

# CODIFICATION

## LAW DECREE 400/1970 (Government Gazette 10/A/17.1.1970)

### *“Regarding Private Insurance Undertakings”*

As it stands with the amendments, supplements and replacements of its provisions, effected under:

1. Law 761/78 (G.G. A. 42) “Regarding the share capital and guarantee of the insurance undertakings operating in Greece and some other provisions”.
2. Law 1380/83 (G.G. A. 101) “Modification and supplementation of provisions concerning private insurance undertakings”.
3. Presidential Decree 118/85 (G.G. A. 35) “Compliance with the provisions of Directives 73/239/EEC, 76/580/EEC, 73/240/EEC, 77/92/EEC και 78/473/EEC, concerning the taking up and pursuit of the business of direct insurance including life assurance in community co-insurance, and the measures regarding the activities of insurance agents and brokers”.
4. Law 1569/85 (G.G. A. 183) “Intermediation in private insurance contracts and other provisions”.
5. Law 1875/90 (G.G. A. 21) «Amendment of Law N. 1703/87 “Regulations on the renting of dwellings and other provisions”.
6. Presidential Decree 103/90 (G.G. A. 47) “Compliance with the provisions of Directive 84/641/EEC amending, particularly with regard to 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”.
7. Presidential Decree 459/90 (G.G. A. 175) “Compliance with the provisions of Directive 87/344/EEC on the coordination of laws, regulations and administrative provisions relating to legal expenses insurance”.
8. Presidential Decree 325/91 (G.G. A. 117) “Compliance with the provisions of Directive 87/344/EEC of 22.6.1987 amending, as regards credit insurance and suretyship insurance, 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”.
9. Presidential Decree 239/93 (G.G. A. 106) “Amendment of para.4 of article 52a of Law Decree 400/70”.
10. Law 2170/93 (G.G. A. 150) “Amendment of Law Decree 400/70 “In regard to private insurance undertakings and other provisions”.
11. Law 2322/1955 (G.G. A. 143) “Allowance of the guarantee of the Greek State for the granting of loans and credits and other provisions”.

12. Presidential Decree 252/96 (G.G. A. 186) "Compliance with the provisions of a) community insurance directives 88/357/EEC, 90/618/EEC, 90/619/EEC, 92/49/EEC, 91/674/EEC, b) directive 91/371/EEC, agreement between EEC and the Swiss Confederation, c) decision 94/1/ECSC, EC, treaty for the European Economic Community and d) the treaty for the accession of Austria, Finland and Sweden in the European Union".
13. Law 2496/97 (G.G. A. 87) "Insurance contract, amendments of insurance legislation and other provisions".
14. Presidential Decree 159/98 (G.G. A. 121) "Amendment and supplementation of Law Decree 400/1970 (G.G. 10 A') as it stands amended, in compliance with the provisions of Directive 95/26/EC and some of the provisions of directives 92/49/EEC και 92/96/EEC".
15. Law 2741/99 (G.G. A. 199) "Foods Control Unified Carrier, other regulations of matters under the competence of the Ministry of Development and other provisions".
16. Presidential Decree 169/2000 (G.G. A. 156) "Adaptation of Law Decree 400/1970 (A' 10) "in regard to private insurance undertakings" , as it stands, to the provisions of directive 91/674/EEC of the Council of 19 December 1991" on the annual accounts and consolidated accounts of insurance undertakings"(L374/31.12.1991).
17. Law 2837/2000 (G.G. A. 178) "Regulation of matters of Competition, Regulatory Power, Tourism and other provisions".
18. Law 2919/2001 (G.G. A. 128) "Relating research and technology to production and other provisions".
19. Presidential Decree 288/18.10.2002 (G.G. A. 258) "Adaptation of Law Decree 400/1970 (A' 10) "in regard to private insurance undertakings", as it stands, to i) the provisions of Directive 98/78/EC of the European Parliament and Council of 27 October 1998 "on the supplementary supervision of insurance undertakings in an insurance group" (L330/1/5.12.1998), ii) certain provisions, as they stand of the First Directives on direct insurance activity 73/239/EEC (L228/3/16.8.1973) [non-life insurance] and 79/267/EEC (L63/1/13.3.1979) [life assurance]».
20. Presidential Decree 10/21.1.2003 (G.G. A. 7) "Adaptation of Law Decree 400/1970 (A' 10) "in regard to private insurance undertakings" as it stands, and Law 489/76 (A' 331) "In regard to obligatory insurance against civil liability resulting from car accidents", as it stands, to the provisions of Directive 2000/26/EC of the European Parliament and of the Council of 16 May 2000 'relating to insurance against civil liability in respect of the use of motor vehicles and amending Directives 73/239/EEC και 88/357/EEC of the Council" (L 181/20-7-2000)".
21. Law 3190/2003 (G.G. A. 249) "Amendment of Law 2323/1995 "Open-air Commerce and other provisions".
22. Presidential Decree 332/03 (G.G. A. 285) "Compliance with the provisions of Directive 2001/17/EC on the reorganization and winding-up of insurance undertakings. "
23. Presidential Decree 23/05 (G.G. A 31) "Adaptation of Law Decree 400/1970 (A' 10) "in regard to insurance undertakings" as it stands, to the provisions of Directives
  - 1) 2000/64/EC of the European Parliament and the Council of 7 November 2000 "amending Council Directives 85/611/EEC, 92/49/EEC, 92/96/EOK και 93/22/EEC as regards exchange of information with third countries" (L 290/27/17.11.2000),

- 2) 2002/12/EC of the European Parliament and of the Council of 5 March 2002 "amending Council Directive 79/267/EEC as regards the solvency margin requirements for life assurance undertakings" (L 77/11/20.3.2002),
  - 3) 2002/83/EC of the European Parliament and the Council of 5 November 2002 "concerning life assurance" (L 345/1/19.12.2002) and
  - 4) 2002/13/EC of the European Parliament and of the Council of 5 March 2002 "amending Council Directive 73/239/EEC as regards the solvency margin requirements for non-life insurance undertakings" (L 77/17/20.3.2002). »
24. Ministry Decision ZI-629/10.5.2005 (G.G. B. 720) "Distance marketing of consumer financial services". – Adaptation of Law 2251/1994 on "Consumer Protection" (G.G. A' 191) to the provisions of Directive 2002/65/E.C. of the European Parliament and of the Council of 23 September 2002 "concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC" (Official Gazette no. L 271 of 9.10.2002, p. 0016-0024)."
  25. Law 3419/2005 (G.G A.297) "General Commercial Registry (G.C.R.) and Modernization of Chamber Legislation", article 26 para. 2.
  26. Law 3455/2006 (G.G. A 84) "Adaptation of Greek legislation to the provisions of Directive 2002/87/EC of the European Parliament and the Council on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and other provisions."
  27. Law 3487/2006 (G.G. A 190) "Incorporation into national law of Directive 2003/51/EC of the European Parliament and of the Council of 18 June 2003 "amending Directives 78/660/EEC, 83/349/EEC, 86/635/EEC and 91/674/EEC on the annual and consolidated accounts of certain types of companies, banks and other financial institutions and insurance undertakings" (EEL178/17.7.2003).
  28. Law 3557/2007 (G.G A 100) "Amendment of presidential decree 237/1986 (G.G. 110/A') which codified law 489/1976 "In regard to obligatory insurance of civil liability resulting from car accidents" (G.G. 331/A') and other provisions".

# CODIFICATION

## Law Decree 400/1970

### *“In Regard to Private Insurance Undertakings”*

#### FIRST CHAPTER

#### General Provisions

#### Article 1

- P.D. 252/96  
Ar. 2 par. 1 "1. All domestic and foreign private undertakings operating in Greece and having as their object the pursuit of insurance business whether under the right of establishment or under the freedom to provide services, are governed by the provisions herein."
- P.D. 103/90  
Ar. 2 par. 1 "2. In the sense hereof "insurance" shall mean direct insurance, including the activity of assistance. Wherever herein mention is made of "insurance undertaking" or "insurance company" it also includes the undertaking or company that pursues the assistance activity".
- P.D. 118/85  
Ar. 2 "3. Insurance undertakings are subject to the supervision of the Ministry of Commerce, which is exercised in accordance with the provisions of this Law Decree and aims at the protection and safeguard of the interests of policyholders and parties entitled to indemnity under an insurance agreement".
- P.D. 325/91  
Ar. 2 "4. Where export credit insurance operations are carried out on account of or under the guarantee of the State, or whenever the State acts as an insurer, such operations are excluded from the scope of this law decree."
- P.D. 252/96  
Ar. 2 par. 2 "5. The provisions of Chapter 11 "annual and consolidated accounts (financial statements) of insurance undertakings" hereof also apply to reinsurances accepted".

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Para. 1 art. 9 of P.D. 118/8-8-1985 (G.G. A' 35), states that wherever in articles 8 par. 1 και 3, 10 par. 2, 11 par. 2, 12 before par. 1, 22 par. 1, 5 and 6, 23 par. 1, 2 and 3, 25 par. 1, 3 and 4, 26 par. 1 and 2, 27 par. 1 and 2, 28 par. 1 and 2, 29 par. 1 and 2, 32, 33 par. 2, 41 par. 1, 42 par. 1 and 2, 54 par. 1, 55 par. 1, 57 par. 1 and 3 and 58 of the above L.D. 400/1970 the word "company" is mentioned it is substituted by the word "undertaking". Also, par. 2 above art. 9 stated that:

The words "Greek Insurance Societe Anonyme" of art.14, "Every Insurance Societe Anonyme" of par. 1 art. 19, and "The Life Branch Insurance Companies" of par. 2 of this article, are substituted respectively, by the words "Greek Insurance Undertaking", "every insurance undertaking" and "The life assurance undertakings". Same with the words "Foreign Insurance Societe Anonyme" of par. 3 of art. 23, they are substituted with the words "Foreign Insurance Undertaking".

Wherever herein stated as the Minister of Commerce it shall mean the Minister of Development, according to paragraph 20 of article 37 of Law 2496/1997 (G.G A 87).

## Article 2

P.D. 288/02  
Article 2

“1. Insurance is pursued in Greece only by a Societe Anonyme and a Mutual Insurance Cooperative, established under Greek law and dealing exclusively with insurance business. The mutual insurance cooperative can only pursue the business of paragraph 1 article 13. Insurance according to the provisions hereof can also be pursued by Public Undertakings having insurance business as their exclusive object.  
Insurance may also be pursued, under the provision of article 3, in the form of a European company.  
Insurance undertakings may, in order to fulfill their objective, found Societes Anonymes and participate in similar companies, even if their object is not insurance business.  
In order for an insurance undertaking to participate with a percentage that reaches 10% or more of the undertaking’s registered share capital, the approval of the Minister of Development is required. The approval of the Minister of Development is also required for an increase in participation, beyond the percentage approved by the last approval, to a percentage amounting to a total 3%. The above approvals are granted provided the insurance undertaking states that the capital it will use towards this cause fully covers its obligations regarding the solvency margin, the adjusted solvency in group level and the insurance investment. The above procedures also apply when ownership in an undertaking’s registered share capital reaches or exceeds 10% of the insurance undertaking’s own capital.”

P.D. 252/96  
Ar. 3 par. 2

«2. Insurance undertakings having their head office in a member state of the E.U. or European Economic Area may pursue insurance in Greece, either under the right of establishment or the freedom to provide services according to the provisions of Chapter 7 of this law decree “Particular provisions for the right of establishment and the freedom to provide services” without prejudice to article 2a para. a sub-para 2 of this law decree, provided its legal form is anticipated by article 8 of directive 73/239/EEC, as amended by article 6 of Directive 92/49/EEC (L 228/11.8.1992) and supplemented by Annex IX “Financial Services” of the Treaty for the European Economic Area ratified by Law 2155/1993 (A', 104) and by Annex I (XI) “Internal Market and Financial Services” of the Act concerning the conditions of accession of the Kingdom of Norway, the Democracy of Austria, the Democracy of Finland and the Kingdom of Sweden ratified with Law 2272/1994 (A', 230), with regard to non-life assurances, according to article 13 par.1 and 3 hereof and article 8 of Directive 79/267/EEC as amended by article 5 of Directive 92/96/EEC (L 360/9.12.1992) and supplemented by Annex IX “Financial Services” of the Treaty for the European Economic Area and by Annex I (XI) “Internal Market and Financial Services” of the Act concerning the conditions of accession of the Kingdom of Norway, the Democracy of Austria, the Democracy of Finland and the Kingdom of Sweden with regard to life assurances according to article 13 para. 2 hereof.

The Lloyd’s of London Underwriting Association is assimilated to an insurance undertaking.

Insurance undertakings having their head office in a third country (other than E.U. and E.E.A.) may pursue insurance activity in Greece under the

right of establishment according to articles 3a and 20 hereof.

- "3. Greek insurance undertakings as well as the legal representatives of foreign insurance undertakings shall only have their registered offices in the Athens Area, Thessaloniki, Patra, Larisa, Kavala and Iraklio.

P.D. 252/96  
Ar. 3 para. 3

By presidential decree issued by a proposal of the Minister of Commerce, other towns may also be appointed as registered offices of insurance undertakings. Particularly for the registered offices of mutual insurance cooperatives fulfilling the conditions of article 35 para. 3, the provisions of legislature regarding civil cooperatives apply".

P.D. 159/98  
Ar. 3

"Greek insurance undertakings shall have their main management in the same place as their registered offices".

P.D. 103/90  
Ar. 2

- "4. The provisions of this law decree shall not apply to Greek undertakings which fulfil cumulatively the following conditions:
- Only pursue the class of assistance out of non-life assurances.
  - Their activity is pursued in a purely local basis and they provide their services in kind.
  - Their annual income from the provision of assistance services to persons finding themselves in difficult position does not exceed 200.000 European Accounting Units, according to their statement filed with the Ministry of Commerce by 31/5 each year.

With regard to joint ventures or undertakings collaborating in national level, provided they operate under the same distinctive title, the total of their annual income is taken into account in the calculation of the sum of 200.000 E.A.U."

## **Article 2a**

P.D. 288/02  
Ar. 3

For the purposes of this law decree the following definitions are given :

a) An "Insurance Undertaking" shall mean:

- for the application of the 1<sup>st</sup> until the 6<sup>th</sup> Chapter as well as the 8<sup>th</sup> until the 10<sup>th</sup> Chapter, every undertaking that has been officially licensed according to articles 3,14,15,20 and 35 (para.4).
- for the application of Chapter 7 "Particular provisions for the Right of Establishment and the Freedom to Provide Services", every insurance undertaking having its head office in a member state of E.U. or E.EA. as well as any agency or branch of this undertaking in another member-state.

b) "Third country insurance undertaking" shall mean every insurance undertaking, which, to have a registered office within the E.U. or the E.E.A., it would need a license according to article 6 of directive 73/239/EEC or article 6 of directive 79/267/EEC, as they stand.

c) "Reinsurance undertaking" shall mean the undertaking, except for insurance undertakings or third country insurance undertakings, whose main activity is the acceptance of risks, assigned by an insurance

- undertaking, third country insurance undertaking or other reinsurance undertakings.
- d) "Branch" shall mean every agency or branch of an insurance undertaking in another member-state. Every permanent presence of an undertaking in the territory of a member state of the E.U. or the E.E.A. is assimilated to an agency or branch, even if this presence has not been given the form of a branch or an agency, but is pursued by virtue of a simple office which is directed by staff of the same undertaking or by an independent person delegated to permanently act for the undertaking, just like an agency would operate. The meaning of "permanent presence" is determined by a decision of the Minister of Commerce, published in the Government Gazette.
- e) "Establishment" shall mean the head office as well as any agency or branch of an undertaking, taking into account para (d) above.
- f) "Home member state" shall mean the member-state where the head office of the insurance undertaking is, covering the risk or undertaking the insurance obligation.
- g) "Branch member state" shall mean the member state in which the branch covering the risk or undertaking the insurance obligation is situated.
- h) "Member state where risk is" (for non-life insurance) shall mean:
- the member state where the assets are when the insurance relates to movable goods or property and its contents, to the effect that this is covered by the same insurance policy,
  - the member state of registration when the insurance relates to transportation means,
  - the member state where the insured concluded the contract concerning insurance policies of a duration lesser or equal to four months, covering risks arising during travel or vacations regardless of class,
  - the member state where the insured has his habitual residence or, in case of a legal entity, the member state in which the establishment of the legal entity referred to in the insurance policy is situated, in all cases not explicitly stated in the previous cases.
- i) "Member state of provision of services" shall mean, for non-life insurances, the member state in which the risk is situated, provided it is covered by the establishment of an insurance undertaking situated in another member state, and for life assurances the member state of the insurance obligation provided this is undertaken by an establishment situated in another member state.
- j) "Insurance obligation" (for life assurances) shall mean the obligation represented in one of the forms of insurance or one of the kinds of businesses referred to in article 13 (para.2).
- ja) "Member state of the insurance obligation" for life assurances, shall mean the member state in which the other contracting party has his habitual residence, or if it is a legal entity, the member state in which the establishment of the legal entity referred to in the contract is situated.

- jb) "Control" shall mean the relationship between the parent and its subsidiary, as defined in article 42e of codified law 2190/1920 "in relation to societies anonymes", which was added with article 33 of Presidential Decree 409/1986 (A' 191) and was modified by article 3 of Presidential Decree 498/1987 (A' 236), or the similar relationship between any natural person or legal entity and the undertaking.
- jc) "Qualifying holding" shall mean the holding, direct or indirect, of at least 10% of an undertaking's registered capital or voting rights, or any other capability of exercise of material influence over the management of the undertaking in which a holding subsists. In the application of the definition "qualifying holding" article 7 of Presidential Decree 51/92 (A'22) is taken into account.
- jd) "Close links" shall mean the situation in which two or more natural persons or legal entities are connected through:
- i. participation, that is the direct or through one link of control holding of twenty per cent (20%) or more of an undertaking's voting rights or registered capital, or
  - ii. control link, that is through the link existing between a parent and a subsidiary undertaking in the sense of article 42e para. 5 of codified law 2190/20 "in relation to societies anonymes", as it stands, or a similar link between any natural person or legal entity, and an undertaking. Every subsidiary undertaking of another subsidiary undertaking is also considered a subsidiary of the parent undertaking, which is in charge of the said undertakings.
- A close link between two or more natural persons or legal entities is also created by a situation in which these parties are permanently connected to the same person or entity through a link of control.
- je) "Parent undertaking" shall mean the parent as defined in article 42e of C.L. 2190/1920 "in relation to societies anonymes», as it stands.
- jf) "Subsidiary undertaking" shall mean the subsidiary as defined in article 42e of C.L. 2190/1920 "in relation to societies anonymes", as its stands. Any subsidiary of another subsidiary is also considered a subsidiary of the parent undertaking, which is in charge of the said undertakings.
- jg) "Participation" shall mean the direct or indirect holding of 10% or more of an undertaking's voting rights or registered capital.
- «jh) "Holding undertaking": shall mean the undertaking that is either a parent or holds a participation according to para. q herein or is linked to another undertaking in the sense of paragraph 1 of article 96 of c.l. 2190/1920.
- ji) "Connected undertaking": only for the requirements of additional financial supervision, it shall mean either the subsidiary or another undertaking in which there is a holding according to para. q herein, or an undertaking connected with another undertaking in the sense of paragraph 1 article 96 of c.l. 2190/1920.

L. 3455/06  
Ar. 21 par.1



k) "Financial Holding company" : shall mean the parent undertaking, whose main activity is the acquisition and possession of holdings in subsidiary undertakings where the said subsidiaries are exclusively or mainly insurance undertakings or reinsurance undertakings or third country insurance undertakings, of which subsidiary unertakings at least one is an insurance undertaking which is not a Mixed Financial Holding Company (M.F.H.C.) referred to in legislature for the supplementary supervision of the Groups of Consolidated Financial Activities (G.C.F.A.). In the context of exercising supplementary supervision of an insurance group, the persons who are actually managing the activities of such a company must possess the necessary honesty and skill for the exercise of their duties.

ka) "Mixed financial holding company" : it shall mean the parent undertaking, which is not an insurance undertaking or a third country insurance undertaking or a reinsurance undertaking or a holding insurance undertaking or an M.F.H.C. referred to in legislature for the supplementary supervision of G.C.F.A.s, when at least one of its subsidiaries is an insurance undertaking."

kb) "Gross registered (written) premiums" :

These include amounts due within the financial year and which result from insurance policies, regardless of whether these amounts are deferred in total or in part to a later financial year, including particularly:

- i. the premiums not yet registered, provided the calculation of the premiums may be done at the end of the financial year.
- ii. - the flat premiums and the sums paid for the acquisition of annuities
  - the flat premiums, in life assurance resulting from the provision for participation in the technical and other profits returns and for returns, as long as these participations may be regarded as premiums for the increase of the capital insured.
- iii. the charges or premiums in case of payment by half yearly, quarterly or monthly installments and the extra payments of the policyholders for the undertaking's expenses.
- iv. in case of coinsurance, the insurance undertaking's share of the total premiums.
- v. the reinsurance premiums from ceding insurance undertakings, reinsurance undertakings or third country insurance undertakings including the contributions in the portfolio after deduction of :
  - withdrawals from the portfolio in favour of the above ceding and retroceding insurance undertakings, and
  - cancellations.

The aforesaid amounts do not include the sums for taxes or charges levied with premiums.

kc) "Net registered premiums": These are the premiums under para. (kb) above after deduction of reinsurance ceded.

kd) "Gross earned premiums": These are the premiums under para. (kb) above taking into account the change in the total (gross without deduction

of the reinsurances ceded) provision for unearned premiums.

- ke) "Net earned premiums": These are the premiums under para. (kc) above taking into account the change in the provision of unearned premiums which has been ceded.
- kf) "Risk premiums": These are the premiums without the charges for acquisitions cost and management (administration) fees, which may be gross or net or earned, depending on whether they fall under paras. (kb) or (kc) or (kd) or (ke) above.
- kg) For the application of paras. (kb) to (kf) of this article, with regard to mutual insurance cooperatives of para. 4 article 35, wherever premiums are stated these shall mean the contributions.

P.D. 23/05  
Ar. 2

- kh) "Regulated market" shall mean
  - in a member state, the market as it is defined in directive 93/22/EEC (L141/27/11.6.1993), as amended by directive 97/9/EC (L84/22/26.3.1997), in relation to financial services in the field of negotiable values and
  - in a third country the market must be recognized by the member state of origin of the undertaking and must fulfill similar conditions. The negotiable monetary titles must be of similar quality to that of negotiable titles in the regulated market/s of the said member state."
- ki) "Competent authority" shall mean the Ministry of Development – General Secretary of Commerce.

P.D. 332/03  
Ar. 2

- l) "Reorganization measures" shall mean the measures involving any intervention by administrative bodies which are intended to preserve or restore the financial situation of an insurance undertaking according to the provisions in article 9 and 17c hereof even if they affect pre-existing rights of parties other than the insurance undertaking itself.
- la) "Winding-up proceedings" shall mean the collective proceedings involving the realizing of the assets of an insurance undertaking and the distribution of the proceeds among the creditors, shareholders or members and which necessarily involve the intervention of administrative or judicial authorities, including when the collective proceedings are terminated by a composition or other analogous measure, whether or not they are founded on insolvency or are voluntary or compulsory.
- lb) "Competent authorities" for the reorganization measures or the winding-up proceedings shall mean the competent administrative or judicial authorities.
- lc) "Liquidator" shall mean any person or body appointed by the competent authorities or by the governing bodies of an insurance undertaking, as appropriate, for the purpose of administering winding-up proceedings.
- ld) "Insurance claim" for the needs of winding-up proceedings, shall mean any amount which is owed by an insurance undertaking to insured persons, policy holders, beneficiaries or to any injured party having direct right of action against the insurance undertaking and which arises from an insurance contract, including amounts set aside for the aforementioned persons, when some elements of the debts are not yet known.

The premiums owed by an insurance undertaking as a result of the non-conclusion or cancellation of these insurance contracts shall also be considered insurance claims for the needs of winding-up proceedings.

- le) Whenever in this decree law mention is made of the European Accounting Unit or ECU, this shall mean the EURO. The calculations provided for in this law decree, during the introduction of the EURO, are effected based on the official "locked" parity with a rounding off in four (4) decimal figures, with a maximum limit of six (6), in the intermediate calculations, and two (2) decimal figures in the final calculations.
- lf) The "European Economic Area" (EEA) includes the member states of the European Union, the Kingdom of Norway, the Republic of Iceland and the Principality of Lichnestein, according to Law 2155/1993 (A' 104) "Ratification of the Agreement for the European Economic Area (EEA)".

### **Article 3**

P.D. 252/96  
Ar. 5 "Without prejudice to the provisions of Chapter 7 of this decree law "Particular provisions for the right of establishment or the freedom to provide services" the following shall apply:

1. The operation of an insurance undertaking in Greece is subject to a licence granted by resolution of the Minister of Commerce and is valid in all territories of the European Union and the European Economic Area (single licence) in case the undertaking concerned intends to carry out its activities in another member state, either under the right of establishment or the freedom to provide services.  
The license is granted per class of insurance for all or some of the risks comprised in this class as well as for a group of classes in accordance with the classification listed in article 13 hereof. An insurance undertaking having obtained a license for a class or a group of classes of insurance against loss or damage may cover risks comprised in another class of insurance against loss or damage (ancillary risks) without a licence being required for the branch comprising those risks, provided (such risks):
  - a) are linked to the principal risk,
  - b) concern the object covered against the principal risk,
  - c) are covered by the contract of the principal risk.
 Particularly for the operation of the classes of credit, suretyship and legal expenses insurance, a special license is always required, except for cases relating to insurance of legal expenses for disputes resulting from or in connection with the use of sea-going vessels and this insurance may be considered as an ancillary risk according to what is provided in the previous section.  
With regard to the activities of para. 2 article 13 hereof, the Minister of Commerce may restrict the license requested for a class of insurance, to the activities listed in the program of activity filed by the applicant undertaking in accordance with articles 15 para. 2 case B and para. 2 case B section e.
2. The license may not be granted if the operation of the undertaking conflicts with the provisions hereof or the interests of the insureds or the moral standards or public order. It may also not be granted if the identity of the shareholders or partners, direct or indirect, natural or legal, having a

qualifying holding and the amount of such holding, has not been previously declared.

The license is not granted if the Ministry of Commerce, taking into account the need to secure the sound and prudent management of the insurance undertaking, has not been persuaded about the suitability of the aforesaid shareholders or partners.

In case of legal entities with a qualifying holding, the Ministry of Commerce may require to be informed about the identity of the natural persons controlling directly or indirectly the said legal entities.

Also in case the aforesaid legal persons have a holding in the insurance undertaking which thus becomes their subsidiary, the Ministry of Commerce may require to be informed about their assets (financial statements) in order to review their financial situation.

For better supervision of the identity of the natural persons controlling legal entities which have a qualifying holding in an insurance undertaking, the Ministry of Commerce may:

- i) impose on these legal entities the obligation to hold nominal shares with voting rights,
- ii) require that certain percentages of the total aforesaid nominal shares with voting rights belong to one or more natural persons previously approved by the Ministry of Commerce.

During the review of suitability of the above persons, the Ministry of Commerce collaborates with the supervising authorities of the other member states of the E.U. and the EEA or other authorities.

P.D. 159/98  
Ar. 2 par. 2

"The license is not granted, when close links exist between the financial undertaking and other natural or legal persons and the Ministry of Development deems that these links prevent the effective exercise of its supervisory functions.

The Ministry of Development shall also refuse the granting of a license if the laws, regulations or administrative provisions of a non-member country governing one or more natural or legal persons with which the undertaking has close links, prevent the effective exercise of its supervisory functions.

The Ministry of Development shall require financial undertakings to provide the information it requires to monitor compliance with the conditions referred to in the two previous sections of this paragraph on a continuous basis".

Every negative decision must be fully reasoned and must be communicated to the applicant within three months at the latest from the date the application was filed.

L. 3455/06  
Ar. 21 par.2

"2a. In applying paragraph 2, the Ministry of Commerce will also request the opinion of the Competent Authorities of the said member-states, including those who are in charge of supervising credit institutions or investment enterprises, before granting a license to an insurance undertaking, which:

- a) is a subsidiary of an insurance undertaking with a license to operate in another member state or
- b) is a subsidiary of the parent insurance undertaking with a license to operate in another member state or
- c) is controlled by the same natural or legal person that controls an insurance undertaking with a license to operate in another member state or
- d) is a subsidiary of a credit institution or investment undertaking with a

license to operate in the European Union (E.U.) or  
 e) is a subsidiary of a parent credit institution undertaking or investment undertaking with a license to operate in the E.U. or  
 f) is controlled by the same natural or legal person that controls a credit institution or an investment undertaking with a license to operate in the E.U.

The above opinion, requested by the Ministry of Development, mainly concerns the suitability and quality of the shareholders and the honesty and skills of the management staff, necessary for the granting of the license of operation as well as for the supervision of compliance with the conditions of operation of an insurance undertaking.”

- P.D. 252/96  
Ar 5
3. The license granted to an insurance undertaking may be withdrawn in the cases provided for in this decree law, in the event of a sentence passed in accordance with articles 43 to 49, as well as if the conditions under which it was granted no longer exist or all kinds of obligations imposed herewith are seriously violated. Particularly with regard to the violations provided in article 44, the license granted to an insurance undertaking may be withdrawn, even if penal prosecution has not started, in case the interests of the insureds or the public order or the moral standards are jeopardized.
  4. A license of operation granted to an insurance undertaking for the exercise of a class of insurance may equally be withdrawn if operation has not started within twelve months from its issue. The same applies if the operation is discontinued in whole or in part, for a time extending six months.
  5. The Minister of Commerce may by reasoned resolution communicated to the interested insurance undertaking, partially or totally, definitively or temporarily revoke its license. The same applies in cases where the revocation is effected for reasons founded exclusively on legislation concerning Societes Anonymes and cooperatives.
  6. Thirty days after the revocation of the license of an insurance undertaking, all insurance contracts, with the exception of life insurance contracts, are deemed to have been cancelled ipso jure, provided that within the above deadline any application submitted by another insurance undertaking for the taking over its insurance portfolio has not been approved. Non matured premiums are reimbursed. Any lawful commissions paid are reimbursed or are claimed from the liquidator.
  7. Definitive revocation of the license of an insurance undertaking also implies the ipso jure revocation of its establishment license, which results in its dissolution.
  8. An insurance societe anonyme may be transformed in another commercial societe anonyme following a decision of the Minister of Commerce, published in the Official Gazette, if all its insurance contracts have expired and no lawsuits or claims are pending against it for insurance allowances (indemnity) or the transfer of all its insurance contracts has been approved according to article 59 hereof or another insurance undertaking operating legally in Greece undertakes all its insurance obligations. In such a case para. 7 of this article does not apply.

### Article 3a

P.D. 252/96  
Ar. 6

- "1. For insurance undertakings having their head office in Greece and established after the effective date of P.D. 118/85 (A 35), the license is granted exclusively for the operation of either insurance against loss or damage or life assurance.
2. Insurance undertakings having their head office in Greece and pursuing at the time of publication of P.D. 118/85 insurance against loss or damage as well as life assurance, may continue this combined operation on the condition that each of these activities is subject to separate administration according to the provisions of article 52b of this decree law.
3. Insurance undertakings having their head office in Greece and licensed to pursue life assurance may also be granted a license to operate the branch iv 2 of article 13 para. 2 hereof, on the condition that they dispose the respective minimum guarantee capitals and calculate two solvency margins in accordance with the provisions of articles 17a and 17b hereof. Also, insurance undertakings pursuing insurance against loss or damage, which have their head offices in Greece and are licensed to operate only classes 1 and 2 of insurances against loss or damage, may also obtain a license to operate life assurance on the conditions provided under previous paragraph 3.
4. Insurance Undertakings having their head office in a third country (other than E.U. and E.E.A.) may operate in Greece as follows:
  - a) If the above insurance undertakings pursue, in the territory of their head offices, insurances against loss or damage along with life assurance (mixed or composite insurance undertakings), they may be established in Greece.
    - for the operation either only of insurance against loss or damage or only of life assurance, through an agency or a branch in accordance with article 20 hereof.
    - for the operation of life assurance (when they also pursue insurance against loss or damage in Greece) through a Greek subsidiary insurance undertaking.

Paragraph 3 hereof applies accordingly.
  - b) If the above insurance undertakings operate at the place of their head office only insurance against loss or damage or only life assurance, they are established in Greece through a branch or an office.
5. Branches of insurance undertakings having their head office in the E.U. and the E.E.A. and operating in Greece both insurance against loss or damage and life assurances are subject, until 31.12.98 and with regard to administration of both their activities, to the provisions of Chapter 11 "annual and consolidate accounts (financial statements) of the insurance undertakings" hereof, taking into consideration paragraph 3 of this article.
6. If an insurance undertaking pursuing insurance against loss or damage has financial, commercial or administrative links with an insurance undertaking pursuing life assurance, the Ministry of Commerce, in cooperation with the other supervising authorities of the member states, if necessary, ensures that the results of these undertakings are not distorted by agreements

between them or by any arrangement which could affect the apportionment of expenses and income. "

- L. 2496/97  
Ar.35 par. 2
- "7. The word "insurer" is exclusively deemed to be the insurance undertaking operating legally in Greece, either under the state of establishment or under the state of freedom of services. Any use of it by a third party or in a whatsoever way, is forbidden."

#### **Article 4**

- P.D. 252/96  
Ar. 7
1. The present law decree governs all insurances, the policies of which are issued in Greece or abroad whether they are countersigned by the representative in Greece of the insurance undertaking issuing the policies or are contracted in accordance with the provisions of chapter 7 hereof "Special Provisions for the right of establishment and the Freedom to Provide Services".
  2. For insurance against loss or damage of art 13 para. 1 and 3 of this decree-law the following shall apply:
    - A. When the insured risk is situated in Greece and the insured has his habitual residence or the center of his activity in Greece or in case of a legal person, it has its head office in Greece, the insurance contract is governed by Greek law without prejudice to the cases in the following items B to H.
    - B.
      - a) Provided the risk is situated in Greece and the insured has not his habitual residence or the center of his activity or in case of a legal entity, its head office, in Greece, the contracted parties may choose to apply to the insurance contract either Greek law or the law of the member-state in which the insured has his habitual residence or the center of his activity or his head office.
      - b) The same applies when the insured has his habitual residence or the center of his activity or in case of a legal person, its head office, in Greece, while the risk is situated in another member-state.
    - C. When the insured pursues a commercial or industrial activity or a liberal profession and the insurance contract covers risks relating to his activities and which are situated in Greece and in one or more member-states of the E.U. or E.E.A., the contracted parties may agree that the law applicable to the contract shall be either that of one of the member-states in which one of the insured risks is situated or the law of the member state in which the insured has his habitual residence or the center of his activity.
    - D. In case the insured risk is situated in Greece and the risks covered and referred in the aforesaid paragraphs, are limited to events occurring in another member-state of the E.U. and the E.E.A., the contracted parties may choose as the applicable law that of the

member-state in which the loss shall occur.

- E. In way of deviation to the above in respect of insurances provided under article 13 para.3 hereof, the contracted parties may choose freely the law applicable to the insurance contract.
- F. In case a law other than Greek law has been chosen and all other elements of the insurance contracts at the time of choice are connected with Greece, the provisions of the mandatory laws of Greek legislation are by no means affected.
- G. The choice of the law applicable to the contract made as above, must be explicit and must clearly result from the conditions of the insurance contract or the circumstances.

If this is not so or if no choice has been made, the contract shall be governed by the law of the country with which it is more closely connected, amongst the countries which are taken into account, according to the provisions stated above.

If one part of the insurance contract is dissociated from the rest and has a closer connection with another country then the law of that country may be applied on that part of the contract. It is presumed that the contract is most closely connected with the member-state in which the risk is situated.

- H. Every insurance undertaking, when the risk is in Greece, shall:
  - i) Make known to the insured, before the contract is concluded, the law applicable to the contract if no right for a choice is provided, or the law proposed by the insurance undertaking in case a choice is possible, as well as the manner and time of arrangement of the written requests and complaints of the insureds without prejudice to the right to take legal proceedings.
  - ii) Make known to the insured in case of risks other than those of article 13 para.3 hereof, before the contract is concluded, the member-state of its head office or if necessary, the branch or agency which shall issue the insurance policy.
  - iii) The insurance contract along with the proposal form, must state the address of the head office or if necessary, of the branch or agency, which issues the insurance policy, as well as the name and the address of the special representative of the insurance undertaking operating by way of provision of services class 10 "Motor vehicle liability" except for carrier's liability.
  - iv) All necessary information communicated to the insured before the contract is concluded, as well as the insurance policy is issued in Greek whenever the insurance is compulsory or the following conditions prevail:
    - The law applicable to the contract is Greek law.
    - The risks covered are others than those defined in article 13 para. 3 hereof.

The Official Gazette by mistake reads "base" instead of contract"

- 3. For life assurance of article 13 para. 2 hereof, the following shall apply:



- A. If the policyholder has his habitual residence or in case of a legal person, its establishment, in Greece, the insurance contract is governed by Greek law.
- B. If the policyholder is a Greek subject and has his habitual residence in another member-state, he may bring his insurance policy either under Greek law or the law of the member-state in which he has his habitual residence.

The policyholder who is a citizen of another member state and has his habitual residence in Greece also has a right of choice between the law of the member state of which he is a citizen and greek law.

M.D. ZI-629/  
10.5.2005  
Article 5  
Para. 1

- C. "In case of personal life assurances, the policyholder, has the right to withdraw within 30 days from the time he was informed of the formation of the contract." The withdrawal results in the termination of the policyholder's obligations arising from the insurance contract.

The insurance undertaking is entitled to retain for main insurance a monthly premium and 1/12\* of the annual premium for supplementary covers subject to the class. This provision does not apply to policies of a duration equal to or shorter than 6 months. Particularly for life assurance linked to investments, the provision of article 13c, case A, para (s) hereof applies.

\*The Official  
Gazette by  
mistake reads  
"1/2" instead  
of "1/12"

- D. If Greece is the member-state of the insurance commitment, the insurance undertaking, before concluding life assurance, shall communicate to the policyholder a document with the following information which, like the corresponding policy, is issued in Greek, if the policyholder is a Greek citizen or has his establishment in Greece and the applicable law is Greek law:
  - i) The name, purpose and legal form of the insurance undertaking.
  - ii) The member-state in which the head office or the branch or agency concluding the contract is situated.
  - iii) The address of the head office of the insurance undertaking or of the branch or the agency concluding the contract.
  - iv) The description of the granted covers of main and supplementary insurance and the various choices of the policyholder.
  - v) The duration of the policy both for main insurance and supplementary.
  - vi) The mode of cancellation of the contract.
  - vii) The details and time of payment of the premiums both for main insurance and supplementary covers.
  - viii) The mode of calculation and distribution of participation in the profits of the insurance undertaking or in the proceeds from mathematical reserves.
  - ix) The definition of the surrender values with a relevant surrender table to the degree these values are guaranteed.
  - x) Premium information regarding both main insurance and supplementary coverages, whenever this information is necessary.
  - xi) If the benefits of an insurance policy are linked to investment units, more information is given as to the nature of the units to which the benefits are linked.

