



STATUTORY INSTRUMENTS.

S.I. No. 126 of 2022



CENTRAL BANK (SUPERVISION AND ENFORCEMENT) ACT 2013
(SECTION 48(1)) (INSURANCE REQUIREMENTS) REGULATIONS 2022

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(SECTION 48(1)) (INSURANCE REQUIREMENTS) REGULATIONS 2022

In exercise of the powers conferred on the Central Bank of Ireland (the “Bank”) by section 48 of the Central Bank (Supervision and Enforcement) Act 2013 (No. 26 of 2013) (the “Act”), the Bank, having consulted with the Minister for Finance in accordance with section 49(1) of the Act hereby makes the following regulations:

Citation and commencement

1. (1) These Regulations may be cited as the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Insurance Requirements) Regulations 2022.

(2) These Regulations shall commence on 1 July 2022.

Interpretation

2 In these Regulations –

"associated undertaking" means an associated undertaking within the meaning of Schedule 4, Part III, Paragraph 21 to the Companies Act 2014 (No.38 of 2014);

“close matched product” means a home insurance product or motor insurance product which provides a consumer with core cover and benefits which are broadly equivalent to the core cover and benefits enjoyed by the consumer under their existing home insurance or motor insurance policy;

“closed book” means an individual home insurance product or motor insurance product in respect of which its policies are not available for renewal by way of first renewal;

“consumer” has the meaning given to that term in the Consumer Protection Code;

“Consumer Protection Code” means the consumer protection code, effective from 1 January 2012, issued by the Central Bank of Ireland pursuant to: Section 117 of the Central Bank Act 1989 (No. 16 of 1989), Section 23 and Section 37 of the Investment Intermediaries Act 1995 (No. 11 of 1994), Section 8H of the Consumer Credit Act 1995 (No. 24 of 1995), and Section 61 of the Insurance Act 1989 (No. 3 of 1989);

“customer” has the meaning given to that term in the Consumer Protection Code;

“equivalent first renewal price” means the price an insurance undertaking or insurance intermediary would offer to a consumer upon the first renewal of a particular home insurance policy or motor insurance policy;

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 15th March, 2022.*

“first renewal ” means any renewal of a home insurance policy or a motor insurance policy by a consumer which is a first renewal of such home insurance policy or motor insurance policy;

“first renewal price” means the price an insurance undertaking or insurance intermediary offers to a consumer upon the first renewal of a home insurance policy or motor insurance policy;

"group" includes a company, its parent and its subsidiaries and any associated undertaking or related undertaking;

“Insurance Distribution Regulations” means the European Union (Insurance Distribution) Regulations 2018 (S.I. No. 229 of 2018);

“insurance intermediary” includes insurance intermediaries and ancillary insurance intermediaries that are subject to the Insurance Distribution Regulations;

“insurance undertaking” means an insurance undertaking within the meaning of, as appropriate, Regulation 3 of the Regulations of 2015, Regulation 2 of the European Communities (Non-Life Insurance) Framework Regulations 1994 (S.I. 359 of 1994), or Regulation 2 of the European Communities (Life Assurance) Framework Regulations 1994 (S.I. No. 360 of 1994);

“Regulations of 2015” means the European Union (Insurance and Reinsurance) Regulations 2015 (S.I. No. 485 of 2015);

“related additional product or service” means a product or service related to a home insurance policy or a motor insurance policy sold to a consumer at the same time as the insurance policy;

“related undertaking" means -

- (a) companies related within the meaning of section 2(10) of the Companies Act 2014,
- (b) undertakings where the business of those undertakings is carried on in such a way that the separate business of each undertaking, or a substantial part thereof, is not readily identifiable, or
- (c) undertakings where the decision as to how and by whom each shall be managed can be made either by the same person or by the same group of persons acting in concert;

“subsequent renewal” means any renewal of a home insurance policy or a motor insurance policy by a consumer subsequent to the first renewal of the home insurance policy or motor insurance policy;

“subsequent renewal price” means the price offered by an insurance undertaking or insurance intermediary to a consumer to renew a home insurance policy or motor insurance policy on any renewal subsequent to the first renewal of the insurance policy, including where more than one policy is sold together as part of a package;

“tenure” means the number of years a consumer has held their insurance policy, including any renewal of the insurance policy.

