as not provided otherwise by this law.

(2) The Insurance Code shall not be applied for the activity of "BAEI" AD under this law, except the provisions of Part Four, which shall be applied for the insurance legal relationships arose from this law."

§ 18. In the law for value added tax (prom SG 153/1998, corr. SG 1/1999, amend SG 44, 62, 64, 103 and 111/1999, amend SG 63, 78 and 102/2000, amend SG 109/2001, amend SG 28, 45 and 117/2002, amend SG 37, 42, 86 and 109/2003, amend SG 53, 70 and 108/2004, amend SG 28, 43, 76, 94 and 95/05) in art. 37 after the word "insurer" shall be added "re-insurer", the words "Law for the insurance" shall be replaced by "Insurance code" and the words "insurance assistants (agents)" shall be replaced by "insurance agents".

§ 19. In the Law for the corporate income tax levying (prom SG 115/1997, corr. SG 19/1998, amend. SG 21 and 153/1998, amend. SG 12, 50, 51, 64, 81, 103, 110 and 111/1999, amend. SG 105 and 108/2000, amend. SG 34 and 110/2001, amend. SG 45, 61, 62 and 119/2002, amend. SG 42 and 109/2003, amend. SG 18, 53 and 107/2004, amend. SG 39, 88 and 91/05) in § 1, item 47 from the additional provisions the words "insurance companies and mutual insurance cooperations" shall be replaced by "insurers and re-insurers", and the words "The law for the insurance" shall be replaced by "the insurance code".

§ 20. In the Law for taxation of the income of physical persons (prom SG 118/1997, 35/1998 – Decision No 6 of the Constitution court, amend. SG 71 and 153/1998, amend. SG 50, 103 and 111/1999, amend. SG 105/2000, amend. SG 110/2001, amend. SG 40, 45, 61 and 118/2002, amend. SG 42, 67, 95 and 112/2003, amend. SG 36, 37, 53, 70 and 108/2004, amend. SG 43/05) the following amendments shall be made:

1. In art. 12, par. 1, item 3 the words "insurance reserves" shall be replaced by "technical reserves";
2. In § 1 from the additional provision:
 - a) in item 48 the words "insurance reserves" shall be replaced by "technical reserves";
 - b) in item 49 the words "Commercial law" shall be replaced by "The insurance code";
 - â) in item 50 the words "of Section I, letter "A", items 1, 2 and 3 of appendix No 1 to art. 6, par. 2 of the law fro the insurance" shall be replaced by "of Section I, items 1, 2 and 3 of appendix No 1 to the Insurance Code".

§ 21 In the Law for the measures against money laundering (prom SG 85/1998, amend. SG 1 and 31/2003) the following amendments shall be made:

1. In art. 3, par. 2 item 2 shall be amended as follows:

"2. insurers and re-insurers with a seat in the Republic of Bulgaria; insurers from a Member State of the European Union, or from a state –party to the Agreement on the European Economic Space, who perform activity on the territory of the Republic of Bulgaria; insurers with a seat in states, different from the enlisted and received license from the Commission for financial supervision to perform activity in the Republic of Bulgaria through a branch;"
2. In art. 4, par. 12 the words "art. 6, par. 2 of the law for the insurance" shall be replaced by "the Insurance code".

§ 22. In the Traffic law (prom. SG 20/1999, amend. SG 1/2000, amend. SG 43, 45 and 76/2002, amend. SG 16 and 22 2003, amend. SG 6, 70, 85 and 115/2004, amend. SG 79 and 92/05) the following amendments and supplements shall be made:

1. In art. 100, par. 1, item 3 the words "Civil liability insurance shall be replaced by "obligatory Civil liability insurance of the motorists".
2. In art 123, par. 2 after the words Civil liability shall be added "of motorists".
3. In art. 125 a new item 8 shall be created:

"8. the accident is with one participant and the vehicle is not in status to move by own drive due to the caused by the accident damages."
4. In art. 125a:
 - a) a new par. 1 shall be created:

"(1) The services of control of the Ministry of Interior shall issue a protocol of visit upon the place of the road-transport accident. A copy of the protocol shall be sent ex officio to the insurer of the guilt for the accident driver, as pointed in the protocol, within 10 days period of its drafting."
 - b) the precedent par. 1 shall become par. 2 and shall be amended as follows:

"(2) The Minister of Interior and the Commission of Finance Supervision shall determine with an ordinance the documents, the order of their drafting at occurrence of road-transport accidents,

connected with the motor vehicles in the cases of Art. 125 and the procedure of informing as per Para 1"

c) the precedent par. 2 shall become par. 3.