- xii) If these units result from the formation of an "internal variable fund" information is given as to the nature of the assets of the insurance undertaking forming up the "internal variable fund".  
In case these units are linked to shares of mutual funds for which there is no licence for investment in Greece, information is given about these shares and their net price, selling price and redemption price.
  - xiii) The mode of exercising the right of withdrawal.
  - xiv) General information on the taxation status applicable to the type of insurance policy and
  - xv) The law applicable to the contract if the contracted parties have no right of choice or if they have the right to choose the law applicable, the law the insurer proposes
  - xvi) The manner and time of arrangement of written complaints of the policyholders or persons entitled to indemnity without prejudice to the possibility to take legal proceedings
  - xvii) The information for the entering into force of all the coverages, main and supplementary.
- E. During the term of the contract, the insurance undertaking is obliged to communicate to the policy holder any change in its name, legal form, address of its head office, branch office or agency with which the contract is concluded. Particularly for the insurance commitment, the insurance undertaking informs the policy holder about any change to items iv - xii mentioned in case D of this paragraph, and annually, any information it receives in respect of participation in profits of the insurance undertaking or proceeds from the mathematical reserve.
4. The application of the previous paragraphs does in any case prejudice the application by the courts of the mandatory rules of the Greek legislation, regardless of the law otherwise applicable to the contract.
  5. Within the meaning of this decree-law, the general and special conditions of insurance contracts against loss or damage, as provided in art 13 para. 1 and 3 hereof, do not include the particular conditions provided in certain cases for the cover of peculiar risks to be insured.
  6.
    - a) In case of conclusion of an insurance contract for compulsory insurance imposed by Greek law, this contract is governed by Greek law.
    - b) In case of compulsory insurance imposed by Greek law, if a conflict arises between the law of the member state in which the risk is situated and Greek law, Greek law shall prevail.
    - c) If the contract of compulsory insurance imposed by Greek law covers risks in more than one member state, the mandatory rules of Greek legislation definitely apply, without prejudice to the provisions of the following para (d).
    - d) Insurance undertakings not established in Greece and covering, under the status of free provision of services, risks in Greece which according to Greek law are subject to compulsory insurance, are governed by the same obligations which apply to established insurance undertakings, particularly with regard to communication of

the general and special conditions of the insurance policies before their use, evidence for the insurance cover of the risk, notification of cancellation, expiry or suspension of cover, as well as application of special legislation in force regarding compulsory insurance.

- e) The Ministry of Commerce informs the Committee of the European Union about the risks for which Greek legislation provides compulsory insurance, in accordance with article 8 para. 5 of Directive 88/357 EEC (L 172/1.7.88).
7. With regard to differences arising from insurance contracts, Greek courts become competent in the following cases:
- a) for life assurance of article 13 para. 2 hereof, if:
- Greece is the member state of the insurance commitment
  - The policyholder is a Greek citizen or is established in Greece
  - The applicable law in the contract is Greek law.
- b) For insurances against loss or damage of article 13 para.1 and 3 hereof, if insurance is compulsory or if:
- The risk insured is situated in Greece
  - The applicable law in the contract is greek law
  - The risk insured is not included in the risks of article 13 para. 3 hereof.
8. Indemnities and allowances arising from insurance contracts concluded under the right of establishment or the freedom to provide services in Greece, are payable according to article 51 hereof.

#### **Article 4a**

- L. 2496/97  
Ar.35 par. 3
- "1. A Committee for Private Insurance is formed in the Ministry of Development consisting of the following 9 members:
- a. A University Professor, familiar with Commercial Law or Economics, expert in private insurance, selected by the Minister of Development, as Chairman.
  - b. The Director General, head of the Direction of Insurance Undertakings and Actuaries of the Minister of Development.
  - c. A representative of the Association of Insurance Companies.
  - d. A representative of the Federation of Insurance Employees Associations of Greece (O.A.S.E.).
  - e. A representative of the organizations of intermediaries in private insurance business elected by vote among the presidents of the Boards of Directors of the "Panhellenic Association of Unit Managers", "Association of Greek Brokers", "Panhellenic Federation of Professional Insurers" and "Panhellenic Association of Insurance Producers".
  - f. Three persons, experts in matters of private insurance or actuarial science, selected by the Minister of Development.
  - g. A representative of the National Council of Consumers.
2. The Chairman, members and secretary of the Committee together with their replacements, are appointed by a decision of the Minister of

Development for a period of three years. A clerk of the Ministry of Development is appointed secretary of the Committee.

3. In case there is a delay in appointing the persons of sections c,d and e of para. 1 of this article, which exceeds thirty (30) days from the relevant invitation of the Ministry of Development, the Committee of Private Insurance is formed and sits without these members. Following any late appointment, the decision of para. 2 of this article is completed.
  4. The matters to be discussed in the Committee are introduced by the Director of the Department of Insurance Undertakings and Actuaries. For further detailed procession of all or some of the matters of the agenda, a member of the Committee selected by its Chairman may be appointed as special introducer.
- L. 2170/93  
Ar. 1 par.3
5. The Committee's decisions are taken by majority and in case of equal votes the Chairman's vote prevails.
  6. The task of the Committee is:
    - a) To give opinions as to special matters concerning private insurances, after a relevant question raised by the Minister of Commerce.
    - b) To give opinions as to the granting and revocation of licences to insurance undertakings.
    - c) To submit proposals, following such an inquiry by the Minister of Commerce, regarding special measures concerning the improvement of the function of the insurance market, the creation of training systems for those employed in the insurance market, the drafting of a Code of Ethics for Insurance Undertakings and Professions, the briefing of consumers on private insurance matters and any matter related to private insurances.
- L. 2496/97  
Ar.35 par.4
7. Matters related to the organization and operation of the Committee for Private Insurance are regulated by decision of the Minister of Commerce. "The fee per session of the Chairman, the members and secretary of the Committee for Private Insurance, is regulated by decision of the Ministers of Development and Finance, in deviation to these provisions".

## Article 5

- P.D. 252/96  
Ar.8
1. In a special issue bearing the title "Bulletin of Private Insurance" published by the end of October of each year by the Ministry of Commerce in collaboration with the Union of Insurance Undertakings of Greece, brief data for the activity of private insurance (including reinsurance) in Greece are published, based on the financial statements, statistical data, technical provisions and solvency margin data submitted by insurance undertakings to the Ministry of Commerce or published under this law decree and law 2190/1920 "in regard to Societes Anonymes" as well as based on statistical data and non-confidential information resulting from the collaboration between the Ministry of Commerce and the supervisory authorities of other member states.
- L. 2496/97  
Ar.35 par. 5
- "2. The Minister of Development may decide as to every necessary detail in relation to the special content of the above Bulletin. A Ministerial Decision

also determines that this bulletin is issued twice a year".

- L. 2496/97  
Ar.35 par. 6
- "3. Insurance undertakings must send to the insured that so requests, in the end of the financial year, a copy of the annual financial statements and the audit certificate. The Minister of Development may also request insurance undertakings to submit within a certain deadline, three or five-year business plans.

### Article 5a

This article added with article 2 of Law 2170/1993 (GG A' 150), was abolished with para. 2 article 4 of P.D. 169/2000 (GG A' 156).

It is skipped as non-applicable.

### Article 6

- P.D. 252/96  
Ar. 9
- "1. The supervision of the Ministry of Commerce covers the financial supervision of the entire business of insurance undertakings having their head office in Greece, including the activities they carry through branches and under the freedom to provide services.  
The said financial supervision comprises in particular the verification, in respect of the insurance undertaking's entire business, of the state of its solvency and the formation of technical provisions, including mathematical reserves, as well as their coverage by corresponding assets, according to the provisions of this law decree.
- N. 2496/97  
Ar.35 par. 7
- "By a decision of the Minister of Development, issued following an opinion of the Committee for Private Insurance and after a licence by the Bank of Greece, insurance undertakings operating in Greece can extend their activities in states outside the European Union (E.U.). The licence is granted provided the undertaking proves that, after the anticipated extension of its activities, it fulfills the provisions regarding solvency margin hereof, and provided it states to the Ministry of Development whether it will form the technical provisions and solvency margin in Greece or whether it will deposit bail, as well as the amount of the sums it will use. The licence is granted within thirty (30) days from submission of the relevant documentation. In case of establishment in the above states, the undertaking is obliged, within a reasonable time from the date of the licence, to submit to the Ministry of Development the relevant licence of the state of establishment. "
- P.D. 252/96  
Ar. 9
- Insurance undertakings already operating, must notify the Ministry of Commerce about the activities they pursue via their branches or through freedom to supply services in third countries.  
In case the above insurance undertakings have received a licence for pursuing class 18 "Assistance", supervision also extends to the review of the technical resources that these undertakings dispose for the appropriate carrying out of the relevant assistance operation they have undertaken.

2. Without prejudice to the provisions of articles 7, 8, 9, 17a, 17b and 17c hereof, supervision is also carried through on-the-spot controls at the insurance undertaking's premises.

The Ministry of Commerce may:

- a) collect information and be briefed about the undertaking's situation and total activities within and outside Greece and require the submission of documents relating to this activity. To this effect, it collaborates with the supervision authorities of other member states of the E.U. and the E.E.A.
  - b) take all appropriate and necessary measures so that, on the one hand, the activities of the insurance undertakings operating in Greece are in accordance with the laws, regulations and administrative provisions prevailing in Greece and in other member states, as the case may be, and mainly, with the program of activities, and on the other hand, to avoid or eliminate any abnormality that could affect the interests of the insureds and
  - c) to request the supply of every piece of information relating to insurance contracts held by intermediary persons.
3. Insurance undertakings are obliged to dispose a sound administrative and accounting structure and appropriate internal audit proceedings.
  4. Without prejudice to articles 52a para. 7 and 42d par. 10 hereof, in case an insurance undertaking licenced in another member state operates activities in Greece through a branch, the supervisory authority of the home member state may, after having previously informed the Ministry of Commerce, proceed by itself or through persons delegated for this purpose, to an on-the-spot verification of the information necessary to ensure the financial supervision of the undertaking. The Ministry of Commerce may participate in this verification.
  5. When Greece is the member state of the branch or the free provision of services of an insurance undertaking having its head office in another member state, the Ministry of Commerce, if it deems that its activity in Greece is damaging to its financial situation, may notify the competent supervisory authority of the member state of origin.
  6. A common decision of the Ministers of National Economy and Commerce, may determine the manner of investment of the capital, reserves and free assets of public insurance undertakings. The technical reserves of these undertakings are formed and invested according to the provisions of articles 7 and 8 hereof".

### **«Supplementary supervision of insurance undertakings in an insurance group.**

P.D. 288/02  
Ar. 4  
New articles  
6a, 6b, 6c are  
added

### **Article 6a**

1. The Ministry of Development exercises supplementary supervision, in the

manner provided for in this article, in the following cases:

- a) Every insurance undertaking that has its head office in Greece, and which is a participating undertaking in at least one insurance undertaking with head offices in the E.U. and in the E.E.A. reinsurance undertaking or non-member country insurance undertaking.
  - b) Every insurance undertaking with head offices in Greece, the parent undertaking of which is an insurance holding company, reinsurance undertaking or non-member country insurance undertaking.
  - c) Every insurance undertaking with head offices in Greece, the parent undertaking of which is a mixed-activity insurance holding company.
2. In the exercise of supplementary supervision, according to para. 1 above, the Ministry cannot on its own supervise an insurance undertaking of a non-member country, a reinsurance undertaking, an insurance holding company or a mixed-activity insurance holding company, without prejudice to the provisions of Chapter 11.
  3. In the exercise of supplementary supervision the following are taken into account:
    - related undertakings of the insurance undertaking,
    - participating undertakings in the insurance undertaking,
    - related undertakings of a participating undertaking in the insurance undertaking.
  4. The Ministry of Development, in exercising supplementary supervision according to the previous paragraph, may not take into account data of undertakings having their head office in non-member countries, when there are legal impediments, without prejudice to articles 6b (para.5) and 6c (para. 3).
  5. Where an insurance undertaking having its head office in Greece together with another or other insurance undertakings having their head office in the E.U. and the E.E.A., have as their parent undertaking the same insurance holding company, reinsurance undertaking, non-member country insurance undertaking or mixed-activity insurance holding company, the competent authorities of the member states concerned may reach agreement as to which of them will be responsible for exercising supplementary supervision.
- L. 3455/06  
Ar. 21 par.3
6. "Insurance undertakings having their head office in Greece and subject to supplementary supervision, must follow efficient proceedings of risk management and internal control systems, including the rightful proceedings of accounting and reports, and must apply with consistency the provisions of Chapter 11, so as to locate, calculate, monitor and appropriately control the transactions provided for in paragraph 10 of this article and must produce and present to the Ministry of Development the data and information relevant to the purposes of this supplementary supervision. The above proceedings and systems are controlled by the Ministry of Development."
  7. Any exchange of information, necessary for the purpose of supplementary supervision, between the insured undertakings which have their head office in Greece and fall under supplementary supervision and their related and participating undertakings is permitted.

8. In relation to the Ministry of Commerce's access to the necessary information for the exercise of supplementary supervision, the following apply:

a) It has access to any information relevant to the supervision of an insurance undertaking having its head office in Greece and falling under supplementary supervision. To that effect, it can directly address the interested undertakings, stated in paragraph 3 above, to ensure the communication of the necessary information, only when the insurance undertaking does not furnish the information requested.

b) Also, it can exercise in Greece, via the Department of Insurance Undertakings and Actuaries or with the procedure provided in article 9 (para.4), an on-the-spot verification of the information mentioned in section a above, without prejudice to section b of paragraph 9 of this article.

- on an insurance undertaking falling under supplementary supervision,
- on the subsidiaries of that insurance undertaking,
- on the parent undertakings of this insurance undertaking,
- on the subsidiaries of a parent undertaking of this insurance undertaking.

c) IF the Ministry wishes so, in the application of this paragraph, and in particular cases in order to verify information regarding an undertaking that has its head office in another member state of the E.U. and the E.E.A., and which is a related insurance undertaking, subsidiary undertaking, parent undertaking or subsidiary undertaking of a parent undertaking of the insurance undertaking that has its head office in Greece and is subject to supplementary supervision, it may ask by an application to the competent supervisory authority of the other member state the realisation of this verification. Also, when it respectively receives such an application, it must pursue it in the context of its competences, by either effecting the verification itself or by allowing the other supervisory authority to effect the verification.

L. 3455/06  
Ar. 21 par.4

«d) In applying point (c) above, the competent authority that has submitted the request, may, if it so wishes, participate in the verification, when it does not effect it itself.”

9. In relation to this collaboration and the exchange of information between the Ministry of Development and the competent supervisory authorities of the member states of E.U. and the E.E.A., in the application of this article, the following apply:

a) The Ministry of Development, in case of insurance undertakings which have their head office in Greece and are related directly or indirectly or have a common participating undertaking having its head office in the other states, communicates to the authorities of the other member states, if they so request, all the information that will allow or facilitate the exercise of supervision according to this article, willingly communicates every information it deems necessary to the



other supervisory authorities and closely collaborates with them.

- b) When an insurance undertaking having its head office in Greece and either, a credit institution in the sense of directive 77/780/E.E.C. (L 322/30/17.12.1977), as amended by directive 96/13/EC (L 66/15/16.3.1996) [L. 2076/1997, A' 130], or an investment undertaking in the sense of directive 93/22/EEC (L 141/27/11.6.1993), as amended by directive 97/9/EC (L 84/22/26.3.1997) [L.2396/1996 A' 73, L. 2533/1997 A' 228], or both, are related directly or indirectly or have a common participating undertaking, the Ministry of Development and the authorities that have a public power to supervise these other undertakings closely collaborate. The said authorities exchange information, that comes to their knowledge during the exercise of their supervisory and regulatory duties, and which may facilitate their mission, especially in the context of this article.
  - c) Information collected based on this article, and in particular, any exchange of information between competent supervisory authorities mentioned in this article, is subject to confidentiality and the procedures provided for in articles 50 and 50a and in directive 95/26/EC (EL 168/7/18.7.1995) [P.D. 258/1977, A' 185].
10. A) For the implementation of this article, the Ministry of Development exercises general supervision over the acts (transactions) between:
- a. An insurance undertaking having its head office in Greece and:
    - i) A related undertaking of the insurance undertaking,
    - ii) A participating undertaking of the insurance undertaking,
    - iii) A related undertaking of a participating undertaking of the insurance undertaking.
  - b. An insurance undertaking having its head office in Greece and a natural person having a holding:
    - i) In the insurance undertaking or in one of its related undertakings,
    - ii) In a participating undertaking of the insurance undertaking,
    - iii) In a related undertaking of a participating undertaking of the insurance undertaking.
- B) The above acts (transactions) mainly concern:
- Loans,
  - Guarantees and items outside the balance sheet,
  - Data that can be selected for the coverage of the solvency margin,
  - Investments,
  - Reinsurances,
  - Agreements for the attribution of expenses.
- C) a. Insurance undertakings having their head office in Greece, and falling under the supplementary supervision of this article, submit to the Ministry of Development an annual report, signed by the person of article 55 (case B), by June 30 each year, with regard to the acts (transactions) provided for in subparas. A and B above. To that effect, the decision provided in article 17a (para. 9) is revised and

adapted so as to include the above annual report.

P.D. 23/05  
Ar.12 par.1  
case i

- b. If, based on the above annual report, it seems that the solvency margin and the general solvency of the insurance undertaking are undermined or may be undermined, the Ministry of Development takes the appropriate measures, provided for in article 17c (paras. 4,5, and 6) against the undertaking and notifies the relevant supervisory authorities of the other member states.
- c. Accordingly, the deadlines provided for in article 17c (para. 8) to articles 43 (para. 2) and 55 (case B, para. 2) are met.

- 11. a) In the case mentioned in para 1a above, the Ministry of Development requests a calculation of the adapted solvency from the participating insurance undertaking which has its head office in Greece, according to article 6b, which is submitted and signed by the person of article 55 (case b), by June 30 each year. To that effect, the decision provided for in article 17a (para.11) is revised and adapted so as to include the above calculation.

P.D. 23/05  
Ar.12 par.1  
case ii

- b) Any related undertaking, participating undertaking or related undertaking of a participating undertaking is included in the calculation mentioned in section (a) above.
- c) If the calculation of section (a) above shows that the adapted solvency is negative, the Ministry of Development takes the appropriate measure, provided for in article 17c (paras 4,5,and 6) against the participating insurance undertaking and notifies the relevant supervisory authorities of the other member states.
- d) Accordingly, the deadlines provided in article 17c (para. 8) until articles 43 (para. 2) and 55 (case B, para. 2) are met.

- 12. a) In the case mentioned in para 1b above, the Ministry of Development exercises a supervisory method in accordance with article 6c.

- b) In the same case above, in the relevant calculation includes all the related undertakings of the insurance holding undertaking, the reinsurance undertaking, or the non-member country insurance undertaking, according to the method provided for in article 6c.

- c) If, based on the above calculation, the Ministry of Development deems that the solvency margin and the general solvency of an insurance undertaking having its head office in Greece, a subsidiary of the insurance holding undertaking, a reinsurance undertaking, or a non-member country insurance undertaking, is undermined or may be undermined, it takes the appropriate measures provided for in articles 17c (paras. 4,5, and 6) and 43 (para. 2), against the said insurance undertaking by October 31<sup>st</sup> each year.

P.D. 23/05  
Ar.12 par.1  
case iii

- 13. a) During the procedure of review for the issuing of a licence to an insurance undertaking, the principles and methods provided for in this article and in articles 6b and 6c apply to participating undertakings of the said insurance undertaking.

- b) When an insurance undertaking participates in other undertakings, apart from insurance and reinsurance, then the principles of this

article apply, and in the calculation of the adapted solvency the principles and rules of article 6b also apply as well as the following:

L. 3455/06  
Ar. 21 par.8

- i. «The algebraic total of para 1 (a,b,c) of article 6b hereof:
- Does not take into account any necessary solvency margins (own capital adequacy) for these undertakings, unless it regards: credit institutions of para. 1 article 2 of Law 2076/1992 (GG 130 A') and para. 1 article 1 of Directive 2000/12/EC (L.126/26.5.2000), ancillary banking service undertakings of article 2 of P.D. 267/1995 (GG 149 A') and of paragraph 23 article 1 of Directive 2000/12/EC, investment firms of paras 3 and 17 article 2 L.2396/1996 (GG 73 A') and para. 1 article 4 of directive 2004/39/EC (L.145/30.4.2004) and para. 4 article 2 of Directive 93/6/EEC (L. 141/11.6.1993), financial institutions of para 6 article 2 of L. 2076/1992, of para. 22 article 2 L. 2396/1996, para. 5 article 1 of Directive 2000/12/EC and para. 7 article 2 of Directive 93/6/EEC, management firms of paras. 4 and 5 of article 3 L. 3283/2004 (ΦΕΚ 210 A') and of para. 2 article 1a of Directive 85/611/EEC (L.375/31.12.1975) and without prejudice to legislature for the supplementary supervision of G.C.F.A. The obligatory solvency margins of financial institutions, of ancillary banking service undertakings and of management firms are calculated according to point (ii) para. 2 part I Annex I, of Directive 2002/87/EC (L.35/11.2.2003) and in collaboration with the Relevant Competent Authorities.
  - Takes into account own funds (internal accounting value) of these undertakings, or their market value if they have been introduced in the stock market.”

P.D. 23/05  
Ar.12 par.1  
case iv

- ii. The verification of own funds or market value of these undertakings takes effect under the conditions described in article 17a [para. 4 (section d, point iii) and 5].
- iii. In case point (ii) above cannot be verified, the calculation of the adapted solvency takes into account para. 5 article 6b.

- c) When it comes to branches or agencies of insurance undertakings having their head office in a non-member state, which operate in Greece and use the data that can be selected for the coverage of the solvency margin and technical provisions for the acquisition of holdings, the regulations of the final section of para. 2 article 2 of this article apply, as well as those of article 6b.

N. 3455/06  
Ap. 21 nap.5

“14. The Ministry of Development may, through an application to the European Committee, request the commencement of proceedings for the negotiation of an agreement with one or more non-member countries with regard to the means of exercise of supplementary supervision, according to the procedures provided for in article 10a of Directive 98/78/EC (L.330/5.12.1998).”

## Article 6b

L. 3455/06  
Ar. 21 par.6

«1. The calculation of the adapted solvency of a participating insurance undertaking which has its head office in Greece, as provided in para. 11, is made as follows:

a) The following total is calculated:

- i. The data that can be selected, according to article 17a for the coverage of the solvency margin of the participating insurance undertaking and
- ii. The proportional share of the participating insurance undertaking in the data that can be selected, according to article 17a, for the coverage of the solvency margin of the related insurance undertaking.

b) The following total is calculated:

- i. the accounting value, contained in the books and financial statements of the participating insurance undertaking of the related insurance undertaking,
- ii. the obligatory solvency margin, according to article 17a, of the participating insurance undertaking and
- iii. the proportional share of the obligatory solvency margin, according to article 17a, of the related insurance undertaking.

c) The difference in total, calculated according to case b above, deducted from the total, which is calculated according to case a above, constitutes the amount of the adapted solvency of the participating insurance undertaking.

d) When the participation in the related insurance undertaking constitutes, in whole or in part, an indirect ownership, then item I of case b above includes the value of indirect ownership, taking into account the relevant successive interests. Items (ii) of case a above and (iii) of case b above include the corresponding shares of items that can be selected for the coverage of the solvency margin of the related insurance undertaking and the obligatory solvency margin of the related insurance undertaking, respectively.”

«2. For the calculation stated in para. 1, the following apply:

L. 3455/06  
Ar. 21 par.6

a) Proportional share means the proportion of the subscribed capital of the related undertakings, which is held, directly or indirectly, by the participating insurance undertaking.

b) When it comes to a related insurance undertaking which is a subsidiary and has a solvency deficiency, the total solvency deficiency of the subsidiary is taken into account, that is, the total obligatory solvency margin of the subsidiary. In case, however, where the above subsidiary insurance undertaking also has another insurance undertaking as its subsidiary, then between the two last subsidiaries the principal of proportionality applies.

- c) The following sums, provided they have not already been subtracted, are not taken into account:
- i. The value of any assets of the participating insurance undertaking, which represent the financing of items which can be selected for the coverage of the solvency margin of a related insurance undertaking.
  - ii. The value of any assets of a related insurance undertaking, which represent the financing of items which can be selected for the coverage of the solvency margin of the participating insurance undertaking.
  - iii. The value of any assets of an insurance undertaking related to the participating insurance undertaking, which represent the financing of items which can be selected for the coverage of the solvency margin of any other insurance undertaking related to the participating insurance undertaking.
  - iv. Any subscribed other non-paid capital of the related undertaking, which constitutes a possible obligation on the part of the participating insurance undertaking.
  - v. Any subscribed other non-paid capital of the participating insurance undertaking, which constitutes a possible obligation on the part of a related insurance undertaking.
  - vi. Any subscribed other non-paid capital of a related insurance undertaking, which constitutes a possible obligation on the part of another related insurance undertaking of the same participating insurance undertaking."

L. 3455/06  
Ar.21 par.7

- " d) When there are no capital ties between certain undertakings in an insurance group, the Ministry of Development determines which proportional share must be taken into account."

3. a) The calculation mentioned in para. 1 above, does not take into account items which can be selected for the coverage of the solvency margin and which result from mutual funding between the (participating) insurance undertaking and:
- A related undertaking,
  - A participating undertaking,
  - Other related undertaking of any of the participating undertakings.
- b) Furthermore, it does not take into account items that can be selected for the coverage of the solvency margin of a related insurance undertaking, when these items have resulted out of mutual funding with another undertaking related to the first (related) insurance undertaking.
- c) More specifically, mutual funding exists when one insurance undertaking or any of its related undertakings, holds shares (holding) in or grants loans to another undertaking, which directly or indirectly holds an item which can be selected for the coverage of the solvency margin of the first undertaking.
4. In relation to insurance undertakings, reinsurance undertakings and intermediary insurance holding undertakings, which are related undertakings and are taken into account in the calculation of the adapted solvency of the participating insurance undertaking according to para. 1

above, the following apply:

- a) When the (participating) insurance undertaking has more than one related insurance undertakings, the calculation of the adapted solvency is effected with the incorporation of each one of these related insurance undertakings.
- b) In case of successive holdings, as when one insurance undertaking participates in another insurance undertaking, which also participates in another insurance undertaking, the calculation of adapted solvency is effected on the level of every participating insurance undertaking, which has at least one related insurance undertaking.
- c) i. Calculation of the adapted solvency of an insurance undertaking having its head office in Greece may not be effected:
  - If it is a related undertaking of another insurance undertaking having its head office in Greece and provided this related undertaking has been taken into account in the calculation of adapted solvency of the participating insurance undertaking.
  - If it is a related undertaking of an insurance holding undertaking or a reinsurance undertaking having its head office in Greece, and provided this insurance holding undertaking or reinsurance undertaking and the related insurance undertaking itself are taken into account in the calculation effected.
  - If it is a related undertaking of another insurance undertaking or reinsurance undertaking or insurance holding undertaking having its head office in another member state of the E.U. and the E.E.A., provided the Ministry of Development and the competent supervisory authority of the other member state agree to assign to the competent supervisory authority of the other member state the exercise of supplementary supervision.
- ii. In any one of the above cases, release may be given only if suitable proof is presented to the Ministry of Development that the data which can be selected for the coverage of the solvency margins of the insurance undertakings included in the calculation are appropriately distributed between these undertakings.
- d) In case where the (participating) insurance undertaking has a related insurance undertaking having its head office in another member state of the E.U. and the E.E.A., the calculation may take into account the state of solvency of the related insurance undertaking as it has been evaluated by the competent supervisory authority of the other member state.
- e) If the (participating) insurance undertaking has a related reinsurance undertaking having its head office in the E.U. and the E.E.A., then this related undertaking is treated, exclusively for the needs of calculation, in a manner similar to a related undertaking, the general principles and methods described in this article applying.

To that effect, a theoretical obligatory solvency margin is calculated for every related reinsurance undertaking based on the same rules provided in article 17a. However, in case of important difficulties in the application of these rules, the theoretical obligatory solvency margin may be calculated based on the first result provided in article 17a para. 6. The same elements, as those provided in article 17a, are recognized

as elements that covering the theoretical solvency margin.

- f) When the (participating) insurance undertaking has a holding in an insurance undertaking or a reinsurance undertaking or a non-member state insurance undertaking through an insurance holding undertaking, the calculation takes into account the situation of the intermediate insurance holding undertaking. Exclusively for the needs of this calculation, which is effected according to the general principles and methods described in this article, the said insurance holding undertaking is considered as if it were an insurance undertaking with an obligatory solvency margin of zero and with elements selectable for the coverage of the solvency margin those provided for in article 17a.
  - g)
    - i. When the (participating) insurance undertaking has a related insurance undertaking having its head office in a non-member state, this undertaking is considered, for the sole purpose of calculation, in a manner similar to that of a related insurance undertaking having its head office in the E.U. and the E.E.A.
    - ii. However, when the non-member state, in which the related insurance undertaking has its head office, imposes on it the obligation of a licence as well as an obligation of a solvency state at least comparable to that provided in article 17a, then the said undertaking may be taken into account in the calculation based on the obligatory solvency margin and the selectable elements for its coverage, as determined by that non-member state.
  - h) Without prejudice to the provisions of section e above, when the (participating) insurance undertaking has a related reinsurance undertaking having its head office in a non-member country on the same conditions stated in point (ii) section g above, that undertaking may be taken into account in the calculation based on the obligatory solvency margin and the selectable elements covering this, as determined by the said non-member country. When only the insurance undertakings of the said non-member country are subject to these conditions, the theoretical obligatory solvency margin and selectable elements covering it may be considered as if the said undertaking was a related insurance undertaking of the non-member country.
5. For the implementation of this article, when in the calculation of the adapted solvency of the participating insurance undertaking no information exists for some reason, regarding a related undertaking which has its head office in the E.U. and the E.E.A. or a non-member country, the accounting value of the related undertaking recorded in the books and financial statements of the undertaking is subtracted from the selectable data for the coverage of the adapted solvency margin. In this case, the non-realized (liquidated) profits relating to this holding are not allowed as a selectable element in the coverage of the adapted solvency margin.

## Article 6c

1. a. The calculation provided in article 6a (para. 12), which must be similar to that provided in article 6b, is effected on the level of the insurance holding undertaking, or the insurance undertaking having its head office in a non-member state.
  - b. The calculation proportion provided in section a above, consists of the general principles and methods provided for in article 6b, on the level of the insurance holding undertaking, the reinsurance undertaking or the insurance undertaking having its head office in a non-member state.
  - c. For the sole purpose of the above calculation, the parent undertaking, mentioned in sections a and b above, is considered an insurance undertaking subject to:
    - A zero obligatory margin of solvency, when it comes to an insurance holding undertaking.
    - A theoretical obligatory solvency margin, as provided for in article 6b (para. 4 section e), when it comes to a reinsurance undertaking having its head office in the E.U. and the E.E.A. or an obligatory solvency margin (theoretical or not) as provided in article 6b (para. 4 section h), when it comes to a reinsurance undertaking having its head office in a non-member state.
    - An obligatory solvency margin, as provided for in article 6b (para. 4 section g), when it comes to an insurance undertaking having its head office in a non-member state.
    - The same conditions as those set in article 17a, as regards the data selectable for the coverage of the solvency margin.
1. For the calculation stated in para. 1 above and generally for the supplementary method of supervision stated in article 6a (para. 12), the following apply:
    - a) In case there is an insurance undertaking having its head office in Greece and another insurance undertaking or other undertakings having their head office in the E.U. and the E.E.A. are subsidiaries of an insurance holding undertaking, a reinsurance undertaking or an insurance undertaking having its head office in a non-member state, the Ministry of Development together with the other competent supervisory authorities must ensure the consistent application of the method described in this article.
    - b) The calculation provided for in para. 1 above may not be effected for an insurance undertaking having its head office in Greece if:
      - It is a related undertaking of another insurance undertaking having its head office in the E.U. and the E.E.A. and included in the calculation provided for in para. 1 above for the other undertaking.
      - That and one or more insurance undertakings having their head office in Greece have as their parent undertaking the same insurance holding undertaking or insurance undertaking having its head office in a non-member state, and it has been taken into account in the calculation provided in para. 1 above for one of these other insurance undertakings



- If that and one or more other insurance undertakings having their head office in the E.U. and the E.E.A. have as their parent undertaking the same insurance holding undertaking, reinsurance undertaking or insurance undertaking having its head office in a non-member state, and an agreement has been concluded according to article 6a para. 5 with which the exercise of supplementary supervision of this article is assigned to the competent supervisory authority of another member state.
- c) In case of successive holdings, as when one insurance holding undertaking or one reinsurance undertaking belongs to another insurance holding undertaking, reinsurance undertaking or insurance undertaking having its head office in a non-member state, the calculation provided for in para. 1 above, may be applied only on the level of the basic parent undertaking of the insurance undertaking having its head office in Greece, which is an insurance holding undertaking, a reinsurance undertaking or an insurance undertaking having its head office in a non-member state.
3. For the implementation of this article, article 6b (para. 5) is also taken into account.

### **Article 6d**

- P.D. 332/03  
Ar. 3
1. Decisions of other member states for the taking of reorganization measures produce full effects in Greece. Accordingly, the reorganization measures of an insurance undertaking and its branches in other member states, taken by the Minister of Development in accordance with Greek law, produce full effects in the other member states.

The taking of reorganization measures does not impede the commencement of winding-up procedures.

2. The applicable law in reorganization measures is greek law, without prejudice to articles 9b and 12 b hereof.

### **Article 7**

- P.D. 252/96  
Ar. 10
1. Insurance undertakings having their head office in Greece are obliged to set up sufficient technical reserves in respect of all insurance contracts they conclude in Greece and other member states through branches or under freedom to provide services. For insurances concluded in third countries, the aforesaid insurance undertakings set up technical reserves in accordance with the provisions hereof, provided they are not subject to a respective obligation to set up such reserves in that third country.
2. The technical reserves are:
- A. Technical reserves in respect of insurances against loss or damage:
- a) Provision for unearned premiums : It comprises the amount of the

registered (written) gross premiums of items (q) of article 2a of this decree-law, which must be deferred to the following financial year or to subsequent financial years with a view to cover estimated claims and expenses for the period starting from the closing of the balance sheet up to the termination of the period for which they have been registered.

- b) Provision for unexpired risks: A provision over the reserve for unearned premiums, which is set up at the time of closing of the balance sheet when the reserve for unearned premiums, including premiums due (payable), is not adequate to cover the estimated claims and expenses of valid contracts at the time of closing of the balance sheet.
- c) Provision for outstanding claims: Provision for the obligations of the insurance undertaking for unsettled claims declared or undeclared at the time of closing of the balance sheet, including expenses for their settlement.

Whenever the difference between:

- the amount of the provision for outstanding claims at the beginning of the financial year for claims allocated to the previous years and
- the amounts paid during the year on account of claims allocated in previous years and the amount of the provision of outstanding claims for the above allocated claims at the end of the year is material, it shall be disclosed in the annex of the financial statements and shall be analyzed per year, category and amount.

A resolution of the Ministry of Commerce published in the Government Gazette may determine the conditions, time of application and mode of coverage of the above difference.

- d) Equalization provision: This is formed in addition to the technical reserves of items a,b,c, above at the closing of the financial statements in class 14 (Credits) with a view to counterbalance any technical loss or percentage of insurance indemnities higher than the average which shall result in this branch in any future financial year.
- e) Mathematical provision for increasing age: this is calculated in accordance with para. 2 case Bdi first sentence of this article and is formed when classes "Accidents" and/or 2 "Sickness" of art. 13 para. 1 of this decree law are managed in a way similar to the life class according to art. 17a of para. 7 of this decree law. In such a case provision of item b above is not set up.

P.D. 288/02  
Ar.5 par. 1

- «f) for the calculation of the technical reserves of items b,c, and d above, when statistical methods are required, the gross earned premiums of items kd and kg of article 2a are applied.”

B. Technical reserves for life assurance:

- a) Provision for unearned premiums: as described in para. 2 case A item a above. It is required for branches I, II, IV, VI, IX of para. 2 "life

assurance" of article 13 hereof. This provision shall comprise the actuarially estimated actual value of expenses included in the single premiums at the time of closing of the balance sheet for policies issued at a single premium rate and which are valid on the above date.

- b) Provision for unexpired risks: As described in para 2 case A item b above. It is required for insurances of class 1.3 (supplementary insurances) as well as for insurances of class IV2 para. 2 "life assurances" when for no mathematical provisions of item di below are set up for these classes.
- c) Provision for outstanding claims: Provision for the obligations of the insurance undertaking for non-paid claims declared or undeclared at the time of closing of the balance sheet, including the expenses for the settlement of these claims. This is required for insurances of classes I, II, IV, VI and IX para. 2 "life assurances" of article 13 hereof. The second sub paragraph of para. 2 of this article applies to classes I3 and IV2 of para. 2 "life assurances" of article 13 of this decree law, when for these no mathematical provisions are set up for these classes.
- d)
  - i) Mathematical provision: the difference between the actuarially estimated actual value of future liabilities of the insurance undertaking and the actuarially estimated actual value of future risk premiums due. This is required for insurances of classes I, II, IV, VI and IX of para. 2 "life assurance" of article 13 hereof.
  - ii) Mathematical provision for life assurances VII2 and VIII of para. 2 "life assurances" of article 13 hereof: It comprises the credit balance of the account of group pension funds management and group providence programs.
  - iii) Mathematical provision for insurances of class III of para. 2 "life assurance" of article 13 hereof:  
  
 Provision set up to cover liabilities relating to investments (unit-linked contracts). The value of the liabilities or their return is calculated by reference to investments for which the policyholder bears the risk or by reference to indexes of securities or other values. The above mathematical provision includes the provision for class V para. 2 "life assurances" of article 13 hereof.  
  
 When these insurances include a guaranteed interest rate or other guaranteed allowances then the provision of items a and di of this case B is additionally set up.
- e) Provision for participation in technical profits or yields and returns: This is required for insurances of classes I,II,IV, VI and IX of para. 2 "life assurance" of article 13 hereof. This provision includes amounts destined for the insureds or the policyholders or beneficiaries of insurance policies in the form of participation in technical profits, yields as well as returns, according to the terms of the insurance contracts.

When the calculated amounts for participations and rebates are substantial these shall be disclosed separately in the annex of the financial statements.

- f) Insurance undertakings pursuing life assurances, may constitute an additional technical provision for those insurance programs, which due to the application of the French Mortality Table PM60/64 MKH according to Ministerial Decision K4-4381/79 (GG/TAE – EPE 3434/8.11.1979), require the formation of an additional technical reserve.

The justification and mode of formation and registration of the additional technical reserve must be stated in the "book of technical notes and general and special conditions".

The amount of the additional technical provision must be stated separately in the certificate of mathematical reserves granted by the actuary.

