

GOVERNMENT GAZETTE OF THE HELLENIC REPUBLIC

ISSUE B

Number 1109

19 April 2016

EXECUTIVE COMMITTEE ACT No 87/5.4.2016

RE: Procedure for settlement of claims and payment of compensation to beneficiaries under private insurance cover against civil liability in respect of the use of motor vehicles

THE EXECUTIVE COMMITTEE OF THE BANK OF GREECE

Having regard to:

- (a) Article 55A of the Bank of Greece Statute, as currently in force;
- (b) Law 4364/2016 (Government Gazette A13) “Adaptation of the Greek legislation to 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); to Articles 2 and 8 of Directive 2014/51/EU of the European Parliament and of the Council of 16 April 2014 amending Directives 2003/71/EC and 2009/138/EC and Regulations (EC) No 1060/2009, (EU) No 1094/2010 and (EU) No 1095/2010 in respect of the powers of the European Supervisory Authority (European Insurance and Occupational Pensions Authority, hereinafter EIOPA) and the European Supervisory Authority (European Securities and Markets Authority); and to Article 4 of Directive 2011/89/EU of the European Parliament and of the Council of 16 November 2011 amending Directives 98/78/EC, 2002/87/EC, 2006/48/EC and 2009/138/EC as regards the supplementary supervision of financial entities in a financial conglomerate, and relevant provisions on private insurance legislation, and other provisions”, in particular Article 3 thereof;
- (c) Presidential Decree No. 237/86 (Government Gazette A110) “Codification of the provisions of Law 489/1976 on compulsory insurance against civil liability arising from motor vehicle accidents”, as currently in force following the adoption of Law 4261/2014 (Government Gazette A107/5.5.2014);
- (d) Law 2496/1997 (Government Gazette A87) “Insurance contract, amendments to the private insurance legislation, and other provisions”;

(e) Law 3557/2007 (Government Gazette A100) “Amendment to Presidential Decree 237/1986 (Government Gazette 110/A) codifying the provisions of Law 489/1976 ‘Compulsory insurance against civil liability arising from motor vehicle accidents’ (Government Gazette 331/A), and other provisions”, in particular the provision of Article 6(2) thereof;

(f) decision 3/5/26.1.2011 of the Credit and Insurance Matters Committee of the Bank of Greece (Government Gazette B706) “Procedure for settlement of claims and payment of compensation to beneficiaries under private insurance cover against civil liability in respect of the use of motor vehicles, and relevant organisational obligations of insurance undertakings” and

(g) the fact that the government budget will not incur any expenditure due to the implementation of the provisions of this decision,

HEREBY DECIDES

to lay down a procedure for settlement of claims and payment of compensation to beneficiaries under private insurance cover against civil liability in respect of the use of motor vehicles, which is due in accordance with the provisions of such cover and the provisions of P.D. 237/1986, as currently in force, as well as the penalties for violations of the provisions hereof, as follows:

Article 1

Scope

1. The provisions of this Decision shall apply to insurance and mutual insurance undertakings referred to in Article 3(1), (3) and (11) of Law 4364/2016, provided that they engage in subsector 10 of the non-life insurance sector under Article 4(1)(j) of the said Law, other than mutual insurance undertakings that come under Article 7(1)(a) of Law 4364/2016, regarding all insurance contracts concluded by these undertakings both in Greece and in other EU/EEA Member States, either under the right of establishment or under the freedom to provide services; this Decision shall apply to insurance contracts concluded by such undertakings in third countries (outside the EU/EEA) provided that these undertakings are not subject to similar obligations in these countries.

2. The provisions of this Decision shall apply to insurance undertakings based in other EU/EEA countries regarding insurance contracts concluded by these undertakings in Greece, either under the right of establishment or under the

freedom to provide services, pertaining to the non-life sector, subsector 10 under Article 4(1)(j) of Law 4364/2016.

