

REGULATION NO. 8/2020-R, OF 23 JUNE

INCREASED DUTIES OF INSURERS PROVIDED FOR IN DECREE-LAW NO. 20- F/2020, OF 12 MAY

Decree-Law no. 20-F/2020, of 12 May, establishes the exceptional and temporary framework, in the wake of the COVID-19 pandemic, relative to the payment of insurance premiums and the effects of the temporary reduction of risk in insurance contracts deriving from the significant reduction or suspension of activity.

Three types of measures are provided for in this decree:

(i) Taking into account the important economic and social role of insurance, this Decree-Law, on a temporary and exceptional basis, makes the premium payment regime more flexible, converting it into a relative imperative regime, in other words allowing the parties to agree on a more favourable arrangement for the policyholder, instead of the common absolute imperative insurance premium payment regime, which stipulates that the effective or renewal date of coverage of a risk shall be preceded by payment of the respective premium.

(ii) In the absence of agreement between the insurer and the policyholder, and in the event of failure to pay the premium or a premium instalment on the respective due date, the obligatory insurance coverage shall continue for a period of 60 days, as from the due date of the said premium or premium instalment.

(iii) In addition to the two above-mentioned measures, in insurance contracts that provide for a significant reduction or even elimination of the coverage risk, owing to the activity of the policyholders having been suspended or whose establishment or installations remain closed or whose activities have been substantially reduced, as a direct or indirect consequence of the exceptional and temporary measures adopted to respond to the COVID-19 pandemic, this Decree-Law entitles the policyholders, in relation to the insurance that covers the risks of their activity:

a) To request the new circumstances to be reflected in the premium, applying the provisions of article 92 of the insurance contract legal framework, approved through Decree-Law no. 72/2008, of 16 April, adapted accordingly;

b) To request the application of a regime to split the current annual premium into instalments, at no extra cost.

The Insurance and Pension Fund Supervisory Authority (ASF) is responsible for supervising and inspecting the application of the regime, and it has also been attributed the power to increase, through regulations, the duties of the insurers as stipulated in the decree-law.

In view of the importance of the measures in the current situation, and the fact that the effective implementation of such measures depends on appropriate disclosure of the information among the potential interested parties and policyholders, the ASF believes it must stipulate the duty to general dissemination among the clients of the measures provided for in Decree-Law no. 20-F/2020, of 12 May, and specific information, when suitable.

Insurers have an increased duty of diligence when responding to policyholders' requests to apply one of the measures provided for in the decree.

It is clarified that the measures are applicable to group insurance policies, taking into account the provisions of the insurance contract legal framework.

Moreover, the insurers subject to supervision from the ASF must provide the authority with the information needed, taking into account the supervisory objectives outlined in articles 22 and 23 of the legal framework governing access to and exercising of the insurance and reinsurance activity (RJASR), approved by Law no. 147/2015, of 9 September, and to perform other legal competencies attributed to it. Therefore, this current regulation establishes the content, format, means and deadlines for reporting information to the ASF to enable the authority to exercise its supervisory competencies as provided for in Decree-Law no. 20-F/2020, of 12 May.

The draft of this regulation came under public consultation, under the terms of article 47 of the ASF Statutes, approved through Decree-Law no. 1/2015, of 6 January, and the contributions have been pondered as described in the Public Consultation Report no. 7/2020.

Hence, the Insurance and Pension Fund Supervisory Authority, under the provisions of Article 5 (2) of Decree-Law no. 20-F/2020, of 12 May, and Article 81 (1 and 4) of the legal framework governing access to and exercising of the insurance and reinsurance activity (RJASR), approved through Law no. 147/2015, of 9 September, and paragraph *a*) of Article 16 (3) of its Statutes, approved through Decree-Law no. 1/2015, of 6 January, issues the following Regulation:

Section I

General Provisions

Article 1

Purpose

This regulation increases the duties of the insurers provided for in Decree-Law no. 20-F/2020, of 12 May, which establishes an exceptional and temporary framework, in the wake of the COVID-19 pandemic, relative to the payment of insurance premiums and the effects of the temporary reduction of risk in insurance contracts deriving from the significant reduction or suspension of activity and establishes the content, format, means and deadlines for reporting information to the Insurance and Pension Funds Supervisory Authority (ASF) to enable it to fully exercise its competencies in supervising this regime.

Article 2

Scope

This regulation is applicable to insurers with head office in Portugal, and to insurers with head office in another member state of the European Union relative to insurance contracts that cover risks located in Portuguese territory or in which Portugal is the member state of the undertaking.

Section II

Insurers' Duties

Article 3

Disclosure of the measures provided for in Decree-Law no. 20-F/2020, of 12 May

1 — Insurers must disclose the measures provided for in Decree-Law no. 20-F/2020, of 12 May to its clients, at least in the public service locations and on the homepage of its websites, as well as in any mobile applications it has.