5. In art. 171, item 2, letter "c" after the words Civil liability shall be added "of motorists".

6. In art. 183, par. 1, item 1 after the words Civil liability shall be added "of motorists".

§ 23. In the law for public offering of securities (prom. SG 114/1999, amend. SG 63 and 92/2000, amend. SG 28, 61, 93 and 101/2002, amend. SG 8, 31, 67 and 71/2003, amend. SG 37/2004, amend. SG 19, 31 and 39/05) in art. 77d, par. 2, item 12 the words "art. 87 of the law for the insurance" shall be replaced by "art. 287 from the Insurance code".

§ 24. In the Code of social insurance (prom. SG 110/1999, amend. SG 55/2000 – Decision of the constitution court of RB No 5/2000, amend. SG 64/2000, amend. SG 1, 35 and 41/2001, amend. SG 1, 10, 45, 74, 112, 119 and 120/2002, amend. SG 8, 42, 67, 95, 112 and 114/2003, amend. SG 12, 38, 52, 53, 69, 70, 112 and 115/2004, amend. SG 38, 39 and 76/05) the following amendments and supplements shall be made:

1. In art. 121e par. 6 shall be amended as follows:

"(6) The chairman of the managing board, the chairman of the board of directors, the executive director and the procurator shall meet the requirements of para 2, 4 and 5 and shall have permanent address or permit for continuous stay in the country."

2. New Articles 122i and 122 k:

"Liable actuary

Art. 122i. (1) The actuary servicing of the pension-insurance company and of the managed by it funds for additional pension insurance shall be performed only by a liable actuary. Liable actuary shall be a natural person of recognized by the Commission capability, which shall organize, manage and care liability for the actuary servicing of the company and the managed by it funds.

(2) The liable actuary shall be:

1. not convicted for a malicious crime of general nature;

2. has not been for the previous three years before the determined by the court initial date of insolvency a member of managing or controlling body or unlimited-liable partner in a company for which an insolvency procedure has been instituted or of a terminated due to insolvency company if not-satisfied creditors left.

3. has not been announced in insolvency and is not in pending insolvency procedure;

4. has not been deprived from right to occupy materially responsible position;

5. has a higher education with obtained educationally-qualification degree not lower than "master" and a covered teaching hours in higher mathematics as per requirements determined by an ordinance of the Commission;

6. has at least three years experience as an actuary in national insurance institutions, actuary or insurer, re-insurer, health-insurance company, pension-insurance company, or in bodies performing supervision over the activity of these persons, or as habilitated teacher in insurance or actuary;

7. has recognized capability of liable actuary by the Commission after successful passing an examination.

(3) The terms and procedure of recognition of the capability and conduction of the examination for recognition of the capability under Para 2, item 7, as well as for recognition of capability, obtained in a Member State, shall be determined by an ordinance of the Commission. For the purposes of this code, the capability of the liable actuary recognized under the procedure of Insurance Code or under the Law of Health Insurance, where the passed examination for capability includes assessment of the knowledge in the field of pension insurance shall be recognized.

(4) The Commission shall deprive the capability of liable actuary upon proposal of Deputy Chairperson of the Commission, if is found that the person:

1. does not any more meet the requirements of Para 2, items 1 – 4;

2. upon performing activity of actuary servicing of a pension-insurance company and of the managed by it funds for additional pension insurance has performed gross or systematic breaches of this code, of secondary legislation on its application or of the regulations of the organization and activity of the managed by the respective pension-insurance company funds for additional pension insurance.

