



Istituto per la Vigilanza sulle Assicurazioni Private e di Interesse Collettivo

(only the Italian version is authentic)

REGULATION N. 23 OF 9 MAY 2008

REGULATION LAYING DOWN RULES GOVERNING PREMIUM AND CONTRACT TERMS DISCLOSURE IN COMPULSORY INSURANCE FOR MOTOR VEHICLES AND CRAFT, AS REFERRED TO IN ARTICLE 131 OF LEGISLATIVE DECREE N. 209 OF 7 SEPTEMBER 2005 - CODE OF PRIVATE INSURANCE.

ISVAP

Istituto per la vigilanza sulle assicurazioni private e di interesse collettivo (Supervisory Authority for Private Insurance Undertakings and Insurance Undertakings of Public Interest)

HAVING REGARD to law n. 576 of 12 August 1982 as subsequently amended and supplemented, on the reform of insurance supervision;

HAVING REGARD to legislative decree n. 209 of 07 September 2005, as subsequently amended and supplemented, introducing the Code of Private Insurance;

HAVING REGARD to decree-law n. 223 of 4 July 2006 converted, after amendment, into law n. 248 of 4 August 2006, on urgent measures to promote economic and social recovery and contain and rationalise public spending, on revenue collection measures and measures to prevent tax evasion;

HAVING REGARD to ISVAP Regulation n. 5 of 16 October 2006 laying down provisions on insurance and reinsurance mediation as referred to under Title IX (Insurance and reinsurance intermediaries) and article 183 (Rules of conduct) of legislative decree n. 209 of 7 September 2005 – Code of Private Insurance;

TAKING INTO ACCOUNT the opinion given by the Antitrust Authority on 30 November 2007, as per article 22 of law n. 287 of 10 October 1990;

GIVEN the necessity to lay down rules on the requirements imposed on undertakings and intermediaries envisaged in article 131 of the Code of Private Insurance as supplemented by article 8 of the above-mentioned law n. 248 of 4 August 2006;

adopts the following

REGULATION

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CHAPTER I General Provisions

Article 1 (Legislative sources)

1. This Regulation has been adopted in compliance with article 131 of legislative decree n. 209 of 7 September 2005.

Article 2 (Definitions)

1. For the purposes of this Regulation:
 - a) "compulsory insurance against civil liability in respect of the use of motor vehicles and craft" shall mean: the compulsory insurance against civil liability in respect of the use of motor vehicles for the risks classified in class 10, other than carrier's liability, and for the risks classified in class 12 as referred to in article 2 (3), of legislative decree n. 209 of 7 September 2005;
 - b) "policyholder" shall mean: the natural or legal person who underwrites a compulsory insurance contract against civil liability in respect of the use of motor vehicles and craft;
 - c) "decree" shall mean: legislative decree n. 209 of 7 September 2005, introducing the Code of Private Insurance;
 - d) "insurance undertakings authorized in Italy" shall mean: the insurance undertakings with head office in Italy and the Italian branches of insurance undertakings with head office in a third country;
 - e) "intermediary" shall mean: a natural or legal person, registered in the single electronic register of insurance and reinsurance intermediaries as referred to in article 109 of legislative decree n. 209 of 7 September 2005, who pursues insurance mediation for remuneration;
 - f) "intermediary directly operating for an undertaking" shall mean: the intermediary registered under section A, B or D of the single electronic register of insurance and reinsurance intermediaries as referred to in article 109 of legislative decree n. 209 of 7 September 2005, who, on the grounds of mandates or agreements underwritten with the insurance undertakings, receives from them commissions for the activity pursued;
 - g) "sales points" shall mean: the offices or premises of the intermediary or of the undertaking, which are accessible to or used for receiving the public and in which it is possible to underwrite the insurance contract.

Article 3 (Scope)

1. This Regulation applies to insurance undertakings authorized in Italy to pursue compulsory insurance against civil liability in respect of the use of motor vehicles and craft and to insurance undertakings having their head office in another EEA State licensed to pursue business in Italy in class 10 (other than carrier's liability) and in class 12 by way of establishment or of free provision of services, without prejudice to article 132 (2) of the decree.

CHAPTER II Disclosure and information requirements

Section I - Obligations on undertakings

Article 4

(Obligations on undertakings to provide information)

1. To guarantee disclosure and competition in the supply of insurance products relating to compulsory insurance against civil liability in respect of the use of motor vehicles and craft as well as to guarantee an adequate level of information on contractual terms and premiums applied for the benefit of those required to comply with the insurance obligation, undertakings shall make available to the public at any sales point and on the internet:
 - a) the pre-contractual documents envisaged by current provisions;
 - b) general and special policy conditions;
 - c) free service of customised estimate.

Article 5

(Free customised estimates at sales points)

1. Undertakings shall provide a free service of customised estimate as envisaged by article 4 (c) to anyone requesting it for the various types of vehicles or craft subject to compulsory insurance, for each risk arising from the use of motor vehicles and craft.
2. When installing the service, undertakings shall take account of all the customisation elements envisaged by the premium rate. The estimate released shall show the customisation elements relating to the applicant, which are used by the undertaking for premium calculation, including the answers provided by the applicant himself.
3. The estimate shall show:
 - a) the overall premium required for the cover;
 - b) the amount of the commission paid by the undertaking to the intermediary directly operating for such undertaking, in relation to the type of contract chosen and to the category of vehicles and craft concerned; the commission shall be expressed as an absolute value; moreover, for purposes of comparability, the amount of the commission shall be expressed as a percentage of the overall premium. Undertakings shall specify, in a footnote, that the percentage has been calculated by relating the absolute value of the commission to the overall premium;
 - c) the total discount applied by the undertaking and by the intermediary.

