

## THE INFORMATION CONCERNING GENERAL GOOD REQUIREMENTS OF THE SLOVENIAN LEGISLATION

### I. INTRODUCTION

This information concerns insurance undertakings with their head offices in the Member States, which in accordance with Article 14 of the Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) have been authorized by supervisory authority of the home Member State to carry out insurance operations in the territory of the Republic of Slovenia.

### II. SLOVENIAN INSURANCE LEGISLATION IN FORCE

Provisions that regulate insurance business in the Republic of Slovenia are laid down in the following acts:

- Insurance Act (IA)- Official Gazette of the Republic of Slovenia No. 93/15 - official consolidated text (<http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO6183>);
- Compulsory Motor Third-Party Liability Insurance Act (CMTLA) - Official Gazette of the Republic of Slovenia No. 93/07 - official consolidated text, 40/12 - ZUJF, 33/16 - PZ-F and 41/17 - PZ-G (<http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO373>);
- Health Care and Health Insurance Act (HCHIA) - Official Gazette of the Republic of Slovenia No. 72/2006 - official consolidated text, 114/06 - ZUTPG, 91/07, 71/08 - dec. US, 76/08, 62/10 - ZUPJS, 87/11, 40/11 - ZUPJS-A, 40/12 - ZUJF, 21/13 - ZUTD-A, 63/13 - ZIUPTDSV, 91/13, 99/13 - ZUPJS-C, 99/13 - ZSVarPre-C, 111/13 - ZMEPIZ-1, 95/14 - ZIUPTDSV-A, 95/14 - ZUJF-C, 47/15 - ZZSDT, 90/15 - ZIJZ-1, 90/15 - ZIUPTD and 61/17 - ZUPŠ (<http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO213>);
- Insurance Premium Tax Act - Official Gazette of the Republic of Slovenia No. 96/05 - official consolidated text and 90/14 (<http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1274>);
- Pension and Disability Insurance Act - Official Gazette of the Republic of Slovenia No. 96/12, 39/13, 46/13 - ZIPRS1314-A, 63/13 - ZIUPTDSV, 99/13 - ZSVarPre-C, 101/13 - ZIPRS1415, 111/13 - ZMEPIZ-1, 44/14, 85/14 - ZUJF-B, 95/14 - ZIUPTDSV-A, 97/14 - ZMEPIZ-1A, 95/14 - ZIPRS1415-C, 95/14 - ZUPPJS15, 95/14 - ZUJF-C, 31/15 - ZISDU-3, 90/15 - ZIUPTD, 90/15 - ZUPPJS16, 96/15 - ZIPRS1617, 102/15, 42/16 - dec. US, 80/16 - ZIPRS1718, 88/16 - ZUPPJS17, 40/17 and 23/17 (<http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO6280>);
- Obligations Code - Official Gazette of the Republic of Slovenia No. 97/2007 - official consolidated text and 64/16 - dec. US (<http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1263>);
- other acts, prescribing general good conditions, for example Consumer Protection Act, Prevention of Money Laundering and Terrorist Financing Act, etc.

*This text summarizes only the general good requirements of the Insurance Act.*

### **III. POLICY CONDITIONS AND NOTIFICATION OF POLICYHOLDERS**

According to Article 133 of IA (Conduct of insurance business by insurance undertakings from Member States) an insurance undertaking that is authorised to conduct insurance business in individual classes of insurance in a Member State may also conduct insurance business in the territory of the Republic of Slovenia through a branch or directly under the conditions stipulated by IA.

The following provisions of acts and regulations issued regarding their implementation shall apply to insurance undertakings from a Member State which conduct insurance business in the territory of the Republic of Slovenia:

1. Articles 521 to 528 of IA;
2. Article 560 of IA;
3. the provisions of the acts referred to in paragraphs (6) and (7) of Article 7 of IA;
4. the provisions of other acts which, in order to safeguard public interest, govern consumer protection, the prevention of money laundering, terrorist financing and other fields, and apply to insurance undertakings with head offices in the Republic of Slovenia.