2 — Insurers shall clarify the doubts raised by clients by providing, in an easily and permanently accessible location, on its website, a Frequently Asked Questions section and the respective answers about the application of the decree and the contacts to use for clarification.

3 — The provisions of the previous points shall not prevent insurers from using their distribution channels if they believe, for certain cases, such channels can proceed with the dissemination of the measures outlined in Decree-Law no. 20-F/2020, of 12 May, in a more suitable way.

4 — The duty of disclosure outlined in the previous points apply to the measures that insurers are liable to apply in line with their activity.

Article 4

Duty of Information

1 — The information outlined in Article 2 (4) of Decree-Law no. 20-F/2020, of 12 May, shall be transmitted through a lasting medium, using the channels commonly used when communicating with the policyholder for the insurance contract in question, preferably using digital means, namely e-mail or text messaging (SMS).

2 — For duly justified reasons in which the recipient of the information is not duly identified in the insurance contract, the information is deemed to be validly supplied through non-individual communication means, provided the information is accessible, properly highlighted and the means of contact for response is clearly shown.

3 — The policyholder's declaration to oppose the continuation of the coverage as a consequence of the information supplied by the insurer can be communicated using any means that generates a written or saved record.

Article 5

Due Diligence

1 — Whenever the policyholder is requested to apply one of the measures provided for in Decree-Law no. 20-F/2020, of 12 May, the insurer shall respond within a maximum deadline of ten working days from the date of that initiative.

2 — If the insurer refuses the application of the measure requested by the policyholder or proposes a different measure, it shall communicate it within the deadline stipulated in the previous point, together with the respective justifications.

4 — The insurer's communications described in the previous points should be made using a lasting medium, through the channels commonly used when communicating with the policyholder for the insurance contract in question.

Article 6

Application of the Measures for Group Insurance

1 — For group insurance, the measures provided for in Decree-Law no. 20- F/2020, of 12 May are applicable to the insured party's coverage when the insured party is required to pay the insurer the premium.

2 — In the case of group insurance, the duty to supply information to the policyholder provided for in Article 2 (4) of Decree-Law no. 20-F/2020, of 12 May, should be understood as the duty to provide information to the insured party whereby this information is supplied by the policyholder under the terms of Article 87 (2) of the insurance contract legal framework, approved through Decree-Law no. 72/2008, of 16 April, in compliance with the information supplied by the insurer, or directly by the insurer, if agreed as such.

Section III

Reporting Duties

Article 7

Content of the Information Reported

1 — Insurers shall communicate the following information to the ASF regarding the implementation of the measures provided for in Decree-Law no. 20-F/2020, of 12 May:

a) The number of insurance contracts in which changes have been made in compliance with Article 2 (1 and 2) of Decree-Law no. 20-F/2020, of 12 May, and their proportion in relation to all the insurance contracts in the insurer's portfolio;

b) The number of insurance contracts covered by the regime provided for in Article 2 (3) of Decree-Law no. 20-F/2020, of 12 May and their proportion in relation to all the insurance contracts in the insurer's portfolio;

c) The number of insurance contracts in which there has been a reduction in the premium in compliance with Article 3 (1) of Decree-Law no. 20-F/2020, of 12 May, the average percentage of the reduction and their proportion in relation to all the insurance contracts in the insurer's portfolio;

d) The number of insurance contracts in which the premiums on the current year have been split into instalments, at no extra cost, in compliance with Article 3 (1) of Decree-Law no. 20-F/2020, of 12 May, and their proportion in relation to all the insurance contracts in the insurer's portfolio;

e) In cases in which the measures applied have led to a refund of part of the premium, information about the impact of this refund on the fees or contributions on the premium.

2 — The information outlined in the previous point should be separated per insurance branch or area and by the nature of the change that took place, using the form that provides the information mentioned in point 1 of the following article.

3 — The duty of information outlined in the previous points applies to the measures that should be applied by the insurer, in line with its activity.

4 — Insurers should also provide qualitative and quantitative information about other measures they have adopted that have an impact on the insurance contract or on the respective premium as a consequence of the COVID-19 pandemic, which do not derive from Decree-Law no. 20-F/2020, of 12 May.

Article 8

Format, means and deadlines for reporting information

1 — The information outlined in points 1 and 2 of the previous article shall be supplied using the form in the Annex of this regulation and through the ASF Portal at the www.asf.com.pt website, using the file provided.

2 — The information outlined in point 4 of the previous article should be sent by e-mail to the following address: supervisao.comportamental@asf.com.pt.

3 — Notwithstanding the provisions of the following point, the information in the previous article should be provided by the fifth working day of each month, referring to the accumulated amounts since Decree-Law no. 20-F/2020, of 12 May came into effect, at the end of the previous month.

4 — The information supplied under the terms of paragraph *e)* of point 1 of the previous article refers to the impact of refunding the premiums on the fees or contributions on the premium in the reference period being reported on.

Section IV

Temporary and Final Provisions

Article 9

Temporary Information Reporting Regime

The first information report outlined in article 7 is due by 20 July 2020, covering the reference period from 13 May to 30 June 2020, apart from the information outlined in Article 7 (4) which can cover the previous period.

