



Istituto per la Vigilanza sulle Assicurazioni Private e di Interesse Collettivo

*(only the Italian version is authentic)*

## **REGULATION N. 29 OF 16 MARCH 2009**

**REGULATION LAYING DOWN IMPLEMENTING INSTRUCTIONS ON THE CLASSIFICATION OF RISKS WITHIN THE INSURANCE CLASSES PURSUANT TO ARTICLE 2 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 7 September 2005 as subsequently amended and supplemented, introducing the Code of Private Insurance;

adopts the following

REGULATION

**INDEX**

### **Title I - General provisions**

Article 1	(Legislative sources)
Article 2	(Definitions)
Article 3	(Scope)
Article 4	(Uninsurable risks)
Article 5	(Service activities)

### **TITLE II – Criteria for the classification of risks**

#### **CHAPTER I – Life assurance risks**

Article 6	(Unit-linked or index-linked life assurance)
Article 7	(Critical illness insurance)
Article 8	(Insurance against the risk of dependency)
Article 9	(Capital redemption operations)
Article 10	(Assurance in case of death linked to salary-backed loans)
Article 11	(Supplementary risks)

## **CHAPTER II – Non life insurance risks**

- Article 12 (Insurance protecting loan payments for the purchase of real estate)
- Article 13 (Suretyship insurance policies “on first demand”)
- Article 14 (Insurance granted as guarantee for salary-backed loans)
- Article 15 (Insurance granted as after-sale guarantee)
- Article 16 (Insurance against damage to the employer resulting from temporary driving disqualification or suspension of the driving license of other subjects)
- Article 17 (Travel cancellation)
- Article 18 (Insurance against the indirect financial loss linked to the application of administrative sanctions)
- Article 19 (Parachutist's liability)
- Article 20 (Ancillary risks)

## **TITLE III - Final provisions**

- Article 21 (Repeals)
- Article 22 (Publication)
- Article 23 (Entry into force)

## **Title I - General provisions**

### **Article 1 (Legislative sources)**

1. This Regulation has been adopted in compliance with articles 2 (6), and 5 (2) of legislative decree n. 209 of 7 September 2005.

### **Article 2 (Definitions)**

1. For the purposes of this Regulation:
  - a) "non-life insurance" shall mean: the insurance referred to in article 2 (3) of the decree;
  - b) "life assurance" shall mean: the assurance and the operations referred to in article 2 (1) of the decree;
  - c) "decree" shall mean: legislative decree n. 209 of 7 September 2005, establishing the Code of Private Insurance;
  - d) "New Road Code" shall mean: legislative decree n. 285 of 30 April 1992 and subsequent modifications and integrations;
  - e) "pure premium" shall mean: the cost base for the insurance cover that the policyholder is required to pay as consideration for the technical risk accepted by undertakings;
  - f) "financial products" shall mean: the financial products referred to in article 1 (1) u), of legislative decree n. 58 of 24 February 1998;
  - g) "insurance class" shall mean: the classification by a homogeneous set of risks or operations describing the activities that the undertaking may pursue subject to authorization;
  - h) "branch" shall mean: a branch, not having a legal personality, that is part of an insurance or reinsurance undertaking and that directly exercises all or part of the insurance or reinsurance business;
  - i) "third State" shall mean: a State not belonging to the European Union or to the European Economic Area.
2. The numbering of life and non life classes referred to in this Regulation is the same as that of the classification referred to under article 2 (1 and 3) of the decree.

### **Article 3 (Scope)**

1. This Regulation applies to insurance and reinsurance undertakings whose head offices are in the territory of the Italian Republic and to the branches of insurance and reinsurance undertakings whose head offices are in third countries as regards the activity pursued in the territory of the Italian Republic.