3. has submitted incorrect data and documents of incorrect content, on the basis of which his/her capability has been recognized.

(5) In the cases of deprivation of capability under Para 4 the person may require recognition of capability of liable actuary not earlier than three years from the decision enters in force. With the deprivation of the capability on some of the grounds of Para 4, the capability of the person as an liable actuary recognized under the Insurance Code or under the Law of the Health Insurance shall be considered deprived too.

Additional requirements to the liable actuary of the pension-insurance company.

Art. 122k. (new – SG 103/05, in force from 01.01.2006) (1) The liable actuary of the pension-insurance company shall be:

1. not a spouse or relative up to fourth degree including of direct or collateral or in-law relationship to the manager or to the controlling body of the pension-insurance company;
2. not be a member of managing or controlling body of a company of the same scope of activity;
3. not be a partner or a shareholder, member of managing or controlling body of a person under Art. 123, Para 1 with whom the pension-insurance company has contractual relations, or a related person with him/her, of the trustee-bank and of a related to it person;
4. be a party to transactions with the company and the managed by it funds for additional pension insurance, except in his/her capacity of actuary of the company or of insured person in some of these funds;
5. have a permanent residence or permit for a durable stay in the country;

(2) The liable actuary shall be elected by the general assembly of the share holders of the pension-insurance company, before which he/she shall in advance certify by an affidavit that he/she meets the requirements of Para 1. The pension-insurance company shall notify the Deputy Chairperson of the Commission about the taken decision for election of a liable actuary within 7-days period from the date of taking the decision, and shall submit a certified copy of affidavit.

(3) The liable actuary shall notify the pension-insurance company about a change of the circumstances under Para 1 within 7-days period from learning the change.

(4) In case of change of circumstances under Para 1 or in case of deprivation of capability of liable actuary under Art. 122i, Para 4, the General Assembly of the Shareholders of the pension-insurance company shall dismiss the liable actuary and elect new one within three months from learning the circumstances."

3. Art. 123 shall be amended as follows:

"Actuary servicing

Art. 123. The liable actuary shall:

1. develop the biometrical tables under Art. 169. Para 1, item 2 and Art. 246, Para 1, item 2 and the actuary calculations for the offered pension schemes, which shall be approved by the managing body of the pension-insurance company;
2. care liability for the correct application of the actuary methods in the activity of the pension-insurance company;
3. care liability for the true and exact determination of the amounts of the pension reserves for payment of life pensions from the respective fund and of all obligations to the insured persons, the pensioners and their heirs;
4. till 31st of March every year make out and submit actuary annual report for the previous year before the managing body of the pension-insurance company and to the Deputy Chairperson of the Commission.

(2) The Deputy Chairperson of the Commission shall determine the form of the obligatory content of the annual actuary report under Para 1, item 4.

(3) Upon execution of his/her obligations, the liable actuary shall have access to the all needed information, and the managing bodies and the officers of the pension – insurance company shall be obliged to provide assistance."

4. In the transitional and concluding provisions § 11b shall be created:

"§ 11b. (1) The ordinance under Art. 122i, Para 2 item 5 and Para 3 shall be adopted within one-year period from entering in force of the Insurance Code. The first examination for obtaining actuary capability shall be conducted within six months from the entering of the ordinance in force.
(2) Within three years term from the entering of the Insurance Code in force, the pension-insurance companies shall be obliged to conclude contracts for actuary servicing with persons with recognized capability of liable actuary.
(3) Till the elapse of the term under Para 2, the persons who have obtained a license of actuary under Ordinance No. 14/2004 of the order and procedure for licensing actuaries of pension-insurance companies and of the managed by them funds for additional pension insurance (SG 46/04), may execute the obligations of liable actuary upon performance of actuary servicing of pension-insurance companies and of the managed by them funds for additional pension insurance, as well as to be elected for liable actuaries of pension-insurance companies and of the managed by them funds for additional pension insurance."