Article 10

Inception Date

This regulation comes into force the day after it is published.

23 June 2020.— THE EXECUTIVE COMMITTEE: *Margarida Corrêa de Aguiar*, chairperson —
Filipe Aleman Serrano, deputy chairperson.

Annex

Contracts - paragraphs *a)* to *d)* of Article 7 (1) of Regulation no. 8/2020-R, of 23 June

Fill in the accumulated amounts since Decree-Law no. 20-F/2020, of 12 May came into force

Insurance contracts for which changes are made under Article 2 (1 and 2) of Decree-Law no. 20-F/2020	Vehicle	Industrial Accidents	Illness	Fire and other damages	Other
No. of contracts	[whole number]	[whole number]	[whole number]	[whole number]	[whole number]
Proportion of no. of contracts in relation to all the insurance contracts in the insurer's portfolio	[in %, to 2 decimal places]	[in %, to 2 decimal places]	[in %, to 2 decimal places]	[in %, to 2 decimal places]	[in %, to 2 decimal places]
Insurance contracts for which changes are made under Article 2 (3) of Decree-Law no. 20-F/2020	Vehicle	Industrial Accidents	Illness	Fire and other damages	Other
No. of contracts	[whole number]	[whole number]	[whole number]	[whole number]	[whole number]
Proportion of no. of contracts in relation to all the insurance contracts in the insurer's portfolio	[in %, to 2 decimal places]	[in %, to 2 decimal places]	[in %, to 2 decimal places]	[in %, to 2 decimal places]	[in %, to 2 decimal places]
Insurance contracts for which the premium is decreased, in compliance with the provisions of Article 3 (1) of Decree-Law no. 20-F/2020	Vehicle	Industrial Accidents	Illness	Fire and other damages	Other
No. of contracts	[whole number]	[whole number]	[whole number]	[whole number]	[whole number]
Average percentage reduction of the premium	[in %, to 2 decimal places]	[in %, to 2 decimal places]	[in %, to 2 decimal places]	[in %, to 2 decimal places]	[in %, to 2 decimal places]
Proportion of no. of contracts in relation to all the insurance contracts in the insurer's portfolio	[in %, to 2 decimal places]	[in %, to 2 decimal places]	[in %, to 2 decimal places]	[in %, to 2 decimal places]	[in %, to 2 decimal places]
Insurance contracts for which the payment of premiums has been split into instalments, under the conditions of Article 3 (1) of Decree-Law no. 20-F/2020	Vehicle	Industrial Accidents	Illness	Fire and other damages	Other
No. of contracts	[whole number]	[whole number]	[whole number]	[whole number]	[whole number]
Proportion of no. of contracts in relation to all the insurance contracts in the insurer's portfolio	[in %, to 2 decimal places]	[in %, to 2 decimal places]	[in %, to 2 decimal places]	[in %, to 2 decimal places]	[in %, to 2 decimal places]

Fees and Contributions - paragraph e) of Article 7 (1) of Regulation no. 8/2020-R, of 23 June

Contributions delivered monthly – Fill in the non-accumulated amounts for the reference period

Amount in euros corresponding to the refund of amounts previously delivered to the National Medical Emergency Institute (INEM, I.P.), which resulted from the reduction of the insurance premiums in compliance with Decree-Law no. 20-F/2020.										
INEM	Reporting period	Life Insurance	Accidents	Illness	Fire and Other Damages	Vehicle	Marine and Transport	Air	General Liability	Miscellaneous
Mainland Portugal										
Azores										
Madeira										

Amount in euros corresponding to the refund of amounts previously delivered to the National Emergency and Civil Protection Authority (ANEPC), which resulted from the reduction of the insurance premiums in compliance with Decree-Law no. 20-F/2020.											
ANPC	Reporting period	Accidents	Fire and Other Damages	Agricultural	Livestock	Vehicle	Marine and Transport	Air	Transported Goods	General Liability	Miscellaneous
Mainland Portugal											
Azores											
Madeira											

Fees and Contributions - paragraph e) of Article 7 (1) of Regulation no. 8/2020-R, of 23 June

Contributions delivered quarterly – Fill in the non-accumulated amounts for the reference period, in this case the quarter (should only be filled in for the months corresponding to the end of each quarter)

Amount in euros corresponding to the refund of amounts previously delivered to the Vehicle Guarantee Fund (FGA) which led to a reduction in insurance premiums in compliance with Decree-Law no. 20-F/2020.

FGA	Reporting Period	Civil Liability of Motorised Land Vehicles

Amount in euros corresponding to the refund of amounts previously delivered to the National Road Safety Authority (Road Accident Prevention) which resulted in the reduction of insurance premiums in compliance with Decree-Law no. 20-F/2020.

PR	Reporting Period	Land Vehicles	Transported Goods	Civil Liability of Motorised Land Vehicles	Transported Passengers