Article 4  
(Uninsurable risks)

1. Notwithstanding the prohibitions established by legal provisions, the risk of temporary driving disqualification or suspension of the driving license as a result of a breach of the New Road Code may not be insured, without prejudice to the provisions of article 16.
2. Subject to the provisions of articles 12 and 14 (1), the insurance undertaking may not provide cover for obligations to give resulting from contractual provisions, when the underlying risk is exclusively a financial risk, i.e. when it refers to financial products, bank or postal deposits non represented by financial instruments or to loan operations or provision of financial resources not relating to the purchase of consumer goods or services. In any case the insurance undertaking may not provide cover guaranteeing the reimbursement of contingent liabilities or losses on assets due to assessments resulting from undertaking's extraordinary operations.
3. The risk relating to the payment of an administrative sanction may not be insured, also in case the entity assumes financial liability for the amount of the sanction imposed against the infringer, when the entity renounces its right of recourse against the infringer.

Article 5  
(Service activities)

1. Benefits in kind such as technical assistance and health care paid by means other than advance premium calculated according to technical-actuarial basis, offered at the request of the user also when there is no chance event generating the need, shall be considered as non-insurance services.
2. The insurance undertakings authorised to the pursuit of class 18. Assistance may offer the services referred to in paragraph 1 to their policyholders, as ancillary services to the covers provided, on condition that:
  - a) on the whole they represent a marginal commitment compared to the main commitment arising from the insurance obligations and are provided in relation to the fulfilment of the insurance obligations;
  - b) the contract provides separate evidence of the cost of these services compared to the insurance premium.
3. The undertakings authorized to pursue the non life classes 1. Accidents and 2. Sickness, also pursuant to article 11 (3) of the decree, may offer - as ancillary services for the above-mentioned classes - medically-based homecare, at the conditions specified in paragraph 2, a) and b).
4. Assistance, maintenance and repair services offered by the seller of consumer goods to its clients, also when a consideration for these services has been paid in advance, do not represent insurance business when the elements typical of the insurance relation are absent such as, in particular, a business organization based on risk pooling and the calculation of the consideration to be paid according to technical-actuarial basis.
5. The services offered in addition to car rental, provided by companies which rent their own vehicles, may be regarded as service activities on condition that such services are functional to the contractual commitments and ancillary to the main benefit.

## **TITLE II – Criteria for the classification of risks**

### **CHAPTER I – Life assurance risks**

#### Article 6

(Unit-linked or index-linked life assurance)

1. Only the insurance contracts on the length of human life referred to in class I shall be included in the life class III, when they are directly linked to investment funds, share indexes or other reference values.
2. The characteristic of the contracts referred to under paragraph 1 is that there is an actual commitment by the undertaking to pay, in case of survival to a stipulated age, in case of death or in both cases, insurance benefits the value of which, or of the corresponding premiums, shall be dependent on the assessment of the demographic risk.

#### Article 7

(Critical illness insurance)

1. Critical illness insurance, not subject to cancellation by the undertaking, that pays a capital or an annuity of a predetermined amount if one of the critical illnesses specified in the policy is diagnosed shall be classified under life class IV, regardless of whether the policyholder has become disabled.
2. The insurance referred to under paragraph 1 shall be classified under life class I when the contract envisages that, if the critical illness is diagnosed, all or part of the benefit in case of death is paid in advance.
3. When, further to a critical illness, the insured is indemnified for any loss suffered by reason of such illness through the reimbursement of the expenses incurred for hospitalization, surgical operations, specialist examinations and diagnostic tests, such insurance shall be classified under non-life class 2. Sickness. Benefits may also be paid as fixed pecuniary benefits or in the nature of a temporary indemnity.

#### Article 8

(Insurance against the risk of dependency)

1. The insurance, not subject to cancellation by the undertaking, providing cover against the risk of dependency due to a serious disability resulting from accident or sickness or longevity, shall be classified under life class IV, when the benefit consists in the payment of an annuity.
2. The insurance against the risk of dependency referred to under paragraph 1 shall be classified under non life class 2. Sickness when the benefit consists in the total or partial reimbursement of the costs incurred for the assistance or in a benefit in kind, within the limits of the amount of cover.