§ 25. In the Law for the Ministry of the Interior (prom. SG 122/1997, 29/1998 – Decision No 3 of the Constitution court, amend. SG 70, 73 and 153/1998, amend. SG 30 and 110/1999, amend. SG 1 and 29/2000, amend. SG 28/2001, amend. SG 45 and 119/2002, amend. SG 17, 26, 95, 103, 112 and 114/2003, amend. SG 15, 70 and 89 2004, amend. SG 11, 19, 27 and 86/05) in art. 60, par. 1 a new item 20 shall be created:

"20. provide the National Bureau of the Bulgarian Automobile Insurers and the Information Centre to the Guarantee Fund with the data, as determined by the Insurance Code and the secondary legislation on its application and shall perform the control over the conclusion and renewal of the obligatory Civil liability insurance of the motorists, applying the provided for compulsory measures and imposing the administrative penalties."

§ 26. In the Law for the road transport (prom. SG 82/1999, amend. SG 11 and 45/2002, amend. SG 99/2003, amend. SG 70/2004, amend. SG 88, 92 and 95/05) in art. 2, par. 5 the following amendments and supplements shall be made:

1. A new item 6 shall be created:

"6. provide the Information Centre to the Guarantee Fund the data, determined by the Insurance Code and the secondary legislation on its application in connection with the obligatory insurance Accident of the passengers in the public transport vehicles and shall perform the control over the concluding and renewal of the insurance;"

2. The precedent item 6 shall become item 7.

§ 27. (1) From 1 January 2010 the minimum sums insured of the obligatory Civil liability insurance of the motorists shall be specified as follows:

1. for non-property and property damages caused by bodily injury or death:

à) for every event and one injured party - 1 000 000 BGN;

á) for every event and two or more injured parties - 5 000 000 BGN;

2. for damaged property - 1 000 000 BGN for every event.

(2) Until the 1st of January 2010 the minimum sums insured of the obligatory Civil liability insurance of the motorists shall be specified as follows:

1. for non-property and property damages caused by bodily injury or death:

à) for every event and one injured party - 700 000 BGN;

á) for every event and two or more injured parties - 1 000 000 BGN;

2. for damaged property - 200 000 BGN for every event.

(3) The Commission for financial supervision shall notify the European Commission for the deferring periods under par. 1 and 2 and their duration.

§ 28. The Code shall enter in force on the 1st of January 2006, except for:

1. art. 45, par. 3, art. 47, chapter four, art 71, par. 4, art. 77, par. 5, art. 80, par. 5, art. 88, par. 3, art. 89, art. 99, par. 4, art. 112 - 116, art. 127, 137, 139 - 149, chapter seventeen, chapter twenty two, art. 254, par. 1, item 2, art. 256, art. 258, par. 1, item. 2 and 3, par. 2, 3 and 5, art. 282, par. 2 and § 13, item 2, letter "b", item 3, item 4, letter "c" and item 5 from the transitional and concluding provisions, which shall come onto effect when the Treaty of accession of the Republic of Bulgaria to the European Union comes in force.
2. Art. 254, par. 2, which shall come in force from the date of the Decision of the European Commission, after there have been presented evidence for concluding an agreement between the national bureau of the Bulgarian automobile insurers and the bureaus of the automobile insurers of the Member States in compliance with art. 2, par. 2 from Directive 72/166/EEA for bringing closer legislation of the Member States, related to the insurance against civil liability regarding the usage of motor vehicles and imposing of obligation for insurance against such danger;
3. Art. 266, that enter in force on the 11th of June 2012;
4. Art. 282, par. 4 and par. 284-286, which shall enter in force from the date of the Decision of the European Commission, after there have been presented evidence for concluding agreement between the National bureau of the Bulgarian automobile insurers and the compensation bodies of the Member States in compliance with art. 6, par. 3 from Directive 2000/26/EC for bringing closer the legislation of Member States, connected to the insurance against civil liability regarding the usage of motor vehicles and for amendment of Directives of the Council 73/239/EEA and 88/357/EEA. Until the entering in force of the Treaty for accessing of the Republic of Bulgaria to the European Union the National bureau of the Bulgarian automobile insurers shall implement the organization for fulfilling of the functions as a compensation body;
5. art. 288, par. 2, which shall come in force on the 11th of June 2007 and shall be applied for all the filed claims for indemnity, for which by this date has not been past judgment by the managing council of the Guarantee fund; till the date of entering in force of the Treaty for accessing of the Republic of Bulgaria to the European Union the Guarantee fund shall pay indemnities only when the traffic accident has occurred on the territory of the Republic of Bulgaria; the Guarantee fund shall implement the organization for execution of the functions as an Information centre for a term of 6 months from the entering in force of this code.