L.3357/2007  
Ar.11 par. 1

"The above additional technical provision is made obligatory since 1.1.2008."

P.D. 288/02  
Ar.5 par. 2

- «g) For the calculation of the technical reserves of items b and c, when statistical methods are needed, the gross earned premiums of items kd and kg of article 2a are used."

3. The technical reserves for total insurance risks are formed by direct insurers.
4. The technical reserves are covered by equivalent assets or assets expressed in the same currency.
  - A. For the application of the principle of monetary equivalence in case of insurances against loss or damage the following apply:
    - a) The commitments of the insurance undertaking are considered to be payable in the currency of the indemnity. If this is not determined, the commitments of the insurance undertaking are considered to be payable in the currency of the country in which the risk is situated or if the insurance undertaking so chooses, in the currency of the premiums provided such choice is duly reasoned. This may occur if, from the conclusion of the contract, it becomes possible that an insurance claim shall be payable not in the currency of the country in which the risk is situated but in the currency of the premiums.
    - b) In deviation from the previous paragraph, an insurance undertaking may pay the indemnity in the currency dictated by its experience or in the currency of the country of its establishment in case of:
      - insurance contracts covering risks of branches 4,5,6,7,11,12 and 13 (producers' civil liability only) of para. 1 "insurances against loss and damage " of art. 13 hereof, and
      - insurance contracts covering risks of the other branches of para.1 "insurances against loss and damage" of art. 13 hereof, provided this is dictated by the nature of the risks.
    - c) Despite the provisions of the previous para. a and b, after the rising

of a recoverable claim, the indemnity is considered to be payable in the currency determined by court decision or in the currency agreed upon by the insured and the insurance undertaking. Also when the insurable loss is assessed in a currency known in advance by the insurance undertaking but which is different from the currency resulting from the application of the previous methods, the insurance undertaking may consider its commitments to be payable in that currency.

- d) An insurance undertaking is not obliged to cover with matching assets a percentage up to 20% of its commitments in a certain currency.
- e) An insurance undertaking is released from the obligation of equivalence of its liabilities in a currency, provided these do not exceed 7% of its liabilities in all the other currencies of the member states.

If the equivalence is required in drachmas, Irish pounds or Portuguese escudos, the amount exempted from the obligation cannot exceed 2 million ECU during the period ending on December 31 1998.

If the equivalence is required in Belgian Francs, in Luxembourg Francs, and in Spanish pesetas, the amount exempted cannot exceed 2 million ECU during the period ending on December 31 1996.

After the expiry of the transitional periods, the general status applies.

- f) The obligation for monetary equivalence, when the obligations are expressed in currencies of countries of the E.U. and the E.E.A., is deemed to have been satisfied when the assets are expressed in ECU.
  - g) When the obligations are payable in a currency of a third country then the Ministry of Commerce may not require the application of monetary equivalence from the insurance undertaking if there are regulations governing the investments in that currency, if that currency is subject to transfer restrictions, or if, for similar reasons, the said currency is not suitable for the investment of the technical reserves. The Minister of Commerce upon proposal of the Bank of Greece may determine the application of the above case.
- B. For the application of the principal of monetary equivalence in case of life assurance, the following apply:
- a) The obligations of the insurance undertaking are considered to be payable in the currency set in the insurance contract.
  - b) An insurance undertaking is not obliged to cover with monetarily equal assets a percentage up to 20% of its obligation in a certain currency.
  - c) An insurance undertaking is released from the obligation of monetary equivalence for its obligations in a currency provided these do not

exceed 7% of its obligations in all other currencies of member states.

- d) Sections f and g of case A of this paragraph also apply in life assurance.
  - e) The rules of monetary equivalence do not apply in case of insurances of article 13c cases A and B hereof.
- C. However, the total assets regardless of currency both in insurances against loss or damage and in life assurance must be equal to at least the total obligations regardless of currency.
- 5. A common decision of the Ministers of Finance and Commerce, published in the Government Gazette, may introduce an obligation to form additional technical reserves, especially catastrophic risks and technical reserves to offset any technical deficit.
  - 6. A decision of the Minister of Commerce published in the government Gazette may determine the technical bases, the method and manner of calculation of technical reserves of insurances against loss or damage and life assurance.
  - 7. The formation of technical provisions in addition to those provided in this article may be authorized in exceptional cases, following an application of the insurance undertaking and by common decision of the Ministers of Commerce and Finance.

## Article 8

P.D. 252/96  
Ar. 11

- 1. Insurance undertakings having their Head Office in Greece are obliged to insurance investment which is considered to be every disposal in Greece or in any other member-state of E.U. and E.E.A. of assets for the purpose of safeguarding the interests of the persons having right to any benefit deriving from an insurance contract.

The assets allocated in insurance investments must take into account the kind of operations carried out by the insurance undertaking so as to guarantee the assurance, yield and cashflow of the investments of the insurance undertaking, responsible for the differentiation and adequate spread of these investments.

The assets covering the technical reserves of art. 7 hereof and the assets covering 1/4 of the minimum limit referred to in case e item A of para. 2 art. 20 hereof, are disposed in insurance investment.

- 2. The insurance investment is distinguished in:
  - a) insurance investment for insurances of motor vehicle liability,
  - b) insurance investment for other insurances against loss or damage,

- c) insurance investment for life assurance,
- d) insurance investment for life assurance linked to investments (classes III and V) and
- e) insurance investment of administration of funds for pension and providence (classes VII2 and VIII).

The assets forming the insurance investment are distributed according to the above distinction.

P.D. 332/03  
Ar. 7

This data is recorded in special registers and kept separately for each kind of insurance investment by insurance undertakings having their head office in Greece. A decision of the Minister of Commerce determines the particulars of keeping of these registers, as well as the time for recording the assets of all insurance investments.

The assets comprising the insurance investment of an insurance undertaking pursuing life assurance as well as classes 1 and 2 of insurances against loss or damage, in application of article 3a para. 3 hereof, are recorded in the special register of insurance investment for life assurances.

3. The insurance investment consists solely of the following assets:
  - A. Deposit in the name of the insurance undertaking with a bank of its choice, among those operating in Greece or in any other member state of the E.U. and the E.E.A., of assets as follows:
    - a) Cash in drachma or currency.
    - b) Bank vouchers (time deposits) of any bank operating in any member state of the E.U. and the E.E.A.
    - c) Bonds, debt securities, interest bearing treasury notes of the Greek Government or public entities or public or municipal enterprises or of central government departments of other member states or of international organizations in which one or more member states participate.
    - d) Bonds and debt securities of Societes Anonymes, issued in Greece or in another member state of the E.U. and the E.E.A. which are quoted in the Greek Stock Exchange or in the Stock Exchange of any other member state as well as bonds and debt securities not quoted in the Stock Exchange. The disposal of non-quoted bonds and debt securities in insurance investment can be permitted, provided that their issuers are governed by Greek law or the law of another member state and publish financial statements audited by chartered accountants, after relevant approval by decision of the Minister for Commerce. The above decision which is issued within one month from the date of application submitted by the insurance undertaking, and must be accompanied by a study evidencing the expediency and viability of the proposed investment and published in the Government Gazette, will determine the price of disposition as well as any other detail.

- e) Shares of Societes Anonymes quoted in the Greek Stock Exchange or in the Stock Exchange of another member state of the E.U. and the E.E.A.
- f) Shares of Societes Anonymes quoted in the parallel market of the Athens Stock Exchange or in a similar market in the Stock Exchange of another member-state of the E.U and the E.E.A.
- g) Shares of Societes Anonymes not quoted in the Greek Stock Exchange or in a Stock Exchange of another member- state of the E.U. and E.E.A., which can be accepted for insurance investment under the conditions mentioned in item (d) of this case for non-quoted bonds and debt securities.
- h) Other variable yield participations in credit institutions and in other insurance undertakings having their head office in Greece or in another member – state, under the conditions stated in item (d) of this case when they are not quoted in the Greek Stock Exchange or in the Stock Exchange of another member state of the E.U. or the E.E.A.
- i) Shares in Mutual Funds or in Undertakings for collective investment in transferable securities (UCITS) falling under directive 85/611/EEC (EL 375/31/12/85) and operating in any member- state of the E.U and the E.E.A.

L. 2741/99  
Ar. 10 par.5

- B. Cash at hand of the insurance undertaking.
- «C. Land and buildings of full ownership or co-ownership, capable of being distributed, provided they are situated within the plan of a city with population exceeding 15.000 inhabitants, free from any encumbrances.”
- D. Claims from loans to natural persons or Societes Anonymes operating in a member-state of the E.U. and the E.E.A., excluding loans to the parent undertaking or the undertaking controlling the insurance or to an insurance undertaking which uses the loan as an item of the solvency margin, without prejudice to article 23a para.1 and 2 of law 2190/20. These loans are granted on first mortgage or prenotation of first mortgage on real estate properties within the city's plan or by an insurance policy of the class of "credits", issued by an insurance undertaking operating in a member state of the E.U or the E.E.A., other than the one disposing in insurance investment or under the guarantee of a Credit institution of a member state of the E.U. and the E.E.A. or with a combination of the above securities.  
  
Non-secured loans to natural persons are allowed, provided they are justified by the financial and social status of the borrower.
- E. Loans (advance payments) on policies granted to assureds under life assurance policies.
- F. Claims against assureds and intermediaries from premiums in so far as they have been outstanding for not more than three months.



P.D. 159/98  
Ar. 6 par. 1

- "G. Participation of reinsurers in the technical reserves of insurances against loss or damage".
  - H. Transportation means of full ownership, in case the insurance undertaking operates class 18 "Assistance" by own means.
  - I. Deferred acquisition costs.
  - J. Accrued interest.
  - JA. Derivative instruments (options, futures, swaps, repos). The conditions of disposal in insurance investment of options, futures and swaps are determined by a common decision of the Minister for Commerce and the Minister of Finance, published in the Government Gazette.
4. a) The insurance undertaking is obliged to inform the Ministry for Commerce about the assets disposed for insurance investment, for which banking secrecy applies. The insurance undertaking is obliged to notify the Minister for Commerce about any modification of the assets of the investment within three working days. For real estate properties and mortgaged loans, the notification must be given three days before the modification.
- b) For shares, other holdings, bonds and debt securities, the following apply: They cannot be acquired by the insurance undertaking at the time of issue or public registration on behalf of the parent undertaking or an undertaking controlling the insurance undertaking.
- c) The Ministry of Commerce is entitled to:
- i) carry out on-the-spot checks or require any elements in connection with the financial situation:
    - of subsidiaries of the insurance undertaking when the assets disposed of for insurance investments constitute investments of the insurance undertaking in the above subsidiaries.
    - of subsidiaries of the insurance undertaking which are undertakings administrating the investments of the insurance undertaking.
  - ii) Require any element in connection which the financial situation of credit institutions, such as bonds or debt securities which the undertaking owns and disposes in insurance investment.
  - iii) Require any element or carry out checks in the offices of the insurance undertaking, in application of articles 7 & 8 hereof.

In the application of the above, the Ministry for Commerce collaborates with the supervisory authorities of the member state of the E.U. and the E.E.A.

L. 3190/03  
Ar. 10 par.1

- "d) By decision of the Minister of Commerce duly justified, and without prejudice to the provision of the second section of para. 1, it may be allowed in special cases and after an application by the insurance

undertaking, the use for the financial years 2002 and 2003, of assets for the coverage of technical provisions other than those set in para. 3, as well as a deviation from the restrictions set in para. 6”.

5. For the calculation of the value of the assets disposed of in an insurance investment, the following shall apply:

L. 3190/03  
Ar. 10 par.2

- “a. Real estate is accepted at its objective value increased by 30%. For every asset a statement is submitted by a topographer, if it is a plot of land, or a civil engineer or architect, if it is a building, in which the present state of the property is depicted.
- b. Claims from mortgaged loans are accepted in full, provided the value of the real estate mortgaged is twice that of the loan. The value of the real estate is determined as in case a above, apart from the engineer’s statement, provided it already exists for the approval of the loan.”

“Comment : According to para. 4 article 10 of L. 3190/03, the above provisions also apply to financial years ending on 31.12.2002 and following.”

- c. When the real estate of the above cases is situated outside Greece, the values are determined either on the basis of the acquisition value or on the basis of the values fixed by official authorities of the countries where they are situated at a percentage of 75%.
- d. The real estate properties (buildings) of the above cases are insured against the risk of fire by an insurance undertaking other than the one which disposes them in an insurance investment.
- e. The appraisal of assets c,d,e,f, and h of case A para. 3 of this article, disposed of in an insurance investment, is carried out on the basis of the average value in the last 30 days before the closing of the financial accounts. In case of securities quoted in the stock Exchange, their currency is considered to be the currency or currencies of the member- state or member- states in the stock Exchange of which they are quoted.
- f. The appraisal of non-quoted elements (c), (d), (g) and (h) of case A and of the repos of case 1A of this article is carried out as follows:
- The shares and other participations are appraised on the basis of their internal accounting value as it stands on the date of closing of the financial accounts of the insurance undertaking in the financial statements of the undertaking whose shares or participations are being held by the insurance undertaking. In case the date of closing of the financial accounts does not coincide, the above application takes into account the last published financial statements of the undertaking, whose shares or participations are being held by the insurance undertaking.
  - Non-quoted bonds, debt securities, treasury bills and repos are appraised on the basis of their actual value (acquisition value +matured interests) or their acquisition value at the date of

closing of the financial accounts, taking into account case 1 of para.3 of this article.

- In case of non-quoted securities, their currency is deemed to be the currency of the member state of the issuer.

- g. At the time of assessment of the value of assets c,d,e, f,g and h of case A and of repos of case 1A of para 3 of this article, eventual existing liabilities resulting from their holding are also taken into account. Temporary values are accepted in insurance investment only when they originate from public registration.
- h. The shares in mutual funds of item (i) of case A of para. 3 of this article are appraised according to their average redemption value in the last 30 days before the closing of the financial accounts. Any liability resulting from their holding is deducted from the above value.

P.D. 159/98  
Ar. 6

"In the application of para. 6 of this article and article 7 para. 4, the Ministry of Development may, in the exercise of its supervision, take into account the assets comprising the above shares."

- i. The time deposits of item b case A of para. 3 of this article are appraised on the basis of their actual value (deposit value + interests matured) or deposit value on the date of closing of the financial accounts, taking into consideration case I of para. 3 of this article. Any liability resulting from their holding is deducted from the above value.
- j. Premiums due of case F para. 3 of this article, are appraised on the basis of the debit balance on the date of closing of the financial accounts, after deduction of liabilities to assureds or intermediate persons.

P.D. 159/98  
Ar. 6

- ja. The participation of the reinsurers of case g para. 3 of this article is appraised based on the balances due on the date of closing of the financial statements, under the condition that there is a certificate confirming the balance from the reinsurers "also signed by an actuary of the reinsurers."

P.D. 252/96  
Ar. 11

- jb. The transportation means of case h para. 3 of this article are appraised based on the acquisition value increased per year with a percentage equal to the annual fluctuation minus age of ten per cent (10%) every year with a maximum limit of 10 years. Any existing obligation resulting from their possession is deducted from this amount. The value placed in an insurance investment amounts to 95% of its appraisal value. Transportation means are insured against damage, fire, theft and civil liability by an insurance undertaking other than the one which places them in an insurance investment.

- jc. For the appraisal of the deferred acquisition costs of case I para. 3 of this article, the following apply:

- In insurances against loss or damage, these costs include the amounts of paid or credited commissions corresponding to the provision for unearned premiums as well as the amounts

calculated by an actuarial method, when mathematical pension reserves are formed in classes 1 or 2 Paragraph 1 "insurance against loss or damage" of article 13.

- In life assurance these costs include the sums of paid or credited commissions in cases where a reserve of unearned premiums is formed as well as the sums calculated with an actuarial method. A decision of the Minister of Commerce published in the Government Gazette determines the rules of deferred acquisition costs when a mathematical reserve is formed.
- jd. The assets of case A item a and of cases B,E, and I paragraph 3 of this article are appraised based on the balances due on the date of closing the financial statements.
- je. In case a conversion is required of foreign currencies into drachmas, in the process of appraising items a to jd of this paragraph, the exchange rate to be applied shall be the equivalence of drachma on the date of closing of the financial statements.
6. The assets disposed in an insurance investment are accepted under the following restrictions for every category of paragraph 3:
- A. For life assurance, except for classes III (life assurance, annuities, marriage and birth linked to investments), V (tontines), VII 2 and VIII (management of group pension funds and providence):
    - a) Cash of cases A, item a and B of para. 3 of this article totaling up to 3% of the relevant reserves.
    - b) Bank deposit certificates (time deposits), including repos titles of case IA para. 3 of this article up to 30% of the relevant reserves.
    - c) Real estate up to 50% of the relevant reserves. An investment in a field or a building or in a series of fields or buildings which are situated on the same block and which are considered as a single investment, cannot exceed 10% of the relevant reserves without prejudice to paragraph 9 article 52a of this law decree.
    - d) Secured loans of case D para. 3 of this article up to 10% of the respective provisions without prejudice to the reservation under (i) below. Loans to the same natural person up to 2%, also included in the 10% percentage.
    - e) Non-secured loans to natural persons up to 5% of the relevant reserves, with a further limitation for each loan not to exceed 1% of the relevant reserves, which is included in the 2% percentage of above item d.
  - f) Shares of societies anonymes and other holdings totaling 30% of the relevant reserves without prejudice to items h and I below.
  - g) Shares of development mutual funds up to 30% of the relevant reserves.
  - h) Shares, other variable yield holdings, bonds and debt securities not quoted in the stock exchange totaling up to 10% of the relevant reserves under the reservation of the restriction of item (i) below.

- i) Shares, variable yield holdings, loans, bonds and debt securities of the undertaking itself totaling up to 5% of the relevant reserves.
- j) Bonds or debt securities of the same credit institution up to 40% of the respective provisions provided the bearer of the bonds or securities is protected under a special legislation which secures him by priority as to the payment of capital and accrued interests. For the calculation of this percentage, restrictions of items (h) and (i) are not taken into account.
- ja) Premiums due up to 10% of the respective provisions and not more than 15% of the gross registered (written) premiums.
- jb) The above restrictions under item (h) and (i) shall not apply for securities provided in item c of case A para. 3 of this article.

B. For insurance against loss or damage:

- a) Cash of cases A item a and B of para. 3 of this article, bank deposit certificates, loans, non-secured loans, shares of Societes Anonymes, units of mutual funds, variable yield participations, bonds, debt securities and repos, are made acceptable in insurance investment at the percentages provided in items a, b, d, up to (j) and (I) of case A of this paragraph.
- b) Real estate is accepted up to 40% of the respective reserves.

An investment in a piece of land or a building or series of lands or buildings in the same block and which are considered as a single investment may not exceed a percentage of 10% of the provisions under the reservation of para. 9 of article 52a of this decree-law.

- c) Transportation means of complete ownership in case the insurance undertaking operates class 18 "Assistance" by own means up to 50% of the respective reserves.
- d) Premiums due up to 15% of the respective provisions and not more than 15% of the gross registered (written) premiums.
- e) Reinsurer participation is accepted up to 10% of the relevant reserves except for classes 5,6,11 and 12 of para. 1 article 13 of this decree law, where it is accepted in total. Particularly in the case of classes:
  - i) 17 "Legal expenses", which is exercised according to case b para. 5 article 13b hereof, reinsurer participation is accepted in total.
  - ii) 18 "Assistance", which is exercised by the insurance undertaking without own means, reinsurer participation is accepted in total, provided the reinsurers are businesses under the form of a societate anonime.
  - iii) For above cases i and ii, the reinsurers' reinsurance contracts and financial statements are required, with the reservation of item ja para. 5 of this article.

- C. For the calculation of the above quantitative restrictions, the total insurance investment of insurance against loss or damage (Motor vehicle liability and other insurances against loss or damage) is taken into account).
7. As to the allocation of the assets disposed in an insurance investment, the following apply:
- a) The land and buildings must be situated in the E.U. and the E.E.A. Their value, disposed of in insurance investment and the kind of insurance investment are noted in the relevant registers or in the analytical accounts of the insurance undertaking. Upon intention of disposal in insurance investment, certified copies of ownership, notarial contracts and certificates of registration and burdens, are submitted to the Ministry for Commerce, which must have been issued latest one month before their submission. When the land and buildings are situated in the E.U and the E.E.A. the above are submitted along with an official translation in Greek, while the aforesaid certificates must be duly certified as to their authenticity. An analysis of the mode of assessment of the disposal value is also submitted.
  - b) In case of loans to natural persons or societies anonymes, which are disposed of in insurance investment, an analytical list is submitted to the Ministry for Commerce stating the persons who received the loans (name, surname, address, profession or type of undertaking, amount of loan) accompanied by certified documents of the loan contracts and of the collaterals. When the above elements are in a foreign language, they are submitted along with an official translation in Greek, while the collaterals must be duly certified as to their authenticity. The amounts disposed of in an insurance investment and the kind of insurance investment are noted in the relevant analytical accounts of the insurance undertaking.
  - c) In case of transportation means of an insurance undertaking operating class 18 "Assistance", disposed of in an insurance investment, copies of certificates of ownership and an analysis of the mode of assessment of the disposal value are submitted to the Ministry for Commerce. When the certificate of ownership is in a foreign language, it is submitted with an official translation in Greek and with an official certification of its authenticity. An official declaration is also submitted stating that no compulsory seizures exist, which also states any burdens. The value of their disposal and the kind of insurance investment are noted in the registers of transportation means or in the analytical accounts of the insurance undertaking.
  - d) For the other assets, the amounts disposed of in insurance investments as well as the kind of insurance investment are noted in the relevant analytical accounts of the insurance undertaking.
8. The annex of the financial statements states the amounts disposed by an insurance undertaking per kind of asset and insurance investment, according to para. 2 of this article excluding the insurance investment of case (d) as follows:

- Land and buildings (para. 3C)
  - Shares, other holdings and mutual funds units [para. 3A (e, f, g, h and i)]
  - Bonds, debt securities and treasury bills [para. 3A (c, d)]
  - Loans (para. 3D)
  - Deposit certificates (Time deposits) (para. 3A b)
  - Cash (para. 3Aa and B)
  - Premiums owed (para. 3, F)
  - Reinsurer participation (para. 3, G)
  - Loans against life assurances (para. 3E)
  - Transportation means (para. 3H)
  - Derivative Instruments (para. 3 JA)
  - Deferred (non-depreciated) acquisition costs (para. 3I)
  - Interest accrued (para. 3 I).
9. Particularly for securities, time deposits and cash at hand or in Banks, the following apply:
- a) The insurance undertaking communicates to the Ministry for Commerce the details of the Banks (country of establishment, full legal title address) which shall undertake the administration of its insurance investments, as stated above. The Ministry for Commerce has the right to require any evidencing element with regard to the legal operation of the banks or to make investigations about their legal operation.
  - b) The above banks are obliged to inform the Ministry for Commerce for every disposal (deposit) and for every change or modification regarding the above insurance investments and to collaborate for the application of the provisions relating to the allocation, sequestration, seizure and waiver of secrecy with regard to the above insurance investments.
10. The total value of the assets disposed of in an insurance investment must be at least equal to the amount of the technical reserves which the insurance undertaking is obliged to form.

The insurance undertaking completes within 45 days the insurance investment reduced by the amount due to execution of a writ or devaluation of more than 25% of the actual value of the assets stated in cases A, items c, d, e, f, g, h and i and C of para. 3 of this article, compared to the value disposed in insurance investment or provided the above reduction exceeds 15% of the total insurance investment.

The disposition value of the above assets is deemed to be, for what was acquired within the financial year, its acquisition value, and for what was acquired in previous years, its average value during the last 30 days before the closing of the financial statements or the value which results from the application of case (f) of para. 5 of this article. In case of expropriation or formation of a real burden on one of the assets comprising the insurance investment, the insurance undertaking is obliged to complete them within a period of seven days.

11. In deviation from the provisions of the previous paragraphs, in case of operation of insurance classes III (life assurances, annuities, marriage

and birth linked to investments, V (tontines), VII2 administration of group pension funds) and VIII (providence branch of the French Code for Insurances), special arrangements apply with regard to assets disposed of in an insurance investment.

- a) Life assurances, annuities, marriage and birth insurances linked to investments (class III) and tontines (class V): Without prejudice to art. 13c and 73 para. 3 of this decree law, the provisions of para. 1,2,3, (case A items b, c,d,e,f,g,h,i,) 4 (b,c), 9,12,13 and 14 of this article apply proportionately even in this case. In case of reduction of the insurance investment due to execution of writ, expropriation or formation of an encumbrance on one of the assets placed in an insurance investment, the insurance undertaking is obliged to supplement them with similar items within ten days.
- b) In the balance sheet of the insurance undertaking, the assets of case (a) above disposed of in an insurance investment are analyzed per category, according to article 67 para. 1 hereof, as follows:
  - Units of mutual funds
  - Shares, other holdings
  - Bonds, debt securities and treasury bills
  - Time deposits
- c) Administration of group pension funds and providence (classes VII 2 and VIII):

The assets disposed of in an insurance investment, without prejudice to para. 1 up to 5,7 up to 10 and 12 up to 14 of this article, are as follows:

- i) Land and buildings of para. 3 case C hereof and up to a percentage of twenty percent (20%) of the credit balance of the funds account.
- ii) The securities of para. 3 case A (c, d, e, f, g, h and i). For shares or securities of the same credit institution, the provision of para. 6 case Ai of this article applies.
- iii) The items of para. 3 case A, (a,b) B and i
- iv) Loans of para. 3 case D to policyholders up to a percentage of ten percent (10%) of the credit balance of the funds account, after affirmative opinion of the employee councils.

L. 2741/99  
Ar. 10 par.5

- «12. a) A decision of the Ministry of Developments determines the single mode of submission of insurance investment statements and necessary documentation.
- b) The statements of formation of technical reserves of the assets comprising the insurance investment are submitted to the Ministry of Development by June 30 every year.
- c) Supervision of the formation of technical reserves and the disposition of assets comprising the insurance investment must be concluded by October 31 every year. By this date, all adaptations deemed necessary and suggested to the insurance undertaking by the competent department of the Ministry of Development as to the disposal of assets, must be effected. An infringement of the



provisions of the previous section and of this section results in the imposition of the penalties provided for in articles 9 and 43 and beyond of this law.

- d) The insurance investment that is finally formed by October 31 of every year after review by the supervisory authority, must be maintained until completion of the review of the insurance investment of the following year, unless, according to the statements of formation of technical reserves and the insurance investment of the following year, the insurance investment forms a larger amount, so that its increase must take place according to sections b and c of this paragraph."

- P.D. 252/96  
Ar. 11
13. For the application of article 10 hereof, the deposits of insurance undertakings, which according to the provisions hereof are disposed of in an insurance investment, are not confidential.
14. All cases of investments according to the provisions of this article, may also be effected in certain cases as investments in Cyprus, without prejudice to the provisions regarding monetary equivalence.
15. Without prejudice to paras. 1 to 5, 7 and 10 and 12 to 14 of this article, assets covering  $\frac{1}{2}$  of the minimum guarantee capital of the classes of insurance, belonging to undertakings with head offices in a non-member state, according to para. 1 section three of this article, and which are blocked in Greece according to the procedure of para. 2 article 9 hereof are the following:
- The assets of para. 3 case C of this article
  - The assets of para. 3 cases A and I of this article."

## Article 9

- P.D. 252/96  
Ar.12 par. 1
1. In case the insurance undertaking does not comply with the provisions of articles 7 and 8 hereof regarding technical reserves, the Minister for Commerce may by a decision published in the Government Gazette, and having communicate his intention to the supervisory authorities of member states, in which the insurance undertaking eventually operates through a branch or under freedom to provide services, characterize as insurance investment part or the total of its free property, forbid the free disposal of part or the total of its property, revoke temporarily or definitely the license of operation for certain or all classes pursued and take every other appropriate measure with a view to secure the interests of the insureds as well as of any other person entitled to indemnity.
2. The prohibition of the free disposition of all or part of the assets of an insurance undertaking, according to the provisions of the previous paragraph, is noted in the relevant registration or mortgage books or in the books of the bank in which the relevant deposit exists, whichever may be the case, following an application to the Minister for Commerce. The above prohibition may be removed partially or totally by decision of the

Minister for Commerce published in the Government Gazette. The decision must also state the conditions for its removal. Both the prohibition and its removal are communicated to the supervisory authorities of the member-states concerned.

- P.D. 332/03  
Ar. 4 par. 1
3. The Ministry of Development immediately notifies the supervisory authorities of the other member states for its decision to take the measures of para. 1 of this article, as well as of the possible practical effects of these measures.

A decision of the Minister of Development taken according to para. 1 of this article, must also be published in the Official Gazette of the European Communities. With this publication, the applicable law for the measures taken is determined as Greek law.

The measures taken according to para. 1 of this article apply regardless of of the provisions regarding publication in the previous section.

L. 2496/97  
Ar. 35 par.8

"4. In exceptional cases, when there is a risk of violating the prevailing provisions and the undertaking's articles of association, the Ministry of Development may decide the appointment of chartered auditing companies or pools of auditors enlisted in the Register of Chartered Auditors of art. 13 of P.D. 226/1992 (Govern.Gazette 120 A'), to carry out an extraordinary audit on the basis of international standards. The task of the above audit companies and pools shall be the carrying out of financial and administrative audits in the insurance undertakings in the context of supervision exercised by the Ministry of Development with a view to ascertain whether they apply the prevailing legislation, as more specifically stated in the above decision. The way of appointment and the remuneration of the above audit companies and pools, shall, in deviation from the prevailing provisions, be fixed by a common decision of the Ministers of Development and Finance.

As to the obligations of the aforementioned auditors, para. 4 of art. 40b and para. 1 of art. 40c of law 2190/1920 in regard to Societes Anonymes, shall apply. "

### **Article 9a**

- P.D. 332/03  
Ar. 5
1. A decision initiating winding-up proceedings on a Greek insurance undertaking, within the meaning of article 2a section 1a hereof, includes its branches in other member states. The relevant decision produces its effects in all member states and can be taken regardless of reorganization measures. Similar decisions by other member states produce effects in Greece.
2. The Ministry of Development immediately notifies the supervisory authorities of all the other member states about a decision to initiate winding-up proceedings and the possible practical effects this initiation may produce. It also notifies the supervisory authorities of the other member states about the course of the winding-up proceedings, if they so request.

## Article 9b

P.D. 332/03  
Ar. 5

1. The applicable law in the issuing of a decision initiating winding-up proceedings on an insurance undertaking, as well in the proceedings and its results, is Greek law, without prejudice to article 12b hereof.
2. Greek law determines specifically:
  - A) The elements of the assets comprising the property and the treatment of the elements of the assets acquired by the insurance undertaking, or assigned to it, after the commencement of the winding-up proceedings.
  - B) The respective competences and rights of the insurance undertaking and the liquidator.
  - C) The conditions allowing a settlement, otherwise the creditors have the right to suggest a settlement according to the law governing the claim of the insurance undertaking.
  - D) The results of the winding-up proceedings on the existing contracts, in which the insurance undertaking is a party.
  - E) The results of the winding-up proceedings on trials pending and initiated by the creditors, with the exception of pending suits concerning elements of the assets or a right, which the insurance undertaking has waived, so that the applicable law is only the law of the member state where the suit is pending.
  - F) The claims that can be announced and the legal treatment of those emerging after the commencement of the proceeding.
  - G) The conditions for announcing, verifying and accepting claims.
  - H) The conditions governing the distribution of the product of liquidation, the ranking order of creditors and the rights of creditors that were partially satisfied after the liquidation based on an ownership right or through settlement.
  - I) The terms, the results of the completion of the winding-up proceedings, especially after a settlement as well as the rights of creditors after the completion of the liquidation proceedings.
  - J) The allocation of costs and expenses of the liquidation procedures.
  - JA) The rules regarding the annulment, cancellation and declaration of invalidity of the agreements that are damaging to creditors, unless the person who gained from an agreement that was damaging to all the creditors proves that: a) the said agreement is governed by the law of another member state and b) that law does not provide, in this particular case, for an infringement of the agreement.
3. The exceptions of cases C,E and JA of the above paragraph also apply to the results of the reorganization measures.

## Article 10

- P.D. 332/03  
Ar. 6      "1. The beneficiaries of indemnity and their catholic and special heirs have a privilege in insurance investment, which precedes any other general or special privilege apart from the privilege of para. 9 article 12a hereof."
- L. 2170/93  
Ar. 4 par. 2      This privilege is exercised exclusively by the beneficiaries of life assurance, the beneficiaries of motor vehicle liability and by the beneficiaries of other insurance against loss or damage, in the assets disposed of in an insurance investment for each of these insurances respectively. The above privilege applies even after the dissolution of the insurance undertaking.
- L. 3557/07  
Ar.11 par. 2      "Claims out of an employment relationship, apart from the claims of persons exercising the administration and management of the insurance undertaking, have a privilege over the total assets of the insurance undertaking, except the winding-up costs and mathematical reserves falling in the category of technical provision for life assurance, according to article 7 hereof. The claims of the previous section precede the claims of the beneficiaries of motor vehicle liability insurance, as well as the claims of other insurances against loss or damage. The previous sections apply retrospectively from 1.1.2006."
- L. 2170/93  
Ar. 4 par. 2      2. Seizure of insurance investment in the hand of the insurance undertaking or a third party, is permitted only in favour of the beneficiaries of para. 1 above based on a a final court decision or a decision of an arbitration court. A copy of the seizure writ is served on penalty of the seizure being declared null, to the Ministry of Commerce.
- L. 2496/97  
Ar.35 par.12  
(the word  
"executable"  
is deleted)      3. In case of insurance liquidation or bankruptcy of an insurance undertaking the supervisor of liquidation or bankruptcy, provided in article 12a hereof, within ten days from the date of his appointment, invites the beneficiaries of indemnities by announcement published once a week for three consecutive weeks in five daily newspapers of broad circulation of which one at least is published in the place of the head office of the undertaking and one financial newspaper, to announce their claims with all relevant documentation within three months from the last publication. The beneficiaries of insurances of motor vehicle liability as well as the beneficiaries of life insurance for which no insurance claim has arisen, are not invited. The verification of the claims is carried out by the above organs, begins at the latest within three days from the expiry of the above date and is completed in the shortest possible time.  
The claims accepted are those not set in doubt by the above organs or those which have been adjudged by a final court decision or by a decision of an arbitration court. The supervisor of liquidation and the liquidator or the bankruptcy supervisor and trustee submit to the Ministry for Commerce a statement of the beneficiaries of indemnities within two months from the expiry of the date for the submission of the announcements. This statement comprises the claims of the following beneficiaries, provided they have been verified:
- a) the beneficiaries of indemnities of life assurances,
  - b) the beneficiaries of indemnities of insurances against loss or damage other than motor vehicle liability, who have declared the occurrence of the insurance incident and the declaration has been duly registered in the books of the insurance undertaking and

c) those who were announced within the above deadline.

For the doubtful claims, in and out of court, a separate mention is made in which the amount estimated by the supervisor of liquidation and the liquidator or the supervisor of bankruptcy and the trustee is stated, well as the amount claimed by the beneficiary of indemnity. The statement also includes any disputes arising during verification between the supervisor and liquidator or trustee. The statement is immediately entered in the register of the insurance undertaking and the announcement of its record is published in at least two daily newspapers of broad circulation, of which at least one is published in the place of the head office of the undertaking once a week for three consecutive weeks. Objections against the above statement are made by caveat in the court of first instance in the place of the head office of the undertaking, within forty five days from the last publication and are judged according to the procedure of interim measures. An appeal against the decision of the court of first instance is judged by the competent appeal court according to the procedure of interim measures. The decision of the appeal court cannot be subject to any judicial means.

P.D. 332/03  
Ar. 9

"Beneficiaries of indemnities who have their usual residence, home or head office in another member state, including public authorities of member states, are entitled to announce their claims and receive the same treatment and ranking order as the claims of beneficiaries having their usual residence, head home or office in Greece.

The announcement of the aforementioned claims can be expressed in the official language of the member state of usual residence, home or head office of the beneficiaries."

P.D. 252/96  
Ar. 12 par.2

4. "Upon application of the liquidator or trustee, the Minister of Commerce may allow the release of the assets that have been disposed of in an insurance investment, apart from motor vehicle liability insurance, according to the distinction of para. 2 article 8".

L. 2170/93  
Ar. 4

The liquidator or trustee must equally satisfy the beneficiaries of indemnities by the proceeds of the sale of the assets.

Abolished.  
(See comment  
and new paras.  
6, 7, 8)

("The Ministry of Development, upon application submitted by the Auxiliary Fund, is obliged, within sixty (60) days from the submission of the application, to allow the supervisor of the liquidation or the liquidator, as well as the supervisor of bankruptcy or the trustee, to transfer to the Auxiliary Fund the right of management and disposal of Assets disposed of in motor vehicle liability insurance, in order to satisfy immediate or future claims of the beneficiaries of indemnity.")

"Comment:

- The third section which was replaced as above with par. 10 of ar. 35 of L. 2496/97, WAS ABOLISHED with para. 4 art. 25 of L. 2919/2001".
- Para. 10 article 35 of L. 2496/97 provides that: «B. Decisions of the Ministry of Development, which approve, until commencement in force hereof, the transferring by the supervisors of liquidation of assets of insurance undertakings, whose license has been revoked, to the Auxiliary Funds, are valid."

- L. 2170/93  
Ar. 4 par. 2
- The sale of real estate properties takes place after an appraisal effected by the Committee, provided in article 9 of L.2190/1920.
- The transfer of whole or part of the portfolio takes place after a license of the Minister of Commerce, which also determines its terms, in deviation of article 59.
5. In case of any refusal by the liquidator or trustee to duly proceed to common actions with the corresponding supervisor, according to para. 3, such actions are carried out eventually by the supervisor, who makes mention of the refusal.
- L. 2919/01  
Ar.25 par. 1
- "6. Immediately after the revocation of the license of operation of the insurance undertaking, the supervisor of the liquidation proceeds to the sealing of and the unsealing of the central offices and branches of the undertaking according to the relevant provisions of the Civil Litigation Code. "
- L. 2919/01  
Ar.25 par. 2  
(Paragraphs 7 and 8 were added with the above provision, while par. 7 and 8 were renumbered as 9 and 10)
- "7. From the date of revocation of the license of operation of the insurance undertaking or its position in liquidation or bankruptcy, the Auxiliary Fund manages and disposes all assets disposed of in motor vehicle liability investment, in accordance with article 8 hereof. Real assets transferred are liquidated by the Auxiliary Fund with a bidding competition, that is effected with the submission of closed and sealed written offers and with a starting price determined by the Committee of article 9 L. 2190/1920, which, when it comes to real estate in areas where there is a system of objective appraisal, cannot be less than their objective value. A decision of the Minister of Development determines the data that must be contained in the announcement of the bidding competition, particularly the manner of submission of the offers, the procedure for opening them, the criteria of selection of the final bidder, the publication of the announcement and the procedure for a second competition, in case the first one is not concluded, as well as any other detail for the application of this paragraph. Titles, bonds and other similar and immediately liquidable assets are liquidated at current stock market value or value which is current or usual in the monetary and capital markets. Bank deposits come to the immediate disposition and management of the Auxiliary Fund.
8. The Auxiliary Fund is obliged to pay to the instruments of liquidation a sum which is equivalent to its proportional share in the satisfaction of employee privileged claims and liquidation costs, which is calculated based on the insurance investment of the motor vehicle liability insurance class divided by the total insurance investment of the undertaking in all classes exercised. Any remaining balance after payment of the above sum, satisfaction of the beneficiaries of indemnity and refund of unearned premiums, is returned to the liquidator or the trustee."
- N. 2837/00  
Ap. 3 Παρ. 1
- "9" "(7). Wherever in this law mention is made of a decision of an arbitration court, it shall mean a decision for which an annulment suit has not been filed within the deadline provided in article 899 of the Civil Litigation Code, as it stands, or it has been decisively overruled."
- "10" "(8). In deviation of the standing tax, insurance and other provisions, in case of transfer or sale of assets of insurance undertakings under the status of insurance liquidation, the submission of a certificate of tax or

insurance update and any other document in general which needs to be submitted to a public authority or public entity for the time preceding the revocation and placing into liquidation, is not necessary for the drafting of the relevant contract or transferring agreement. The notary public drafts the contract without the submission of a tax update certificate or any other of the aforementioned documents, and the competent Public Tax Authorities are obliged to proceed to the certification of the books and data of insurance undertakings under liquidation, without the submission of the required certificates and documents."