Article 2

Definitions

1. “Compensation claim” means a claim under Article 6(6) of Presidential Decree 237/1986, as currently in force, in form and substance as per the template in Annex I, which is an integral part hereof, as well as any declarations and documents referred to in under Article 6(9) of Presidential Decree 237/1986.
2. “Reply” means the reasoned denial of an undertaking to submit an offer to an injured person, in accordance with Article 6(6)(b) of Presidential Decree 237/1986.
3. “Insured party” means a person as defined in Article 1(b) of Presidential Decree 237/1986, as currently in force.
4. “Assessment of property damage” means an assessment report, submitted to undertakings by injured persons, pertaining to the property damage sustained by injured persons as a result of a given vehicle accident.
5. “Assessment of the accident circumstances” means a report submitted to undertakings by injured persons, which investigates the standard of fault of drivers and the actual circumstances under which a vehicle accident occurred.
6. “Undertakings” means the insurance and mutual insurance undertakings referred to in Article 1 above.
7. “Injured person” means a person as defined in Article 1(c) of Presidential Decree 237/1986, as currently in force.
8. “Medical assessment” means a report of medical experts, of a specialty relevant to the personal injury suffered by injured persons, determining the personal injury sustained by injured persons as a result of a given vehicle accident, which is submitted to Undertakings by injured persons.
9. “Medical expert report” means a report of medical experts, of a specialty relevant to the personal injury suffered by injured persons, appointed by undertakings in order to assess the personal injury sustained by injured persons as a result of a given vehicle incident.
10. “Expert report on property damage” means a report of experts appointed by an undertaking in order to assess the property damage sustained by an injured person(s) as a result of a given motor vehicle incident.

11. “Expert report on the accident circumstances” means a report of experts appointed by an undertaking in order to investigate the standard of fault of a driver(s) and the actual circumstances under which the vehicle accident occurred.

12. “Offer” means a proposal submitted by an undertaking to an injured person in accordance with Article 6(6)(a) of Presidential Decree 237/1986; such offer shall, as a minimum, include the data referred to in Article 6 hereof.

Article 3

Rules governing the settlement procedure

1. Undertakings shall use their best efforts to settle promptly any damage arising from vehicle accidents within the three-month deadline laid down in Article 6(6) of Presidential Decree 137/1986 for the submission of either (a) a reasoned offer of compensation in cases where liability is not contested and where the damages have been quantified; or (b) a reasoned reply regarding the points included in the beneficiary’s claim in cases where liability is contested or not fully ascertained and where the damages have not been quantified.

2. Reasoned replies must state the particular reason for which undertakings deny compensation to injured persons.

3. Undertakings shall assess their obligations, arising in particular from Article 10(1) of Presidential Decree 237/1986, on the basis of all the data available in each given case.

4. In the context of damage quantification, undertakings shall take into account, in addition to the insured person’s statement, also invoices and receipts, copies of assessments of property damage, medical assessments and assessments of the accident circumstances, or the expert report on property damage, medical expert report or expert report on the accident circumstances, which may be available for the insurance case concerned.

Article 4

Compensation claim

1. A compensation claim shall be submitted through any appropriate means (by letter, fax, email, mobile phone message, or deposited to the undertaking and the offices or natural or legal persons designated by the undertaking under para. 4 below, which shall grant the relevant receipt).

2. Document receipts shall, as a minimum, contain the following data: the serial number of an issued receipt, the logo and name of the undertaking, full

name and home address of the insured party or the injured person, their signatures, the description of the type of document received, date of receipt of the document, as well as full name, position and signature of the employee who received the document.

3. The following documents shall be assimilated to document receipts: (a) Hellenic Post (ELTA) receipts signed by the undertaking's employee who received the registered mail; (b) fax delivery receipts attesting transmission to the fax number notified by the undertaking in accordance with paragraph 4 below; (c) evidence of transmission to the email address notified by the undertaking in accordance with paragraph 4 below; (d) mobile phone message to the number notified by the undertaking in accordance with paragraph 4 below; and (e) proofs of service by process servers, as provided for in the Code of Civil Procedure.

4. The undertaking shall keep posted on its website its contact data, including, as a minimum, the postal address, mobile phone number, fax number and email address of all offices and authorised natural and legal persons for the purposes of this article.