 The code was adopted by the 40-th National assembly on the 11th of December 2005 and was affixed with the official seal of the National assembly.

Temporary and concluding provisions To the TAX-INSURANCE PROCEDURE CODE

(PROM. SG 105/2005, in force from 01.01.2006)

§ 88. The code shall come in force on 1 January 2006, except for art. 179, par. 3, art. 183, par. 9, § 10, item 1, letter "e" and item 4, letter "c", § 11, item 1, letter "b" and § 14, item 12 from the transitional and concluding provisions, which enter in force from the day of promulgating of the code in the State Gazette

Temporary and concluding provisions TO THE ADMINISTRATIVE PROCEDURE CODE

(PROM. – SG 30/06, IN FORCE FROM 12.07.2006)

§ 142. The code shall enter into force three months after its promulgation in State Gazette, with the exception of:

1. division three, § 2, item 1 and § 2, item 2 – with regards to the repeal of chapter third, section II "Appeal by court order", § 9, item 1 and 2, § 15 and § 44, item 1 and 2, § 51, item 1, § 53, item 1, § 61, item 1, § 66, item 3, § 76, items 1 – 3, § 78, § 79, § 83, item 1, § 84, item 1 and 2, § 89, items 1 - 4 § 101, item 1, § 102, item 1, § 107, § 117, items 1 and 2, § 125, § 128, items 1 and 2, § 132, item 2 and § 136,

- item 1, as well as § 34, § 35, item 2, § 43, item 2, § 62, item 1, § 66, items 2 and 4, § 97, item 2 and § 125, item 1 – with regard to the replacement of the word "the regional" with the "administrative" and the replacement of the word "the Sofia City Court" with "the Administrative court - Sofia", which shall enter into force from the 1st of May 2007;
2. paragraph 120, which shall enter into force from the 1st of January 2007;
3. paragraph 3, which shall enter into force from the day of the promulgation of the code in State Gazette.

Temporary and concluding provisions TO THE LAW OF THE COMMERCIAL REGISTER

(PROM. – SG 34/06, IN FORCE FROM 01.10.2006)

§ 56. This law shall enter into force from the 1st of October, with the exception of § 2 and § 3, which shall enter into force from the day of the promulgation of the law in State Gazette.

Temporary and concluding provisions TO THE LAW OF THE SUPPLEMENTARY SUPERVISION OVER THE FINANCIAL CONGLOMERATES

(PROM. – SG 59/06)

§ 6. The law shall enter in force from the date on which the Treaty of Accession of the Republic of Bulgaria to the European Union becomes effective.

Concluding provisions TO THE LAW OF PROVISION OF DISTANT FINANCIAL SERVICES

(PROM. – SG 105/06, IN FORCE FROM 01.01.2007)

§ 12. The law shall enter in force from 1 January 2007, except for §4, point 1 and 5, which shall enter in force from the date of entering in force of the Law for electronic trade.

Temporary and concluding provisions TO THE LAW ON AMENDMENT AND SUPPLEMENTATION OF THE INSURANCE CODE

(PROM. - SG 97/07)

§ 141. (1) Insurance stock-holding companies shall remove the word "reinsurance" or its derivatives in Bulgarian or foreign language from their company names within a period of one year from the entry into force of this Law.

(2) Insurance stock-holding companies shall bring their activity in compliance with the requirements of Art. 13a within a term of one year from the entry into force of this law.

§ 142. (1) The provisions of Art. 199a, para , 3 and 6 shall enter into force from the date on which this law is promulgated in State Gazette and shall apply to the found insurances concluded in favour of a creditor.