#### **A. Insurance contracts and general policy conditions**

Article 521 (1) of IA holds that if insurance covers risks in the Republic of Slovenia, the insurance contract shall mainly include provisions concerning:

1. the company name, the legal form of organisation, the head office and the address of an insurance undertaking and the insurance undertaking's branch through which the insurance contracts is entered into;
2. the events that require the obligation of the insurance undertaking to fulfil the provisions of the insurance contract, and concerning events in which the obligation of an insurance undertaking has been exempted for special reasons;
3. the manner of fulfilment, its scope, possible guarantees, and the maturity of the obligation of the insurance undertaking;
4. the determination and payment of a premium and concerning the legal consequences if the premium is not paid;
5. the term of the insurance contract, especially:
  - if and how the term shall be tacitly renewed,
  - if, how and when an insurance contract may be terminated or entirely or partially dissolved, and the obligations of an insurance undertaking in such cases;
6. the loss of claims arising from an insurance contract in the event of a deadline being missed;
7. in the case of life insurance, also concerning the conditions and the scope of advance payments and loans with respect to an insurance contract, concerning the conditions under which a policyholder participates in the profit of an insurance undertaking, concerning the criteria for calculating such participation, and concerning the conditions and manner of calculating the surrender value of the policy and capitalisation;
8. In the case of insurance whereby policyholders assume an investment risk and whereby entitlements provided to policyholders based on the insurance contracts are directly connected to the value of fund units in UNITS funds, also concerning:

- the definition of a profile for risks related to investment policies,
- the amount of, or manner of calculating, the risk premium and premium for additional risk,
- the amount of all indirect and direct costs, including the disclosure of the method or manner of calculating such costs (costs not disclosed in an insurance contract shall not be charged or taken into account),
- the amount and manner of charging all indirect and direct costs that reduce the value of fund units in UNITS funds,
- the amount of planned future obligations of an insurance undertaking pursuant to an insurance contract calculated using the compound interest calculation with a nominal annual rate of return or real annual rates of return (if the impact of inflation is also shown) determined in the regulation referred to in paragraph (10) of this Article;

9. In the case of insurance whereby policyholders assume an investment risk and whereby entitlements provided to policyholders based on the insurance contracts are directly connected to the value of the securities index or another reference value, also concerning:

- the definition of a profile for risks related to investment policies,
- the amount or manner of calculating the risk premium and premium for additional risk,
- the amount of all indirect and direct costs, including the disclosure of the method or manner of calculating such costs (costs not disclosed in an insurance contract shall not be charged or taken into account),
- the manner of calculating or determining index values or other reference values, including the disclosure of all indirect and direct costs affecting the index value or another reference value,
- the amount of planned future obligations of an insurance undertaking pursuant to an insurance contract calculated using the compound interest calculation with a nominal annual rate of return or real annual rates of return (if the impact of inflation is also shown) determined in the regulation referred to in paragraph (10) of this Article;

10. In the event of insurance whereby policyholders assume an investment risk and whereby entitlements provided to policyholders based on the insurance contracts are directly connected to the value of funds in the internal fund of an insurance undertaking, also concerning:

- investment policies and relevant information on the types of investments and management techniques,
- the definition of a profile for risks related to investment policies,
- the amount of, or manner of calculating, the risk premium and premium for additional risk,
- the amount of all indirect and direct costs, including the disclosure of the method or manner of calculating such costs (costs not disclosed in an insurance contract shall not be charged or taken into account),
- the amount and manner of calculating all indirect and direct costs that reduce the value of the funds contained in the internal fund of an insurance undertaking (the costs not disclosed in an insurance contract shall not be chargeable to the funds contained in the internal fund of an insurance undertaking),
- the amount of planned future obligations of an insurance undertaking pursuant to an insurance contract calculated using the compound interest calculation with a nominal annual rate of return or real annual rates of return (if the impact of inflation is also shown) determined in the regulation referred to in paragraph (10) of this Article;

11. in the case of accident and health insurance for which technical provisions are calculated by means of life insurance methods, also concerning the conditions and the manner of calculating such provisions and corresponding premium changes due to the ageing of the insured person, concerning the rights arising from the already created technical provisions in the event of the termination of insurance or in the event of a change of insurance within the same insurance undertaking or in the event of a change of the insurance undertaking, and concerning the effects of other factors on premium changes.

According to Article 521 (2) of IA in the case of a mutual insurance company, the compulsory provisions referred to in the preceding paragraph of the same article may be contained in the Articles of Association instead of in the insurance contract.

According to Article 521 (3) of IA the provisions of the insurance contract referred to in paragraph (1) of the same article may deviate from the general conditions of insurance to the detriment of the policyholder only if there are grounds for this justified with regard to the subject of insurance, and if the policyholder provides express written consent to such deviation.

According to Article 521 (4) of IA in the event of the insurance of procedural costs referred to in point 17 of paragraph (2) of IA, insurance contract may not determine that an insurance undertaking shall cover only the costs of legal representations through a solicitor or any other person appointed by an insurance undertaking.