Article 9  
(Capital redemption operations)

1. Insurance whose benefits are linked to the value of units in an UCITS (undertakings for collective investment in transferable securities), or the value of the assets in an internal fund, a share index or another reference value, shall be classified under life class V, when under the contract terms the payment of the single benefits is independent of any event relating to human life and a guaranteed minimum return on the amounts paid has been envisaged.

Article 10  
(Assurance in case of death linked to salary-backed loans)

1. The insurance on the life of the policyholder/debtor connected to the granting of loans to be reimbursed by ceding 1/5 of the monthly salary or of the pension, when associated with the non-life covers which, for the same purpose, protect against the employment risk referred to in article 14 (2), shall be classified under life class I.

Article 11  
(Ancillary risks)

1. Undertakings authorised to pursue the life classes I, II and III, or class V (in the latter case only if authorised to pursue also another life class exposing it to a demographic risk) may - in addition to these classes - accept risks relating to the non-life classes 1. Accident and 2. Sickness, as established by article 2 (2) of the decree, on condition that the covers relating to these risks are offered by means of the same contract providing the main life assurance cover and are referred to the same insured person.
2. The conditions under paragraph 1 shall also apply to undertakings authorised to pursue the operations referred to in life class VI and proposing to provide, in addition to the relevant contracts, benefits in the event of disability and premature death according to the provisions regulating supplementary pension schemes.

**CHAPTER II – Non life insurance risks**

Article 12  
(Insurance protecting loan payments for the purchase of real estate)

1. By way of derogation from the provisions of article 4 (2), the covers relating to obligations arising under loan contracts for the purchase of real estate issued up to 25% of the overall loan granted and secured by collateral for the benefit of the creditor/beneficiary shall be classified under class 15. Suretyship. Under such contracts, any payment made by the debtor as reimbursement for the capital received shall first of all be allocated to the amount guaranteed by the suretyship policy and the insurance guarantee shall be settled when the debtor has reimbursed 25% of the loan received as principal sum.

2. The contract taken out by the financial intermediary authorized to grant mortgage loans in its capacity as policyholder/insured to protect itself against the risk of the debtor's insolvency in case the forced sale of the mortgaged immovable property does not lead to the recovery of a sum equal to that granted by the grantor of the loan, shall be classified under class 14. Credit, within "mortgages". The contract must however envisage a compulsory deductible - as an absolute amount - for the policyholder, according to the characteristics of the risk and of the other guarantees offered.

Article 13  
(Suretyship insurance policies "on first demand")

1. Without prejudice to the prohibition referred to in article 4 (2), suretyship covers containing clauses regarding payment "on first demand" or with similar expressions shall be classified under class 15. Suretyship, on condition that the contract terms expressly envisage also a right of recourse by the undertaking against the debtor policyholder.

Article 14  
(Insurance granted as guarantee for salary-backed loans)

1. By way of derogation from the provisions of article 4 (2), the contract taken out by a financing body authorized by the law to grant salary-backed loans in its capacity as policyholder/insured to protect itself against the risk of failure to pay by the debtor shall be classified under class 14. Credit, among the risks "financial losses resulting from insolvency". The contract must envisage the payment of the premium by the financing body and may provide for the subrogation of the insurer in the financing body's rights and privileges against the defaulting debtor.
2. The contract taken out by the debtor/insured to protect himself against the inability to fulfil the obligation of payment to the financing body as a result of the loss of employment, and the consequent termination of payment of salary, shall be classified under class 16. Miscellaneous financial loss, among "employment risks".

Article 15  
(Insurance granted as after-sale guarantee)

1. Insurance granted as after-sale guarantee, when the contract keeps the seller of consumer goods protected from the costs that the latter must bear to repair and/or replace such goods shall be classified under class 16. Miscellaneous financial loss.
2. When the guarantee covers the owner of the good and provides for the repair and/or replacement of the good or of parts of it, the risk shall be classified, according to the nature of the good, under the classes 3. Land vehicles, in case of motor vehicles, or 9. Other damage to property, for the other consumer goods.