(2) With regards to the existing insurances as per Art. 199a creditors shall be obliged to provide the information referred to in Art. 199a, para 4 and the certificate under para 5 within 6b months from the entry into force of this law.

§ 143. The provision of Art. 213, para 1, sentence four shall apply in all cases of subrogation to rights under which no payment has been made by the date of the promulgation of this law in the State Gazette.

§ 144. The provision of Art. 288b shall be applied from 1 January 2008.

§ 145. The provision of Art. 317a, para 4 shall be applied from 1 April 2008.

§ 146. (1) The provisions of Part six "a" shall apply to the existing insolvency proceedings except for insolvency proceedings under § 10, para 1.

(2) By the 31st December 2007 the Minister of Finance shall make an entry installment to the hedge fund amounting to 2 000 000 BGN on behalf of the republic budget.

Concluding provisions TO THE LAW AMENDING THE LAW OF PROTECTION FROM DISCRIMINATION

(PROM. – SG 100/07, IN FORCE FROM 20.12.2007)

§ 7. The Law shall enter into force from 20 December 2007.

Temporary and concluding provisions To THE LAW ON STATE AGENCY "NATIONAL SECURITY"

(PROM. – SG 109/07, IN FORCE FROM 01.01.2008)

§ 44. The Law shall enter into force from 1 January 2008.

Appendix No 1

(amend. - SG 54/06; amend. - SG 97/07)

KINDS OF INSURANCES

Section I

Kinds of insurances. Risks

1. Life insurance and rent

a) Life insurance covering the risks "death" or "living up to certain age", or "living up to certain age or earlier death";

b) (amend. - SG 97/07) insurance for pension or rent, which includes saving part and an obligation for one-time or periodical payments.

For these contracts the insurer shall pay fixed money sums.

2. Marriage and child insurance.

The insurance for paying fixed money sum at marriage or childbirth or expiry of the term of the insurance, which is bind to turning of a certain age of the child.

3. Life insurance, connected to an investment fund.

The insurance under items 1 and 2, for which the insurance payments are thoroughly or partially dependant on the value of stocks and shares, issued by investment undertakings and contract funds, which perform activity under the conditions and by the order of the Law for public offering of securities, as well as stocks and shares of collective investment schemes, or from the value of assets, included in internal funds of the insurer.

4. Permanent health insurance:

a) insurance for paying medical expenses or fixed money sums for diagnosing and treatment, ensuing from accident or illness or from certain kinds of accident or illness.

b) insurance for paying fixed one-time or periodic sums for specified period of for life when there is inability to work, caused by accident or disease or by certain kinds of accident or disease.

5. Buying out of capital.

Insurance for a certain period, where against receiving a premium the insurer shall pay the sum agreed after expiry of the term.

6. Additional insurance.

Insurance, providing additional insurance coverage, including whatever or a combination of:

a) death as a result of accident;

b) permanently lost of reduced ability to work as a result of accident;

c) permanent lost or reduced ability to work as a result of illness

d) temporary inability to work as a result of accident;

e) temporary ability to work as a result of disease;

f) (amend. – SG 54/06) inability to exercise a profession or a craft due to a bodily injury;

g) hospitalization;

h) severe illness;

i) medical expenses.

Section II

A. Kinds of insurances. Risks.

1. Accident (including production accidents and professional diseases):

- fixed money sums;

- indemnities;

- combination of the two above;

- indemnifications of passengers.

2. Disease:

- fixed money sums;

- indemnities;

- combination of the two above;

3. Land vehicles (except for rail vehicles)

Any damage or loss, caused to:

- land vehicles;

- land vehicles without engines.

4. Rail vehicles.

Any damage or loss, caused to the rail vehicles.

5. Aeronautical vehicles.

Every damage or loss, caused to the aeronautical vehicles.

6. Sailing vessels (sea, river and for lakes and canals).

Any damage, caused to:

- river sailing vessels in canals;

- sailing vessels in lakes;

- sea sailing vehicles;

7. Loads during transport (including goods, luggage etc.)

Any damage or loss, caused to loads during transport, with no regard to the kind of transport..