Application

3 (1) Subject to paragraphs (2) to (4), these Regulations apply to insurance undertakings and insurance intermediaries operating in the State, including by way of the exercise of rights of freedom of establishment or freedom to provide services.

(2) Regulations 4 to 11 of these Regulations apply to insurance undertakings and insurance intermediaries in relation to the following activities:

- (a) setting the subsequent renewal price;
- (b) setting the price for any related additional product or service sold to the consumer at the subsequent renewal of a home insurance policy or motor insurance policy.

(3) Regulations 12 to 14 of these Regulations apply in respect of non-life insurance policies, meaning insurances of one or more of the classes falling within Part 1 of Schedule 1 to the Regulations of 2015 or Part A of Annex I to the European Communities (Non-Life Insurance) Framework Regulations 1994 (S.I. No. 359 of 1994).

(4) These Regulations apply in relation to an insurance policy entered into after the commencement of these Regulations (including a renewal, whether automatic or not, in a case where the insurance policy concerned was concluded before such commencement).

Setting subsequent renewal prices

4 (1) An insurance undertaking or insurance intermediary shall not set a subsequent renewal price that is higher than the equivalent first renewal price.

(2) Subject to paragraph (3) and Regulation 5, in determining the equivalent first renewal price, an insurance undertaking or insurance intermediary shall apply the following assumptions:

- (a) that the consumer has used the same channel that the consumer most recently used for the purposes of renewing their insurance policy;
- (b) that the consumer has selected the same payment method as they currently use to pay for the insurance policy.

(3) Where an insurance undertaking or insurance intermediary no longer accepts renewals through the channel that the consumer most recently used to renew the insurance policy, the insurance undertaking or insurance intermediary shall assume that the consumer used the channel most commonly used by consumers of the regulated entity.

Closed books

5 (1) Where a consumer's insurance policy is in a closed book, the insurance undertaking or insurance intermediary shall determine the consumer's equivalent first renewal price in accordance with this Regulation.

(2) The insurance undertaking or insurance intermediary shall identify from the home insurance and motor insurance products that it currently actively markets or distributes, whether it has one or more home insurance or motor insurance product that is a close matched product.

(3) Where the insurance undertaking or insurance intermediary no longer actively markets or distributes any home insurance or motor insurance product which is a close matched product but it is part of a group which does actively market or distribute home insurance or motor insurance products, the insurance undertaking or insurance intermediary shall, where possible, identify a close matched product from those products actively marketed or distributed by the insurance undertaking's or insurance intermediary's group.

(4) Where there is more than one product which is a close matched product, the insurance undertaking or insurance intermediary shall either-

- (a) select the close matched product which is the most similar to the consumer's existing insurance policy, or
- (b) where it is not possible to identify the most similar close matched product, select the close matched product which will lead to the most favourable pricing outcome for consumers who hold an insurance policy in the closed book.

(5)

- (a) Where a close matched product is identified or selected, the equivalent first renewal price for a consumer in the relevant book shall be the equivalent first renewal price the insurance undertaking or insurance intermediary would offer for the close matched product, subject to any permitted adjustments set out in subparagraph (b) and, where appropriate, the assumptions set out at Regulations 4(2) and 4(3).
- (b) The permitted adjustments are those which fairly and proportionately reflect the difference in costs for the insurance undertaking or insurance intermediary arising from differences between the cost to serve or cover or benefits (including any compulsory excess) provided by the insurance policies in the closed book and the close matched product.

(6) Where an insurance undertaking or insurance intermediary is unable to generate an equivalent first renewal price or identify a product which is a close matched product because an insurance policy-

- (a) is not part of an insurance undertaking's or insurance intermediary's or its group's standard insurance policy offering,
- (b) falls outside the insurance undertaking's or insurance intermediary's or its group's underwriting policies, or
- (c) although part of its group's standard policy offering, is not an insurance policy in respect of which the insurance undertaking's or the insurance intermediary's group may share the relevant pricing information,

the insurance undertaking or insurance intermediary shall set the subsequent renewal price in accordance with Regulation 10.

Insurance intermediaries' involvement in setting price

6. An insurance intermediary that is involved in the setting of any portion of the subsequent renewal price of an insurance policy shall ensure that the portion the insurance intermediary sets or its contribution to that portion is set at a level that is no higher than it would be set for a first renewal.