According to Article 521 (5) of IA an insurance contract shall not be in conflict with the mandatory rules of other Acts governing insurance contracts or individual types of insurance contracts.

According to Article 521 (6) of IA, Insurance undertakings shall treat all providers and potential insured persons who wish to obtain insurance services equally; however, in the procedure for making selections, assessing risks, determining premiums and paying insurance benefits, they may take into consideration the criteria of insurance experts or only the following personal circumstances and traits of the insured person: age, health condition, disability, occupation, and other personal circumstances that may reasonably affect the amount of the assumed risk, with the exception of gender, maternity, and pregnancy.

According to Article 521 (7) of IA with regard to insurance from the life insurance group and accident and health insurance classes, insurance undertakings may take into consideration the personal circumstance of gender when calculating premiums and benefits at an aggregate level if this does not lead to differentiation at an individual level. Insurance undertakings may take account of the gender factor to calculate technical provisions and to fix prices internally, to set forth reinsurance prices, to market and advertise, and to assess risks arising from the life insurance group and health and accident insurance class.

Notwithstanding the provisions of paragraph (7) of Article 521, supplementary health insurance shall be carried out pursuant to the provisions of IA governing health care and health insurance (Article 521 (8) of IA).

## **B. Notifying policyholders upon entering into an insurance contract**

Article 522 (1) of IA holds that when a policyholder is a natural entity, an insurance undertaking or an insurance broker shall notify the policyholder upon entering into the insurance contract referred to in paragraph (1) of the preceding paragraph, in writing or in soft copy, concerning the:

1. the company name, the legal form of organisation, the head office and the address of an insurance undertaking and the insurance undertaking's branch through which the insurance contracts is entered into;
2. the general conditions of insurance that apply to insurance relationships;
3. the law applicable to an insurance contract or, in cases with an international element, concerning the right of the client to choose the law applicable to an insurance contracts pursuant to the Regulation referred to in paragraph (2) of Article 529 of IA;
4. access to the report on the solvency and financial situation of the insurance undertaking referred to in Article 261 of IA;
5. the manner of treating complaints filed by policyholders or other beneficiaries, including the existence of a body for resolving complaints;

6. the manner of fulfilment, scope, and maturity of the obligations of the insurance undertaking, and any guarantees;
7. the term of the insurance contract;
8. the amount of the premium, whereby the insurance premium is divided into insurance premiums for individual risks if the insurance covers risks from multiple insurance classes, and concerning the amount of the contributions, taxes, and other costs charged in addition to the premium, and concerning the total amount of payments;
9. the period in which the provider is bound by the insurance proposal;
10. the right to cancel, withdraw, or other options;
11. the name and address of the supervisory authority competent to supervise the insurance undertaking;
12. conditions for establishing a suspension.

In the case of life insurance, the written or electronic notifications referred to in the preceding paragraph or the submitted insurance conditions shall also contain information to enable an understanding of the risks assumed by the policyholder by entering into an insurance contract, and information on the right referred to in Article 525 of this Act (Article 522(2) of IA).

According to Article 522 (3) in the case of life insurance, accident and health insurance with a right to receive a partial reimbursement of an insurance premium, the notification sent to policyholders shall contain, in addition to the data referred to in the preceding paragraph, the following data concerning:

1. the bases and criteria for profit participation;
2. a table with the surrender values of policies;
3. the minimum insurance sum or the minimum insurance period for converting the insurance into an insurance without a premium (capitalisation) and concerning the rights arising from such insurance;
4. in the case of insurance whereby benefits are connected to investment fund units, concerning investments and the nature of the funds in an investment fund;
5. in the case of insurance whereby benefits are directly related to changes in the securities index or any other reference value concerning the securities index or any other reference value;
6. the tax regime applicable to insurance.

### **C. Notifying policyholders during the term of an insurance contract**

Article 523 (1) of IA holds that during the term of the insurance contract referred to in paragraph (1) of Article 521 of IA, an insurance undertaking shall notify policyholders concerning:

1. a change in the company name, the legal form of organisation, the head office or the address of an insurance undertaking or its branch through which the insurance contract was entered into;
2. the changes to the data referred to in points 6, 8, and 12 of paragraph (1) of the preceding paragraph or of the data referred to in points 1 through 5 of paragraph (3) of the preceding paragraph, provided that such changes arose due to a change in regulations.