#### Article 16

(Insurance against damage to the employer resulting from temporary driving disqualification or suspension of the driving license of other subjects)

1. Without prejudice to the prohibition referred to in article 4 (1), the risk of economic loss incurred by the employer or firm as a result of temporary driving disqualification or suspension of the driving license of their employees for whom the driving of motor vehicles is strictly related to the pursuit of the activity assigned to them, shall be classified under class 16. Miscellaneous financial loss.

#### Article 17

(Travel cancellation)

1. The cover "Travel cancellation" shall be classified under class 16. Miscellaneous financial loss, regardless of the reason for cancellation by the policyholder.

#### Article 18

(Insurance against the indirect financial loss linked to the application of administrative sanctions)

1. The insurance by which the party civilly liable, in its capacity as joint debtor for the payment of a pecuniary administrative sanction, protects itself against the risk that the infringer becomes insolvent and does not meet its obligation, without being required to pay the amount due and exercise the right of redress, shall be classified under class 14. Credit, among the risks "financial losses resulting from insolvency".
2. The insurance by which the party civilly liable, in its capacity as joint debtor for the payment of a pecuniary administrative sanction, protects itself in case of payment of the amounts exceeding the ceiling up to which the infringer is liable, which it has to pay not on the basis of a direct administrative liability but because it is bound by a civil law obligation, shall be classified under class 16. Miscellaneous financial loss.

#### Article 19

(Parachutist's liability)

1. The liability insurance covering the risk of loss or damage caused by parachutists dropping from the aircraft to which the main insurance refers shall be classified under class 11. Aircraft liability.
2. The insurance that independently covers the risk of loss or damage caused by parachutists when performing their activity shall be classified under class 13. General liability.

#### Article 20

(Ancillary risks)

1. Risks may be regarded as ancillary risks pursuant to article 2 (5) of the decree when all the following conditions are met:

- a) there is an objective connection between the risks, under which the occurrence of the event envisaged under the main risk is the cause or the occasion for the occurrence of the event envisaged under the ancillary risk;
- b) the object which is covered against the ancillary risk is the same as the object which is covered against the main risk, i.e. it refers to the same “good”, where the latter is intended as the good, person or property covered against the main risk;
- c) the same contract simultaneously covers, for the benefit of one single insured, directly or through a representative, both the main and the ancillary risks and the interest guaranteed against these two risks refers to the same person.

### **TITLE III - Final provisions**

#### **Article 21 (Repeals)**

1. Without prejudice to the provisions of article 23 (3), as at the date this Regulation enters into force the following are repealed:
  - a) ISVAP circular n. 76 of 8 June 1987;
  - b) point 7.2 of ISVAP circular n. 110 of 27 February 1989;
  - c) ISVAP circular n. 112 of 8 March 1989;
  - d) points 1, 2, 3, a), last sentence, 3, b), last sentence and 6 of ISVAP circular n. 162 of 24 October 1991;
  - e) ISVAP circular n. 246 of 22 May 1995;
  - f) ISVAP Circular n. 332 of 25 May 1998, limited to point 2;
  - g) ISVAP circular n. 465 of 30 January 2002.

#### **Article 22 (Publication)**

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

#### **Article 23 (Entry into force)**

1. Without prejudice to the provisions of paragraph 2, this Regulation shall enter into force on the day after the publication in the Italian Official Journal.
2. Undertakings shall comply with the provisions referred to in articles 5, 10, 12, 14 no later than ninety days from the date referred to under paragraph 1.
3. The provisions of this Regulation shall not apply to the contracts underwritten before its entry into force.

Rome, 16 March 2009

the President  
(Giancarlo Giannini)