### Article 11

P.D. 252/96  
Ar.12 par.3 "1. Insurance undertakings pursuing life insurances are obliged to keep a "book of technical notes and general and special conditions" certified by the Direction of Insurance Undertakings and Actuaries of the Ministry for Commerce, which records all technical-financial elements and the methods used for the calculation of the premiums, the mathematical reserves and the deferred acquisition cost, as well as the general and special conditions of the insurance policies.

P.D. 23/05  
Ar.12 par.2 The same applies to insurance undertakings pursuing insurances against loss or damage, when they pursue classes 1 "Accidents" and 2 "Sickness", and this is subject to administration similar to life branch, according to article 17a para.7 hereof. The mode of keeping the "book" as well as the elements it must contain, are all determined by decision of the Minister for Commerce published in the Government Gazette.

2. Insurance undertakings operating insurances against loss or damage are obliged to keep a "book of tariffs and conditions", the mode of keeping of which is determined by a decision of the Minister for Commerce."

Comment: Initial article 12 was abolished and article 12a was renumbered as 12 with article 13 of P.D. 252/96.

### Article 12

P.D. 252/96  
Ar. 14 "1. Undertakings pursuing life assurances may distribute to their insureds part of the profits they realize every year.

The total percentage of profits to be distributed is determined every year by a general meeting of the shareholders of the undertaking and is distributed among the beneficiaries proportionately, according to the mathematical reserve of each policy. The distribution is carried out by one of the following ways:

- a) in cash,
- b) by reduction of the next premium installments
- c) by increase of the insured capital (insured amount) and
- d) by crediting a relevant interest bearing account of the insured.

2. Undertakings may also conclude life assurance policies, which independently from the realization of annual profits, provide the obligatory return to the beneficiaries, according to the mathematical reserve of each policy, consisting of a percentage of the yield of the mathematical reserve destined for disposal, which (yield) is realized beyond the guaranteed technical interest rate.

The above yield, percentage and mathematical reserve must be communicated to the insureds. The return is carried out in the same ways as provided in para.1 hereof.

3. Insurance undertakings may conclude life assurance in drachmas, linked to an exchange clause, without prejudice to the provisions regarding currency equivalence."

### **Article 12a**

P.D. 332/03  
Ar. 8

1. In case a license of operation of an insurance undertaking is revoked due to a violation of the Law, as well as in every case of dissolution of the legal entity of the insurance undertaking, whose assets have been banned from free disposition, the stage of insurance liquidation follows.

The decision regarding the insurance liquidation that appoints the supervisor and determines the applicable law, is recorded in the Registry of insurance societies anonymes and a summary is published in the Government Gazette as well as in the Gazette of the European Communities. The decision for the revocation of the license of operation of an insurance undertaking with head office in another member state is recorded in the registry kept for this reason in the Ministry of Development, the content of which is determined with a Ministerial Decision.

During this stage and until completion of the liquidation, the insurance undertaking cannot be declared bankrupt.

2. Without prejudice to article 10 para. 7 hereof, in case of commencement of the liquidation procedure of an insurance undertaking, the recordings in the special registers of article 8 para. 2 hereof cannot be altered apart from corrections or technical errors, without a previous authorization by the Minister of Development.

By decision of the liquidator, the value of the premiums collected, as well as any other disposition of them, occurring after the commencement of the winding-up procedure and until its termination, is added by record in the special registers of article 8 para. 2 hereof.

If the product of the liquidation of the assets comprising the insurance investment is less than the value recorded in the special registers of article 8 para. 2 hereof, the liquidator and the liquidation supervisor justify this fact in writing to the Minister of Development.

3. The Minister for Commerce appoints and removes as supervisor of the insurance liquidation, a person with special knowledge and experience in matters of operation of insurance undertakings or credit Institutions. This decision also determines the remuneration of the supervisor. The



supervisor submits within three days from the day his appointment is served on him, an application to the competent court for the appointment of a liquidator. Until the appointment of the liquidator, the supervisor carries out all the duties of the liquidator.

After the appointment of the liquidator, the supervisor follows up the partial works of the liquidation, gives his opinion if requested by the liquidator, on matters of liquidation, briefs in writing the Minister for Commerce about the procedure of the liquidation at least every two months, as well as anyone else who so requests, and submits a report after the termination of the insurance liquidation.

The supervisor may also intervene in court proceedings carried out by the liquidator. Eventual removal of the supervisor does not prejudice the authority of his actions during the carrying out of his duties.

4. In case of insurance liquidation, the liquidator is appointed according to the procedure of articles 739 etc. of the Code of Civil Procedure. Any contrary provisions of the statutes do not apply. The person appointed as liquidator is one with special knowledge and experience in matters of insurance undertakings or credit Institutes and is selected from a list of at least thirty persons set up and kept by the Ministry for Commerce following a proposal of the Committee for Private Insurance. The court must discuss the application within five days and take a decision the latest within 5 days. Suspension of the validity of the decision does not apply.

The same court decision determines the liquidator's fee.

A liquidator appointed as above, is entitled to exercise all the powers hereof in all member states. His appointment is evidenced with the submission of a certified copy of the original court decision appointing him. The liquidator may, with a special power of attorney previously authorized by the supervisor, appoint persons for the handling of matters that arise in another member state, if this is necessary, during the liquidation proceedings. In the exercise of its powers in another member state, the liquidator follows the law of that state and especially the procedures of liquidation of the assets and briefing of the employees. These powers do not include the right to use force or the right to take decisions over legal proceedings or disputes. Also the liquidator and every other duly authorized person, can request the recording of a decision regarding liquidation proceedings in the public books kept in other member states. The costs of acquisition are considered as costs and expenses of the procedure.

To verify the appointment of a liquidator of another member state, the needs to be submission of a certified copy of the original appointing decision or any other certificate issued by the competent authority of that member state translated into Greek language.

5. During the time the insurance undertaking is in liquidation, any compulsory execution pending against the undertaking or its insureds for civil liability, is suspended up to the amount for which the insurance undertaking is totally liable.

During that time, proceedings of the beneficiaries for indemnity against the insurance undertaking are also suspended.

6. By setting the undertaking in insurance liquidation, any pending law suits are carried on according to the procedure of interim measures on the initiative of the beneficiaries for indemnity or the supervisor for liquidation and the liquidator or Bankruptcy Supervisor and trustee. Pending differences involving legal proceedings of first degree are brought for discussion upon an application submitted by the individuals having the right to do so, in the One member Court of First Instance which sits at the place of the head office of the undertaking regardless of the amount involved.
7. The liquidator may conclude loan contracts with credit institutions with a view to pay off indemnities to beneficiaries. Claims from these loans enjoy the privilege of para. 1 of article 10.
8. A ten days' notice must be given to the competent Direction of the Ministry for Development in order to approval an application for bankruptcy regarding an insurance undertaking. The Secretary of the court which declares the bankruptcy communicates an extract of the relevant decision to the Ministry for Development within five days from its publication. The Minister for Development immediately appoints a supervisor (supervisor for bankruptcy), for whom the relevant provisions regarding supervisors of liquidation apply.
9. Fees and costs of the supervisor of a liquidation or bankruptcy and of the liquidator of the insurance liquidation, have a privilege which precedes any other general or special category, over all assets of the undertaking. Fees and costs of the trustee appointed for the liquidation of the insurance portfolio enjoy the same privilege.
10. Following an application submitted by the shareholders or partners representing more than 50% of the capital of the insurance undertaking, or by the liquidator or supervisor, the Minister for Development may, provided the liquidation of the insurance portfolio has been accomplished, announce the completion of the insurance liquidation. The liquidation of transactions other than those linked to the insurance portfolio, is carried on according to the provisions governing the liquidation of the legal entity of the undertaking (common liquidation).

Regardless from the act of declaring the undertaking in a state of insurance liquidation, the completion of matters pending, other than those linked to the insurance portfolio, is carried on according to provisions governing common liquidation.

11. Dissolution of the legal personality of the insurance undertaking, resulting from any cause other than bankruptcy and the reasons stated in para. 1, is communicated to the Ministry for Commerce. The Minister for Commerce may, by decision issued within fifteen days, declare the undertaking under insurance liquidation. Any expropriation of assets of the undertaking during the time from the dissolution of the legal entity until the issuing of the above decision or the expiry of the above deadline, is prohibited and void.
12. In any case of commencement of liquidation proceedings against an insurance undertaking, its license is revoked. The above revocation does not prevent the liquidator and any other person so authorized by the competent authorities, to continue certain of the insurance undertaking's

activities, provided this is required or suggested for the needs of the liquidation, and has the consent and supervision of the Minister of Development.

13. The Minister for Development may bring an insurance undertaking already in common liquidation in the state of insurance liquidation.
14. The liquidator and the supervisor of liquidation are neither subjected to penal liability nor are they detained or held responsible for debts of the insurance undertaking towards the Public or social security carriers, regardless from the time these debts were ascertained. The time of their duty is fixed to two (2) years, which may be renewed.
15. Especially the portfolio of Motor vehicle liability insurance, already in insurance or common liquidation or bankruptcy, is jointly administered by other competent bodies and the Auxiliary Fund, provided in article 19 of Law 489/1976, which enters ipso jure into the liabilities and rights of the insurance undertaking.
16. With the commencement of the liquidation procedure, the liquidator immediately and personally notifies with a written note every known creditor that has a usual residence, home or head office in another member state.

The aforementioned note specifically states the deadlines, the penalties provided for the said deadlines, the body or authority that has been authorized to receive the announcement of claims or in relation to the claims, as well as the rest imposable measures. The note also states whether the creditors, whose claims are preferential or secured, have to announce their claims.

In case of claims from insurance the note also states the general effects of the liquidation proceedings on insurance contracts, especially the date from which the insurance contracts or acts cease to produce effects and the insured's rights and obligations regarding the policy or act.

Information in the note is expressed in Greek in a document bearing the title "invitation for the announcement of a claim - deadlines to be met" expressed in all official languages of the European Union. By exception, the information in the note is expressed in the official language of the state of the habitual residence, home, or head office of the creditor who is a beneficiary of indemnity.

17. The liquidator regularly and with the most suitable manner informs the creditor, especially with regard to the course of the liquidation.
18. The recording of the decision for liquidation in the Register of insurance societies anonymes, according to para. 1 hereof, the provisions according to para. 2 hereof regarding the special registers of article 8 para. 2, the appointment by the liquidator of other persons according to para. 4 hereof and the obligation to inform creditors according to paragraphs 16 and 17 hereof, also apply to common liquidation.

## Article 12b

P.D. 332/03  
Ar 10

1. In deviation from articles 6d and 9b hereof, the results of the initiation of reorganization measures or liquidation proceedings on the contract and rights set below, are governed by the following rules:
  - a) Employment contracts and relationships are governed only by the law of the member state which governs the employment contract or employment relationship.
  - b) The contract which assigns the right of use of a real estate or ownership over it, is governed only by the law of the member state in whose territory the estate is situated.
  - c) The rights of the insurance undertaking over a real estate, ship or aircraft that are subject to obligatory registration in a public book, are governed by the law of the member state which imposes the keeping of the book.
2. The initiation of reorganization measures or liquidation proceedings does not impeach the rights of creditors or third parties over material or immaterial things, tangible or real, over particular items of the assets or/and elements of the assets as a whole, which from time to time change, which belong to the insurance undertaking and are situated within the territory of another member state during the commencement of the said measures or proceedings.
3. The rights stated in the previous paragraph are in particular:
  - a) The right of direct or through a third party disposition of an asset and the right to satisfaction out of its price or proceeds, especially by virtue of pledge or mortgage.
  - b) The exclusive right of collection of a claim and especially the right, secured either by pledge, whose object is the claims, or by the assignment of a claim as guarantee.
  - c) The right to pursue and demand the return of an asset in the hands of any one who possesses it or exploits it contrary to the will of the beneficiary.
  - d) The proprietary right to profit of an asset.
4. The right which is recorded in a public book and stands against third parties, and with which it is possible to obtain a right over an estate within the meaning of para. 2, is assimilated to a property right.
5. Paragraph 2 should not prevent the suits of article 9b par. 2 IA hereof, regarding the recognition of nullity, cancellation or declaration of invalidity of a contract.
6. The initiation of reorganization measures or liquidation proceedings against an insurance undertaking, as buyer of an asset, does not impeach the rights of the seller based on a reservation of ownership, if, during the commencement of the said measures or proceedings, the asset is situated in another member state.

7. The initiation of reorganization measures or liquidation proceedings against an insurance undertaking, after the delivery of the asset sold by it, does not constitute a reason for the dissolution or cancellation of the sale, nor does it prohibit the seller from acquiring ownership of the sold item, if, during the initiation of the said measures or proceedings, the sold asset is situated in another member state.
8. Paragraphs 6 and 7 do not prevent the suits of article 9b para. 2, IA hereof, for the recognition of nullity, cancellation or declaration of invalidity of the contract.
9. Without prejudice to paragraphs 2, 3, 4 and 5 above, the effects of a reorganization measure or commencement of liquidation proceedings, on the rights and obligations of the participants in a regulated market, are governed only by the law governing the said market.
10. The previous paragraph does not prevent the suits of article 9b, 2 IA hereof, for the recognition of nullity, cancellation or declaration of invalidity of the payments or transactions based on the law governing the said regulated market.
11. If the insurance undertaking, after the taking of the reorganization measure or the commencement of the liquidation proceedings, concludes a contract with which the following are given with consideration:
  - a) real estate property,
  - b) a boat or aircraft obligatorily registered in a public book or
  - c) movable values or other titles, a condition of the existence or transfer of which is the record in a book or account, according to what is provided in the law, or which movable values or other titles are placed in a central deposit system governed by the law of a member state,

the validity of the contract is governed by the law of the member state in the territory of which the real property is situated, or the law of the member state which imposes the keeping of the book, system or account.

### **Article 13**

P.D. 252/96  
Ar.15 par.1  
According to  
par. 2 article 15  
of the same PD  
the code  
numbers of the  
branches of  
para. 1a were  
abolished and  
branches 14  
and 15 were  
modified.

"Insurance undertakings may pursue the following activities, which are arranged and classified per class of insurance as below:"

#### 1. INSURANCE AGAINST LOSS OR DAMAGE

A. Classification of risks in branches:

1. Accidents (including work accidents and occupational diseases).
  - Includes:
    - 1.1 fixed pecuniary benefits
    - 1.2 benefits in the nature of indemnity
    - 1.3 combination of the two
    - 1.4 injury to passengers

2. Sickness  
Includes:
  - 2.1 fixed pecuniary benefits
  - 2.2 benefits in the nature of indemnity
  - 2.3 combinations of the two
3. Land vehicles (other than railway).  
Includes all damage to or loss of:
  - 3.1 land motor vehicles
  - 3.2 land vehicles other than motor vehicles
4. Railway rolling stock  
Includes all damage to or loss of railway rolling stock.
5. Aircraft  
Includes all damage to or loss of aircraft.
6. Ships (sea, lake and river vessels).  
Includes all damage to and loss of:
  - 6.1 river vessels
  - 6.2 lake vessels
  - 6.3 sea vessels
7. Goods in transit (including merchandise, baggage and all other goods).  
Includes all damage to or loss of merchandise in transit, baggage or other goods irrespective of the form of transport.
8. Fire and natural forces.  
Includes all damage to and loss of property, other than property comprised in classes 3 to 7, due to:
  - 8.1 Fire
  - 8.2 Explosion
  - 8.3 Storm
  - 8.4 Natural forces other than storm
  - 8.5 Nuclear energy
  - 8.6 Land subsidence
9. Other damage to property  
Includes all damage to or loss of property other than property comprised in classes 3 to 7, due to hail or frost, as well as to any other event such as theft, provided the cause of the damage does not fall under class 8.
10. Motor vehicle liability.  
Includes all civil liability arising out of the use of motor vehicles, as well as carrier liability.
11. Aircraft civil liability.  
Includes all civil liability arising out of the use of sea, lake and river vessels, as well as carrier liability.
12. Civil liability for ships (sea, lake and river vessels).  
Includes all civil liability arising out of the use of sea, lake and river vessels, as well as carrier liability.
13. General civil liability.  
Includes all civil liability, other than those forms falling under classes 10,11,12.

- “14.Credits : In this branch, the insurer, against the payment of a premium, covers the insured for loss the latter may sustain as a result of failure of one or more of debtors to meet their liabilities towards the insured, includes:
- 14.1 General insolvency
  - 14.2 Export credits (concerns the insurance of export credits, which are not made for the account of with the support of the State)
  - 14.3 Installment credit
  - 14.4 Mortgages
  - 14.5 Agricultural credits.”
- ’15.Suretyship: In this branch, the insurer, against payment of a premium, guarantees on behalf of the insured the carrying out of his contractual liabilities, includes:
- 15.1 Suretyship (direct)
  - 15.2 Suretyship (indirect)”
16. Miscellaneous financial loss.  
Includes:
- 16.1 Employment risks
  - 16.2 Insufficiency of income (general)
  - 16.3 Bad weather
  - 16.4 Loss of profits
  - 16.5 Continuing general expenses
  - 16.6 Unforeseen trading expenses
  - 16.7 Loss of market value
  - 16.8 Loss or rent or revenue
  - 16.9 Indirect trading losses other than those already mentioned
  - 16.10 Other financial losses (non-trading)
  - 16.11 Other forms of financial losses.
- P.D. 459/90  
Ar. 2      17. Legal expenses  
Includes:  
“The bearing of costs of legal proceedings and the provision, of other services resulting from the above insurance contract.”
- P.D.103/90  
Ar. 2      “18. Assistance  
Assistance for persons who get into difficulties while travelling, while away from home or while away from their permanent residence.”
- P.D.118/85  
Ar. 12      B. Description of authorizations granted simultaneously for more than one class of insurance.  
When the authorisation simultaneously covers:
- a) classes 1 and 2, is its granted under the name “Accident and Health Insurance”.
  - b) classes 1.4,3,7 and 10, it is granted under the name “Motor Insurance”.
  - c) classes 1.4,4,6,7 and 12, it is granted under the name “Marine and Transport insurance”.
  - d) classes 1.4, 5, 7 and 11, it is granted under the name “Aviation insurance”.
  - e) classes 8 and 9, it is granted under the name “Insurance against fire and other damage to property”.
  - f) rclasses 10, 11, 12 and 13, it is granted under the name “Civil liability insurance”.
  - g) classes 14 and 15, it is granted under the name “Credit and

suretyship insurance”.

- h) all other classes, it is granted under the name “General damage insurance”.

P.D. 252/96  
Ar.15 par.3

## «2. LIFE ASSURANCE

### Classification per class

#### I. Class of life insurance

Includes :

1. Mainly assurance on survival to a stipulated age, assurance on death, mixed assurance (on survival to a stipulated age or on earlier death) and life assurance with return of premiums.
2. Annuities.
3. Insurance against personal injury (including incapacity for employment), against death resulting from an accident disability resulting from an accident or sickness, where these various kinds of insurance are underwritten **in** addition to life insurance of classes I1 and I2

#### II. Class of marriage and birth assurance.

#### III. Class of life insurance (I 1 ) annuities (I 2 ) marriage and birth (II) linked to investment according to article 13c case A of this article.

Concerns operations in which:

- a) the benefits included in the insurance policy are directly linked to the value of shares (units) of a mutual fund, of the Greek or any other member state of the E.U. and the E.E.A. or to the value of assets contained in an internal fund held by the insurance undertaking usually divided into units (shares) or
- b) the benefits contained in the insurance policy are directly linked to an index of a security or a certain reference value other than those mentioned in (a).

#### IV. Class of health insurance (accident, sickness)

1. Operations of permanent health insurance which are managed like life insurances (technical rate, sickness tables, mathematical reserves) and are not subjected to cancellation by the insurer.
2. Operations of branches 1 "Accidents" and 2 "Sickness" of insurances against loss or damage, of para. 1 of this article.

#### V. Class of tontine

Tontine is a plan (insurance policy ) on the basis of which a number of persons contributes to a fund account , the credit balance of which at the end of a period fixed by the plan is distributed among the persons in life in the form of a capital or annuity as specially determined in art. 13c of case B hereof.

#### VI. Capitalization class

Concerns capital redemption operations based on actuarial calculation, under which commitments of specified duration and amount are assumed in return for single or periodic payments agreed in advance as specified in articles 39 to 42 hereof.

#### VII. Class of management of group pension funds

1. Management of the investments and / or of the assets representing the reserves of bodies that effect payments for health benefits or for benefits in case of death, incapacity, survival interruption or reduction



of working capacity to people having concluded agreements with them.

The management of the above funds by the insurance undertaking appears in the financial statements according to art 62 para. 2 of hereof. In case of art. 62 para 2, 1st sub para of this decree - law, the eventual deficits or surpluses are debited or credited accordingly to the insurance Fund.

2. a) case VII 1 when the insurance undertaking has entered into agreement with another undertaking or legal entity for the management of the group pension funds of its personnel.
  - b) case VII 2a when the insurance undertaking guarantees an interest rate and other benefits (insured group pension programs).
- VIII. Class of group providence programs according to chapter I title IV of book IV of the French code of insurances.
1. Without investment risk (guaranteed interest rate) and other guaranteed benefits.
  2. With investment risk and other guaranteed benefits.
- IX. Class of operations similar to social security.
- It comprises operations, consisting of benefits depending on the duration of human life and which are determined or provided for in social insurance legislation, on the condition that such operations are based on private contract, effected at the insurance undertaking's own risk and do not contravene with legislative provisions.

P.D. 252/96  
Ar.15 par.4

3. Under the meaning of this law decree "great risks" are deemed to be:
  - a) Risks classified under classes 4 "Railway Rolling Stock"<sup>11</sup>, 5 "Aircraft", 6 "Ships" (sea, lake and river vessels) 7 "Goods in transit" , "Aircraft civil liability" and 12 "Civil liability for ships" (sea, lake and river vessels) of the classification of point A of para. 1 of art. 13 of this decree - law.
  - b) Risks classified under classes 14 "Credit" and 15 "Suretyship" of the classification of point A of para 1 of art. 13 of this decree – law whenever the insured is engaged professionally in an industrial or commercial activity or in one of the liberal professions and the risk is connected with such activity.
  - c) Risks classified under classes 3 "Land vehicles other than railway rolling stock" 8 "Fire and natural forces" 9 "Other damage to property" 10 "Motor vehicle liability", 13 "General civil liability", 6 "Miscellaneous financial loss" of the classification of point A of para 1 of art 13 of this decree - law, provided the insured exceeds the limits of at least two of the following three criteria:
 

First stage from 1.1.1995 - 31.12.1998

    - balance sheet total: 12,4 million ECU
    - net turnover: 24 million ECU
    - average number of employees during the financial year: 500

Second stage from 1.1.1999

    - balance sheet total : 6,2 million ECU
    - net turnover: 12,8 million ECU
    - average number of employees during the financial year: 250.

If the insured participates in a group of undertakings setting up consolidated accounts as per article 90 of law 2190/20 as applying , the above criteria are reviewed on the basis of consolidated accounts".

### **Article 13a**

- |                             |  |
|-----------------------------|--|
| L. 2170/93<br>Ar. 6 par. 1  | 1. The class of assistance includes the assistance provided to persons who get into difficulties while travelling, while away from home or while away from their permanent residence or under other circumstances regardless from traveling or absence. It does not include services for maintenance or preservation, after-sales services, as well as mere indication or provision of aid as an intermediary.   |
| P.D. 103/90<br>Ar. 2        | 2. The assistance consists of undertaking a commitment, against the prior payment of a premium, to make aid immediately available to the beneficiary, whenever this latter falls into difficulties, following the occurrence of a random event, in the cases and under the conditions set out in the contract.   |
|                             | 3. The assistance may be provided in cash or in kind. The provision of benefits in kind may also be effected by means of the staff and equipment of the undertaking offering the assistance.   |
| L. 2496/97<br>Ar. 35 par.15 | 4. "The provisions hereof do not apply to the activities of assistance when the intervention is limited to the following operations carried out in case of a traffic accident or breakdown occurring in Greece." <ul style="list-style-type: none"> <li>- On-the-spot breakdown service for which the undertaking providing assistance uses in most cases, its own staff and equipment.</li> <li>- The conveyance of the vehicle to the nearest or most appropriate location for the carrying out of repairs and eventually the legitimate accompaniment of the driver and passengers, to the nearest location from where they may continue their journey by other means.</li> <li>- The conveyance of the vehicle from a location within Greece, eventually accompanied by the driver and passengers, to their home, point of departure or original destination within Greece.</li> </ul> |

Concerning the first two cases, the conditions that the accident or breakdown must have occurred in Greece does not apply where the undertaking is an organization, of which the beneficiary is a member and the breakdown service or conveyance of the vehicle is provided simply on presentation of the membership identity without any additional charge by a similar organization of the E.E.C. member state where the accident or breakdown occurred, on the basis of a reciprocal agreement.

5. The provisions of the previous paragraph do not apply when these operations are carried out by an undertaking subject to the provisions hereof.

### **Article 13b**

- |                      |   |
|----------------------|---|
| P.D. 459/90<br>Ar. 2 | 1. Insurance against legal expenses consists of the contractual engagement, against the payment of premium, to bear the cost of legal proceedings and to provide other services directly linked to the said insurance cover in particular with a view to: |
|----------------------|---|

- securing compensation for the loss, damage or injury suffered by the insured person, by an out-of-court settlement or through civil or criminal proceedings,
- defending or representing the insured persons in civil, criminal, administrative or other proceedings or in respect of any claim made against them.

(Article 2 para. 1 Directive 87/344/EEC).

2. Legal expenses cover shall be the subject of a contract separate from that drawn up for the other classes of insurance, or it shall be dealt with in a separate section of a single policy, in which the nature of the legal expenses cover and amount of the relevant premium are specified.

(Article 3 para. 1 Directive 87/344/EEC )

3. The insurance contract must include the following:

I. The right of the insured person to freely choose his lawyer:

- a) in any inquiry or proceedings whenever recourse is entrusted to a lawyer to defend or to represent the insured person or to serve his interests.
- b) for the defense of his interests whenever a conflict of interests arises.

II. The right of the insured person to have recourse to the following procedure:

In case of a dispute between the legal expenses insurer and the insured as to the need of safeguarding the lawful interests of the insured in front of a judicial or administrative authority, the insured may cause a justified consolatory response of a lawyer of his choice, in relation to the existence of the need for safeguarding.

In case the insured does not accept this response or if the insurance undertaking believes that this consolatory response abstains from the correct legal and real basis of the matter in question, the case is put for judgment before an arbitrator commonly accepted. In case of a dispute regarding the indicated arbitrator, this latter's appointment is effected according to the provisions of article 878 of the Code of Civil Procedure.

All costs for the above actions are born by the insurer, provided that such actions are considered necessary for the safeguarding of the insured's interests, otherwise such costs are equally born by the insurer and the insured.

If the insured, contrary to the decision of the arbitrator, takes recourse in a court or administrative authority, in case of total defeat, he is charged with the costs incurred, otherwise such costs are apportioned according to the extent of the defeat in relation to the victory (winning).

The above arbitration procedure does not exclude the right of the insurer to take recourse in court.

(Article 4 para. 1 (a and b) of Directive 87/344/EEC)

III. Mention of the legally separated undertaking as provided in para. 5b of this article, whenever the case applies.

(Article 3 para. 2b of Directive 87/344/EEC)

4. The legal expenses insurer or, as the case may be, the claims handling office, is obliged to inform the insured about his rights deriving from the previous paragraph, whenever a conflict of interests or a dispute arises, regarding the settlement of a difference.

(Article 7 Directive 87/344/EEC)

5. An insurance undertaking operating in Greece the class of legal expenses insurance, may adopt one of the following alternatives of operation (in order to preclude the risk of any conflict of interests).

(Article 1 Directive 87/344/EEC)

- a) The undertaking shall ensure that no member of the staff who is charged with the management of legal expenses claims or legal advice in respect thereof, carries on at the same time a similar activity:
- If the undertaking is a composite one, for another class operated by it.
  - or if it is a specialized one, in another having financial, commercial or administrative links with the first undertaking and carrying one or more of the other classes of insurance.
- b) The insurance undertaking shall entrust the management of claims in respect of legal expenses insurance to an undertaking having separate legal personality either in the form of a Societe Anonyme or that of a Limited Company.

If the undertaking having separate legal personality has links with an undertaking which carries one or more of the other classes of insurance, the members of the staff of the undertaking who are charged with the processing of claims or legal advice connected with such processing, may not pursue the same or a similar activity in the other undertaking at the same time.

The same requirements may also be imposed on the members of the administration and management body.

(Article 3 para. 2 (a and b) Directive 87/344/EOK)

6. For the granting of a license of operation in respect of the class of legal expenses insurance, the undertaking concerned must state in the scheme of operations which of the above alternatives it has chosen.

Undertakings already carrying on legal expenses insurance shall, within 6 months from publication hereof, communicate to the Ministry for Commerce which of the two alternatives they choose.

7. In case of violation by the insurance undertaking of the provisions of this article, the license for the operation of legal expenses insurance is

revoked, while the penalties provided under article 47 apply against the members of management.

8. Legal expenses insurance regarding disputes or risks arising out of or in connection with the use of sea going vessels is not ruled by the provisions of paragraphs 2,3,4,5,6, and 7 of this article.

(Article 2 para. 2 Directive 87/344/EEC)

9. The activity of an undertaking in case of civil liability insurance to defend or represent an insured, if such activity is also carried in the undertaking's interest under its capacity as a civil liability insurance undertaking, is not governed by this article.

### Article 13c

P.D. 252/96 "A. Life assurance linked to investment (Class III para.2 art. 13 hereof).  
Ar. 16

Whenever the benefits provided by the contract are determined by the value of the shares linked to a certain value, such as approved shares of mutual funds or by shares of more distinct funds which are organized and administered by the same insurance undertaking (internal variable fund) the following arrangements shall apply:

- a) In case payment of premiums is effected by a flat premium, the number of shares must be mentioned in the insurance contract. The increase of these shares, against the payment of a premium, may be effected by an addendum. The insurance policy may provide increase of the beneficial shares as a result of reinvestment of the shares of the invested amount by a mutual fund approved by the competent authorities or to provide the payment of shares in cash.  
In case of increase of shares, a confirmation of the number of the additional shares must be granted.  
If the payment of the insurance policy is made by installments, the insurance policy must mention the part of the premium disposed of in credit shares in the account of the policyholder.
- b) In case of connection of the insurance policy with an "internal variable fund", the insurance undertaking is obliged to issue a special regulation which shall comprise the rules of operation of this fund as well as the way of pricing of its shares.  
In case of connection of the insurance policy with a mutual fund approved by the competent authorities, the net share value is deemed to be either the net share value or the value of disposition of the shares of the mutual fund, in case the mutual fund is used as an investment value of the insurance policies. A choice of the net share value must be mentioned in the conditions of the insurance policy.
- c) The insurance undertaking is obliged to mention all charges to be brought to the net value of the share during the validity of the insurance policy as well as the penalty in case of redemption.
- d) If the insurance policy has two sections, investment and death coverage in drachmas on a yearly basis, then the provisions of the previous paragraphs apply to the investment section linked to the

investment share. Whenever the insurance policy provides that in case the premium of a certain period is not paid, the premium for death coverage shall be reimbursed by the investment section, the following shall apply: on the day shares or portions of shares, the value of which corresponds to the premium for death coverage, are withdrawn from the account of the policyholder, the premium for death coverage shall be divided by the value of the share on that day and the shares account of the policyholder shall be debited accordingly. The insurance undertaking is obliged to inform the policyholder about the credit balance of the account, at the date the aforesaid debit is effected as well as the withdrawal of shares from the investment section for the coverage of death and the relevant expenses.

- e) The use of the ZILLMER method is forbidden for the calculation of the reserves for life assurances linked to investments.
- f) The redemption value is deemed to be the value of the credit balance of the unit account of the policyholder reduced by the amount of the penalty for redemption.
- g) The insurance undertaking is obliged to keep a special record in which it registers its assets disposed for the coverage of its liabilities linked to investments. The way of keeping this special record shall be determined by decision of the Ministry for Commerce.  
The insurance undertaking is obliged to cover its liabilities resulting from life assurance policies linked to investments, with the assets concerning this link from the date the units were credited in the insured's account.  
In case, however, the insurance undertaking disposes more than one variable funds, separate special records are kept. Upon disposal of every variable fund, the insurance undertaking informs the Ministry for Commerce accordingly.  
For keeping the above record, all evidencing elements must be available for the formation of the net value of all shares.
- h) In the balance sheet, the assets of each variable fund are kept in separate accounts in current prices.
- i) The assets disposed for the coverage of the liabilities of the insurance undertaking linked to investments, are deposited for safe keeping in only one bank operating in Greece. The safe keeping of foreign transferable securities quoted in a foreign stock exchange, may be entrusted with a Bank abroad with which the Bank operating in Greece is directly connected. The bank is obliged to inform at least once a month the competent Direction of the Ministry for Commerce about the assets disposed by the insurance undertaking for the variable fund. In case the insurance undertaking disposes more than one variable fund, the bank, after being notified in writing by the insurance undertaking, is obliged to inform the Ministry for Commerce about the assets per variable fund, according to the indication of the insurance undertaking communicated to the Ministry for Commerce.
- j) The insurance undertaking appoints as responsible for the elements of the variable fund, a suitable person, the particulars of which (name surname, address, identity card number) as well as every change regarding its details, the undertaking declares to the Ministry for

Commerce and records in the register of Societes Anonymes.

- ja) In case an "internal variable fund" is set up, the assets with which the insurance undertaking can set up such capital are:
- i. Transferable securities quoted in the Stock Exchange of member states of E.U. and the E.E.A.
  - ii. Bonds and debt securities of public or municipal authorities of member states of the E.U. and E.E.A. as well as bonds and debt securities of credit institutions enjoying the guarantee of the member state.
  - iii. Shares in Mutual Funds or undertakings for collective investment in transferable securities (UCITS) fulfilling the conditions of directive 85/611 EEC (EL 375/31.12.85).
  - iv. Time deposits in Banks.
  - v. Transferable securities quoted in the Stock Exchange of states other than of E.U and E.E.A. as per the provisions of para 1c of art. 32 of Law 1969/91 (A167) as applying.
  - vi. Newly issued transferable securities, the issue of which includes the obligation to be quoted in a stock Exchange of the EU and E.E.A. within the year.
  - vii. Newly issued transferable securities concerning coverage of share capital of a Societe Anonyme with a public issue according to article 8a, I. 2190/20.

The appraisal of the value of the above transferable securities is made as follows:

For the assets under items I,ii,iii,iv and v, in current values.

For the assets under items vi and vii, in acquisition values.

- jb) i) The transferable securities quoted in the Stock Exchange are appraised on the basis of their closing cash value at stock Exchange transactions of the same day. In Stocks of Exchange other than the E.U or the E.E.A., whenever this is not feasible, for reasons of difference in time, the value is appraised on the basis of the closing value of these Stocks on the previous day. If no transaction was carried out on the previous day and if no transaction has been made on that day, then on the value of the previous day and if no transaction has been carried out even on that day, on the value of the day before that. If no stock transaction was realized even on that day, then the last value of offer or demand is taken into account.
- ii) For shares in mutual funds, the value of disposal of the shares as defined on the previous day or as defined according to the last publication, is taken into account.

- jc) The Ministry for Commerce, at least once every two months, reviews the special record as well as the coverage of reserves corresponding to insurance policies linked to investments and sets up an audit report.

The person of item (i) or the actuary, or both of them, as the case may be, are obliged to reply to any remarks of the Ministry for Commerce, within five working days from the date of receipt of the document of the supervising authority. In case no reply is given by the above persons, the Ministry for Commerce imposes a fine of up to 10.000 ECU to each of them and the Board of Directors or the

legal representative is requested to reply to the Ministry for Commerce. In case the event is repeated:

- i) The person of item (i) is dismissed from his post and a fine of up to 20.000 ECU is imposed on him. This person cannot undertake any responsible post in this or any other insurance undertaking for two years. A fine of up to 20.000 ECU is imposed on the actuary. The Ministry for Commerce may withdraw the license of the actuary for up to two years, after taking into consideration the opinion of the Association of Greek Actuaries and the actuary cannot undertake any other responsible post in the same or any other insurance undertaking.
  - ii) If these persons repeat the same mistake in another insurance undertaking, then the administrative penalties of case (i) above apply. In case the reserves of these policies are not covered by corresponding assets, the Ministry for Commerce may decide the suspension of issuance of new policies for a period of up to two years. For this violation, the penalties of article 45 of this decree law and regarding the person of item 1 apply.
- jd) Life insurance policies linked to investments must explicitly mention the investment share to which the benefits are linked. In cases where the investment shares are:

- i) Shares in mutual funds or Undertakings of collective investments in transferable securities (UCITS) subject to the provisions of directive 85/611 EEC (L375/31.12.85), as well as Greek legislation, the regulation of this mutual fund forms an integral part of the general conditions of the insurance policies linked to this investment share.
- ii) Shares in an "internal variable fund" formed by the assets of the insurance undertaking, a special regulation is set up for the operation of the "internal variable fund" which must comprise at least the following items:
  - the elements of the assets of the insurance undertaking forming up the "internal variable fund"
  - the way of appraisal of the elements of the assets of the insurance undertaking which form the "internal variable fund"
  - the expenses born by the "internal variable fund"
  - the date of setting up the "internal variable fund" and the value of shares on issuance
  - the calculation of the value of profits
  - the manner of distribution of the profits.