According to Article 523 (2) of IA during the term of the insurance contract referred to in paragraph (3) of the preceding article, an insurance undertaking or an insurance agent or broker shall also notify policyholders annually concerning:

1. the balance of the profit participation;
2. in the case of the insurance referred to in point 21 of paragraph (2) of Article 7 of IA, concerning the balance of the policyholder's benefits, including the rate of return.

#### **D. Manner of providing data**

Article 524 (1) of IA holds that an insurance undertaking or an insurance broker shall provide a policyholder with the data referred to in Articles 521 through 523 of IA in writing or in soft copy, in Slovenian. Data shall be provided in a comprehensible manner.

According to Article 524 (2) of IA notwithstanding the provision of the preceding paragraph, an insurance undertaking or an insurance broker may also notify a policyholder concerning the data referred to in the preceding article via e-mail, provided that the express written consent of the policyholder concerning the stated manner of providing notification is given, whereby a policyholder shall be notified in writing that such consent may be withdrawn at any time.

#### **E. Content of general conditions and notifications**

According to Article 526 of IA the text of the general conditions of insurance and the notifications referred to in Articles 521, 522 and 523 of IA shall be unambiguous, transparent, comprehensible, and in Slovenian.

#### **F. Conditions for performing insurance agency or brokerage services**

According to Article 558 (1) of IA insurance agency and brokerage services may be performed only by an insurance agency or brokerage company which has obtained an authorisation to perform insurance agency or brokerage activities.

No one other than the entities referred to in the preceding paragraph may perform insurance agency or brokerage activities (Article 558 (2) of IA).

The activities referred to in paragraph (1) of Article 558 of IA shall not be insurance agency or brokerage activities performed by natural persons on the basis of employment or any other legal relationship with an insurance undertaking or a company referred to in paragraph (1) of the same article (Article 558 (3) of IA).

Notwithstanding paragraph (1) of Article 558 of IA, insurance agency services may also be provided by other entities if insurance is concluded that is directly related to the main service provided (e.g. forwarding agents and persons performing roadworthiness tests), and if they have acquired a licence to pursue the activity of insurance agencies (Article 558 (4) of IA).

### **IV. COMPULSORY INSURANCE IN TRANSPORT**

According to Article 136 (1) of the IA in addition to the conditions stipulated by Articles 134 and 135 of IA, prior to engaging in compulsory insurance in transport, an insurance undertaking from a Member State shall submit to the Insurance Supervision Agency a certificate from the Slovenian Insurance Association which shows that the insurance undertaking from a Member State:

1. is a member of the Slovenian Insurance Association;
2. has joined the uninsured motorist fund and compensation office as prescribed by the Act governing compulsory insurance in transport, and has undertaken the financing of the uninsured motorist fund and compensation office, and the fulfilment of other obligations required for the operation of the uninsured motorist fund and compensation office;
3. has communicated the name and address of the representative as stipulated by the Act governing compulsory insurance in transport.

According to Article 1 of the CMTLA the compulsory insurance in transport are:

- accident insurance of passengers in public transport;
- third party liability insurance of vehicle owners (automobile third party liability insurance);
- third party liability insurance of aircraft or other aviation device owners;
- third party liability insurance of boat owners.

According to Article 136 (2) of IA notwithstanding the provisions of Article 134 and 135 od IA, an insurance undertaking from a Member State may engage in up compulsory insurance in transport only if it notifies the Insurance Supervision Agency in advance of the general and special insurance conditions at least one month prior to their application.

According to Article 136 (3) of the IA, if the Insurance Supervision Agency concludes that the insurance conditions referred to in the preceding paragraph do not comply with regulations, it shall order an insurance undertaking from a Member State to harmonize its insurance conditions with the regulations. If the insurance undertaking from a Member State fails to comply with the order within the time limit specified by the order, the Insurance Supervision Agency shall notify the supervisory authority of the Member State of the insurance undertaking.

The insurance undertaking which registers the performance of insurance business in insurance class 1 (accident insurance) and is in this scope going to insure the passengers in public transport against the consequences of an accident, without at the same time registering for example the insurance class 10 (vehicle liability insurance), 11 (liability insurance when using aircraft or other flying machines) or 12 (liability insurance when using vessels), is a subject to special rules of CMTLA and of Article 136 of IA.

## **V. DECISION ON DETAILED CONTENTS OF PROVISIONS OF SOME INSURANCE CONTRACTS**

Decision on detailed contents of provisions of some insurance contracts is available on the website of the Insurance Supervision Agency (<https://www.a-zn.si/wp-content/uploads/azn00216.pdf>).