Responsibility of insurance undertaking or insurance intermediary where more than one insurance undertaking or insurance intermediary is involved in setting the subsequent renewal price

7. Where more than one insurance undertaking or insurance intermediary is jointly responsible for setting the subsequent renewal price, each insurance undertaking or insurance intermediary shall take reasonable steps to assure itself that the subsequent renewal price is set in accordance with Regulations 3 to 10.

Related additional products or services

8. Subject to Regulation 9, an insurance undertaking or insurance intermediary that has responsibility for setting the price of a related additional product or service that is available to a consumer in connection with a home insurance policy or motor insurance policy shall ensure that the price of the related additional product or service at the subsequent renewal of the home insurance policy or motor insurance policy is no higher than the price at which the related additional product or service would be offered to the consumer at first renewal.

Related additional products or services where product or service no longer available at first renewal

9. Where an insurance undertaking or insurance intermediary no longer offers to consumers at first renewal a related additional product or service which is available to a consumer in connection with the subsequent renewal of a home insurance policy or motor insurance policy, the price for that related additional product or service shall be set as follows:

- (a) where the related additional product or service is an insurance policy, the insurance undertaking or insurance intermediary shall, subject to any necessary modifications:
 - (i) apply the requirements in respect of closed books in accordance with Regulation 5; or
 - (ii) if the related additional product or service has no close matched product, apply Regulation 10;

- (b) where the related additional product or service is not an insurance policy, the insurance undertaking or insurance intermediary shall apply Regulation 10.

Firms' assurance over consumer outcomes

10. (1) An insurance undertaking or insurance intermediary shall ensure that it does not systematically discriminate against consumers based on their tenure, when determining any of the following:

- (a) an equivalent first renewal price;
- (b) the subsequent renewal price for consumers in closed books where an insurance undertaking or insurance intermediary is unable to identify a close matched product;
- (c) the price for any related additional product or service sold to the consumer at subsequent renewal of an insurance policy;
- (d) any other matter provided for under Regulations 3 to 10.

(2) An insurance undertaking or insurance intermediary shall ensure that the equivalent first renewal price does not systematically exceed the first renewal price for consumers.

Annual review and record keeping

11. (1) An insurance undertaking or insurance intermediary shall carry out, within two months of each year end, an annual review of its home insurance and motor insurance pricing policies and processes in order to assess the following -

- (a) whether the insurance undertaking or insurance intermediary complies with the obligation, set out at Regulation 10, that the insurance undertaking or insurance intermediary shall not systematically discriminate against consumers based on tenure;
- (b) whether the equivalent first renewal price for consumers of longer tenure systematically exceeds the first renewal price for consumers;
- (c) whether adequate controls are in place, including controls to ensure that any pricing models used do not-
 - (i) generate prices which are systematically higher the longer a consumer's tenure, or
 - (ii) impair the insurance undertaking's or insurance intermediary's obligation to comply with general principle 2.1 of the Consumer Protection Code with respect to customers.

(2) An insurance undertaking or insurance intermediary shall, following the annual review referred to in paragraph (1), rectify any deficiencies identified in its pricing policies and processes.

(3) An insurance undertaking or insurance intermediary shall retain written records of the annual review referred to in paragraph (1), including the action taken to rectify any deficiencies found.

(4) Prior to implementing a material decision in relation to the insurance undertaking's or insurance intermediary's compliance with Regulations 3 to 10, an insurance undertaking or insurance intermediary shall retain a written record of its consideration of the extent to which that decision is consistent with Regulations 3 to 10.

Automatic Renewals - cancellations

12. An insurance undertaking or insurance intermediary shall allow a consumer to exercise the right to cancel the automatic renewal of an insurance policy -

- (a) at any time during the duration of the insurance policy, and
- (b) free of charge.