In case life assurances are linked to shares in mutual funds which cannot be disposed of in Greece and the share price is determined by more than one shares in a mutual fund of case (i), then the provisions of above case (ii) shall apply.

The special regulation of the "internal variable fund" forms an integral part of the general conditions of the insurance policies.

- je) the general conditions of life insurance policies linked to investments must be mentioned in a special term:

- i) The time of credit of the shares in the account of the insureds.



The time between payment of premiums and credit of the shares cannot exceed 7 working days.

- ii) the time of definition of the share price of investment in case of indemnification or redemption of the insurance policy. In case of lack of definition, the valid price is that of the day of payment.
- jf) The first page of the insurance policy must mention, within a frame, the partition of amount paid up by the policyholder as follows:
- i) total paid up amount, which includes all taxes and charges
  - ii) amount to be invested
  - iii) share price
  - iv) number of shares
- yg) The insurance undertaking forwards to the policyholder at the end of the financial year, a statement which comprises at least the following:
- i) Amounts totally paid up by the policyholder, including taxes and charges.
  - ii) total amounts to be invested
  - iii) total number of shares
  - iv) share price
  - v) The items in which the shares are invested stating their prices especially for aa) shares, purchase and sale price, bb) shares in Mutual Fund, net price, disposition and redemption price cc) debt securities, purchase and sale.
- yh) The net value of the shares of investment of life insurance policies linked to investments, the price at which the share is offered as well as the share's redemption, are calculated every working day and are published in the daily newspapers of the next day by the insurance undertaking.  
The insurance undertaking upon request of the Ministry for Commerce, is obliged on its own cost, to proceed to explanatory or correcting publications, in case the public may be misled or wrongly informed by previous publications.
- ji) In case of withdrawal, if the contract only deals with investment, it is deemed that the total premium is linked to investment shares. The insurance undertaking reimburses the amount corresponding to the redemption value of these shares. The redemption value is published one day after the announcement of the withdrawal to the insurance undertaking.
- In case the contract besides the investment also provides guaranteed cover, then the premium corresponding to the guaranteed cover is deducted from the total premium, of which a monthly commercial premium may be retained. The balance of the total premium is deemed to have been linked to investment shares. The insurance undertaking reimburses the amount corresponding to the redemption value of these shares. The redemption value is published one day after the announcement of the withdrawal to the insurance undertaking.
- k) In case the above rules of transparency of the product are not applied, the Ministry for Commerce may decide to suspend the issue of new insurance policies up to a period of six months, without

prejudice to the provisions of art. 42 d of this law decree.

- ka) For insurance undertakings pursuing life assurance linked to investments in Greece through agencies or freedom of services, the provisions of the above items (id) to (k) apply.

B. Tontines (Class V para. 2 art. 13 of this law decree)

The following regulations shall apply to the operation of the above class:

- a) The amount corresponding to each person alive at the end of the fixed period is increased:
- aa) by the gradual increase of the number of persons dying and
  - bb) by the distribution of profits among the living persons from the investment of the capital, at the end of the fixed period. The application of the system of tontine leads to the setting up of groups based on age, with a view towards not the cover of risks but the participation of living persons in the distribution of capital.
- b) The following are forbidden: aa) any kind of loan and by anyone from the setting of the capital bb) return of payments or part of them in case of withdrawal of a member from the group within the fixed period.
- c) The insurance undertaking is obliged to inform in writing the participants in the group every year about the amount of the capital and the amount of investments to be attained.
- d) The assets which can form this capital are:
- i) transferable securities quoted in the stock exchange of the member states of E.U and of EEA.
  - ii) Bonds and debt securities of public or the municipal authorities of the member states of E.U. and of the EEA, as well as bonds and debt securities of credit institutions bearing the guarantee of the member state.
  - iii) Shares in mutual funds and undertakings of collective investments in transferable securities (UCITS) fulfilling the conditions of directive 85/611/EEC (L375/31.12.85).
  - iv) Time Deposits.
  - v) Transferable securities quoted in the stock exchange of a member state other than EU and EEA, according to the provisions of para. 1c) of article 32 of Law 1969/91 (A167), as applying.
  - vi) Newly issued transferable securities, the issue of which includes the obligation of quoting them in a stock exchange of the E.U. and the EEA within a year.
  - vii) Newly issued transferable securities concerning the paying up of the share capital of a societ e anonyme through public issue as per art. 8a of Law 2190/20.

The appraisal of the value of the above transferable securities is carried out according to item (ia) of case A of this article.

- e) Reserve is the amount of the credit balance of the account of every group set up.

- f) The insurance policy must mention the data of all persons forming the group. If a person participating in this group declares incorrectly data which is necessary for the constitution of the tontine, he is acquitted from the group and does not receive any part of the contributed payments.
- g) In case capital is paid to living persons in the form of proceeds, the calculation of such proceeds shall not take into account charges for acquisition costs. The same also applies when a person wishes to receive the part of capital corresponding to him on expiry of the period, in the form of proceeds.
- h) In case the insurance company forms more than one tontines, it is obliged to keep separately the assets corresponding to each tontine. These elements are kept in a special record.

### **Articles 13d**

P.D. 10/2003  
Art. 11

1. The claims representative, appointed according to articles 15 para. 1 section f and 20 para. 2A section f item n of this law, is selected by the insurance undertaking, can act on behalf of one or more insurance undertakings and must speak the official languages of the state where he has been appointed. The claims representative has his residence or establishment in the member state where he has been appointed, he has sufficient powers to represent the insurance undertaking against the injured parties for accidents caused in other member states by vehicles that have their usual basis in Greece or in a member state of the E.U. and the E.E.A. and are insured with insurance undertakings established in Greece, which he represents in order to fully satisfy their claims.
2. The obligatory appointment of a representative does not prevent the injured party or his insurance undertaking to directly address the person who caused the accident or his insurance undertaking.
3. The duties of the above representative are to collect, with regard to the relevant claims, all necessary information for the settlement of claims and to take the measures necessary to negotiate a settlement of claims. To possess sufficient powers to represent the undertaking in relation to parties who suffered injuries and to raise a claim, including the satisfaction of those claims as well as to represent it or if it is so required, to make arrangements for its representation before the administrative authorities in relation to these claims.
4. The claims representative is obliged within three months from receiving the claim for compensation by the injured party:
  - a) to submit a reasoned offer of compensation in case where liability is not contested and the damage has been quantified
  - b) to submit a reasoned reply to the points made in the claim in case liability is denied or has not been clearly determined or in case the damage has not been fully quantified.

In case of violation of the above, the penalties provided in article 38

para. 2 of L.N. 489/76, as it stands, apply.

5. The appointment of the representative for the settlement of claims does not constitute an appointment of a lawful representative within the meaning of article 22 hereof, nor does it constitute the formation of a branch or agency within the meaning of articles 2a item b, 42a case A1 or an establishment of the insurance undertaking within the meaning of article 2a item c hereof.

## **CHAPTER TWO**

### **Greek Insurance Undertakings**

#### **Article 14**

The words inside quotes were replaced by para. 2 of P.D. 118/85

The operation license of every Greek insurance undertaking as well as the approval of its articles of association, is granted by a decision of the Ministry for Commerce published in the Bulletin of Societes Anonymes and Limited Companies of the Government Gazette.

#### **Article 15**

P.D. 252/96  
Ar. 17

"1. Every Greek insurance undertaking submits to the Ministry for Commerce together with the application for the operation license:

- a) its articles of association,
- b) documentation evidencing payment of the whole share capital or contributions in case of mutual insurance cooperatives,
- c) scheme of activities, as defined in para. 2 of this article,
- d) information about the persons managing the insurance undertaking in order to check their honesty and professional qualifications or experience. The criteria for the suitability of the persons managing the undertaking are defined by a decision of the Minister for Commerce published in the Government Gazette and
- e) declaration for persons provided under art. 55 and of item (i) of case A of art. 13c of this decree law.

P.D.10/2003  
Ar. 9 par. 1

"f) in case it covers the risks of class 10 of insurance against damage "motor vehicle liability insurance", besides carrier liability, they announce the name and address of the person they appoints in every member state as claims representative, who has the conditions and duties set in article 13d of this law."

2. The scheme of activities which the insurance undertaking is obliged to submit in order to be granted the operation license or permission to extend its activities to other classes of insurance includes:

A. For the operation of insurances against loss or damage the following:

- a) the risks it intends to cover.
- b) the guidelines regarding reinsurance.
- c) the assets comprising the minimum guarantee capital limit according to article 17b hereof.
- d) The provisions for expenses of establishment of the administrative services and its sales force, as well as the financial means designated to face such expenses while for class 18 also the means disposed by the undertaking for the granting of "assistance".

In addition, for the first three financial years:

- e) The provisions for administration expenses, except for installation expenses and especially for the current general expenses and commissions.
- f) The provisions for the premiums or contributions to be realized as well as the provisions for claims to be incurred.
- g) Estimated balance sheet.
- h) The provisions in relation to the financial means designated to cover liabilities and solvency margin.

B. For the operation of life assurance, the following:

- a) information about the nature of commitments which the undertaking intends to cover.
- b) the items provided in sections b,c, and d of above case A of this paragraph.

In addition, for the first three financial years:

- c) A plan setting out detailed estimates of income and expenditure in respect of direct insurance and reinsurance acceptances as well as insurance cessions.
- d) The particulars provided in sections (g) and (h) of the above case A of this paragraph.

2. Within a period of three months from the publication of the Ministerial decision granting the establishment and operation license of an insurance undertaking, the latter shall submit to the Ministry for Commerce copies of its reinsurance treaties.
4. In order to evidence their compliance with actuarial principles, insurance undertakings operating life assurance and undertakings operating insurances against loss or damage of classes 1 "Accidents" and 2 "Sickness", are obliged, according to para. 7 of art. 17a of this decree law, to communicate to the Ministry for Commerce every year the technical interest rates and mortality tables and sickness used as basis for the calculation of their tariffs and mathematical reserves.

They are also obliged to separately present in their balance sheet the assets on which the mathematical reserve was invested.

5. In order to evidence their compliance with the provisions concerning insurance contracts, insurance undertakings are obliged to communicate to the Ministry for Commerce the general and special policy conditions and the printed material they use in their relations with the insureds, without prejudice to para 6 of art. 52a of this decree law. However, especially for risks subject to compulsory insurance, insurance undertakings are obliged to communicate to the Ministry for Commerce the general and special conditions of compulsory insurances before

these are used.

The Ministry for Commerce may demand prior communication or approval of the tariffs for insurances against loss or damage, only in the context of a general system of price control.

6. A decision of the Minister for Commerce published in the Government Gazette determines for insurance undertakings of the above paragraph 4:
- a) The tables of mortality, sickness etc. for the calculation of mathematical reserves, which they can use according to choice.
  - b) The maximum limits of technical interest rates for the calculation of the mathematical reserves.

The Ministry for Commerce, for the application of item (b) above, collaborates with the supervisory authorities of the other member states and informs the Commission of the E.U."

### **Article 15a**

P.D. 252/96  
Ar. 18

1. a) Every natural or legal person, who wishes to acquire a qualifying holding in an insurance undertaking established and operating in Greece, proceeds to a prior notification of the Ministry for Commerce about such holding. The same obligation applies when the existing holding is increased so that the proportion of the voting rights or of the capital in possession of a person, including the cases which according to P.D. 51/1992 (A 22) are assimilated to possession of voting rights by the same person, reach or exceed the minimum limits of 20%, 33% or 50% of the total voting rights or of the capital or if the insurance undertaking becomes a subsidiary of the participating person.

With regard to holdings materialized by legal entities, the Ministry for Commerce has the right:

- (i) to ask information about the identity of the natural persons which directly or indirectly control these legal entities,
- (ii) imposes the obligation to be informed about any subsequent modification in the identity of these natural persons and
- (iii) ask the communication of the financial particulars (financial accounts), whenever they render the insurance undertaking their subsidiary for the control of their financial position, which may be requested even subsequently.

For the meaning of control, item (i) of art 2a of this decree law applies.

For the more efficient inspection of the identity of natural persons controlling legal entities possessing a qualifying holding in insurance undertakings, the Ministry for Commerce may:

- i) impose the obligation on these legal entities to have registered shares with a voting share.
- ii) demand that concrete percentages of the total of the above registered shares with voting rights belong to one or more natural persons, which have previously been awarded approval of the Ministry for Commerce. Within three months from the above notification, the

Ministry for Commerce is obliged either to approve the holding or to reject it, justifying such a decision, if it considers that the persons materializing the holding, including the natural person controlling the participating natural persons, are not appropriate to ensure sound and prudent management of the insurance undertaking. The approval of the Ministry for Commerce may determine a maximum period for the materialization of the holding.

Within the above period the Ministry for Commerce has the right to carry out inquiries about the suitability or the verification of suitability of the above persons. In this respect, the Ministry for Commerce collaborates with the supervising authorities of the other member states of the E.U. and E.E.C. or other competent authorities.

In case of death of a possessor of a qualifying holding, the above obligation for notification by his heirs may be realized within a period of four (4) months from the date of death of the possessor of a qualifying holding. Within three months from the notification, the Ministry for Commerce may, if it considers that the heirs are not appropriate to ensure sound and prudent management of the insurance undertaking, impose the penalties provided in para. 5b of this article.

- b) Apart from the obligations mentioned in item (a) of this paragraph, the possessors of a qualifying holding of an insurance undertaking must notify in advance the Ministry for Commerce about every increase in their participation, which exceeds by an amount corresponding to two (2) percent of the share capital of the insurance undertaking, the participation which has been previously notified.  
This obligation stands until total participation reaches the limit of 33%.

L. 3455/06  
Ar. 21 par.9

- «1a. In applying para. 1, if the buyer of a holding is an insurance undertaking, credit institution or investment firm with a license to operate in another member state or parent undertaking of such an undertaking or the legal or natural person controlling this undertaking, and if, due to this buy-out, the undertaking, in which the buyer intends to acquire a holding, is rendered a subsidiary of the said buyer or falls under his control, the evaluation of the buy-out is subject to the procedure of consultation provided in para. 2a of article 3.”
2. a) The Ministry for Commerce informs the Commission of the European Union about:
- i) every operation license granted to an insurance undertaking which is directly or indirectly a subsidiary of one or more parent undertakings ruled by the legislation of a third country,
  - ii) the participation of a parent undertaking of this kind in an insurance undertaking established and operating in Greece, which in this way becomes its subsidiary,
  - iii) the structure of the group of undertakings, whenever an operation license is granted to an insurance undertaking which directly or indirectly is a subsidiary of one or more parent undertakings ruled by the law of a third country,
  - iv) the general difficulties which Greek insurance undertakings encounter upon their establishment or pursuit of activities in a third country.
- b) Whenever the competent bodies of the European Union have decided to limit or temporarily suspend applications relating to the cases of previous item a, the Ministry for Commerce refrains from taking any

decision for as long as the competent bodies of the European Union have decided the relevant suspension or restriction in all member states of the E.U. and of the E.E.C. The said restriction or suspension does not apply to the formation of subsidiary insurance undertakings in Greece by insurance undertakings or their subsidiaries which have been granted a license to operate in the E.U. and the E.E.C, nor to the acquisition of holdings by such an undertaking or its subsidiary in an insurance undertaking established and operating in Greece. The Ministry for Commerce also notifies the Committee of the European Union, following a request, about the above applications.

- c) Without prejudice to the obligations resulting from international agreements of the E.U. with third countries which govern the formation activity of insurance undertakings, it remains at the discretion of the Ministry for Commerce to oppose the materialization of holdings in insurance undertakings established and operating in Greece, by natural persons residing outside E.U. and E.E.C. or by legal entities governed by the legislation of a third country.
3. Every natural or legal person intending to cease possession directly or indirectly of a qualifying holding in an insurance undertaking, must notify in advance the Ministry for Commerce and communicate to it the amount of participation that he intends to maintain. Every natural or legal person must also inform the Ministry for Commerce in case it intends to reduce its qualifying holding, so that the proportion of voting rights or capital shares held by him falls below the minimum limits of 20% 33% or 50% or if the insurance undertaking stops being its subsidiary. The obligation for notification also extends also to natural persons which stop controlling legal entities disposing a qualifying holding in an insurance undertaking.
  4. Insurance undertakings notify the Ministry for Commerce, as soon as it comes to their knowledge, of the acquisitions or cessions of holdings in their capital, which increase or reduce the percentages of holding over or below one of the lowest limits mentioned in para. 1 and 3. They also notify, until July 15 of every year, the names of shareholders with qualifying holdings, as well as the amounts and percentages of such holdings, which result particularly from elements gathered during the annual general meeting of the shareholders or from information coming to their knowledge, on the grounds of obligations imposed to companies, the shares of which are quoted in the stock Exchange.
  5. In case a qualifying holding is materialized or the existing qualifying holding is increased beyond the limits provided under para. 1a, either without being notified in advance to the Ministry for Commerce or without approval of its materialization, the exercise of voting rights resulting from such holding, ceases to have effect. Additionally, the Ministry for Commerce may decide to impose to the possessors of qualifying holdings, the following penalties jointly or severally:
    - a) Penalty in favour of the Greek Public up to a percentage of 10% of the value of shares transferred, without following the provisions of para. 1 of this article.
    - b) Debarring of these persons from the Board of Directors of the insurance undertaking as well as from any managerial post within the insurance undertaking for a definite or indefinite time, whenever natural persons are involved.



In case of non-notification to the Ministry for Commerce of the change of identity of the natural person controlling a legal person with a qualifying holding in an insurance undertaking, the exercise of voting rights resulting from the holding of the legal person ceases to have effect ipso jure, while to the natural person the Ministry for Commerce may impose the penalty of above section b. The same penalties may be imposed to persons failing to comply with the obligations provided in para. 1a sixth section of this article.

6. To persons failing to comply with the obligation of notification on the basis of para. 3 of this article, the Ministry for Commerce may impose a penalty in favour of the Greek Public which may amount up to a percentage of 5% of the value of shares transferred without prior notification.
7. The Ministry for Commerce takes the appropriate measures in order to prevent the exercise, by a natural person disposing a qualifying holding or controlling directly or indirectly a legal person disposing a qualifying holding in an insurance undertaking established and operating in Greece, of influence which may jeopardize the sound and prudent management of the insurance undertaking. For the application of these provisions, the Ministry for Commerce communicates to the persons concerned their particular actions or omissions or their parallel activities in other fields, which according to its consideration may jeopardize the sound and prudent management of this insurance undertaking and after listening to their opinions, it indicates to them the appropriate corrective measures to be taken within a certain period. In case of non-compliance, the Ministry for Commerce has the right to take the necessary measures to put an end to the adverse influence which the natural persons exercise in the administration of the insurance undertaking and particularly:
  - a) to order their elimination from the Board of Directors of the insurance undertaking and from any other managerial post in the insurance undertaking,
  - b) to suspend, until the circumstances which imposed the taking of certain measures are eliminated, the exercise of voting rights, resulting from the shares possessed by these persons or the legal entities they control,
  - c) to forbid any new transaction of the insurance undertaking with these persons or with any legal entity controlled by them as well as to declare as matured and immediately due the loans granted to all the aforesaid persons by the insurance undertaking.
8. The decisions of the Ministry for Commerce according to this article are recorded in the Register of Insurance Societies Anonymes. The negative decisions with which penalties are imposed according to this article, are subject to invalidation control before the Council of State.

## **Article 16**

P.D. 252/96  
Ar.19 par.1

1. The Board of Directors of every Greek Insurance undertaking consists by a majority of Greek citizens or citizens of other member - states of the E.U. and of the E.E.A.

The phrase in quotes was added with ar. 35 para. 19 of L. 2496/97.

2. Persons who have been condemned for theft, embezzlement, usury illicit profits, fraud, blackmail, forgery, bribery, bankruptcy contraband, as well as persons declared in a state of bankruptcy or who have served as members of Board of Directors of Insurance Societes Anonymes declared in bankruptcy "or whose license of operation has been withdrawn due to a violation of the law" cannot be elected or appointed as General Managers, Managing Directors, Authorized Directors, Deputies General Managers, and Managers of Insurance Undertakings Members of Board of Directors of Greek Insurance Undertakings as well as Legal Representatives or special Representatives of Greek Insurance Undertakings in states of E.U. and the E.E.C, legal representatives in Greece of insurance undertakings of third countries, as well as representatives in Greece of Lloyds of London Underwriters.

The above conditions also apply to the persons of para.2 of art. 3 and of art. 15a of this decree law, who directly or indirectly dispose a qualifying holding, as well as to the liquidators and trustees of liquidation and bankruptcy of art. 12b of this decree law.

The non-bankruptcy and non-existence of a criminal conviction of a citizen of a member state of the E.U. and the E.E.C, as per the provisions of the previous article, is proven by an extract from the judicial criminal records or otherwise from a similar document of the competent court or administrative authority of the state of origin of the above entities. If in the state of origin, such a document is not issued, a confirmation under oath or official statement before the competent administrative or court authority or before an attorney at law of this state will suffice. The date the above documents are issued must not exceed three months from the date of submission.

### **Article 17**

P.D. 23/05  
Ar. 3

1. a) The initial capital of every Greek insurance societe anonyme or the initial contributions of the members of a Greek mutual insurance cooperative of article 35 (para. 1 and 4) hereof, fully paid during the formation of the company or in the formation of the cooperative, cannot be less, per class of insurance, than the amounts set in article 17b (paras. 2 and 3).
- b) Two thirds (2/3) of the above initial share capital or of the above initial contributions must be paid in cash.

### **Article 17a**

P.D. 23/05  
Ar. 4

1. Every insurance undertaking with head office in Greece is obliged to form and constantly keep a sufficient available solvency margin equivalent to the total of its activities, which corresponds to its assets, free of any obligation capable of being predicted, without including its intangible assets.

2. Whenever for the calculations of the required solvency margin premiums (contributions) are used, any sum of the gross subscribed premiums or contributions (items kb and kg of article 2a), as calculated below, and of the gross earned premiums or contributions (items kd and kg of article 2a) άρθρου 2α) is used, whichever is the larger.

The premiums or contributions of classes 11,12 and 13 of paragraph 1A article 13 are increased by 50%.

3. For activities of insurance against loss or damage, the necessary solvency margin is calculated in relation either to the annual amount of premiums or mutual contributions or to the average charge of insurance indemnifications of the last three financial years or, in case of undertakings which cover basically only one or more of the risks of storm, hail or frost, of the last seven financial years taking as necessary solvency margin the highest of the above two results, without prejudice to article 17b.

i) The elements comprising the available solvency margin are:

- a) The paid-up share capital or in the case of mutual insurance cooperatives, the mutual insurance sum initially paid up.
- b) The reserves (legal and free) that do not correspond to insurance obligations.
- c) The profits or losses carried forward to the next financial year, after deduction of dividends payable.

The available solvency margin is reduced according to the amount of own shares possessed directly by the insurance undertaking.

ii) The available solvency margin can also be constituted by the following:

- a) The cumulative share capital, when the articles of association provide a privilege in favour of privileged shareholders for the return of either the nominal value of shares or the difference between the issue of shares in favour of par, before satisfaction of company creditors, in the liquidation stage, as well as the subordinated loan capital, which can be included only up to a percentage of 50% of the lesser sum between the available solvency margin and the required solvency margin. Also they cannot exceed 25% of the lesser amount between the available solvency margin and the required solvency margin, both the subordinated loan capitals of set duration and the privileged cumulative share capital with set duration. The above can be accepted provided at least the following criteria are met:
  - In the event of bankruptcy or liquidation of an insurance undertaking, there should be binding agreements on the basis of which the subordinated loan capital or the preferential share capital is classified after the claims of all other creditors and paid only after paying up all the other debts pending at the time.

The subordinated loan capital must fulfill the following additional conditions:

- It must have been approved by the Ministry of Development.

To give the approval it needs:

- 1) submission of the loan agreement draft,
- 2) a plan of payment for each loan, the good keeping of which is monitored every year by the Actuaries, who are obliged to file a certification, by the end of May of every year, to the competent supervisory authority, which must contain the names of the creditors with the sum they received for the payment of the loan, the sums they received for interests and the remaining balance of the loan. In case the Actuaries do not file this certification to the competent supervisory authority, the subordinated loan capital is not taken into account as an element of the solvency margin and
- 3) deposit of the loan amounts in a certain account of one bank only, which has been opened by the insurance undertaking only for the purposes of the loan. The deposits for the loan must be made within a certain time period, which is determined and stated in the application of the undertaking and cannot exceed two months. The withdrawal of any sum from this account before the end of the time period set is forbidden. In the end of the period the bank issues a statement with the names of the creditors and the sums of each loan. This statement is submitted to the competent supervisory authority of the Ministry of Development. In case of non-submission of the statement the approval is not granted,
  - it must not originate from subsidiary undertakings or undertakings controlled by the insurance undertaking. In case these loans originate from insurance businesses not related to the issuing insurance undertaking (directly or indirectly), they cannot constitute an investment of technical reserves or an element of the solvency margin for these undertakings. The above loans are analyzed in the annex of the financial statements per creditor.
  - they should only take account of the sums actually paid,
  - the initial duration of the loans, with fixed maturity, must be at least five years. No latter than a year before maturity, the insurance undertaking submits to the Ministry of Development for approval, a plan setting how the available solvency margin will be maintained or increased to the desirable level on expiry, unless the amount up to which the loan can be included in the components of the available solvency margin, is gradually reduced at least in the final five years before maturity. The Ministry of Development may allow the early payment of this sum, provided the relevant application is submitted by the issuing insurance undertaking and the available solvency margin is not lower than the required level,
  - loans of unfixed maturity are paid only with a five-year warning, unless they are not any more considered as a component of the available solvency margin, or if a previous decision of the Minister of Development is required for their early repayment. In this last case, the insurance undertaking notifies the Ministry of Development at least six months before the suggested date of repayment, indicating the available solvency margin of the insurance undertaking before and after that repayment. The Ministry of Development allows the repayment only if the available

margin of the insurance undertaking does not risk being less than the required level.,

- the loan agreement must not include clauses providing that, in certain cases, apart from the liquidation of the insurance undertaking, the debt becomes due before the agreed repayment date,
- the loan agreement may be amended only after the Ministry of Development declares that it does not oppose the amendment.

- b) Subordinated bond loans, when issued through a public subscription, according to article 8a of L. 2190/1920, up to 50% of the lesser sum between the available solvency margin and the required solvency margin for these loans, subordinated loans and accumulative privileged share capital of the previous case. Subsidiaries or undertakings controlled by insurance undertakings cannot acquire bonds at their issue (public subscription). The amount of the bond loans constituting a component of the solvency margin is mentioned in the annex of the financial statements.

The Committee of capital market collaborates with the Ministry for Commerce in case of issue of bond loans which are to constitute a component of solvency margin. Bond loans must also fulfill the following conditions:

- they may not be repaid on the initiative of the bearer without the prior consent of the Ministry for Development,
- the contract of issue of securities must enable the insurance undertaking to postpone the payment of loan interests,
- the claims of the lender against the insurance undertaking must rank after the claims of all other non-subordinated creditors,
- The documents relevant to the issue of the securities must provide the possibility of absorbing losses from the debt and the non-payment of interests while enabling the insurance undertaking to continue its business,
- Only the amounts actually paid are taken into account.

The equalization reserve of art. 7 para.2Ad of this decree law, up to the amount it has not been calculated, is not taken into account for the calculation of the solvency margin.

- iii) Following a reasoned application of the insurance undertaking and after the relevant approval by the Ministry of Development, the available solvency margin may comprise of :

- a) half the unpaid share or initial capital, provided the paid part equals 25% of the share or initial capital, up until 50% of the lesser sum between the available solvency margin and the required solvency margin,
- b) supplementary premiums that may be required from mutual insurance cooperatives that have variable premiums for the particular financial year up to half the difference between maximum premiums that can be requested and those actually requested.

These claims cannot represent a sum greater than 50% of the lesser sum between the available solvency margin and the required solvency margin.

A decision of the Minister of Development determines the conditions according to which supplementary premiums are accepted.

- c) Overvalues resulting due to underestimation of assets, provided they are not due to exceptional circumstances.
4. With regard to activities of life assurance, the necessary solvency margin is determined in relation to classes operated, according to what is provided in para. 9 below. In the calculations of the necessary solvency margin, for activities of life assurance, the term "risk capital" shall be deemed to be the amount payable in case of death minus the mathematical reserve of the total risk insured.

Also whenever mathematical reserves are used for the calculation of the necessary solvency margin, deferred acquisition costs calculated on an actuarial basis according to the provisions of element (ic) of para.5 of art. 8 of this decree law, are taken into account.

The elements forming up the solvency margin are:

- a) The assets of the undertaking free of any foreseeable liabilities less any intangible items, comprising mainly what is provided in para.3 section i of this article.
- b) A percentage of up to 25% of the profits from reserves which are shown in the balance sheet and provided they can be used to cover eventual losses and for which have not been decided to be disposed for distribution to the insureds.
- c) The items provided in para. 3 section ii of this article.
- d) After a justified application of the undertaking concerned and provided the competent Service of the Ministry for Development consents to that end:
  - i) out of the assets of para. 3 item iii) point a) of this article.
  - ii)  $\frac{1}{2}$  of the undertaking's future profits, without however exceeding 25% of the lesser sum between the available solvency margin and the required. The sum of future profits results from the multiplication of the estimated annual profit with a factor representing the average remaining duration of the contracts. This factor cannot be greater than 6.

The estimated annual profit does not exceed the numerical average of profits made by the undertaking in the last five years from the operation of life assurance. The Ministry may allow this sum to be included in the available solvency margin, until 31.12.2009, only if:

- An actuarial study is submitted which analyses the possibility of these profits appearing in the future

and

- The part of future profits resulting from the overvalues mentioned in point iii) below, has not been taken into account.

The bases for finding the factor and the elements included in the profits made will be determined by a decision of the Ministry of Development.

- iii) The overvalues resulting due to underestimation of assets, provided they are not due to exceptional circumstances, and under the condition that, for securities not introduced in the stock market, the undertaking has officially published financial statements certified by an auditor.
5. For the calculation of the overvalue of real property and securities, which may constitute a component of the solvency margin, the current value is considered to be, as to real property, the value as determined in article 8 para. 5 item a) and c) of this law decree, while for securities, the one resulting according to the values mentioned in the annex of the financial statements or in other statements officially submitted to the Ministry of Development.
  6. Under the reservation or the provisions of article 17b, the required solvency margin for the operation of insurance against loss or damage is set as equal to the highest of the following results:

First result (premium basis):

The aggregated sum :

(a) of the premiums or of the mutual insurance contributions, comprising even the consequential rights realized over the last closed financial year from activities of direct insurance and

(b) the amount of reinsurance premium accepted over the last financial year. From this addition is deducted the amount of premiums or mutual, insurance contributions cancelled in the last financial year and the amount of taxes, charges and contributions corresponding to the above premiums reinsurance or contributions.

The amount so obtained is divided into two portions of which one corresponds to an amount not exceeding 50 million euros and the other to the excess of that amount. After this division a percentage of 18% is taken from the first part and 16% from the second, which are added together.

The first result shall be obtained by multiplying the above sum by the ratio of the last three financial years between the amount of claims remaining to be borne by the insurance undertaking after deduction of transfers for reinsurance and the gross amount of claims. This ratio may in no case be less than 50%.

Second result (claims basis):

The aggregated sum:

(a) of the amounts of claims paid for the direct insurances during the last three financial years or of the last seven financial years in case of undertaking exercising basically only one or more of the classes of storm,

hail or frost (without any deduction of claims borne by cessionaires or retrocessionaires,

(b) of the amount of claims paid during the same periods due to acceptance of reinsurances or retrocession and

(c) of the amount of the provisions at the end of the financial year for outstanding claims both for direct insurance and reinsurance acceptances. From this sum shall be deducted:

(a) the amount of claims against third parties collected by subrogation of the undertaking to the insureds' rights during the last three financial years, while in case of undertakings pursuing basically only one or more of the branches of storm, hail or frost of the last seven financial years and

(b) the amount of provisions or reserves established at the beginning of the second financial year preceding the last financial year for which there are accounts for outstanding claims both for direct insurance and reinsurance acceptances. In case where the period of report is equal to seven years, the sum of the provisions of pending claims made in the beginning of the sixth financial year of the period preceding the last closed financial year, will be taken into account.

The above sums for classes 11,12 and 13 of article 13 para. 1A are increased by 50%.

For the class of Assistance, insurance indemnity is the expenditure made for the undertaking for the particular assistance offered.

After the above, the annual average claims charge of the last three financial years is found or that of the seven last financial years, with regard to undertakings basically pursuing only one or more of the classes of credit, storm, hail or frost.

The amount resulting is divided into two parts:

The first part reaches up to the amount corresponding to 35 million euros and the second includes the difference, while a percentage of 26% is taken by the first part and a percentage of 23% is taken by the second, which are added together.

The second shall be obtained by multiplying the above sum by the ratio of the last financial year between the amount of the insurance claims remaining to be borne by the insurance undertaking, after deduction of the reinsurance cessions and of the amount of the gross amount of claims. This ratio may in no case be less than 50%.

7. In case where the required solvency margin of the audited financial year, as calculated in para, 6, is less than the required solvency margin of the previous financial year, then the required solvency margin of the audited financial year must be at least equal to the required solvency margin of the previous year multiplied by the ratio of the sum of provision for pending damages at the expiry of the last financial year and the sum of provision for pending damages at the start of the last financial year. In these calculations, technical reserves are calculated without reinsurance however, the ratio must never exceed number 1.



8. The percentages taken from the sections of the above para. 6 are reduced to 1/3 for the insurances of health (branches 1 and 2 of para. 1 of art. 13 hereof) subjected to administration similar to life assurance, if:
- a) The premiums collected are calculated on the basis of tables of sickness according to the mathematical methods applying in the insurance.
  - b) A mathematical reserve for old age (age progress) is set up.
  - c) The necessary amount for additional premium is collected for the setting up of an amount (margin) of security.
  - d) The insurer cannot give notice of cancellation for the contract, earlier than the date of termination of the third year of insurance, at latest.
  - e) The insurance contract provides the possibility of increase of premiums or reduction of allowances, even for the valid contracts.

9. Without prejudice to the provisions of article 17b, the required solvency margin for the operations of life assurance is set as follows:

- a) For classes and risks I.1, I.2, II and IX the required solvency margin must be equal to the aggregated sum of the following two results:

First result. This is calculated as follows:

A 4% fraction of the mathematical provisions concerning direct insurances (gross of reinsurance cessions) and reinsurance acceptances, is multiplied by the ratio, for the last financial year, of the total of mathematical provisions (net of the reinsurance cessions) in relation to the gross total mathematical provisions gross of the reinsurance cessions. This ratio may in no case be less than 85%.

Second result. This is calculated as follows:

For policies on which the capital at risk is not negative, a 0,3% fraction of such capital underwritten by the undertaking is multiplied by the ratio for the last financial year of the capital at risk retained as the undertaking's liability after deducting reinsurance cessions and retrocessions to the total capital at risk gross of reinsurances. This ratio, cannot in any case be less than 50%.

For temporary insurances on death for a maximum term of three years, the above fraction shall be of 0,1%. For such assurance of a term of more than three but not more than five years the above fraction shall be of 0,15%.

- b) For supplementary insurance (1.3), the necessary solvency margin is equal to the result of the following calculations.
- c) For classes III, VII and VIII, the required solvency margin equals the aggregated sum of:
  - i) a 4% fraction of the mathematical provisions which are calculated according to the conditions of section a of this paragraph first result, provided the undertaking is bearing an investment risk and a 1 % fraction of the provisions which are calculated in the same way , provided the undertaking is not bearing any investment risk and on condition that the term of the contract exceeds 5 years and the allocation to cover the general costs set out in the contract is fixed for a period

- exceeding five years and
- ii) a 0.3% fraction of the capital at risk which is calculated according to the conditions of section (a) of this paragraph, second result, provided the undertaking covers a death risk.
  - iii) 25% of net administrative costs of the last financial year, relating to these operations, provided the undertaking does not bear investment risks and on the condition that the sum destined to cover the administrative costs is not determined for a period greater than five years.
- d) For the classes VI (capitalization) and IV 1 (Permanent health insurance), the solvency margin is equal to 4% of the mathematical provisions which are calculated according to the conditions stated in section a, first result of this paragraph.
  - e) For the class V (tontines) the solvency margin is equal to 1% of their assets.
  - f) For the class IV2 the solvency margin is calculated according to paras. 6 and 7 of this article.
10. A decision of the Minister for Commerce defines the content of the annual report of the solvency margin to be submitted by the insurance undertakings.
11. Whenever in this article mention is made of the phrase "of the lesser sum between the available solvency margin and the required", the "available solvency margin" will be the available solvency margin comprised of elements a,b and c of para. 3 I as well as element c of paragraph iii for insurance against loss or damage, and elements a,b, of para. 4 and item d iii of para. 4 for life assurance."

### **Article 17b**

- P.D. 23/05  
Ar. 5
- 1. Each insurance undertaking with head office in Greece, is obliged to possess a guarantee fund. This guarantee fund constitutes 1/3 of the required solvency margin.
  - 2. a) When it comes to insurance against loss or damage operations, the guarantee capital is formed by the elements set in article 17a para. 3 points I and ii and section c of point iii, and in no case shall this capital be less than the sum corresponding to:
    - 3.000.000 euros for undertakings operating one or more of classes 10 to 15, 4.500.000 euros from 1.1.2006 and 6.000.000 euros from 1.1.2008.
    - 2.000.000 euros for undertakings operating one or more of classes 1 to 9, 16,17 and 18.
  - b) If the activity of the insurance undertaking extends to more classes or insurance risks against loss or damage, only the class or risk for which the highest sum of minimum guarantee capital is required, is taken into account.

- c) For mutual insurance cooperatives of article 35 (paras. 1 and 4), the above minimum guarantee capital amounts are reduced by a quarter.
3. When it comes to life assurance operations, the guarantee capital cannot in any case be less than the some corresponding to 3.000.000 euros, 4.500.000 euros from 1.1.2006 and 6.000.000 euros from 1.1.2008. The guarantee capital, set above, must be comprised of the elements of article 17a para. 4 items a,b,c, and diii.
4. A decision of the Minister of Development determines the revised amounts of minimum guarantee capital which are formed according to the changes of the European Consumer Price Indicator.

Comment:

Article 11 of P.D. 23/2005 «TRANSITORY PROVISIONS», states that:

**(\*) NOTE:**  
[14.2.2005]

L.3419/2005  
Ar. 26  
par. 3

*"Insurance undertakings already operating at the time of publication hereof (\*) are obliged to possess a minimum guarantee capital of a) 3.000.000 euros for classes 10 to 15, b) 2.000.000 euros for classes 1 to 9 and 16 to 18 and c) 3.000.000 euros for life assurance, by 31.12.2005. Minimum guarantee capital of 4.500.000 euros for classes 10 to 15, and for life assurance by 31.12.2007 and 6.000.000 euros for classes 10 to 15 and life assurance by 31.12.2008. In case undertakings already operating require licenses to extend their operations, they must possess a minimum guarantee capital as provided in paragraphs 2 and 3 of "article 17b" as well as in case where the Ministry of Development requires a plan of financial recovery of case a, para.3, article 17c, in the context of precautionary supervision."*

### Article 17c

P.D. 23/05  
Ar. 6

1. The Ministry for Commerce, in order to ascertain the observance by the insurance undertakings of the provisions hereof concerning the solvency margin and the guarantee fund, must carry out a control of their financial situation at least once a year.