Clauses providing for exclusion and recourse, if any, shall be displayed in bold.

4. Any estimate shall show a code, assigned on the basis of procedures pre-established by the undertaking, which allows it to be identified in an unambiguous manner in case of conclusion of the relevant contract.
5. The customised estimate shall have a validity of not less than sixty days and anyhow no longer than the duration of the current premium rate. When the premium rate, based on which the estimate is calculated, has a residual validity of less than sixty days and the

customer asks for an estimate relating to a cover with effective date falling when the new premium rate is applicable, the undertaking shall issue such estimate calculated on the basis of the new premium rate.

Article 6
(Free customised estimates online)

1. The provisions of article 5 shall apply to the free customised estimate that can be obtained on undertakings' websites, subject to the following specifications:
 - a) when undertakings pursue business through intermediaries, the estimate that can be obtained online shall show the maximum amount of the commission paid by the undertaking, in relation to the type of contract chosen and to the category of vehicles and craft concerned; the commission shall be expressed as an absolute value; moreover, for purposes of comparability, the amount of the commission shall be expressed as a percentage of the overall premium. Undertakings shall specify, in a footnote, that the percentage has been calculated by relating the absolute value of the commission to the overall premium and shall insert the warning that the commission actually paid to the intermediary may be lower;
 - b) when undertakings pursue business by means of distance communication techniques or through intermediaries, the estimate that can be obtained online shall warn about the possibility to get discounts by applying directly to the head office or to the intermediary.
2. The web site shall at least have the following characteristics and operating functions:
 - a) the home page shall show - in a visible manner - the link to the section dedicated to obtaining the estimate;
 - b) the section dedicated to obtaining the estimate shall mention that the estimate has been calculated in compliance with the provisions of article 131 of the decree. Moreover the link to the general and special policy conditions as well as to the precontractual information note, which must be readable, printable and downloadable before accessing the estimate service, shall be clearly visible;
 - c) if contract clauses provide for specific arrangements for claim compensation, there shall be a link to the updated list of car repairers to contact in case of claim in order to obtain direct vehicle repair.
3. The system shall guarantee the continuous update of the information required for the estimate and efficiency levels in the response times for on line queries. It is envisaged that complaints about possible anomalies in the procedure for calculating the estimate may be sent on line.

Article 7
(Premium rate flexibility)

1. After taking the overall need for premiums into account, undertakings may use flexibility as a tool for premium reduction against the current premium rate in order to further customise the risk in relation to the characteristics of each insured.

2. In the case referred to in paragraph 1, undertakings pursuing business through intermediaries, shall indicate to them the total discount rate applicable to customers in a specific period of time. When providing the indications, undertakings shall not establish limits to the discount rates applicable to the single insured, as compared to the current premium rate.
3. Undertakings shall keep the documents of the instructions given to their distribution networks.

Article 8

(Further information contained in the policy)

1. Policies and renewal receipts relating to compulsory insurance against civil liability in respect of the use of motor vehicles and craft shall show:
 - the overall premium paid for the cover;
 - the commission paid by the undertaking to the intermediary directly operating for such undertaking; the commission shall be expressed as an absolute value and as a percentage of the overall premium;
 - any discount applied.

Section II – Obligations on intermediaries

Article 9

(Obligations on intermediaries to provide information)

1. Intermediaries shall make available to the public information on the undertakings whose products they market and on the level of commissions they receive. Information on the level of commissions shall also regard any differences in relation to the categories of vehicles and craft insured and the various types of contracts.
2. If the intermediary, who gets in contact with the client, carries on business on behalf of another intermediary working in direct relationship with the undertaking, the information referred to in paragraph 1 shall regard the level of commissions received by the latter.
3. The information referred to in paragraph 1, drawn up in a clear way by using adequate characters and a structure allowing immediate comparability of the level of commissions received by intermediaries, shall be given:
 - a) by posting it or showing it by means of other adequate visualisation tools, on the intermediary's premises, so that it is clearly visible to the public;
 - b) by adequately highlighting it in the intermediary's website, if any.
4. Before underwriting the contract the intermediary shall submit the policyholder a document containing the information referred to in paragraph 1, drawn up in compliance with paragraphs 2 and 3. The delivery of the document must be attested by a statement drawn up by using characters of an adequate size and typeface, to be signed by the policyholder and a copy of which shall be kept by the intermediary. In case of mediation pursued by means of distance communication techniques, intermediaries shall comply with the provisions referred to in article 60 (2 and 3) of Regulation n. 5 of 16 October 2006.

5. For the purposes referred to in paragraph 4 the intermediary shall use model 7B enclosed to Regulation n. 5 of 16 October 2006.

Chapter III Final provisions

Article 10 (Organisational arrangements)

1. Undertakings and intermediaries shall take the necessary technical and organisational measures to implement this Regulation.

Article 11 (Repeals)

1. As from the date of entry into force of this Regulation, ISVAP circular n. 502 of 25 March 2003 is repealed.

Article 12 (Publication)

1. This Regulation shall be published in the Italian Official Journal and in ISVAP's Bulletin and website.

Article 13 (Entry into force)

1. This Regulation shall enter into force on 1 October 2008.

Rome, 9 May 2008

The President
(Giancarlo Giannini)