Article 5

Time of expert assessment of vehicle damage

Where undertakings deem that an expert assessment of property damage is necessary, they shall carry out such assessment provided that the vehicle is located in the place indicated by the injured person, within fifteen days at the latest if the accident occurred in Greece or within twenty-five days at the latest if the accident occurred abroad, without prejudice to cases in which a national Motor Insurance Bureau is required to conduct or has undertaken the settlement procedure. The abovementioned deadlines shall start on the day of submission to undertakings of any of the documents referred to in Article 4(1) above.

Article 6

Offer and settlement of claim in respect of motor vehicle accident

1. The compensation offer by undertakings in accordance with Article 6(6)(a) of Presidential Decree 237/1986 shall indicate, as a minimum, the exact compensation sum offered to injured persons, as well as the time, place and manner of providing monetary or *in natura* compensation.

2. The time of payment mentioned in the compensation offer shall not exceed ten days following the date of the offer. If *in natura* compensation is agreed, the

time of compensation may not exceed twenty days following the date of the agreement, unless otherwise specifically agreed between the parties.

3. Upon payment of compensation, injured persons shall deliver to undertakings the original invoices and receipts for services rendered pertaining to any relevant damage or expenditure, if required by the legislation in force for the lawful payment of compensation.

Article 7

Information to insured party

1. Undertakings shall attach to the compulsory insurance policy against civil liability in respect of the use of motor vehicles to be delivered to the insured party, in addition to the documents set out in the insurance legislation, also the following documents: vehicle accident report and compensation claim form. Their delivery shall be accompanied by acknowledgement of receipt by the insured party.

2. The insurance contract shall provide a brief overview of this Decision.

Article 8

Receipt of copies

Without prejudice to the provisions of Law 2472/97, insured parties and injured persons are entitled to obtain copies of all the documents kept by the undertaking regarding the damage that occurred, in the outcome of which they have a legitimate interest. At the same time, they shall be issued a receipt. For validation purposes, copies of documents shall bear the undertaking's seal.

Article 9

Administrative penalties

For any violation of the provisions of this Decision, the penalties laid down in Article 256(3) of Law 4364/2016 (Government Gazette A13) shall be imposed.

Article 10

Effective Date – Final Provisions

This Decision, including its Annex, shall take effect as from its publication in the Government Gazette.

ANNEX

COMPENSATION CLAIM IN ACCORDANCE WITH ARTICLE 6(6) OF PRESIDENTIAL DECREE 237/1986

LODGED BEFORE THE INSURANCE COMPANY UNDER THE NAME

.....
I request to be compensated for the accident which occurred on
at in (No).....,St.

In brief, I provide you with the following data:

CLAIMANT’S DETAILS

OFFENDING VEHICLE DATA

Full name:
Address:
Tel. no:
Mobile no:
Email:
Vehicle registration number:
Vehicle make/type:
Insurer:

The driver of the vehicle responsible for the accident committed the following
offence (*mark with X in the left column*):

<input checked="" type="checkbox"/>	Leaving a parking place/opening a door
<input type="checkbox"/>	Emerging from a car park/private grounds/a track
<input type="checkbox"/>	Entering a car park/private grounds/a track
<input type="checkbox"/>	Changing lanes
<input type="checkbox"/>	Overtaking
<input type="checkbox"/>	Making a sudden turn
<input type="checkbox"/>	Reversing
<input type="checkbox"/>	Encroaching in the opposite traffic lane
<input type="checkbox"/>	Making a U-turn
<input type="checkbox"/>	Failing to comply with traffic light signal
<input type="checkbox"/>	Not observing a right of way sign
<input type="checkbox"/>	Other:

The movement of the vehicles can be illustrated as follows (sketch):

The points of impact on the vehicles were:

Claimant’s vehicle	Offending vehicle

The following eyewitnesses were present (full name, address, home telephone
number, mobile phone number)

1.

2.

The following persons were injured: 1.

2.

Currently my vehicle is available for expert assessment at the following address:

OTHER REMARKS:

.....

.....

.....

.....

(place & date)

THE CLAIMANT

This Decision, including its Annex, shall be published in the Government Gazette.

The Governor

Yannis Stournaras