For class 18 (Assistance) the control deals also with the qualifications of the staff including the medical, as well as with the quality of the equipment disposed by the undertakings in order to meet the obligations imposed by this class.

The above control is carried out in close collaboration with the competent Services of the relevant Ministries.

To that effect, the Ministry of Development may require any element or carry out on-the-spot investigations at the undertaking's premises.

Every insurance undertaking is obliged to publish and submit to the Ministry of Development, every six months, brief financial statements. Especially during the three first financial years, this obligation is per quarter, in order to review its financial state, in combination to the submitted plan of activities. Until the submission of the data for technical reserves and solvency margin of the first official closed (audited) year, the insurance undertaking is obliged, per quarter, to possess the necessary assets in an insurance investment, according to article 8 hereof. A decision of the Minister of Development determines the content of the brief financial statements.

Insurance undertakings are obliged by January 31<sup>st</sup> of each year to submit the actual production of gross registered premiums (premiums from direct insurance, withdrawals and contract rights) of the previous year per class of insurance.

2. For Greek insurance undertakings already operating, the blocking of the assets disposed or having been disposed in insurance deposit is removed and is transformed, by disposal of those assets in insurance deposit by decision of the Ministry for Commerce, which is issued after application of the insurance undertaking accompanied by documents evidencing that the undertaking has complied with the provisions of articles 7,8,17a and 17b, hereof.
3. In case the Ministry of Development deems that the rights of policy holders are at risk or that the undertaking cannot cover its obligations due to a deterioration of its financial state, it proceeds to the following actions:
  - a) it requires the undertaking to implement a plan of financial recovery, which is submitted within 2 months and includes at least for the following three financial years the following:
    - Provisions regarding administration costs, current general expenses and supplies,
    - Provisions for technical reserves based on the insurance undertaking's previous experience,
    - A plan which depicts clearly the provisions for income and expenses for direct insurance activities and reinsurance acceptances as well as reinsurance concessions,
    - Drafting of financial statements for the anticipated three years, taking as commencement date the last official closed financial year,
    - The likely cash flow,
    - The provisions regarding the financial means destined to cover the technical reserves and the required solvency margin,
    - The policy in the field of reinsurance per class of insurance taking into account the risks involved.
  - b) it requires an increased solvency margin, which is determined based on the relevant facts stated in the plan of financial recovery, so as to ensure that the insurance undertaking can comply, within a short period of time, with the requirements of the solvency margin.

To the undertakings asked to submit a plan of financial recovery the Ministry of Development does not issue relevant certificates in order for them to operate in another member state, through a branch or through free supply of services or to undertake a relevant portfolio. In case where they already operate in another member state with a branch or with the free supply of services, they cease this operation, until completion of the three-year plan. Also, it can restrict or prohibit the free disposition of all or part of the assets of the insurance undertaking according to article 9 para. 2 and 3 hereof and to take any necessary measure to secure the interest of the insureds.

4. If the available solvency margin of an insurance undertaking is less than the amount calculated according to article 17a, the latter is obliged to file for approval with the Ministry of Development a plan of financial restoration.

In exceptional cases, if the Ministry for Commerce is of the opinion that the financial situation of the undertaking will deteriorate further, it may restrict or prohibit the free disposal of the total or part of the undertaking's assets according to art.9 para. 2 and 3 hereof and take any other appropriate measure to safeguard the interests of insured persons.

5. If the available solvency margin is lower than the guarantee fund, which the undertaking must dispose, or the relevant guarantee fund is not formed according to the provisions of art. 17b hereof, the insurance undertaking is obliged to submit to the Ministry for Commerce for approval a plan of short-term finance scheme to complete such deficiency.

Pending such completion the Ministry for Commerce may prohibit the free disposal of all or part of the undertaking's assets according to art. 9 paras 2 and 3 hereof and take any other appropriate measure to safeguard the interests of insured persons.

6. The Minister of Development may revoke the relevant operation license for all classes operated by it, if the insurance undertaking does not comply within the deadline set with the reorganization measures, short-term financing and financial recovery, according to the above paragraphs 3,4 and 5 hereof.

The Ministry of Development immediately notifies the supervisory authorities of all the other member states about the submission of a financial restoration plan, short-term finance plan or financial recovery plan, in application of the above paragraphs 3,4 and 5 as well as for any likely practical effects of these measures.

7. The Ministry of Development proceeds to a re-evaluation and decrease of the value of the elements taken into account for the calculation of the available solvency margin, when there is a change in the value of these elements since the expiry of the last financial year.

It also restricts the decreased based on reinsurance in the calculation of the required solvency margin as set in paras. 6,8 and 9 of article 17a provided,

- The nature and quality of the reinsurance contracts significantly changed since the last financial year and
- In the context of reinsurance contracts, the transfer of risk is inexistent or immaterial.

8. The annual solvency margin report is submitted to the Ministry of Development by June 30 of every year. The review of calculation and formation of the solvency margin, the submission and approval of plans of reorganization or short-term financing and the taking of other measures must be concluded by October 31 of every year. In case where during the closing of the financial statements it seems that the insurance undertaking does not cover the solvency margin or the minimum guarantee capital, then it is obliged by June 30 the latest to

submit a plan of financial restoration or a short-term financing plan, respectively.

In the reorganization and short-term financing plans, no deadlines exceeding 2 months are set.

### **Article 18**

1. At least one fifth of the annual net profits of the undertaking is disposed to establish an ordinary reserve.
2. This obligation is no longer compulsory if the reserve exceeds the fourfold of the share capital.

### **Article 19**

- P.D. 252/96  
Ar. 21
- P.D. 288/02  
Ar. 5 par.5
- "1. A decision of the Minister of Commerce determines:
    - a) The statistical data and other information in combination with article 34 hereof, to be submitted by insurance undertakings operating in Greece to the Ministry of Commerce "by June 30 of every year".
    - b) The concise technical account (result from exploitation) which the Greek insurance undertakings must submit to the Ministry for Commerce along with their financial statements, concerning their activities in every member state of EU and of the EEA under the right of establishment (branch) or under the freedom to provide services.
  2. Insurance undertakings operating in Greece submit to the Ministry for Commerce along with the financial statement the accounts of results from insurance branches in accordance with art. 72 para. 1A hereof.
  3. The Ministry for Commerce, interchanges elements of para. 1 above with the other supervisory authorities of the member states of E.U. and E.E.A. in application of Chapter No 7 " Particular provisions for the free Establishment and freedom to provide Services".

## **CHAPTER THREE**

### **A) Foreign insurance undertakings of third countries**

#### **Article 20**

- P.D. 252/96  
Ar.22 par.1
- "1. Subject to the provisions of para. 4 of art. 3a hereof, a foreign insurance undertaking not having its head office in a member state of the E.U. and of the E.E.A. may take up and pursue insurance business in Greece in the form of a branch office or an agency after the granting of a license by the Minister for Commerce for its establishment and operation. The license is granted by resolution of the Minister for Commerce published

in the Government Gazette (bulletin of Societes Anonymes and limited liability companies).

2. A. For the granting of a license the insurance undertaking must:
- a) At the country on its head office, have the form of a Societe Anonyme and operate legally and for the classes for which, it requires the license to operate insurance business in Greece.
  - b) Appoint a legal representative in Greece. If the legal representative is a legal person, it must have its head office in Greece and appoint a natural person to represent it, residing in Greece and being appropriate in accordance with articles 15 para 1d and 16 para. 2 hereof.
  - c) Greek insurance undertakings are entitled to be established in the country in which the applicant has its head office.
  - d) Have a capital not inferior to the minimum limits of capital fixed in article 17.
  - e) Possess in Greece or in another member-state of the E.U. and the EEA, assets for an amount equal to at least 1/2 of the minimum guarantee fund provided under art. 17b and deposits in Greece at least 'one-fourth (1/4) of this minimum as guarantee, according to art. 8 paras. 1 and 15 hereof.
  - f) Undertake the obligation under a solemn declaration of its representatives:
    - i) to make available a solvency margin for the branch office or agency according to the provisions set forth below in section C.
    - ii) to establish, within two months after the granting of the license at the place of the branch office or of the agency, an administrative and accounting service adequate for its business transacted in Greece
    - iii) to establish and invest technical provisions in respect to its business in Greece according to articles 7, 8 and 13c hereof.
    - iv) to appoint the persons provided in section A item "I" of art 13c and art. 55 hereof.
  - "v) In case it covers risks of damage insurance class 10 "motor vehicle liability", apart from carrier liability, it announces the name and address of the person it appoints in every member states, besides Greece, as a claims representative, who must fulfill the conditions and exercise the duties set in article 13d of this Law."
- B. The following documents must be attached to the application for the granting of the license:
- a) A certified copy of its articles of association as they are in force at the time of application. b) A copy of the power of attorney for the appointment of a legal representative in Greece, legalized by the competent Greek Consular authority, comprising a statement whereby the revocation of the appointment takes effect only after serving a deed legalized as above to the Ministry for Commerce and takes effect only after the publication of the resolution of revocation of the Minister for Commerce in the Government Gazette (Bulletin of Societes Anonymes and limited liability companies)
  - c) A certificate of the supervisory authority of the country of head office of the undertaking issued, not earlier than three months, attesting that the insurance undertaking operates at its head office and is entitled to carry on the classes of insurance which it seeks to exercise in Greece.
  - d) A document evidencing the deposit of the guarantee provided under item e of the previous section A.

P.D.10/2003  
Ar. 9 par.2

- e) List of the names and addresses of its directors and managers.
  - f) A scheme of operations of the branch office or the agency which includes the elements provided for in article 15 para. 2 hereof without prejudice to element e of the above case A.
  - g) The balance sheet and profit and loss account for the last three financial years or for the financial years completed if the applicant has not been in business for three financial years.
- For the granting of a license regarding the operation of a new class or classes submission is required of the above documents with the exception of those already submitted, insofar as they cover the new class as well.
- C. The solvency margin that the said insurance undertakings must possess must be constituted according to the provisions of article 17a and calculated only on the basis of the premiums or the mathematical provisions and the claims pertaining to the business effected by the branch office or the agency concerned. One third of the solvency margin forms the guarantee fund which may not be less than one half of the minimum guarantee fund required under article 17b.
- The assets covering the solvency margin, apart from the guarantee deposited and blocked as provided in para 2 of section Ae hereof, may be invested in other member states of E.U and the E.E.A. as well.
- D. An insurance undertaking in the form of a Societe Anonyme, having its head office outside a member state of the E.U. and the E.E.A. and having applied for or obtained a license for the establishment of an agency or a branch office in one or more member states of the E.U and EEA, for its establishment in Greece in order to pursue insurance against loss or damage or life assurances, may obtain on its application, by resolution of the Ministry for Commerce, the following advantages which are granted cumulatively with the agreement of the supervisory authorities of all member states from which the undertaking has required or obtained a license for establishment and to which the undertaking is also obliged to submit an application for obtaining these advantages:
- a) that its solvency margin be calculated on the basis of the entire business which it undertakes within the E.U. and the E.E.A., being taken account of business effected by all its branch offices or agencies established in the E.U. and the EEA
  - b) that it will be exempted from the obligation of depositing in Greece as well the guarantee provided for in the above section A e.
  - c) that its assets forming the guarantee fund be disposed in anyone of the EU and the EEA member states where the applicant is established, without prejudice to the above section C.
- E. a) The said granted advantages are withdrawn simultaneously by all member - states concerned on the initiative of one or more among them.
- b) The application for the granting of the above advantages which is submitted to the Supervisory Authorities of all member states from which the applicant has asked or obtained a license for the establishment of an agency or branch office, must state the supervisory authority which will be competent to supervise the applicant's state of solvency for its entire business effected in the member states participating in the agreement. The choice of this authority belongs to the applicant and must be supported by reasons. The guarantee referred to above in case 2A section e is deposited



within the member state of the supervisory authority which has been selected.

- c) The said advantages take effect from the time when the selected supervisory authority informs the order supervisory authorities that it will supervise the state of solvency of the entire business of the applicant's agencies or branch offices in EU and EEA member states
- F. In respect of foreign insurance undertakings already established in Greece, and having their head office in a member state outside the E.U. and the E.E.A. they are subjected to the provisions of articles 14, 15 para 1,15a 35 up to 38 and of chapter 7 "Particular provisions for the Freedom of Establishment and the freedom to provide services" hereof.
- P.D. 23/05  
Ar. 12 par.3
- G. For the application of the provisions of art. 9, 17 c (para. 3,4,5, and 6) and 24a para. 1 of section E above the competent authority to verify the state of solvency is assimilated to the supervisory authority of the state in which the head office of the insurance undertaking is situated.
- H. Should the above Supervisory Authority withdraw the license, the Ministry for Commerce takes all necessary measures for the protection of the insureds in Greece. If the withdrawal is based on the inadequacy of the overall state of solvency, as specified in the agreement, referred to in section D above, its license in Greece is also withdrawn.
3. a) For the establishment and operation in Greece of branch offices or agencies of insurance undertakings having their head office in the Swiss Federation, for the pursuance of insurances against loss or damage of art. 13 paras. 1 and 3 hereof, the Agreement (along with the annexes and protocols and the attached exchanged letters) between the European Union and the Swiss Federation, on the basis of the Decision of the council 91/370/EEC (L 205/27.7.91), in relation to direct insurance except life assurance, is being applied. Dispositions of paras 1 and 2 (section A items b and f (except item j) and section B item a,b,c,e,f,g,) of this article and of articles 1 to 13b inclusive, 15 (par. 2,3 and 5), 16, 19, 22, 23, 29, 30, 33, 34, up to 50, 51, 52a, 53, 53a, 54, 55, 57, 58, and 59 of this law-decree apply accordingly.
- b) The branch offices of item a above already operating in Greece may apply for the blocked guarantee to be returned to them and also to be dispensed from the obligation of constituting the solvency margin provided::
- They submit to the Ministry for Commerce a solvency certificate from the supervisory authority of the head office evidencing that the head office possesses the necessary solvency margin, taking also into account the business of the branch office.
  - they have established and invested their technical provisions according to articles 7 and 8 hereof.
- c) In respect of branch offices of case b above, article 17c para. 2 hereof equally applies."

### **Article 20a**

- P.D. 332/02  
Ar. 12
1. For the application of the provisions regarding the taking of reorganization measures and the liquidation proceedings concerning a branch of an insurance undertaking of a non-member state, the member

state of origin is considered Greece, whose supervisory authority granted to the branch its license of operation, and as competent authorities, the ones stated in article 2a section 1b hereof.

2. When the foreign insurance undertaking has a branch established in other member states, every branch is considered individually for the needs of the reorganization measures and liquidation proceedings.

## **Article 21**

P.D.252/96  
Ar.22 par.2

- "1. Without prejudice to art. 20 para. 2 Section D and E hereof, the insurance undertakings of para. 1 and 2 of article 20 hereof pursuing life assurance, form half of their guarantee fund and the overall of the minimum guarantee fund, according to art. 17 a para. 4 item a and b.
2. Any blocked guarantee of the above insurance undertakings, in accordance with art. 20 para. 2Ae is released by decision of the Minister for Commerce published in the Government Gazette ".

## **Article 22**

1. The legal representative who must reside in Greece, represents the undertaking in Court and in the relations of the undertaking with the Greek Government.

The undertaking cannot appoint two legal representatives either with competence upon a certain place of the territory or for pursuing a certain class of insurance.

2. The representative signs all policies referring to insurances stated in article 4. The Ministry for Commerce on the representative's written application, may grant permission so that more persons, having their residence in Greece sign the policies, provided that a copy of the power of attorney legalized by a notary public is submitted for the granting of license.
3. The representative assumes the responsibility of the Members of the Board of Directors and of the representative of the Greek Insurance Undertakings.
4. In the lack or absence of a representative, all notifications are lodged with the Secretary of the Court of First Instance of his head office.
5. In case of dismissal of the representative by the Undertaking, such dismissal is valid from the date of serving to the Ministry for Commerce of a written declaration to that respect.
6. The Undertaking must fill the post of the legal representative within two months from the vacancy otherwise the Ministerial decision for the granting of the establishment license is withdrawn.

### **Article 23**

- P.D.252/96  
Ar.22
- "1. The Foreign Insurance Undertakings of art. 20 hereof operating in Greece must:
    - a) Keep in Greece Commercial books in Greek language about their business in Greece.
    - b) Set up, publish and submit to the Ministry for Commerce financial statements in Greek language, according to chapter 11 "annual and consolidated accounts (financial statements) of insurance undertakings, to the P.D. 148 /84 (A' 47) as applying and to the art. 19 para 2 herof.
  2. The above insurance undertakings are subjected to the jurisdiction of Greek Courts and to the accounting control provided under art. 36 of Law 2190/20 regarding " Societes Anonymes" and art 3 of P.D. 226/92 (A'120) as applying.
  3. In every document, printed or typed, the Company's name must be followed by the words "Foreign Insurance Undertaking" written in fully in Greek adding the company title, the head office and the nationality of the undertaking and its paid up share capital".

## **B) Foreign Insurance Brokers**

### **Article 24**

- P.D.252/96  
Ar.23 par.1
- "1. A London Lloyd's broker may operate in Greece through a representative, natural or legal person provided the following documents are submitted to the Ministry for Commerce:
    - a) A copy of the power of attorney for appointment of a representative in Greece, legalized by the Greek Consular Authority.
    - b) A certificate of the Lloyd's Committee legalized by the Greek Consul in London attesting that the applicant is a recognized insurance broker of Lloyd's and that in this capacity is entitled to enter the underwriting room at Lloyd's. This certificate attesting that the broker operates legally in his head office must be issued three months earlier.
    - c) The address of the representative in Greece.  
Within a month from the submission of the above documents the broker's representative has the right to operate his activities in Greece.
  2. The representatives of London Lloyd's Brokers may place directly insurance business in insurance undertakings operating legally in Greece, on condition they are registered in the competent Chamber provided under art. 15a of L. 1569/85 as applying.
  3. In respect of representatives of London Lloyd's Brokers already operating in Greece their registration in the Chamber is subject to the provisions of para. 3 items b, c, d and para. 9 of art. 15a of law 1569/85 as applying. In case of legal persons, the above provisions must be fulfilled by the partners of companies with equal liabilities, the administrator of Limited Companies or the Managing Director of the Societes Anonymes.

4. Brokers having their head office in another member state of the EU or the EEA may place insurance business with insurance undertakings operating legally in Greece either under the right of establishment or by freedom to provide services."

### **C) Cooperation of the Ministry of Commerce with the Supervisory Authorities of the Other Member States of the E.U. and the E.E.A.**

#### **Article 24a**

- |                            |  |
|----------------------------|--|
| P.D.252/96<br>Ar.23 par.2  | "1. The Ministry for Commerce exchanges with the competent supervisory authorities of the other E.U and EEA member states every document and every information useful for the exercise of the supervision of the insurance undertakings operating both in Greece and in any other EU and EEA member state. In particular it collaborates closely with the said authorities for the purpose of implementing the measures prescribed by art. 3 (para. 2) 3a ( para. 6) 5,6,7,8,9,15, (para. 1d and 6) 15a, 16, "17c (para. 3,4,5,and 6)", 19,20 (para. 2, section D, E, G,H), 53 a and 59 hereof.  |
| P.D. 23/05<br>Ar. 12 par.4 | 2. The Ministry for Commerce may prohibit the free disposal of assets situated in Greece which belong to an insurance undertaking having its head office in another member -state, upon request submitted to the supervisory authority of that state, for breaking the provisions concerning the establishment and investment of the technical provisions and the establishment of the solvency margin. The request must determine the particulars for which the prohibition measures shall be taken.  |
| P.D. 23/05<br>Ar. 12 par.4 | 3. In cases of withdrawal of the license of a Greek insurance undertaking the Ministry for Commerce informs accordingly the supervisory authorities of the other member states in which such undertaking is operating, and which are obliged to prevent that undertaking from continuing to conclude new insurance contracts within their territory either under the right of establishment or the right of freedom of services . The Ministry for Commerce, assisted by the above supervisory authorities, takes appropriate measures to safeguard the insureds' interest and particularly it restricts the free disposal of the undertaking's assets in application of articles "17c (paras 4,5 and 6)" and 9 hereof. The Ministry for Commerce informs the supervisory authorities of the member states in which the undertaking is operating about the measures taken so that in turn these members take upon its request, the necessary measures. |
|                            | 4. Should the Ministry for Commerce, in the capacity of supervisory authority under para. 2 section D,E, of art. 20 hereof withdraw the license to operate in Greece of an insurance undertaking not having its head office in a member state of the E.U. and EEA it notifies accordingly the supervisory authorities of the other member states in whose territory such undertaking has obtained an license of establishment and operation so that they take the appropriate measures involved.   |

5. The Ministry for Commerce cooperates with the supervisory Authorities of the other member states for the application of measures provided for in chapter 7 hereof "Particular provisions for free establishment and freedom to provide Services".
6. Resolutions of the Minister for Commerce published in the Government Gazette (Bulletin of Societes Anonymes and limited liability) shall specify every necessary detail for the enforcement of the provisions of this article in accordance with the cooperation protocol of the supervisory authorities of the member states ".

## **CHAPTER FOUR**

### **With regard to Agents, Insurance Brokers and Surveyors**

Article 25 was abolished since 25.10.1987, two years after publication of L. 1569/1985 (art. 21 par. 2 L. 1569/1985).

Article 26 was abolished by article 21 par. 2 L. 1569/1985.

Article 27 was abolished by art. 21 par 2 L. 1569/1985.

Article 28 was abolished by article 21 par. 2 N. 1569/1985.

Article 28a that had been added with art. 22 of P.D. 118/85 was abolished with art. 24 par. 1 of P.D. 252/96.

### **Article 29**

1. The Surveyors appointed by the Insurance Undertakings to estimate the cost of a loss incurred and determine the amount of the indemnity, are obliged to communicate to the insured who suffered the damage , copy of their survey report.

The Insurance Undertaking must within fifteen (15) days from the submission of the survey report acknowledge to the beneficiary whether or not it accepts it, except if a friendly settlement (compromise) has been reached in the meantime.

2. In case of acceptance by the Insurance Undertaking and by the beneficiary of the indemnity indicated by the survey report, the Insurance Undertaking is obliged to pay without delay the said indemnity to the beneficiary otherwise its operation license is temporarily or definitely withdrawn.
3. The above surveyors, while carrying out their duties, are liable and may be prosecuted under the provisions of article 46 of this Decree Law.

## CHAPTER FIVE

### With regard to tariffs, premiums, fees and commissions

#### Article 30

- P.D. 252/96  
Ar.24 par.2
- "1. The setting up of tariffs applied by the insurance undertakings operating in Greece either under the state of establishment or the state of freedom of services, is free and is carried out in accordance with the technological needs of every undertaking.
  2. The Ministry for Commerce may impose controls upon the increase of tariffs against loss or damage only in case of need of general control of prices of products and services of all financial activities.
  3. Particularly in case of life assurance, the premiums for the new insurance activities must be adequate, based on logic actuarial conditions, so that the undertaking is in the position to fulfill all its obligations and especially the obligation of forming sufficient technical reserves. For this purpose, all aspects of the financial position of the insurance undertaking may be taken into account without, however any systematic and permanent addition of income irrelevant to the said premium and to the acquired revenue, fact which could finally disturb the solvency of the undertaking".

#### Articles 31 "Pricing of premiums for Public insurances" and 32 "Contract Fees"

Abolished with article 24 par. 3 of P.D. 252/96.

#### Article 33

1. Is omitted as not in force. (Abolished with para. 3 of article 33 of L.2496/97).
2. All legal entities or physical persons, effecting the collection of premiums for the account of an insurance undertaking are obliged:
  - (a) to observe the provisions of para 1 of this article.
  - (b) to inform the insurance undertaking in time about the delay in the payment of installment by the insureds and
  - (c) to deposit in cash to the undertaking or to any bank account in the name of the undertaking the premiums collected not later than at the end of each week.

## **Article 34**

With a view to calculate the cost of insurance, the Undertakings operating in Greece shall as from the beginning of the financial exercise of the next year from the publication of this Decree Law, keep statistics per class and submit them to the Actuarial Dept, of the Ministry for Commerce and to the Associations of the Insurance Companies involved as particularly provided in the decision of the Minister for Commerce.

## **CHAPTER SIX**

### **A) Mutual Insurance Cooperatives – Mutual Insurance Funds**

## **Article 35**

- P.D. 118/85  
Ar. 23
1. The exercise of mutual insurance for the cover of risks of loss or damage is allowed, by license of the Minister for Commerce, only to mutual insurance cooperatives whose exclusive object is the mutual insurance of their members. At least fifty persons are required to establish such cooperatives.
  2. A time -limit of six (6) months is allowed to mutual insurance funds of cooperatives operating on the effective date hereof to be converted into mutual insurance cooperatives, in accordance with the provisions hereof, failing which their license will be withdrawn.
  3. The provisions of article 35 to 37 hereof shall apply to mutual insurance cooperatives, provided they fulfill cumulatively the following conditions under a-c:
    - (a) Their articles of association provide for the possibility of calling up additional contributions or reducing the foreseen benefits.
    - (b) Their business does not cover civil liability risks, unless the latter constitute ancillary cover within the meaning and under the conditions of article 3 para. 1 hereof, of credit and suretyship risks.
    - (c) The amount of the annual contribution must not exceed the sum of 5.000.000 euros."
- P.D. 23/05  
Ar. 7

Also, only the provisions of article 35 to 37 incl. are applied to mutual insurance cooperatives which have made an agreement with another cooperative of this nature which provides either for the full reinsurance of all the insurance policies issued by them or under which the concessionary undertaking is subrogated to the liabilities arising under such insurance in the place of the ceding cooperative regardless of the fact that the ceding cooperative fulfils all the above conditions a-c The reinsuring or the ceding mutual insurance cooperative is at all events subject to the provisions of the following paragraph.

4. To mutual insurance cooperatives not falling within the provisions of the preceding paragraph shall also apply mutatis mutandis, further to the

provisions of articles 35 to 37, the other provisions hereof, in particular the provisions relating to solvency margin, guarantee fund, technical reserves and scheme of operations. These cooperatives are dispensed from the obligation under article 36 para. 1 to deposit guarantee.

*Comment:*

(Also see in relation to this article M.D. K3-7783/2000 (B' 1079/31.8.2000), with regard to setting the procedure for calculation and payment of the contribution in favour of the Auxiliary Fund by insurance cooperatives operating in Greece and update of the YSAE).

### **Article 36**

1. For the granting of license the cooperatives shall submit to the Ministry for Commerce an application accompanied by the following documents:
  - (a) Certified copy of the Articles of association, approved according to the provisions of Law 602/1915 "as regards Cooperatives" along with a list of their active members. The Articles of association shall include in detail provisions on the risks insured, the contributions payable, the way of coverage of risks and of the settlement of indemnities, the keeping of the technical reserves provided under the present Decree Law and in general the way of organization and operation of mutual insurance of members.
  - (b) Written declaration of the Cooperative on the establishment of a Mutual Insurance Fund, stating that it undertakes the full cover of the insurance risk from the rest of its assets in case of non cover of the risk by the income of the Fund and.
  - (c) Proof of deposit of a guarantee to an approved Bank operating in Greece of an amount of Drs. 3.000.000 by the Mutual Insurance Cooperative, which is placed according to the provisions of art 8 para. 15 second case of the present Decree Law.
  
2. The license is granted by decision of the Minister for Commerce, published in the Government Gazette (Bulletin of Societes Anonymes and Limited Liability Companies). The lawful operation of the Mutual Insurance Cooperative and of the Mutual Insurance Fund begins as of the publication of this license.
  
3. The provisions of art. 111 para. 4 of Decree Law 4233/62 "as regards obedience to the traffic code "is valid also for the Mutual Insurance Funds of the Cooperatives of Private Buses (KTEL).

P.D. 252/96  
Ar.24 par.4

### **Article 37**

1. Mutual Insurance Cooperatives and the Mutual Insurance Funds are subjected to the supervision of the Ministry for Commerce, carried out according to the present Decree Law.



- P.D. 252/96  
Ar.24 par.5
- "2. Without prejudice to articles 19 and 62 up to 78 hereof, as regards Mutual Insurance Cooperatives of art. 35. para. 4 within two months from termination of each financial period:
- (a) they submit to the Ministry for the Commerce copy of their Balance Sheet, along with a list of active members and a statement of the collected contributions as well as of the paid and outstanding indemnities for the previous year and
  - (b) publish in the Bulletin of Societes Anonymes and Limited Liability Companies of the Government Gazette, the above Balance Sheet and submit a copy to the Ministry for Commerce."
3. All details necessary for the application of the provisions of article 36 and 37 of this present decree may be determined by Parliamentary Decree issued upon proposal of the Ministry for Commerce.

### **Article 38**

Mutual Insurance Funds of Cooperatives of owners of buses (KTEL) already operating obliged within one year from the publication of this Decree to comply completely with the above stipulations, otherwise their operation license is withdrawn.

## **B) With Regard to the Operation of the Capitalization Class**

### **Article 39**

1. Capital redemption operations under the meaning of this present is deemed to be the securing of a certain capital payable within a certain time against certain payments, single or periodical.
2. The concluding of Life and Capitalization insurances is not allowed under the same policy.
3. The amount secured by capitalization may be paid before the expiry of the policy in combination with lotteries.

*Comment:*

Paras. 2 and 3 of this article were abolished with para. 6 article 24 of P.D. 252/1996 (GG A 186) and paras. 4 and 5 were numbered 2 and 3 respectively.

[Article 40 of L.D. 400/70 was abolished with art. 24 par. 7 of P.D. 252/96 and articles 41 and 42 were numbered as 40 and 41.]

### **Article 40**

1. The policies of capitalization are nominal, their transfer being allowed by notice given to the undertaking and approved by the issue of an endorsement. The duration of the policies cannot exceed the 25 years.

2. The capital secured by capitalization may not exceed the amount of Drs. 50.000. A decision of the Minister for Commerce may increase or decrease the above amount.
3. The number of lotteries to be drawn annually should not exceed 12.
- P.D. 252/96  
Ar.24 par.8 "4. The compound interest rate for the calculation of the mathematical reserves may not be higher than what is determined in para. 6 of art. 15 hereof, while the percentage of the policies drawn by lots annually should not exceed 12‰."
5. The granting of loans to insureds of the capitalization class is permitted only for the sake of continuation of the validity of the relevant contracts.

### **Article 41**

1. Any publication of the insurance undertakings in press, bill posting etc, regarding the carrying out of lotteries, is permitted only after previous approval of the publication by the Minister for Commerce who is obliged to decide within 10 days from the submission of the relevant application.
2. Any lottery draw should be announced to the Ministry of Commerce fifteen days before the date of the Ministry of Commerce at least fifteen days before the date of the draw. The lots are drawn in front of a Committee consisting of one member of the State Audit Court appointed by this latter for one year of a high rank officer of the competent department or of the Actuarial Service of the Ministry for Commerce and of one of the Managers or Directors of the undertaking concerned. A decision of the Minister for Commerce determines the remuneration of the members of the Committee to be paid at each lottery to be paid by the Undertaking concerned.

### **Article 42**

- P.D. 252/96  
Ar. 24 "Insurance undertakings having their head office in a member state of the E.U and the EEA and pursuing in Greece the class of capitalization under the state of establishment or freedom of services, are obliged to comply with articles 39 and 41 hereof. The policies of capitalization are nominal, their transfer being allowed by notice given to the undertaking and approved by the issue of an endorsement ".

## CHAPTER SEVEN

### Particular provisions for the Right of Establishment and the Freedom to Supply Services

P.D. 252/96 Ar. 25 par.1      Within the meaning of this chapter the word "state" and the words "member state" shall mean a member state of the European Union and the E.E.A.

#### Article 42a

P.D. 252/96 Ar. 25 par.2 (adds new articles 42a – 42g)

- "A 1) An insurance undertaking having its head office in a member state may establish a branch office in Greece provided the supervisory authority of origin communicates to the Ministry for Commerce the following documents in Greek or English language except for the solvency certificate which is submitted in the language of the country of origin.
- (a) scheme of operations setting out the types of business envisaged and the structural organization of the branch office as well as the particulars provided in the protocol of cooperation of the supervisory authorities of the member states reserving para. 6 of art. 52a hereof.
  - (b) The address in the member state of the branch office from which documents may be obtained and to which they may be delivered, it being understood that that address shall be the one to which all communications to the legal representative are sent.
  - (c) A power of attorney appointing the legal representative, who must possess sufficient powers to bind the undertaking in relation to third parties and to represent it in relation with the authorities and courts of the member state of the branch office. If the legal representative is a legal person, he must appoint a natural person to represent him. With regard to the Association of Lloyd's underwriters, in case of any litigation in the member state of the branch office, arising out of underwritten commitments, the difficulties arising for the insureds must not be bigger than those which could eventually arise should such litigation have to do with insurance undertakings of a conventional type. The legal representative must therefore possess sufficient powers for proceedings to be taken against him and must in that capacity be able to bind the Lloyd's Underwriters concerned.  
The provisions of para. 1 to 4 of art. 22 hereof are applied accordingly.
  - (d) The insurance undertaking is also obliged to produce a declaration that it has become member of the Auxiliary Fund and the Bureau of International Insurance in case class 10 "Liability of motor vehicles" except carrier's liability, is to be operated.
  - (e) Declaration of the mode chosen to operate class 17 "Legal expenses" according to article 13b para. 5 of this decree law, in case class 17 is to be operated.
  - (f) Solvency certificate of the supervisory authority of the head office according to form I provided by the protocol of cooperation of the supervisory authorities of the member states.

- 2) The Minister for Commerce must within two months of receiving the information referred to in the previous paragraph inform the supervisory

authority of the home member state and if appropriate of the conditions under which, in the interest of the general good, the branch office must carry out its activities in Greece.

The branch office begins its activities after having received the communication of the Ministry for Commerce and in any case on expiry of the two-month deadline.

- 3) Any change in any of the particulars communicated under items a, b, c, of the above case A1 must be notified in writing to the Ministry for Commerce at least one month before making the change so that the Ministry for Commerce acts according to what is provided in the previous paragraph.
- B. 1) A Greek Insurance Undertaking may establish a branch office in a member state, provided it submits to the Ministry for Commerce an application by which it declares the member state in which it intends to provide the branch office accompanied by the following documents:
- a) Scheme of operations setting out, inter alia the type of business envisaged and the structural organization of the branch office. A resolution of the Minister for Commerce determines the additional elements to be comprised in the scheme of operations.
  - b) The address from which documents are requested and delivered to, at the member state of the branch, and this address shall be the same with the address where the announcements destined for the legal representative are addressed to.
  - c) A power of attorney appointing the legal representative, who must possess sufficient powers to bind the undertaking in relation to third parties and to represent it in relation with the authorities and the courts of the member state of the branch office. If the legal representative is a legal person he must appoint a natural person to represent him.
  - d) Also a declaration must be produced that the insurance undertaking has registered with the Auxiliary Fund and the Bureau of International Insurance in the state of the branch, when it intends to exercise there class 10 "Motor vehicle liability insurance", apart from carrier liability.
  - e) Declaration for the mode chosen to operate class 17 "Legal expenses" according to art. 13b para. 7 of this decree law in case class 17 will be operated.
- 2) After having checked the scheme of operations and provided the administrative structure and the financial situation of the insurance undertaking as well as the honesty and the professional qualifications or experience of the Directors and of the legal representative are adequate, the Ministry for Commerce, communicates to the supervisory authority of the country of the branch office within three months from their submission, the documents provided in the previous section along with the solvency certificate set up in accordance with para. 17 of above case A in Greek language, notifying accordingly the applicant insurance undertaking.
  - 3) In the event of any change in any of the particulars communicated under items a,b, c, of para 2 of above case B a written notice shall be given to the Ministry for Commerce at least one month before making the change, so that the procedure of the previous paragraph will be applied accordingly.

- 4) Any Greek insurance undertaking pursuing insurances against loss of damage, intending to operate in another member state the class 2 "Sickness", which substitutes partly or wholly the statutory social security system in the member state, must submit to the Ministry for Commerce before use the technical basis of the tariffs and the general and special conditions of insurance according to what is provided for in the above section B of this article as well as in the provisions of articles 47 and 54 of Directive 92/49/EEC. (L228/11.08.92)."

P.D. 23/05  
Ar. 9

- «5) Branches established in Greece of insurance undertakings with head office in another member state of the E.U., which have began their activities according to the provisions of this Law decree, before July 1 1994, are considered to have constituted part of the procedure provided for in paragraph A of this article.

These branches are governed by the provisions of articles 42c, 42d, 42e, 42f and 42g."

### **Article 42b**

P.D. 252/96  
Ar.25 par.2

"As freedom to provide services is deemed to be the cover granted by an insurance undertaking in the meaning of art. 2a item a, case 2 hereof for a risk or an insurance commitment situated in another state. The latter shall be the member state of provisions of services for the purposes of this chapter.

- A. 1) The operation in Greece of insurances under the freedom to provide services by an insurance undertaking in the meaning of art. 2a items a case 2 hereof, is subject to the communication to the Ministry for Commerce by the supervisory authority of the home member state of the insurance undertaking concerned of the following documents in Greek or English language except for the solvency certificate which is submitted in the language of the country of origin without prejudice to article 52a para. 6 hereof:
- a) Notification of the title and the address of the head office of the insurance undertaking concerned.
  - b) Solvency certificate drafted in accordance with Form I of the protocol of cooperation of the supervisory authorities of the member states.
  - c) Notification of the nature of the risks or of the insurance commitments which the insurance undertaking proposes to cover in Greece.
  - d) In case of operation of the class 10 "Motor vehicle liability " other than carrier's liability, a power of attorney for the appointment of a special representative, natural or legal person residing or having its head office in Greece, who shall collect all necessary information in relation to claims from insurance policies covering the risk of civil liability, shall possess sufficient powers to represent the undertaking in relation to persons suffering loss or damage who could pursue claims, including the payment of such claims, and to represent it or, where necessary, to have it represented before the courts and authorities in relation to these claims.

The special representative represents the undertaking before the Greek state with regard to checking the existence and validity of motor vehicle liability insurance policies issued under freedom to provide services.

The special representative is not entitled to undertake activities on behalf of the undertaking which has authorized him others than those set out in the previous section, and particularly he is not allowed to take out the business of direct insurance on behalf of the said undertaking.

The appointment of the special representative shall not constitute an appointment of legal representative as provided under art. 22 hereof, nor is deemed to be an establishment of a branch office or agency as provided under art. 2a item c hereof.

A declaration must also be produced as regards the subscription Of the Insurance Undertaking in the Auxiliary Fund and the Bureau of international insurance in Greece.

