

Insurance Rule 20 of 2009

Assistance Insurance

Rule pursuant to article 5 of the Act

1. (1) This Insurance Rule on Assistance Insurance (“this Rule”) is made by the Authority pursuant to, and for the purposes of, article 5 of the Act.

(2) This Rule shall come into force on the []2009.

Application

2. (1) This Rule applies, to any undertaking pursuing the assistance activity falling within the scope of class 18, Part I of the Third Schedule to the Act.

(2) This Rule does not apply to a company authorised under the Act if its business of insurance is restricted to reinsurance.

Scope

3. The scope of this Rule is to implement the provisions of Council Directive of 10 December 1984 amending, particularly as regards tourist assistance, the First Directive (73/239/EEC) on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance (“Directive 84/641/EEC”).

Assistance activities

4. (1) Assistance activities falling within the scope of class 18, Part I of the Third Schedule to the Act shall consist in undertaking, against the prior payment of a premium, to provide immediate help to the beneficiary under the assistance contract, where the beneficiary finds himself in difficulties following an

unforeseeable event, in the circumstances and within the conditions foreseen by the contract.

(2) Such help may consist in the provision of benefits in cash or in kind. The provision of benefits in kind may also include the use of personnel and equipment of the provider of the assistance.

(3) The assistance activity shall not cover servicing, maintenance, after-sales services or the mere indication or provisions of help as an intermediary.

5. (1) The assistance activity shall not be considered as assistance activities falling within the scope of class 18, Part I of the Third Schedule to the Act if the liability is limited to the following operations provided in the event of an accident or breakdown involving a vehicle which accident or breakdown occurs in Malta providing cover for:

(a) on-the-spot breakdown service, for which the undertaking providing cover uses, in most circumstances, its own personnel and equipment;

(b) the transport of the vehicle to the closest and most appropriate place of repair where the repair may be carried out, as well as possibly accompanying, usually by the same means of assistance, the driver and passengers, to the closest location from where they will be able to continue their journey by other means;

(c) the transport of the vehicle, possibly accompanied by the driver and the passengers, to their home, their point of departure or their original destination within Malta,

unless such assistance activities are carried out by a company authorised under the Act.

(2) For the purposes of sub-paragraphs (a) and (b) of paragraph (1) of this article, the condition that the accident or breakdown shall have occurred in Malta shall not be applicable where the undertaking is an organisation of which the beneficiary is a member, and where the breakdown service or transport of the vehicle is effected, based on the simple presentation of the

membership card, without payment of an additional premium, by a similar organisation in the country concerned on the basis of a reciprocal agreement.

6. This Rule shall not apply to an undertaking which fulfills all the following conditions:

(a) the activity is restricted to assistance activities falling within the scope of class 18(a), Part I of the Third Schedule to the Act;

(b) the activity is carried out exclusively on a local basis and consists only of benefits in kind; and

(c) the total annual income collected in respect of the activity of assistance to persons who get into difficulties does not exceed 200 000 Euro.

Repeals and Savings

7. (1) Saving the provisions of paragraph (2) of this article, Insurance Directive 20 of 2003 – Assistance Insurance, is hereby repealed.

(2) Every action, directive, instruction, guideline or order whatsoever taken or commenced thereunder, shall continue to be valid and in force, as if such action, directive, instruction, guideline or order whatsoever were taken or commenced under this Rule.