Automatic renewals – notifications in respect of policies with a duration of ten months or more

13. (1) Where an insurance undertaking or an insurance intermediary proposes to automatically renew a consumer's insurance policy, with a duration of ten months or more, the insurance undertaking or insurance intermediary shall provide a notification on paper or on another durable medium to the consumer at least 20 working days prior to the renewal date of the insurance policy which shall include the following:

- (a) a statement that the insurance policy will renew automatically if the consumer does not cancel the automatic renewal before a specified date;
- (b) details on how the consumer can stop the automatic renewal of the insurance policy if the consumer does not wish to automatically renew, including-
 - (i) the existence of the right to cancel the automatic renewal of the insurance policy,
 - (ii) the conditions for exercising the right to cancel the automatic renewal of the insurance policy,
 - (iii) the consequences of exercising the right to cancel the automatic renewal of the insurance policy, and
 - (iv) the practical steps required for exercising the right to cancel the automatic renewal of the insurance policy, including, at a minimum, the options available for cancelling the automatic renewal of the insurance policy;
- (c) except where Section 14(6) of the Consumer Insurance Contracts Act 2019 (No. 53 of 2019) applies, confirmation of any changes to the terms of the insurance policy upon renewal;

- (d) details of any fee payable specifically in respect of the automatic renewal of the insurance policy and the services provided for such fee;
- (e) the website address of the relevant section of the Competition and Consumer Protection Commission's website and, where relevant, the Health Insurance Authority's website relating to getting insurance quotes;
- (f) a statement that the consumer should keep their insurance arrangements under review as there may be other alternatives in the market that could provide savings for the consumer for similar cover.

(2) Where an automatic renewal arrangement of a consumer's insurance policy, with a duration of ten months or more, is in place and the insurance undertaking or insurance intermediary does not propose to renew such insurance policy, the insurance undertaking or insurance intermediary shall provide a notification on paper or on another durable medium to the consumer at least 20 working days prior to the renewal date that the insurance undertaking or insurance intermediary does not wish to invite a renewal.

(3) Regulation 13(2) shall not apply where Regulation 5(1)(b) of the Non-Life Insurance (Provision of Information) Regulations 2007 (S.I. No. 74 of 2007) applies.

Automatic renewals – notifications in respect of policies with a duration of less than ten months

14. (1) Where an insurance undertaking or an insurance intermediary proposes to automatically renew a consumer's insurance policy, with a duration of less than ten months, the insurance undertaking or insurance intermediary shall provide a notification on paper or on another durable medium to the consumer, at least once a year from the date of entry into of the insurance policy for so long as the insurance policy continues to be renewed, which shall include the following:

- (a) a statement that the insurance policy renews automatically including the frequency of the automatic renewal and any end date of such automatic renewal;
- (b) details on how the consumer can stop the automatic renewal of the insurance policy if the consumer does not wish to automatically renew, including-
 - (i) the existence of the right to cancel the automatic renewal of the insurance policy,
 - (ii) the conditions for exercising the right to cancel the automatic renewal of the insurance policy,
 - (iii) the consequences of exercising the right to cancel the automatic renewal of the insurance policy, and

- (iv) the practical steps required for exercising the right to cancel the automatic renewal of the insurance policy, including, at a minimum, the options available for cancelling the automatic renewal of the insurance policy;
- (c) details of any fee payable specifically in respect of the automatic renewal of the insurance policy and the services provided for such fee;
- (d) the website address of the relevant section of the Competition and Consumer Protection Commission's website and, where relevant, the Health Insurance Authority's website relating to getting insurance quotes;
- (e) a statement that the consumer should keep their insurance arrangements under review as there may be other alternatives in the market that could provide savings for the consumer, for similar cover.

(2) Where an automatic renewal arrangement of a consumer's insurance policy, with a duration of less than ten months, is in place and the insurance undertaking or insurance intermediary does not propose to renew such insurance policy, the insurance undertaking or insurance intermediary shall provide a notification on paper or on another durable medium to the consumer prior to the renewal date that the insurance undertaking or insurance intermediary does not wish to invite a renewal.

(3) Regulation 14(2) shall not apply where Regulation 5(1)(b) of the Non-Life Insurance (Provision of Information) Regulations 2007 (S.I. No. 74 of 2007) applies.

Signed for and on behalf of the CENTRAL BANK OF IRELAND
11 March 2022

DERVILLE ROWLAND,
Director General Financial Conduct.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations set out certain requirements in respect of certain insurance policies.

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DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
MOUNTSHANNON ROAD,
KILMAINHAM, DUBLIN 8,
D08 XAO6

Tel: 046 942 3100
E-mail: publications@opw.ie

€ 3.50

ISBN 078-1-3993-1526-5