P.D.10/2003  
Ar.10 par. 1

"In case the insurance undertaking has not appointed a special representative as above, then the claims representative set by the undertaking for the insureds who reside permanently in Greece and have suffered damages by a vehicle insured with this undertaking and by an accident occurred in another member state or a non-member state, whose Bureau of International Insurance has conceded to the green card system, exercises the duties and has the obligations of the special representative as above."

- f) A declaration for the mode chosen to operate the class 17 "Legal expenses" in accordance with article 13b para 5 of this decree law if it is the intention of the undertaking to operate class 17.
- 2) The Ministry for Commerce, communicates to the supervisory authority of the home member state of the insurance undertaking concerned the registration of the said insurance undertaking in the special Register of Freedom to provide Services kept by the Ministry for Commerce. In addition and if appropriate, the Ministry for Commerce may notify in writing the supervisory authority of the home member state the conditions under which, in the interest of general good the insurance undertaking must carry out its activities in Greece and to ask the necessary information as regards the particular systems of sales which the undertaking intends to apply in Greece.
- 3) The insurance undertaking has the right to start its activities in Greece under freedom to provide services upon communication, by the supervisory authority of the home member state, of the communication to the Ministry for Commerce of the necessary documents provided under para. 1 of case A hereof and under the reserve of art. 42h hereof.
- 4) In the event of any change of the particulars of the above para. 1 a written notice is communicated to the Ministry for Commerce, keeping accordingly the procedure of the above paras 1, 2 and 3.
- B. 1) A Greek insurance undertaking in the meaning of article 2a, item a hereof may carry on business under the freedom to provide services in

another member state provided it submits to the Ministry for Commerce an application by which it declares the member state or member states within the territories of which it intends to carry on business under the freedom to provide services, accompanied by the following documents:

- a) Acknowledgement of the nature of the risks or of the insurance commitments which the insurance undertaking proposes to cover in the member state of services.
- b) In case of operation of class 10 "Motor vehicle liability" other than carrier's liability, a power of attorney for the appointment of a special representative, physical or legal person residing or having its head office in the member state in which the undertaking intends to operate its activities, who shall collect all necessary information in relation to claims from insurance policies covering the risk of civil liability, shall possess sufficient powers to represent the undertaking in relation to persons suffering loss or damage who could pursue claims including the payment of such claims, and to represent it or, where necessary, to have it represented before the courts and authorities in relation to these claims.

The special representative represents the undertaking before the said state with regard to checking the existence and validity of motor vehicle liability insurance policies issued under freedom to provide services.

The special representative is not entitled to undertake activities on behalf of the undertaking which has authorized this former others than those set out in the previous two sections. Particularly he is not allowed to take out business of direct insurance.

As to the appointment of the special representative case A1, item d, section 4 of this article shall apply.

A declaration must also be produced as regards the subscription of the insurance undertaking in the Auxiliary Fund and the Bureau of International Insurance of the member state of services.

P.D.10/2003  
Ar. 10 par.2

"In case where the insurance undertaking has not appointed a special representative as above, then the claims representative as provided in article 13d of this Law, exercises the duties and has the obligations of the special representative as above."

- c) In case of operation of class 17 "Legal expenses", a statement regarding the manner of selection of the operation of the class according to article 13b par. 5 of this law decree.
- 2) The Ministry of Commerce, following control and provided the financial state of the insurance undertaking is sufficient for all of its activities and healthy management conditions are secured, announces and sends within a month from submissions the documentation of the previous paragraph along with the solvency certificate drafted into Greek according to para. 1 item b of the above case A, to the supervisory authorities of the state or states of services.

The Ministry of Commerce also notifies the applicant insurance undertaking in relation to the procedure of cooperation with the

supervisory authority of the state of services.

Failure to communicate the documents to the supervisory authorities of the member state of services the Ministry for Commerce notifies in writing the applicant insurance undertaking about the reasons for its refusal.

- 3) The procedure of the above paras. 1 and 2. is applied also to every change of the documents of para. 1.
- 4) Any insurance undertaking pursuing insurances against loss or damage, intending to operate in another member state class 2 "Sickness" which substitutes partly or in whole the statutory social security system in the member state, must submit to the Ministry for Commerce before use the technical basis of the tariffs as well as the general and special conditions of insurance, taking into account the provisions of the above section B and of provisions of articles 47 and 54 of directive 92/49/EEC. (L 228/11.8.92) ".

### **Article 42c**

1. Without prejudice to the provisions of para. 6 of article 52a herof, the Ministry for Commerce with a view to control whether the national provisions on insurance contracts and of the general good are kept, may request from the insurance undertakings having their head office in a member state and pursue in Greece insurances through branch offices or under the right to provide services the non systematic notification of the general and special conditions and of the documents they intend to apply for their insureds, under reserve of para. 6 of art. 4 hereof.
2. The Ministry for Commerce requests from the insurance undertakings to supply all particulars necessary for the application of this decree-law, in Greek language.

### **Article 42d**

- "1. An insurance undertaking established in another member state, operating in Greece under freedom to provide services or branch office, is obliged to submit to the Ministry for Commerce, in accordance with para. 2 of art. 4 2c hereof, any document required for the purposes of this article in so far as undertakings having their head office in Greece are also obliged to do so. In case the insurance undertaking refuses to submit the required documents, the Ministry for Commerce applies the provisions of the following paras 2-9.
2. In case the above insurance undertaking is not complying with the provisions applicable the Ministry for Commerce invites the undertaking to reinstate order as per the applying legislation and the insurance principles and informs in writing its head office and the supervisory authorities of the home member state.
3. Failure of the undertaking to respond to such invitation, the Ministry for



Commerce informs the supervisory authority of the home member state and requests from this authority by registered letter to take all appropriate measures so that the undertaking complies with the above. The Ministry for Commerce also requests to be informed about such measures

4. If despite the measures taken by the supervisory authorities of the home member state of the undertaking or because those measures prove inadequate or are lacking in that state, the undertaking persists in infringing the legal provisions in force in Greece, the Ministry for Commerce, after informing the above supervisory authorities, may take appropriate measures to prevent further infringements and safeguard the interests of the insureds, including in so far as is strictly necessary preventing the undertaking from continuing to conclude new insurance contracts through a branch office or by freedom to provide services.
5. The Ministry for Commerce has the right to apply every possible measure and particularly to refer to the supervisory authorities and /or to the diplomatic authorities of the state or states in which the undertaking is established.
6. If the undertaking which has committed an infringement has an establishment or possesses property in Greece, the Ministry for Commerce may impose to the establishment the administrative penalties prescribed provided for that infringement, including also the restriction of the free disposal of the property of the undertaking in Greece.
7. Any measure adopted in accordance with the previous paragraphs involving penalties or restrictions in the rendering of services must be properly reasoned and communicated to the undertaking concerned and to the supervisory authority of the home member state of the undertaking.
8. Upon request of the supervisory authority of the home member state, the Ministry for Commerce, facilitates, according to the provisions of this decree law, the restriction of the free disposal of the property of the undertaking in Greece.
9. The previous provisions do not prejudice the application per case of the legal provisions including the penal penalties provided by the insurance legislation in force in Greece.
10. If with a view to secure the due application of the legal provisions in force in Greece on - the - spot verification is necessary at the premises of the head office of the insurance undertaking or of the branch office in Greece, the Ministry for Commerce cooperates with the supervisory authority of the home member state for the carrying out of the verification. If the Ministry for Commerce considers it necessary, it may carry out the verification by it self, at the offices of the branch office after having previously notified the supervisory authority of the head office."

### **Article 42e**

Insurance undertakings having their head office in another member state of the EU and of the EEA, may advertise in Greece their Services provided under the right of establishment or freedom to provide services subject to the rules of the Greek legislation governing the form and content of such advertising adopted in the interest of general good.

### **Article 42f**

In the event of an insurance undertaking's being wound up, commitments arising out of contracts underwritten through a branch or under the freedom to provide services shall be met in the same way as those arising out of the undertaking's other insurance contracts, regardless of the nationality of the insureds and the beneficiaries. Article 10 hereof is applied accordingly.

### **Article 42g**

"1. Insurance contracts concerning risks or insurance commitments which under the provisions of article 2a items g and h hereof are situated in Greece, regardless of the law to be applied in the insurance contract, are exclusively subjected to indirect taxes, stamp duties or rights in favour of the Greek public or third parties and contributions in favour of any organization or fund provided by the legal provisions of the Greek taxation legislation.

Insurance policies covering moveable property contained in a building situated in Greece, except for goods in commercial transit provided that the building and its contents are not covered by the same insurance policy, are also subject to the same indirect taxes and other charges.

2. Every insurance undertaking established in another member state of the EEA, provided it concludes insurance contracts connected with risks or insurance commitments situated in Greece for the premiums of which the Greek legislation applies, as provided in the previous paragraph, is obliged to appoint a tax representative in Greece, in accordance with the provisions of case d of para. 4 of art. 29 of law 1642/1986 as applying, who has all the tax obligations and rights of the insurance undertakings established in Greece.

The existence of such representative does not constitute an establishment of the insurance undertaking without prejudice to the provisions of items b and c of art. 2a and of art. 42 a of this decree law.

3. The obligations for payment of indirect taxes and other charges on the policies in accordance with para. 1 are considered due in the currency of the premiums and are paid on the basis of the equivalence of the drachma to the foreign currency on the day of collection.

4. The tax representative, along with the statement of payment of the turnover tax and of the stamp duties of the last quarter of the previous

year, is obliged to submit to the competent Public Financial Service, a full list of the policies of the insurance undertaking he represents, the premiums of which are subjected to indirect taxes and charges provided in para. 1."

## CHAPTER EIGHT

### With Regard to Penal Provisions

Chapter Seven was re-numbered as Chapter Eight with para. 1 article 26 of L.D. 252/1996 (GG A 186).

#### Article 43

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| L. 2170/93<br>Ar. 8 par. 1   | 1. Whoever, willingly makes false declarations to the following, is punished with imprisonment and a fine up to the equivalent in drachmas of the amount of ECU 17.000::<br>a) the Supervisory Authority with a view to obtain the license to operate of a private insurance undertaking, the prolongation of the license or the approval of its articles of association, its statutes, its tariffs, the conditions of the insurance business or one of its classes,<br>b) the public by means of publications (printed or typed) or by any other means aiding at misleading the public.   |
| P.D.252/96<br>Ar.26 par.2<br>(citation to article 11 hereof was deleted from case a) | 2. The Ministry for Commerce may impose a fine up to:<br>(a) The equivalent in drachmas of ECU 4.000. to an insurance undertaking which does not submit in time or submits inadequately to the competent department of the Ministry for Commerce the particulars provided in art. 7, 8 17a, 17b, 17c, 19 and 23 as well as those of art. 43b of Law 2190/1920. (b) The equivalent in drachmas of the amount of ECU 8.000. to each insurance undertaking which does not acknowledge the decision of its general meeting within three months from its gathering, according to article 47 of Law 2190/1920 and (c) the equivalent in drachmas of the amount of ECU 19.000 in case the insurance undertaking does not comply with the provisions of articles 7, 8, 11 and 17c and with the ministerial decisions provided for by them. |
| L. 2837/00<br>Ar. 3 par. 2   | "b. The same penalty is imposed on an insurance undertaking also in case the latter does not send the required information, omits to respond or does not respond to any document of the supervisory authority requesting data or clarifications in the exercise of its supervision within the deadline imposed and which cannot be less than ten (10) days".   |

### Article 44

- L. 2170/93  
Ar. 8 par. 2
- Any person directly or indirectly directing or managing an insurance undertaking or mutual insurance cooperative, having knowingly committed the following crimes, is punished with imprisonment and pecuniary penalty of up to an amount equivalent to 4.000. ECU:
- a) Has proposed or permitted the distribution of dividends in violation of the provisions of Law or of the Statutes regarding the establishment of reserve,
  - b) Has violated the provisions about the calculation and management of the technical reserves and of the solvency margin,
  - c) Has set up or approved a Balance Sheet in violation of the provisions of the present law or the Statutes of the insurance undertaking and
- L.D. 252/96  
Ar. 26 par.3
- "d) Has violated the provisions of law or the Statutes in relation to the disposal of the guarantee or the distribution of available funds according to articles 7,8,13c,15,17,17a,17b,17c,18,20,24,and 36."

### Article 45

- L. 2170/93  
Ar. 8 par. 3
- " Whoever, directly or indirectly, during the review of the balance sheet of the mathematical reserves in life assurances or accident insurances, knowingly proceeds to false declarations, is punished with imprisonment and with a pecuniary penalty of up to an amount the Drachma equivalent of 4.000 E.C.U."

### Article 46

Surveyors who, on the estimation of the extent of a damage incurred and the determination of the indemnity due to the insured suffering the damage, knowingly make false estimations or declarations in favour of the insurer or the insured who suffered the damage, are punished with imprisonment of at least one month and with a pecuniary penalty.

### Article 47

- L. 2170/93  
Ar. 8 par. 4      The following are subject to imprisonment and monetary penalty up to the equivalent in drachmas of 4.000 ECU:
- P.D. 252/96  
Ar. 26 par.4      "a) Without prejudice to the provisions of chapter seven hereof "Particular provisions relating to the right of Establishment and the Freedom to provide Services", whoever operates in Greece a private insurance undertaking without a license.
- b) Without prejudice to the provisions of Chapter Seven hereof "Particular provisions relating to the right of Establishment and the Freedom to provide Services", whoever as a representative or agent concludes or intermediates in the conclusion of an insurance contract in Greece by an insurer not having a license of a private insurance undertaking. The insured is not punished. "
- L. 2170/93  
Ar. 8 par. 4      c) Whoever was invited with a reasoned act of the Supervising Authority to restore according to law, decrees and ministerial decisions, the Articles of Association of the insurance undertaking and the order according to insurance principles, and refused or failed to comply within the minimum thirty-day deadline.
- d) Whoever violates the prohibitions of article 53 hereof.

### Article 48

Whoever directly or indirectly hinders or unreasonably delays the import of currency due from insurance or reinsurance business is punished by imprisonment of up to three (3) years and by pecuniary penalty of up to 300.000 metallic drachmas or by either of these two penalties, for violation of the Laws regarding the protection of the National currency.

### Article 49

- L. 2170/93  
Ar. 8 par.5      "Whoever violates the provisions of art. 29, and 33 para. 2 hereof is punished with imprisonment of up to two years and a pecuniary fine up to the drachmas equivalent of 4.000. E.C.U."

(Citation to article 24 para. 3 item d hereof made to this article was deleted with para. 5 article 26 P.D. 252/1996 (GG A 186)).

### Article 50

- P.D. 252/96  
Ar. 27      "1. All persons who operate or have operated any activity on behalf of the competent department of the Ministry for Commerce as well as the supervisors or surveyors authorized thereby, are bound by professional

secrecy. This secrecy entails their obligation not to disclose to any other person or authority the confidential information they collect upon the carrying out of their duties, but only in a brief or collective form so as not to reveal the identity of the insurance undertaking without prejudice to the cases subject to criminal law.

However, whenever an insurance company has been declared bankrupt or is under the procedure of compulsory liquidation according to art. 12a hereof the confidential information not concerning third persons involved in the effects of salvage of the undertaking, may be communicated in the context of civil or commercial procedures. Confidential information is deemed to be every piece of information coming to the knowledge of the competent department of the Ministry for Commerce and not recorded in the register of the insurance societies anonymes. A resolution of the Ministry for Commerce published in the Government Gazette determines the elements or actions recorded in the above register.

P.D. 332/03  
Ar. 11

"Also professional secrecy binds all persons to whom information is provided or persons who provide information in application of articles 9 para. 3 and 9a hereof, with the exception of judicial authorities for which the relevant provisions apply."

2. Paragraph 1 does not impede the exchange of information between the authorities of various member states provided by the directives regarding insurance undertakings. Such information is subject to professional secrecy provided in para. 1.

P.D. 23/05  
Ar. 8

- "3. Cooperation agreements with the supervisory authorities of third countries and with authorities and bodies as defined in paras 6a and 6b of this article, aiming at the exchange of information, are concluded only on the condition that communicated information is covered by professional secrecy under guarantees at least equivalent to those provided in this article. This exchange of information must serve the execution of the supervisory duties of the said authorities or bodies. If the information comes from another member state, it can be communicated only after a written consent of the competent authorities who communicated them and possibly, only for the purposes agreed upon by these authorities."

4. The competent department of the Ministry for Commerce, which under paras 1 and 2, receives confidential information, can use it only in the exercise of its duties:
  - to review the conditions of access to the insurance activity and to facilitate the supervision of the conditions of access to such activity, especially with regard to supervision of technical reserves, solvency margin, administrative and accounting organization and internal auditing or
  - to impose sanctions or
  - in the context of administrative recourses against regulative or administrative acts of the Ministry for Commerce or
  - in the context of general judicial proceedings.
5. The members of the Committee of the Private insurance of art. 4a hereof, are also bound by professional secrecy, whenever confidential information comes to their knowledge in the carrying out of their duties.
6. Paragraphs 1 and 4 do not impede the exchange of information between

the Ministry for Commerce or between the competent authorities of several member states and:

- authorities having a public power to supervise credit institutes and other financial organizations as well as authorities who have been assigned the supervision of financial markets,
- bodies participating in the liquidation and bankruptcy of insurance undertakings and in other similar procedures and
- the persons who have been assigned the regular audit of the accounts of insurance undertakings and of other financial institutions,

during the completion of their supervisory duties as well as during communication to the organs assigned with the administration of compulsory liquidation or of the guarantee funds, of the necessary information to fulfill their work. Information received from the above authorities, bodies and persons is subject to professional secrecy stated in para. 1.

P.D. 159/98  
Ar.4

"6a. Despite the provisions of paras. 1 to 4 of this article, the Ministry of Development may exchange information with:

- authorities charged with the supervision of the bodies participating in the liquidation and bankruptcy of insurance undertakings and in any similar proceedings or
- authorities charged with the supervision of the persons which have been charged with the legal audit of the accounts of insurance undertakings, credit institutions, investment firms and other financial institutions, or
- independent actuaries of the insurance undertaking, exercising by law a right of control over them as well as bodies that are charged with the supervision of these actuaries.

The Ministry of Development makes use of the power provided in the above section when at least the following conditions are in place:

- the information is destined for the completion of the supervisory mission or review duty mentioned in the first section,
- the information received in this context is subject to professional secrecy mentioned in para. 1 of this article,
- when the information comes from another member state, it is not transmitted without the written consent of the competent authorities who communicated this information and, in this case, only for the purposes as to which these authorities gave their consent.

The Ministry of Development announces to the Committee of the E.U. and to the other member states the identity of the authorities, persons or bodies, which can accept the information based on this paragraph.

6b. Despite the provisions of paras. 1 to 4 of this article, the Ministry of Development, to secure the stability and honesty of the financial-credit system, may exchange information with the authorities or bodies empowered by law to track violation of company law, also for the investigation of these violations.

The Ministry of Development makes use of its power provided in the above section, when at least the following conditions are in place:

- the information is destined for the completion of the mission mentioned in the first section,
- the information received in this context is subject to professional secrecy mentioned in para. 1 of this article,
- the information that comes from another member state cannot be communicated without the written consent of the competent

authorities who communicated this information, and in this case, only for the purposes as to which these authorities gave their consent.

If the Minister of Development proceeds to the tracking or investigation of violations using, based on the applicable law, the services of authorized, due to special qualities, persons that do not belong in public administration, or based on the first section, a power to exchange information can be extended to those persons as well, according to the conditions set in the second section.

For the application of the last case of the second section, the Minister of Development announces to the competent authorities, which communicated the information, the identity and the exact content of the authorization of the persons to whom the said information will be communicated. The Ministry of Development announces to the Committee of the E.U. and to the other member states the identity of the authorities or bodies that can accept the information based on this paragraph.

- L.3455/06  
Ar.21 par. 10
- «6c. The provisions of this article do not prevent the Ministry of Development from communicating:
- to the central banks and other organizations with similar mission, when they act in the capacity of a monetary authority,
  - possibly to other public authorities charged with the supervision of payment systems,
- information destined for the completion of their mission. Respectively, the above authorities and organization may also announce to the Ministry of Development the information it needs for the purposes of para. 4 above.

Information received in this context is subject to professional secrecy, as determined in this article.”

6. Moreover, despite the provisions of 1 and 4, certain information may be communicated to the Bank of Greece, the Ministry of National Economy and Finance, the Capital Market Committee and the supervisors authorized by these services.  
However, the said communications are possible only provided this is necessary for reasons of preventive control.  
Information taken in accordance with paras. 2 and 6, as well as those acquired by on-the-spot ascertainties provided in art. 6 hereof, are not to be communicated according to this paragraph if there is no explicit agreement of the competent authority which has communicated the information or of the supervisory authority of the member state in which the on-the-spot ascertainment on the spot was carried out.
8. In case of violation of the above provisions about professional secrecy, the penalties provided in art. 37i of the Penal Code apply.”

### **Article 50a**

- P.D. 159/98  
Ar. 5
- "1a. Actuaries who audit based on P.D. Π.Δ. 226/1992 (GG 120 A') as it stands, the annual and unified accounts of insurance undertakings, or carry any other lawful mission, in the context of their duties, are obliged to swiftly notify the Ministry of Development with regard to the



- insurance undertaking they audit, any decision or fact that came to their knowledge in the exercise of their mission, if this decision or fact can:
- constitute an essential violation of the legal or regulatory provisions setting the conditions of operation or governing especially the exercise of the activity of insurance undertakings,
  - impede the continuation of the operation of the insurance undertaking or lead to a denial of approval of the accounts or to a statement of reservation.
- 1b. The same obligation stands for the above persons with regard to the facts and decisions which came to their knowledge in the context of a mission, as mentioned in part a of this paragraph, which is effected on an undertaking, in which these persons exercise the aforementioned mission.
2. Communication to the Ministry of Development in good faith, of facts or decisions mentioned in the previous paragraph 1, by the said persons, does not constitute a violation of any restraint in the notification of information imposed by contract, law, regulatory or administrative provision and does not result in any liability on the part of these persons."

P.D. 252/96  
Ar. 28 par.1

## CHAPTER NINE

### Provisions regarding Exchange and Taxes

#### Article 51

Π.Δ. 252/96  
Αρ.28 παρ.2

"The transfer of funds required for the conclusion and carrying out of insurance contracts, are affected in accordance with the provisions regarding the movement of funds. Every necessary detail for the application of this law is determined by resolution of the Minister for Commerce and after a proposal of the Bank of Greece."

#### Article 52

1. Life insurance premiums paid are exempted from turnover tax, provided the contracts concluded are of a duration of at least 10 years.
- (2. This paragraph regarding the deduction of life insurance premiums from taxable income, although it has not officially been abolished, does not apply since already the following provisions of tax legislation apply) **See NOTE \***
- "3. Abolished with case f article 31 L.N. 1828/1990 (GG A' 2)".
- "4. The exemptions and deductions of para. 4 were abolished for balance sheets closing on December 30 1996 and after(par. 20 ar. 1 L.2459//1997, GG A' 17)".

**NOTE \***

L. 2238/94  
(as it stands after L. 3091/2002)  
Article 8

Deduction of expenditure from total income

1. The amounts of the following expenditure is deducted from the total income of the tax payer:
  - a) The amount of the annual expenditure paid by the tax payer for premiums on life or death insurances, personal accident insurances, as well as sickness insurances, for himself, his spouse and children on his care, according to the provisions hereof. The sum deducted cannot exceed a percentage of ten per cent (10%) of the first bracket of scale (a) of paragraph 1 article 9 applying to an employee without children (\*). The sum of the expenditure is calculated cumulatively for both spouses, is only deducted if its has been included in the initial declaration and is divided between the spouses according to the amount of each one's income taxable according to the general provisions, as declared in the initial declaration.

( (\*) Note: This sum is 10.000 €.)

Article 31  
Accounting definition of net income

1. The net income of undertakings keeping sufficient and precise third-degree books and data of the Books and Data Code, as well as of undertakings keeping sufficient and precise second-degree books and data of the Books and Data Code, provided they provide services only and do not have any significant reserves on the expiry of the administrative period, is found actuarially by deduction from gross income, as these are set in the previous article, of the following profits:
  - a) General management costs, which include:

.....

dd) Premiums paid by undertakings for group life insurance of their employment staff, the context of which includes the granting of a payment or periodical payment, after the time of early or regular retirement of the above staff, as well as the coverage of death or random acts risks. The sum of this deduction cannot exceed, for each of the insureds, a percentage of ten per cent (10%) of the gross sum of the first bracket of scale (a) of para. 1 article 9 which applies to employees without children. (\*) (See note above).

P.D. 252/96  
Ar.29 par. 1

## CHAPTER TEN

### Transitory and Final Provisions

#### Article 52a

- P.D. 252/96  
Ar. 29  
par. 2a)
- "1. Without prejudice to Chapter Seven "Particular Provisions relating to the right of establishment and Freedom to provide Services "hereof, every insurance undertaking operating in Greece may not extend its business to other classes of insurance but only after having fully complied with the provisions regarding the solvency margin, the guarantee fund and technical reserves hereof ".
- P.D. 103/90  
Ar. 5
- "2". Greek undertakings which at 12.12.1984 were exercising solely only the activities of the class of Assistance, as well as undertakings established up until publication hereof must set up a solvency margin and a guarantee fund up by 12.12.1990.
- To the undertakings which have not entirely set up the solvency margin within the said deadline, and provided they have submitted within the same deadline a plan with measures they intend to take for its setting up according to art. 17c hereof, the Ministry for Commerce may grant an additional period not longer than two (2) years.
- "3". An undertaking which falls under the previous paragraph and is not a Societe' Anonyme or a Cooperative is obliged to be transformed in a Societe' Anonyme or a cooperative within 6 months from publication hereof.
- "4". An undertaking subject to paragraph 7 [already para. two] of this article may extend its activity only in classes of loss or damage and under the condition it shall comply immediately with the provisions of this decree law.
- "5". Until 12.12.1992 the Greek Motor and Touring Club (E.L.P.A.) can, even if the accident has occurred outside Greece, carry vehicles of its members and subscribers with or without the driver and the passengers up to their home or the place in Greece from which the journey started."
- P.D. 252/96  
Ar. 29  
par. 2β)
- "6. Without prejudice to paras 5 and 6 of art. 4 hereof, the Ministry for Commerce may until 31.12.1998, require from insurance undertakings operating in Greece either by free establishment or freedom to provide services, when it comes to risks other than those of para. 3 of art. 13 hereof, to submit the general and special terms of their insurance contracts, before their use."
7. In deviation from the provisions of this decree law, the provisions of articles 7,8,10 (para. 1 and 2) 11, 12, 13c, 15 (para. 4 and 6), 19, 23, 39 up to 41, 52a pra. 9 and 55 also apply to branch offices or agencies of insurance undertakings having their head office in the E.U. and the E.E.A. and operating in Greece until 31.12.1998 and without prejudice to, in particular, the provisions of articles 1 to 5,6,13,13a, 13b, 13c (section A item ka), 24a, 30, 33, 42, 42a, 42c, up to 42g, 50, 51, 52a ( para 6, 12, 13 and 14) 53, 53a and 54 hereof. The provisions of article 3

P.D. 159/98  
Ar.6 nap. 4

para (4 up to 7 inclusive), 9, 10, (para. 3, 4 and 5), 12a, 43 up to 49, 52a (para. 1,10 and 11) and 58 apply accordingly and in cooperation with the supervisory authorities of the member states concerned. Article 59 also applies accordingly, after taking into consideration the opinion of the supervisory authority of the member state concerned.

"During the above transitional period, the risks mentioned in article 13 par. 3 hereof are exempted from the application of articles 7 and 8 hereof".

8. An insurance undertaking which covers in Greece, under the status of the free provision of services, risks other than those of para 3 art 13 hereof, is obliged by 31.12.98, to form and invest the technical provisions linked to these risks, according to articles 7, 8, 9, 10 (para 1 and 2 ) and 17c of this decree law and with the cooperation of the supervisory authorities of the member states concerned.
9. With regard to the percentage on the technical provisions of the real estate of art. 8 para. 6 section A item c second phrase and section B, item b second phrase hereof, the following transitional stage applies:
  - By 31.12.96 : 40 %
  - By 31.12.97 : 25 %
  - By 31.12.98 : 10 %
10. Every insurance undertaking which has received a license of operation before the publication of p.d. 118/85 (A' 35) is considered ipso jure to hold a license for the classes which it appeared to be operating in the financial statements of the year 1995. This classes are recorded in the register of Insurance Societes Anonymes.
11. Especially insurance undertakings, which have a license to operate in life assurance before publication of P.D. 118/85, are considered ipso jure to hold a license of operation for classes I, IV2 and VII and for class VI provided they held a special operations license for this class.
12. A decision of the Minister for Commerce and without prejudice to the above paragraph 7, any existing guarantees are refunded and the obligation of insurance investment changes to disposal of insurance investment of branches or agencies of insurance undertakings having a head office in the E.U and the EEA, operating in Greece, provided the provisions regarding technical reserves hereof are complied with.
13. A resolution of the Minister Commerce may, for the correct application of chapter eleven "Annual and Consolidated accounts (financial statements) of insurance undertakings" hereof, impose the application of certain provisions hereof regarding technical reserves and solvency margin from years beginning after 31.12.1996.
14. a) At the recording of the Greek Insurance undertaking with the register of Societes Anonymes, the foundation of a branch or agency outside Greece as well as their activity under the status of free provision of services is particularly noted.
  - b) For the application of para. 2 section A of art. 42b hereof, a special register of free provision of services is kept by the competent department of the Ministry for Commerce, which must include for each undertaking at least the following particulars:
    - Name of undertaking.
    - Member state of the head office of the undertaking and the branch

- or agency which eventually exercises the free provision of services.
- Nature of risks covered by the undertaking with free provision.
- Name and address of tax representative.
- Name and address of special representative of the business in case of exercise of class 10 "Motor vehicle liability insurance" besides carrier liability.

### **Article 52b**

- P.D. 118/85  
Ar. 26  
and  
P.D. 252/96  
Ar. 29 par.3
1. The according to para. 2 article 3a separate administration concerns the separation of insurance against loss or damage operations from those of life assurance in such a manner so that:
    - a) The respective interests of life policy holders and those insured against loss or damage are not prejudiced by the simultaneous pursuit of insurance activities against loss or damage and life assurance, and mainly that only life policy holders take advantage of the profits from life assurance activities, as in the case where the activity of insurance against loss or damage is not exercised by the same undertaking.
    - b) The activities of life assurance are in no way burdened by the formation of the minimum financial guarantees, particularly the solvency margin which is required for the operation of insurance against loss or damage and vice - versa.

If the mixed insurance undertaking has formed the necessary financial guarantees according to what is set above, it may, after advising the Ministry for Commerce, use for both the activity of insurance against loss or damage and of life assurance those of the assets of the solvency margin which are still indisposed of. The Ministry of Commerce analyses the results of the two activities to ascertain if the provisions of this present paragraph are kept.

- 2.a) Accounting entries must be effected in such a manner as to depict the sources of results for each category of works, that is insurance against loss or damage and life assurance. To this end, all income (particularly premiums, payments by re-insurers, investment income) and expenses (particularly indemnity payments, complements to technical reserves, reinsurance premiums, operating expenses) shall be broken down according to their source of origin..

Elements which are common for both categories are distributed according to methods approved by the Ministry of Commerce.

- b) Based on accounting entries, the undertaking must draft an analytical statement of the elements making up each solvency margin in accordance with the provisions of articles 17a para. 1 and 3 to 5 hereof.

- P.D. 252/96  
Ar.29 par.3  
(only re-numberings of citations are effected)
- "3. In case of inability to form one of the solvency margins, the provisions of articles 17c and 20 para. 2 case F, G hereof apply in the relevant category of works, regardless of the results of the other work activity.
 

By way of exception to the provisions of para. 1 subsection a of this article, the measures prescribed by articles 17c and 20 para.2 sections G and H, hereof may include transfers of assets from one activity to the

other, subject to the approval of the Minister for Commerce".

- N. 2170/93  
Ap. 9 παρ. 2
- ^4. A decision of the Minister for Commerce published in the Government Gazette may determine rules for the splitting of elements of assets and liabilities of the insurance undertaking as well as any other necessary detail for the realization of separate administration".

### Article 53

- L. 2496/97  
Ar. 35  
par. 18
- "1. The covering of risks or the acceptance of insurance commitments in Greece is prohibited and is absolutely null and void, if they are contrary to the rules of safeguarding the general good.
2. Without prejudice to the provisions of chapter seven of this decree law, the conclusion of insurance contracts of persons or damages against risks occurring in Greece by an undertaking not fulfilling the conditions of art. 3 hereof, is prohibited and is null and void. The invalidity may not be used against the bona fide contracting parties. "

### Article 53a

- L.D. 252/96  
Ar. 30
- "1. Community coinsurance exists in case a risk situated in a member state is covered by the participation of more insurers (coinsurers) established in several member states.  
To cover a risk situated in Greece by way of community coinsurance, the following conditions must be fulfilled:
- a) The risk covered must fall under the meaning of "great risk" of para. 3 of art. 13.
  - b) The risk must be covered under a single insurance contract by more than one insurance undertakings not liable jointly, against a single premium and for the same time period.
  - c) At least one of the coinsurers, must participate in the insurance contract from the head office of his undertaking or agency or branch established in a member state of the E.U. and the EEA other than the state of the leading insurer.
2. If the leading insurer is established in Greece, he undertakes all the works according to coinsurance practice and in particular, he determines the insurance and pricing terms in accordance with the Greek legislation.  
If the leading insurer is not established in Greece, the provisions of Chapter seven relating to the freedom to provide services apply.
- 3.a) The amount of the technical provisions of each coinsurer is fixed according to the legislation or the practice of the state in which he is established. In particular, in case the leading insurer is established in Greece, the provision for outstanding claims may not fall below the provision determined by the leading insurer, according to standing Greek legislation.

- b) The technical provisions formed by the coinsurers established in Greece, are comprised of matching assets, according to the provisions of articles 7 and 8 hereof.
  - c) By way of exception to the provisions of article 7 hereof, the technical provisions of the coinsurers are kept at the insurer's option either in the member states of the E.U. and E.E.A. where the coinsurers are established, or in the member state where the leading insurer is established.
4. Coinsurers established in Greece must keep statistical data showing the extent of their operations in community coinsurance as well as the countries that such operations concern.
  5. During the winding-up of an insurance undertaking being wound up, its liabilities arising from its participation in community coinsurance contracts are met in the same way as those arising under other insurance contracts, without any discrimination to its insureds and beneficiaries due to their nationality."

#### **Article 54**

- L. 2170/93  
Ar. 10 par.2
- "1) A decision of the Minister for Commerce published in the government gazette, may determine all necessary details in regard to the collaboration of insurance undertakings and enterprises intermediating in private insurance with public or private legal entities operating in financial services, mainly as to the disposal of insurance products without violating the existing provisions on competition ".

#### **Article 55**

- P.D. 23/05  
Ar. 10
- "A 1) The board of Directors of every insurance undertaking as well as the legal representative of a branch or agency of a foreign insurance undertaking with head office outside the E.U. and the E.E.A. of either life assurances or insurance against loss or damage, is obliged to declare to the Department of insurance undertakings and actuaries the particulars of its responsible actuary (name, address, license number, identity card number), which are recorded in a special register kept by the competent department of the Ministry of Development. The competent Department of the Ministry of Development must be notified of the change of the responsible actuary as well as of any change in its particulars, within 10 days from the date of the change. In case it is discovered that the competent authority was not notified within the time period of 10 days, a fine of 5.000 euros is imposed on the Insurance Undertaking. The Responsible Actuary must hold an Actuary license.
- 2) The Responsible Actuary
- a) of a Life Insurance Undertaking:

- i) Bears the responsibility against any auditing authority for actuary acts of the insurance undertaking and in particular for
    - 1) the calculation of deferred acquisition costs and
    - 2) technical reserves of life assurance besides outstanding claims, when these are not calculated with an actuarial method.
  - ii) Is responsible for classifying of risks as well as funds or accounts according to the relevant life insurance classes based on the conditions set in each one.
  - iii) Is responsible for
    - a) the calculation of technical reserves of professional funds of auxiliary retirement apart from outstanding claims and
    - b) the calculation for the transfer of rights of beneficiaries of retirement payments to professional funds of auxiliary retirement, among funds or accounts of the same or other undertaking exercising the same activity, in the professional systems of auxiliary retirement, either in Greece or in another member state, according to standing law or practice.
  - iv) For the amount of technical reserves and deferred acquisition costs, the responsible actuary grants a certificate, the type of which is determined by resolution of the Ministry of Development.
  - v) Calculates the required solvency margin.
  - vi) Signs the technical notes of life and retirement assurance as well as for Accident and Short-term illness insurance.
  - vii) Keeps the "book of technical notes and general and special terms".
  - viii) Submits to the competent Department of the Ministry of Development the statistical-technical data of the annual works of the insurance undertaking, according to ministerial decisions in force.
- and
- ix) Signs the balance sheet as well as the brief financial statements and has a responsibility only for the sums he has calculated for
    - 1) Deferred acquisition costs and
    - 2) The technical reserves for life assurance, apart from outstanding claims, when these are not calculated with an actuarial method.

b) of a Loss or Damage Insurance Undertaking:

- i) Bears a responsibility against any auditing authority for the calculation of all technical reserves, according to standing law regarding technical reserves, apart from the reserve for



outstanding losses or damages.

- ii) Calculates the required solvency margin.
  - iii) Is responsible for what is set in section 4 of this paragraph.
  - iv) Submits to the competent Department of the Ministry of Development the statistical-technical data of the annual works of the insurance undertaking, according to standing laws.
  - v) Signs the balance sheet as well as the brief financial statements and bears a responsibility only for the sums he has calculated for all technical reserves, according to the ministerial decisions on technical reserves, apart from the reserve for outstanding losses or damages, when these are not calculated by an actuarial method.
- 3) The responsible actuary co-signs for
- a) the operations plan of the insurance undertaking and on its foundation and extension of its license of operation
  - b) for the amount of life assurance commissions granted to intermediaries
  - c) the plan of financial recovery of case a, para 3 article 17c, in the context of preventive supervision
  - d) the short-term financing plan and financial reorganization plan of insurance undertakings
  - e) for the mergers, divisions and transfers of portfolio of insurance undertakings.
- 4) In case loss or damage insurance undertaking issues policies covering risks of the classes of accidents and diseases, of a duration longer than a year, then
- a) it notifies the competent department that it provides this cover
  - b) it is obliged to keep the "book of technical notes and general and special terms"
  - c) the mathematical retirement reserve is calculated by an actuary and certified by its written statement.
- In case a loss or damage insurance undertaking must pay compensation in the form of income, this obligation is calculated and certified by the actuary with a statement depicting the manner of calculation as well as the technical parameters used.
- 5) All the documents signed by the responsible actuary bear his seal, which also states his license number as well as the year of its issue.
- 6) A presidential decree issued upon the proposal of the Minister of Development, determines the required qualities for the granting of an actuary's license.
- 7) In case of violation of the obligations of the "responsible actuary", as they result from the provisions of this article, the penalties of article 45 hereof are applied and the actuary is barred from any responsible position of the insurance undertaking. The Minister of Development may impose a fine up to 7.000 euros and may suspend the actuary's

license for up to two years, having taken into account the opinion of the Union of Greek Actuaries.