8. Fire and nature disasters.

Any damage or loss, caused to property (different from this under items 3, 4, 5, 6 and 7) caused by:

- fire;

- explosion;

- implosion;

- storm;
- other nature disasters;
- nuclear energy;
- landslides.

9. Other damages of property.

Any damage or loss, caused to property (different from this under items 3, 4, 5, 6 and 7) as a result of hailstorm or frostbite and every other event as a theft, except for the ones, included in item 8.

10. Civil liability, related to owning and using a motor vehicle.

10.1. Any responsibility for damages, occurring at using land motor vehicles.

10.2. Civil liability of the carrier at using motor vehicles on road.

11. Civil liability, related to owning and using aeronautical vehicles:

11.1. Any responsibility for damage, caused at using aeronautical vehicles.

11.2. Civil liability of the carrier, who uses aeronautical vehicles.

12. Civil liability, related to owning and using sailing vehicles.

12.1. Any responsibility for damages, emerging at using sailing vehicles.

12.2. Civil liability of the carrier with sailing vessels.

13. General civil liability.

Any liability for damages except for the ones pointed in items 10, 11 and 12.

14. Credits:

- general insolvency;
- export credits;
- sales with deferred payment;
- mortgages
- agricultural credits.

15. Guarantees:

- direct;
- indirect.

16. Different financial losses.

- risks, related to employment;
- general income shortage;
- bad weather;
- incomes loss;
- current general expenses;
- unpredicted trade expenses;
- losses of the market value;
- losses of rent or income;
- indirect trade losses, except for the pointed above;
- other financial losses (not commercial);
- other financial losses.

17. Legal expenses (law protection).

Insurance for covering court expenses and other expenses for court procedures.

18. Assistance at travel (assistance).

Assistance for persons, who meet difficulties at travel, when they are far from home or of their permanent residence.

B. Name of the license for more than one type of insurance.

When the license includes simultaneously:

- a) the types under items 1 and 2, they shall be called "Insurance against disease and accident";
- b) the types under item 1 (passengers indemnification), 3, 7 and 10, shall be called "Automobile insurance";
- c) the types under item 1 (passengers indemnification), 4, 6, 7 and 12 shall be called "Marine and transport insurance";
- d) the types under item 1 (passengers indemnification), 5, 7 and 11, shall be called "Aviation insurance";
- e) the types under items 8 and 9 shall be called "Property insurance";
- f) the types under items 10, 11, 12 and 13, shall be called Civil liability;
- g) the types under items 14 and 15, shall be called "Credits and guarantees";
- h) for all types, shall be called "General insurance".

C. Auxiliary risks.

1. An insurer, who has received license for one basic risk, considering one or group of kinds of insurances under section II from the Appendix, may also cover the risks, included in other kinds, without a license for these risks to be required, if:

- they are connected to the basic risk;
- they are concerning the subject, that is covered by the basic risk;
- they are covered by the contract, covering the basic risk.

2.1. The risks, included in section II, letter "A", item 14, 15 and 17, may not be considered as auxiliary for other kinds of insurances.

2.2. the risk under Section II, letter "A", item 17 (legal expenses) may be auxiliary for insurances of the kind Travel assistance under Section II, letter "A", item 18, when there are present circumstances under item 1 and if the basic risk concerns only providing help for persons, who have met difficulties at travel, when they are far from home or of their permanent residence.

2.3. The legal expenses may also be auxiliary risk under the conditions of item 1, when it is concerning arguments or risks, ensuing or in connection with sailing marine vessels.

Appendix No 2 to art. 82, par. 4

Minimum amount of the guarantee capital of the mutual insurance cooperation under art. 80, par. 3

No	Range of annual premium income (thousands BGN)	Amount of the minimum guarantee capital (thousands BGN)
1.	Up to 500 inclusive	100
2.	From 500 to 1000 inclusive	200
3.	From 1000 to 1500 inclusive	300
4.	Over 1500	400