- B 1) The Board of Directors of every insurance undertaking as well as the legal representative of a foreign insurance undertaking, without prejudice to the transitional period for branch offices or agencies of undertakings having their head office in a member state of the E.U. and of the E.E.A., is obliged to declare the Department of insurance undertakings and actuaries, the particulars of the person who exercises the administration and management of the insurance undertaking and is exclusively responsible for all matters arising from this presidential decree except those referred to in section A article art 13c of this decree-law (name, address, identity card number), which are recorded in a special register kept by the competent Department of the Ministry of Development. who exercises the administration and management of the insurance undertaking and is exclusively responsible for all matters arising from this presidential decree except those referred to in section A article art 13c of this decree-law. The competent Department of the Ministry of Development must be notified of the change of the responsible actuary as well as of any change in its particulars, within 10 days from the date of the change. In case it is discovered that the competent authority was not notified within the time period of 10 days, a fine of 5.000 euros is imposed on the Insurance Undertaking.
- 2) In case of violation of the obligations of the person of the above paragraph, as they result from para. 1 case b of this article, the penalties of article 44 hereof are applied and the actuary is barred from any responsible position of the insurance undertaking. The Minister of Development may impose a fine up to 20.000 euros."

### **Article 56**

Abolished with P.D. 252/96, Ar. 31 par. 2.

### **Article 57**

P.D. 252/96  
Ar.31 par. 3 "Insurance undertakings are obliged to notify the Ministry for Commerce of any changes as regards their reinsurers, their participation in a joint venture and to submit each year the balance sheets of their reinsurers."

### **Article 58**

P.D. 252/96  
Ar.31 par. 4 "Without prejudice to the provisions of Chapter Seven hereof, the Minister for Commerce may, by a relevant resolution published in the government gazette withdraw temporarily and/or permanently the operation and/or establishment license of an insurance undertaking or mutual insurance cooperative in

case they refuse or unjustifiably delay the payment of an indemnity awarded by a final court decision."

### Article 59

P.D. 252/96  
Ar.32

1. Insurance undertakings having their head office in Greece may, based on a decision of the Board of Directors or General Meeting, following a resolution of the Minister for Commerce published in the Government Gazette, transfer all or part of their portfolios of contracts concluded either under free establishment or by freedom to provide services to another or other insurance undertakings established in the E.U. and the E.E.A.
2. The transfer is approved according to the procedure stated in the previous paragraph, provided it does not prejudice the interests of the insureds or other persons having rights and obligations arising from the ceded contracts and that the undertaking to which the transfer is effected is authorized to operate the classes of insurance covered by the portfolio transferred, holds the necessary solvency margin, having taken into account the transfer, and has the approval of the competent authorities of the member states where the risks undertaken (insurance commitments) are situated.
3. Without prejudice to para. 2 hereof, the transfer of portfolios of contracts covering risks in Greece and issued under the right of establishment, is approved if the undertaking to which the transfer is intended is established in Greece as provided in art. 2a item c hereof.
4. A branch office of an insurance undertaking of a member state established in Greece, intending to transfer to an insurance undertaking having its head office in Greece, all or part of the portfolios of its contracts concluded either under the right of establishment or under the freedom to provide services, is obliged to first request the opinion of the Ministry for Commerce.
5. In case there is a transfer of a portfolio concluded under the freedom to provide services covering risks in Greece, the supervisory authority of the home member state of the ceding insurance undertaking, permits the transfer only after having obtained the consent of the Ministry for Commerce. In case the concessionaire is established in Greece, the relevant contracts are deemed to have been concluded under the right of establishment.  
For such contracts what has been agreed applies except if the policyholder decides to follow the Greek law and language.  
In case the concessionaire is not established in Greece, it is a prerequisite that this latter operates in Greece under the freedom to provide services.
6. The supervisory authorities of all member - states of the E.U. and of the E.E.A. whose opinion is requested as regards the transfer of portfolios of contracts, announce their opinion or approval to the supervisory authority of the home member state of the ceding undertaking, within three months from receipt of the relevant application. The absence of

any response within that period shall be considered equivalent to a favourable opinion or silent consent.

7. An announcement published in the government-gazette (S.A and Limited companies) as well in a daily or weekly financial newspaper of the head office of the undertaking, sets a period of 3 months, during which interested parties may present their objections.  
The Ministerial Decision approving the transfer is also published in other member states in which risks eventually covered eventually by the ceding Greek insurance undertaking are situated, in accordance with the conditions of the national law of those states."  
Announcements of transfer permissions to ceding undertakings having their head office in another member state and covering risks situated in Greece, are published in accordance with the provisions of this paragraph.
8. After the publication of the Ministerial Decision which approves the transfer of portfolios, no objections can be raised against such a decision by the insureds, the policyholders, the beneficiaries of indemnity and the creditors of the insurance undertaking.
9. Every private transfer agreement explicitly indicates the person which bears the burden to cover the technical reserves. The transfer is completed with the drafting of the protocol of delivery and receipt of the transferred portfolios, which states the amount of technical reserves on the day of drafting of the protocol. The protocol is also signed by the responsible actuary and recorded in the register of Societes Anonymes whenever life assurance policies are transferred.
10. The "responsible actuary" of the concessionaire is obliged to register in the "Book of technical notes and general conditions" the technical notes and the general conditions of the policies transferred, indicating that such policies originate from transfer.
11. Branch offices and agencies established in Greece which belong to foreign insurance undertakings whose head office is in a state outside the E.U and the E.E.A, may transfer total or part of their portfolios of contracts to a concessionaire having its head office in Greece and belonging to an insurance undertaking having its head office in a state outside the E.U and the E.E.A., provided the Ministry for Commerce or possibly the supervisory authority of the state referred to in sections D and E of art. 20 para. 2 of this decree law, certifies that the concessionaire disposes the necessary solvency margin, taking into account the transfer.

Branches and agencies of the aforementioned section, may transfer all or part of their portfolios to an agency or branch office in Greece of an insurance undertaking having its head office in another member state, provided that the supervisory authority of this member state certifies that the concessionaire disposes the necessary solvency margin, taking into account the transfer.

In the cases of the above section, the concessionaire must be authorized to operate the classes of insurance, the portfolio of which he undertakes.

Paragraphs 6,7,8,9 and 10 of this article also apply to agencies or

branch offices having their head office in a state outside the E.U. and E.E.A. "

12. Splits or mergers of insurance undertaking having their head office in Greece, according to the provisions of laws 2190/20 and 2166/93, are only permitted after an approving decision of the Minister for Commerce and provided the application of the insurance undertaking concerned is accompanied by a complete feasibility study (scheme of operation) of the new undertaking.

### **Article 60**

As from the publication of this Decree Law the following provisions are abolished:

1. Of the codified law 1023/1917 in regard to "private insurance undertaking" as modified and superseded at a later date.
2. Of the R. Decree of 13/16 January 1918 in regard to "implementation of articles 5 section 2 and 19 section 4 of Law 1023".
3. Of Decree dated 19.01.1926 in regard to "Transaction of the capitalization class by Insurance Undertakings".
4. Of articles 6,7 and 8 of Law 403/1941 in regard to "abolishment of the Reinsurance Institute of Greece" as modified and replaced at a later date.
5. Of Decree Law 112/1946 in regard to "determination of the amount of the share capital and of the insurance guarantee of the insurance undertakings operating in Greece".
6. Of R. Decree dated 18.01.1947 in regard to "determination of the assets forming the share capital and the insurance deposit or guarantee of Insurance Undertakings operating in Greece".
7. Of R. Decree 112/195 in regard to "increase of the amount of the insurance guarantee of foreign insurance undertakings to be established in Greece" and
8. any other general or special provision opposing to the provisions of the present Decree Law, with exception of the relevant provisions of Law 4169/1961 in regard to "agricultural social insurances" as modified at a later date and of E.L. 501/1968 in regard to "Export Credit insurances".

## **Article 61**

1. The present decree Law is put in force one month after its publication in the Government Gazette, unless otherwise provided therein.

Articles 62 – 78 and the title of this chapter were added with P.D. 169/2000 (GG A 56/7.7.2000).

## **CHAPTER ELEVEN**

### **Annual and unified accounts (financial statements) of the insurance undertakings**

#### **Part I**

#### **Introductory provisions and application field**

#### **Article 62 (articles 2 and 3 of Directive 91/674/E.E.C.)**

- 1.- The provisions of the following articles 63 to 78 are applicable to the following undertakings, which in these provisions are mentioned as "insurance undertakings":
  - a) Insurance societies anonymes, which have been granted a license to operate in Greece according to articles 3,14 and 15 hereof.
  - b) Agencies or branches established in Greece, of insurance undertakings having their head office in the E.U. or the E.E.A. or third countries (outside E.U. and the E.E.A.).
  - c) Undertakings having their head office or establishment in Greece and operating reinsurance works.
  - d) Mutual insurance cooperatives operating according to article 35 para. 1 and 4 hereof.
  - e) Societes anonymes and limited liability companies whose activity is intermediation in direct and re- insurance works.
- 2.- Insurance funds for retirement and health, operated by the insurance business on behalf of the respective insurance organizations, must appear in the balance sheet, provided the undertaking possesses and owns the respective assets. The total amount of assets and liability of this kind appears separately in the balance sheet and in the annex it is analyzed apportioned according to the various positions of the assets and liabilities.  
The elements of the assets, acquired in the name and on behalf of a third party, appear in the accounts outside the balance sheet in accordance with para. 3.3.102 article 1 of P.D. 148/1984 and article 42e para. 11 pf c.l. 2190/1920.
- 3.- The provisions of the following article 63 to 78, which refer to life assurance, apply, accordingly, to insurance undertakings exercising solely life assurances (accidents, diseases) and exclusively or basically according to life assurance technique.
- 4.- Without prejudice to para. 3 above, when a mixed insurance undertaking

practices insurance classes 1 "Accidents" or and 2 "Diseases" of art. 13 para. 1 hereof, then the provisions of the next articles 63 to 78, which refer to insurance against loss or damage, apply."

**Article 63**  
**(art. 1 of Directive 91/674/E.E.C.)**

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- «1.- Without prejudice to article 62, for the drafting of the annual and unified accounts (financial statements) and the administration report of insurance undertakings, the provisions of articles 36, 37, 41, 42, 42a (paras. 1 to 3 and 5), 42b (paras. 1, 2 and 4 to 8), 42d (para. 2), 42e (paras. 1 to 5, 7 to 14 and 15 case b'), 43, 43a (paras. 1, case a' to g' and i' to j'), 3 and 4), 43b (paras. 2 to 6), 43c, 44a, 45, 46 and 46a of C.L. 2190/1920 "with regard to Societes Anonymes", as amending and applying, provided there is not a different provision in articles 64 to 78".
- 2.- Whenever the provisions mentioned in the previous paragraph as well as in para. 1 of article 77, refer to articles 42c and 42d of C.L.2190/1920, for the structure of the balance sheet, the annual results and the annex of distribution of the results, these references are considered to be made to articles 65 and 71 of this law.
- 3.- References to the rules of appraisal of article 43 C.L. 2190/1920, of the provisions mentioned in para. 1 of this article as well as to para. 1 article 77, are considered to be made to article 43 of C.L. 2190/1920, taking into account articles 73 and 74 of this law.
- 4.- Wherever the provisions mentioned in para. 1 of this article, refer to balance sheet accounts, the equivalent of which is not provided in the relevant provisions of articles 64 to 76, it is deemed that these provisions refer to the accounts of the sample balance sheet, referred to in article 65, which includes the relevant assets."

**Article 64**  
**(art. 5 and 7 of Directive 91/674/EEC)**

- 1.- The combination of items under the conditions of art. 42b para. 4 of c.l. 2190/1920 shall be restricted in the case of insurance undertakings:
- as regards the balance sheet, to items preceded by Arabic numerals, except for items concerning technical provisions and
  - as regards the profit and loss account, to items preceded by one or more lower-case letters, except from items (1) and (4) of damage insurance operation and (1) and (5) of life assurance operation.
- 2.- The provision of article 42e para. 9 second section of c.l. 2190/1920 shall not apply to commitments linked to insurance."

## **Part II**

### **Balance Sheet Structure**

#### **Article 65 (article 6 of Directive 91/674/EEC)**

The Balance sheet is drafted in two side scales, the first of which includes the assets and the second the liabilities, according to the sample of para. 4.103, as it stands, of article 1 of P.D. 148/1984 "Setting the content and time of commencement of the application of the Branch Accounting Plan of Insurance Undertakings" (A' 47) in combination to what is provide in paras. 4.101 and 4.102, as they stand, of article 1 of the same P.D. in relation to the content of any account of this balance sheet".

*Note :*

According to the provision of para. 2 article 4 of I. 3487/06, the title "Provisions for risks and expenses" in point E of "Liabilities" of the sample Balance sheet of para. 4.103 of PD. 148/1984 (GG 47 A'), as it stands, which is stated by the above article, was replaced by the title "Other Provisions".

## **Part III**

### **Special provisions for certain accounts of the sample balance sheet of article 65**

#### **Article 66 (art. 8, 9, 10, 11, 12, 13 and 14 of Directive 91/674/EEC)**

- 1.- The provisions of article 42e (paras. 7 and 8) of C.L. 2190/1920 only apply to the following asset accounts:
  - B «Formation expenses and goodwill”, this asset category is considered an intangible asset for the application of article 17a hereof.
  - C-I “Land and buildings”
  - C-II “Shares and investments in affiliated undertakings and participating interests”.
  
- 2.- Asset account C–III-2 "Debt securities and other fixed-income securities". Includes bonds and other fixed-income securities, issued by credit institutions, other undertakings or public organs, provided they do not belong in accounts C-II-2 and C-II-4.  
Debt securities with interest that varies according to a certain parameter, such as the interest of the inter-banking market or the euro-market, are assimilated to bonds and other fixed-income securities.
  
- 3.- Asset account C-III-3 "Participation in investment pools" includes the shares held by the insurance undertaking in mutual investments in which many undertakings or retirement funds participate, and whose



management has been assigned to one of these retirement funds..

- 4.- Loans to life policyholders, for which the insurance contracts constitutes the main guarantee, are included in the asset account C-III-5 "Loans to life assureds". Mortgaged loans and loans with other securities (pre-notation, credit policies, etc.) appear in the asset account C-III-4 "Mortgaged and other loans". "Other Loans" are analyzed in the annex, which also states their existing guarantees.
- 5.- Asset account C-III-6 "Time deposits and deposits with credit institutions" includes the sums which may be withdrawn only after a certain period. The sums for which no such restriction exists, must appear in account F-II "Available funds" even if they have interest.
- 6.- Asset account C-III-7 "Other investments" includes the investments not belonging in accounts C-III-1 to 6. If they are relatively insignificant, they must be analyzed in the annex.
- 7.- Fields plots and buildings used by the insurance undertaking for the exercise of its activities are mentioned in the annex.
- 8.- The account of an insurance undertaking, that accepts reinsurance, in the asset category C-IV "Guarantees to reinsured undertakings" includes claims against the ceding undertakings corresponding to the guarantees deposited with these undertakings or with third parties or the sums detained by these undertakings.  
These undertakings cannot be merged with other reinsurer claims against the reinsured, or be set off against debts of the reinsurer to the reinsured. Titles deposited with a ceding undertaking or with third parties and remaining in the position of the undertaking accepting the reinsurance, are registered by it, among its investments, in the appropriate accounts.

## **Article 67**

### **(art. 15, 16, 17 and 18 of Directive 91/674/EEC)**

- 1.- The asset category D "Investments on behalf of life assureds bearing the investment risk" includes, for life assurances, the investments according to the value of which the value or yield of insurance policies linked to an invested capital is linked, and the investments destined for the coverage of liabilities determined according to a factor. The same category includes investments on behalf of tontine members destined to be distributed among those members. The above investments are analyzed per category (per kind of investment) and are realized by the insurance undertaking in its name but on behalf of the insureds, who, from the choice of investment kind suggested, undertake the investment risk.
- 2.- Asset category F-IV "Other elements" comprises the assets not belonging in categories F-I, F-II and F-III. If they are significant, they are analyzed in the annex.
- 3.- Asset category G "Transitional Asset Accounts" includes expenses paid or certified with the issue of the relevant insurance policies or with other means and relate to the following financial year/s, as well as net income relating to the closing year but not collected or not credited in personal accounts within that year. Those registrations are effected in accordance

to the provisions of para. 3.1.307, as it stands, of article 1 of P.D. 148/1984 taking into account article 8 para. 5c hereof. Account G-2 is analyzed in the annex separately for direct life assurances, direct other insurances and direct motor vehicle liability insurance.

**Article 68**  
**(art. 19, 20 and 21 of Directive 91/674/EEC)**

- 1.- Asset categories A-I "capital", A-I-II "Re-adjustment differences" and A-IV "Reserve capitals" include the different accounts mentioned in paras. 3.1.401 and 3.1.402, as they stands, of article 1 PD 148/1984, which also determine the content of these accounts.
- 2.- Liabilities category A-II-2 "Difference between the issue of bonds in favour of par" comprises the difference resulting from the case of issue and disposition of bonds at a price greater than their nominal value and collection of a sum greater than their payment in nominal value.
- 3.- Liabilities category B "Subordinated liabilities" comprises the obligations and loans for which a relevant contract provides that in case of liquidation or bankruptcy of the insurance undertaking, particular rights resulting from debts, whether they are represented by titles or not, must be exercised only after the exercise of the rights of the other creditors. This category includes the sums according to article 17a [para. 3 section g and 4 section c (apart from bond loans)] hereof.
- 4.- The annex includes the sums of accounts G-III-1 και G-III-2 of the liabilities concerning affiliated undertakings and holding undertakings, when the bond loans have not been concluded with a public registration.

**Article 69**  
**(art. 23, 24, 25, 26, 27, 28, 29 and 30 of Directive 91/674/EEC)**

- 1.- The provisions of art. 42e para. 14 of C.L. 2190/1920 also apply to insurance (technical) provisions (technical reserves), without prejudice to the following paragraphs of this article and of articles 70 para 1, 72 para. IB, 73 (para. 3) and 74 hereof.
- 2.- Paragraphs 3.1.407 and 3.1.408, as they stand, of art. 1 of P.D. 148/1984 in combination to art. 7 and 74 hereof, as well as paras. 3, 4, 5 and 6 of this article apply to the content of the accounts of liabilities category C "Insurance (technical) provisions".
- 3.- a) The accounts C-II-6 "Other insurance provisions of life assurance" and C-I-5 "Other insurance provisions of life assurance" (classes I3, IV2 of art. 13 para. 2 hereof) include the extra amounts of unearned premiums ("provisions for risks in force") for the coverage of risks

- undertaken by the insurance undertaking after the expiry of the financial year, so that it is in a position to respond to all indemnity claims and expenses relating to insurance policies in force and exceeding the relevant unearned premiums, taking into account the collected premiums on the said policies. Also, account C-I-5 includes the technical provision according to art. 7 para. 2 Bf hereof. The above provisions are analyzed in the annex.
- b) The "Provisions for unearned premiums of life assurance", which include the provisions for expenses of para. 2 case Ba second sentence of art. 7 hereof, are registered in the account C-I-1 "Mathematical reserves". The annex also states the "Provisions for unearned premiums" of classes I3 and IV2 of article 13 para. 2 hereof.
- c) The technical provision of art. 7 para. 2Ae (mathematical reserves for old age) is registered in account C-II-1 and stated in the annex.
- 4.- The account C-I-3 "Provisions for participation in profits and returns" (life assurance) includes the sums according to articles 7(para. 2Be) and 12 hereof. The account C-II-4 includes the relevant provisions for life assurance according to the standing provisions.
- 5.- Accounts C-I-4 "Balancing provisions" (life assurance) and C-II-5 "Balancing provisions for life assurance" include all provisions required according to the standing provisions for the balancing of the percentage of damages in the following years or for the coverage of special risks. Account C-II-5 includes the technical provision of art. 7 par. 2Ad hereof.
6. a) The technical provisions of reinsurance withdrawals are calculated according to reinsurance contracts or reinsurance practice and registered accordingly in the relevant accounts of technical provisions of liabilities, or in the sub-accounts of technical provisions of account G-II-1 of liabilities "Reinsureds" (credit acc. 32) when the insurance undertaking operates direct insurance and reinsurance.
- b) The annex analyzes the technical provisions corresponding to reinsurance withdrawals, per category of technical provisions (such as accounts C-I-1 to C-I-5 and C-II-1 to C-II-6), when the insurance undertaking operates direct insurance and reinsurance.

**Article 70**  
**(art. 31 and 32 of Directive 91/674/EEC)**

- 1.- Liabilities category D "Insurance (mathematical provisions for life assurance where the insureds bear the investment risk", include the technical provisions (mathematical reserves), destined for the coverage of liabilities linked to investments, in the context of life policies, whose value or yield is determined in accordance to investments, for which the investment risk is born by the insured, or in accordance to a factor. This category includes the technical provisions representing the liabilities of the organizer of the tontine against the members of the tontine. Any technical provisions, destined for the coverage of mortality risks, administrative expenses or other risks (such as guaranteed provisions on expiry or guaranteed buy-out values), are registered in the account C-I-1 "Mathematical provisions".

- 2.- In the balance sheet of an insurance undertaking, operating (ceding) reinsurance, liabilities category F "Guarantees received from reinsurers" includes the sums deposited by other insurance undertakings or detained by other insurance undertakings, based on reinsurance contracts. These sums cannot be set off against other debts or claims against the said undertakings.
- In cases titles have been deposited with an insurance undertaking, operating (ceding) reinsurance, which titles have been assigned to it, this category includes the sum owed by the ceding (reinsured) undertaking due to the assignment".

## **"Part IV**

### **Structure of the operational accounts, the profit and loss accounts and the table of allocation of profits and losses**

#### **Article 71 (art. 33 and 34 of Directive 91/674/EEC)**

- 1.- The "operational account for life assurance" is drafted according to the sample of para. 4.402, as it stands, of art. 1 of P.D. 148/1984, in combination to what is provided in paras. 4.400 and 4.401 as it stands, of art. 1 of the above P.D.
- 2.- The "operational account for insurance against loss or damage" is drafted according to the sample of para. 4.502, as it stands, of article 1 of P.D. 148/1984, in combination with what is provided in paras. 4.500 and 4.501 as they stand, of article 1 of the same PD.
- 3.- The annual financial statements of insurance undertakings include, beyond what is provided in article 42a para. 1 of L.2190/1920, and the following financial statements:
- a) the statement of the "Operational account for life insurance"
  - b) the statement of the "Operational account for insurance against loss or damage", apart from the "Operational account for motor vehicle liability insurance".
  - c) the statement of the "Operational account for motor vehicle liability insurance", which is drafted according to the sample of para. 4.502, as it stands, of art. 1 PD 148/1984 in combination with what is provided in para. 4.700 and 4.701 as they stands, of article 1 of the same P.D.
- The publication of the above annual financial statements of insurance undertakings is effected according to the provisions of article 78 hereof.
- 4.- The "Profit and loss account" is drafted according to the sample of para. 4.202, as it stands, of article 1 of P.D. 148/1984, in combination with what is provided in paras. 4.200 and 4.201 of article 1 of the same P.D.
- 5.- The "Table of Allocation of profits and losses" is drafted according to the annex of para. 4.302, as it stands, of article 1 of PD 148/1984, in combination with what is provided in paras. 4.300 and 4.301 of article 1

of the same PD.

- 6.- Undertakings, whose activity is exclusively reinsurance, can use the operational account for insurance against loss or damage for all their actions."

## **«Part V**

### **Special provisions for certain accounts of the sample profit and loss accounts of article 71»**

#### **Article 72**

**(art. 35 to 44 and 63 para. 1 of Directive 91/674/EEC)**

**(art. 43 of Directive 92/96/EEC and 44 of Directive 92/94/EEC)**

- 1.- The Content of the accounts and funds of samples:
- "Operational account for life insurance"
  - "Operational account for insurance against damages"
  - "Profit and loss account"
  - "Allocation Table",
- which are referred to in previous article 71, are governed respectively, for each account, by the provisions of the Branch Actuarial Plan of Insurance Undertakings (P.D. 148/1984), as they apply, in combination with the following provisions:
- A.- The operational accounts of insurance classes are drafted according to article 13 (para. 1A and 2) hereof, in combination with paras. 4.700, and 4.701 and 4.702 as they apply, of art. 1 of P.D. 148/1984, without prejudice to art. 71 para. 3 section c.
- B.- An account is created titled "Non liquidated investment overvalues", which is used exclusively in the operation of Operational Accounts for classes III and V in life assurances (life insurance where insureds bear the investment risk) in combination with account 64.40 of the Branch Actuarial Plan (P.D. 148/1984 as it stands), for the application of art. 73 para. 3 hereof. The above account also appears in the operational account for life insurance. Also the annex mentions the balance of account 64.40.
- 2.- The difference between the sums of a closing and a previous financial year of the transitional asset accounts 36.02 to 36.06 of the Branch Actuarial Plan for Insurance Undertakings (P.D. 148/1984 as it stands), which include commissions deferred to the next year and other production expenses and appear in account Z-2 of the assets of the balance sheet, is recorded in the annex".

## «Part VI

### Rules of appreciation

#### Article 73

#### (art. 45 to and 55 of Directive 91/674/EEC)

- 1.- For the evaluation of assets of insurance undertakings, in the drafting of the annual financial statements, the provisions of art. 43, as it stands, of C.L. 2190/1920 and article 28 of P.D. 186/1992 "C.B.D." (A' 84), apply.
- 2.- The annex includes a table which comprises the acquisition value of investments in real estate and in securities, for the asset categories of the balance sheet C-I-1, C-I-2, C-II, C-III-1, C-III-2, C-III-3, C-III-7, their current value, as well as the value at which they were estimated, according to para. 1 of this article.  
Below the above table, the manner of calculation of the current value of every investment category of this table is explained.
- 3.- Especially the assets of asset category D "Investments on behalf of life assureds who bear the investment risk" are appreciated at their current value on the date of closing the balance sheet. Any difference increases or reduces respectively the liabilities account D "Insurance (mathematical) provisions for life assurance where assureds bear the investment risk" (Mathematical reserves). The annex depicts the acquisition value of the above investments per category.

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#### Article 73a

- 1.- When assets and liabilities are appraised according to article 43c of C.L. 2190/1920, as it stands, paragraphs 2 to 6 of this article apply.
- 2.- The investments appearing as Assets in place D, appear at their reasonable value.
- 3.- When the investments appear at acquisition price, their reasonable value is stated in the Annex of the accounts.
- 4.- When investments appear at their reasonable value, their acquisition price is stated in the Annex of the Accounts.
- 5.- The same appreciation method applies to all investments which are included in a position bearing Arabic numerals or presented as Assets in position C point I. Deviations from these obligation are allowed, on the condition that every deviation will be justified in the Annex.
- 6.- The method or methods applied to every investment position must be stated in the Annex of the accounts together with the amounts set in that way.

**Article 74**  
**(art. 56 to 62 of Directive 91/674/EEC)**

The methods of calculation, of the insurance (technical) provisions included in categories C and D of liabilities, are set by a decision of the Minister of Development, according to the provisions of paras. 5,6 and 7 of article 7 hereof".

**"Part VII**

**Content of the annex**

**Article 75**  
**(art. 63 of Directive 91/674/EEC)**

Instead of the information provided in article 43a case 1 case g of C.L.2190/1920, insurance undertakings must include in the annex the following:

I.- With regard to life assurance, the annex must state:

- 1) the net registered premiums,
- 2) the gross registered premiums,
- 3) the gross indemnities,
- 4) operational costs,
- 5) reinsurance balance.

These sums must be stated separately for direct insurance and reinsurance activity, if the reinsurance undertaken amounts to 10% at least of the total amount of gross registered premiums, and, with regard to direct insurance, they are stated separately for the following classes, taking into account articles 71 para. 3,72 (para. 1A) and 13 hereof:

- accident and disease (health) [insurance classes 1 and 2]
- vehicles (apart from civil liability) and railways (insurance classes 3 and 4)
- vessels and aircrafts (insurance classes 5, 6, 11 and 12)
- transportations (insurance class 7)
- fire and other damages (insurance classes 8 and 9)
- general liability insurance (insurance class 13)
- credits and guarantees (insurance classes 14 and 15)
- legal expenses (insurance class 17)
- assistance (insurance class 18)
- various monetary losses (various risks) [insurance class 16].

Distribution per class group, with regard to direct insurance, is not required when the sum of gross registered premiums of direct insurance for the group does not exceed 10 million EURO. However, insurance undertakings must definitely report the sums relating to the three most important class groups of their activity.

- II. With regard to life assurance, the annex must mention:
- 1.- Gross registered premiums, separately for direct insurance and reinsurance undertaken, provided the undertaken reinsurance amounts to 10% at least of the total gross registered premiums and, with regard to reinsurance, they are stated separately for the following categories:
    - a) i.- individual premiums,  
ii.- group policies premiums,
    - b) i.- periodical premiums,  
ii.- one off premiums,
    - c) i.- premiums for policies without participation in profits,  
ii.- premiums for policies with participation in profits,  
iii.- premiums for policies in case the investment risk is born by the insureds.

It is not necessary to mention the sum corresponding to any of categories a), b) and c), if it does not exceed 10% of the total of gross registered direct insurance premiums.
  - 2.- Reinsurance balance.
- III.- In the cases of article 71 para. 6 hereof, the annex must state the registered gross premiums separately for loss or damage insurance and life insurance.
- IV.- In all cases, the annex must state the total of registered gross direct insurance premiums, resulting from policies that have been concluded with the insurance undertaking:
- in the member state of its head office,
  - in the other member states,
  - in other countries.
- It needs not be mentioned that the mention of the relevant sums is not necessary in case they do not exceed 5% of the total amount of registered gross premiums.

**Article 76**  
**(art. 64 of Directive 91/674/EEC)**

- 1.- Insurance undertakings must mention in detail in the annex the commissions for direct insurance activities, recorded during the financial year. This obligation concerns commissions of any form and especially commissions for the concluding, renewal, collection and management of a portfolio.
- 2.- Furthermore, the annex, besides those provided in the previous paragraph, in the previous article 75 and in articles 42a para. 3, 42b (para. 1, 2, 4 and 5), 42e (para. 8, 14 and 15) and 43 of C.L. 2190/1920, must state the information and explanations provided in article 43a (para. 1, case A' - g' and i' - ji') of C.L. N. 2190/1920, as well as of articles 7 (para. 2Ac, 2Bc and 2Be), 8 para. 8, 17a [para. 3 (g, i)], 62 para. 2, 66 (para. 4, 6 and 7), 67 (para. 2, 3), 68 para. 4, 69 [para. 3 (a, b, c) and 6b], 72 (para. 1B and 2) and 73 (para. 2 and 3) of this law, in combination with para. 4.801, as it stands, of art. 1 of P.D. 148/1984.



- 3.- In the annex the information and explanations are depicted in groups, according to the rank of categories and accounts of the sample financial statements of paras. 4.103, 4.402, 4.502, 4.202 and 4.302, as they apply, of art. 1 of P.D. 148/1984".

## **"Part VII**

### **Unified financial statements (unified accounts) of insurance undertakings**

#### **Article 77 (art. 65 to 66 of Directive 91/674/EEC)**

- 1.- For the drafting of unified financial statements (unified accounts) and the unified report of insurance undertakings, the provisions of articles 90 to 109 of L. 2190/1920 apply, which were added to it with article 18 of P.D. 498/1984 (A' 236), if there is no provision to the contrary in this article.
- 2.- The provisions of article 90 (para. 2 section c) and 92 of L.2190/1920 do not apply. The provisions of article 111 para. 3 of L. 2190/1920, renumbered as article 132 with art. 5 of PD 367/1994 (A' 125), apply as far as they are not amended by the provisions of this article.
- 3.- In case two or more insurance undertakings are not linked in the manner described in article 90 para. 1 L. 2190/1920, but are under a single management, without this being provided by an agreement or clause of the articles of association, the provisions of article 96 of L. 2190/1920 apply. The same applies in case where the single management takes the form of important and viable reinsurance bonds.
- 4.- The provisions of article 104 para. 3 case c of L. 2190/1920 do not apply, when the profits or losses mentioned there result from transactions that took place in accordance to the usual circumstances of the market and have created rights in favour of the insureds. For this deviation a relevant mention is made in the unified annex.
- 5.- Article 104 para. 8 of L. 2190/1920 applies under the condition that the date of closing of the balance sheet of an undertaking, included in the unification, does not precede the date of closing of the unified accounts beyond six months.
- 6.- The provisions of article 105 of L. 2190/1920 do not apply to liabilities which have been appraised by the undertakings participating in the unification according to special insurance provisions, not to the assets whose values affect rights of the insureds or generate such rights. The use of this deviation must be mentioned in the annex of unified accounts".

## **"Part IX**

### **Publicity**

#### **Article 78 (art. 68 of Directive 91/674/EEC)**

- 1.- The publication of the annual financial statements of insurance undertakings is effected according to the provisions of articles 7b (paras. 1 and 12) and 43b para. 5 of L. 2190/1920.
- 2.- The provisions of article 109 of L.2190/1920 accordingly apply to publication of the unified financial statements (unified accounts) of insurance undertakings.

### **NOTES**

- I. Articles 33 and 36 of P.D. 252/96 provide the following:

#### **Article 33**

1. For life insurance policies (basic insurance) that have been issued before the publication of this presidential decree the following apply with regard to their management:
  - a) They will continue to be managed until their expiry, according to insurance legislation and ministerial decisions in force until publication hereof, and according to the approved price lists and general terms.
  - b) The above price lists and general terms are recorded in the register of art. 11 of p.d. 400/70, as it stands.
  - c) The appearance and registration of technical reserves (liabilities – investments) of the above contracts in the financial statements, takes effect according to articles 7, 8 and the provisions of the articles of the 11<sup>th</sup> Chapter of l.d. 400/70 as it applies, and without prejudice to the reservation of art. 52a para. 14 of the same l.d.
2. Insurance undertakings operating life assurance and having a license to operate class I.3 of art. 13 para. 2 of l.d. 400/70 as it stands on the publication hereof, are considered to be holding a license to operate class IV2 of art. 13 para. 2 of the above l.d.
3. With regard to insurance undertakings of para. 2 art. 3a of l.d. 400/70, as it stands, which will not appear a production within 6 months from publication hereof, and in deviation of the provisions of the above paragraph and of article 52a par. 10 of the above l.d., the license of operation of the respective class is revoked.
4. Insurance undertakings may, even after the publication hereof, in deviation from the provisions of art. 8 para. 5 cases a and b of l.d.

400/70, use appreciations of article 9 of codified law 2190/20 made until 31.10.1995, in order to increase the existing disposal in insurance investment of the assets of case C para. 3 article 8 of l.d. 400/70.

5. The provisions of the above para. 4 also apply to the calculation of the overvalue of the real estate that constitute an element of the solvency margin, in a percentage of 85% of the estimated value, according to para. 5 art. 17a of l.d.400/70.
6. For real estate, which is disposed of in an insurance investment after publication hereof, and which was acquired until 31.10.1995, the limitation of article 8 para. 4 case C of l.d. 400/70 with regard to the acquisition price of the purchase contract of the real estate, does not apply.
7. The value of real estate outside city plans, that has been disposed of in an insurance investment until publication hereof, is taken into account in the coverage of technical reserves.

### **Article 36**

This law decree comes into force following its publication in the Government Gazette.

The Minister of Commerce is charged with the publication and execution of this law decree.

II. Articles 3 and 4 of P.D. 169/2000 provide the following:

### **Article 3**

1. Paras. 2 and 3 of art. 111 of C.L. 2190/1920, renumbered as article 132 with article 5 of PD 367/1994 (A' 125), continue to apply to insurance undertakings in as far as they are not amended by the provisions of the added, with this LD in LD ΝΔ 400/1970 as it stands, new articles 62 to 78.
2. Every provision that is contrary to the provisions of this LD or regulates matters regulated by them, is abolished.
3. Wherever in article 4 of PD 148/1984, the phrase "reasoned opinion of an actuary or actuaries of the Body of Actuaries (BoA)" is mentioned, the phrase "certified auditor/auditors" is added.

### **Article 4**

1. The provisions of this L.D. are applicable from its publication in the Government Gazette, the provisions of article 3 of P.D. 148/1984, as modified with P.D. 64/1999, also applying.
2. The provisions of art. 5a of L.D. 400/1970, added with article 2 of L. 2170/1993 (A' 150), are abolished.

3. Branches and agencies having a head office in the European Union and the EEA apply this PD until 31/12/98. From the next financial years, the Ministry of Development annually announces their financial results, according to the co-operation protocol of the supervisory authorities of the member states.

The Deputy Minister is charged with the publication and execution of this Law Decree.

III. Article 21 of I. 2170/93 is as follows:

#### **Article 21**

A Presidential Decree, issued with a proposal of the Minister of Commerce, renumbers, translates and codifies in a single text the provisions regarding the private insurance undertaking, intermediation in private insurance and car insurance.

IV. Articles 7 and 8 of P.D. 288/2002 provide the following:

#### **Article 7**

Whenever in articles 2 to 8 of this P.D. articles or chapters are mentioned without reference to a law or P.D., it shall mean the articles or chapters of L.D. 400/1970, as it stands.

#### **Article 8**

The provisions of this P.D. apply from its publication to the Government Gazette.

The Deputy Minister of Development is charged with the publication and execution of this Presidential Decree.

V. Article 12 of P.D. 10/2003 provides the following:

#### **Article 12**

### **TRANSITIONAL PROVISIONS**

1. Insurance undertakings with head offices in Greece and branches of third countries established in Greece, provided they operate damage insurance class 10 "motor vehicle liability insurance", apart from carrier liability, are obliged within two months from publication hereof, to submit to the Department of Insurance Undertakings and Actuaries, as well as to the information centers of the other member states, the particulars of the claims representative they appoint in every member state, according to article 15 par. 1f and 20 para. 2 Af of L.D. 400/70, as it applies.

Non-submission of the data results in the penalties of art. 38 of L. 489/76, as it applies.

2. Also, branches established in Greece of insurance undertakings with head offices in countries of the E.U and the EEA, as well as the undertakings operating with Free Provision of Services (F.P.S.) in Greece and operating in Greece damage insurance class 10 "motor vehicle liability insurance" apart from carrier liability, are obliged to notify the Information Center about the representative appointed by the head of the undertaking in the other member states, who serves persons who have suffered damage from insured vehicles through these branches or with FPS.
3. The provisions of Presidential Decrees 1348/10.12.1981 (GG 336/A/21.12.81) and 4/11.1.1985 (GG 2/11.1.85), as well as the phrase "and of the Greek Red Cross" from P.D. 764/1978 (GG 177/A/23.10.1978) is abolished.
4. Operation in force hereof commences with its publication in the Government Gazette.  
The Deputy Minister is charged with the publication and execution of this law decree.