



**Law of 27 July 1997
on the insurance contract**

MOLITOR

Avocats à la Cour



**LUXEMBOURG INSURANCE
AND REINSURANCE ASSOCIATION**

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Foreword

The Grand Duchy of Luxembourg is a prominent international hub for the insurance sector, hosting a wide array of undertakings and professionals who contribute with diverse expertise to the industry. These practitioners provide comprehensive insurance services and products, reaching numerous jurisdictions across Europe and beyond.

Although Luxembourg has three official languages — Luxembourgish, French, and German — legislation is primarily discussed and enacted by Parliament in French. Recognising the industry's global reach, the Association des Compagnies d'Assurances et de Réassurances (ACA) welcomes the translation of Luxembourg's insurance contract law into English. This translation, generously undertaken by MOLITOR Avocats à la Cour, represents a meaningful contribution to the field. We extend our sincere gratitude for this effort, which will undoubtedly facilitate daily operations for professionals navigating Luxembourg's legal insurance framework in a global context.

Marc HENGEN

CEO – ACA

Marc Hengen highlights above the global scope of Luxembourg's insurance sector and the rich diversity of its practitioners and services.

As a full-service, independent Luxembourg law firm, MOLITOR Avocats à la Cour is aligned with this international perspective. In response to the expressed needs of various insurance sector stakeholders, we undertook the translation of Luxembourg's insurance contract law into English, providing a valuable resource to support this ever-expanding industry. I extend my heartfelt thanks to my colleagues, Armel Waisse, Laurent Henneresse, and Ariane Wourwoukas, for their diligence in bringing this project to life. We trust that this translation will prove to be an invaluable tool for the many parties engaged in Luxembourg's insurance industry and beyond.

We appreciate ACA's trust and look forward to continuing our support of the Association and insurance professionals through our dedicated full-service insurance team, offering expertise across life and non-life insurance matters with our international network.

Michel MOLITOR

Managing Partner - MOLITOR Avocats à la Cour SARL

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(consolidated version at 1 January 2021)

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Law of 27 July 1997 on the insurance contract

Chronological record

This consolidated text includes the law of 27 July 1997¹ on the insurance contract as amended by:

1. the law of 18 December 2006 implementing Directive 2002/65/EC concerning distance marketing of consumer financial services and amending:
 1. the law of 27 July 1997 on the insurance contract;
 2. the amended law of 14 August 2000 on electronic commerce;
 3. Article 63 of the amended law of 5 April 1993 on the financial sector.²

2. the law of 21 December 2007:
 1. implementing Council Directive 2004/113/EC of 13 December 2004 on the principle of equal treatment between men and women in the access to and supply of goods and services;
 2. amending the Criminal Code;
 3. amending the amended law of 27 July 1997 on the insurance contract.³

3. the law of 8 April 2011 concerning the implementation of a Consumer Code.⁴

4. the law of 21 December 2012 amending:
 - 1) the amended law of 16 April 2003 on compulsory motor civil liability insurance;
 - 2) the amended law of 27 July 1997 on the insurance contract.⁵

5. the law of 12 April 2015 amending:
 - 1) Article 15-1 of the amended law of 27 July 1997 on the insurance contract
 - 2) the amended law of 21 December 2007:
 1. implementing Council Directive 2004/113/EC of 13 December 2004 on the principle of equal treatment between men and women in the access to and supply of goods and services;
 2. amending the Criminal Code;
 3. amending the amended law of 27 July 1997 on the insurance contract.⁶

¹ Mémorial A No. 65 of 3 September 1997

² Mémorial A No. 223 of 21 December 2006

³ Mémorial A No. 232 of 21 December 2007

⁴ Mémorial A No. 69 of 12 April 2011

⁵ Mémorial A No. 276 of 28 December 2012

⁶ Mémorial A No. 73 of 16 April 2015

6. the law of 7 December 2015 amending:

1) the amended law of 27 July 1997 on the insurance contract;

2) the amended law of 8 December 1994 relating to:

- the annual and consolidated accounts of insurance and reinsurance undertakings governed by the laws of Luxembourg
- the obligations in relation to the drawing-up and publication of accounting documents of branches of insurance undertakings governed by foreign laws.⁷

7. the law of 27 June 2018 instituting a family court judge, reforming divorce and parental authority, and amending:

1. the new Civil Procedure Code;

2. the Civil Code;

3. the Criminal Code;

4. the Social Security Code;

5. the Labour Code;

6. the amended law of 11 November 1970 on assignment and attachment of salaries, pensions and investment income;

7. the amended law of 7 March 1980 on the organisation of the judicial system;

8. the amended law of 10 August 1992 on youth protection;

9. the amended law of 27 July 1997 on the insurance contract;

10. the amended law of 9 July 2004 on the legal effects of certain unmarried couples;

11. the law of 27 June 2017 adopting a multi-annual recruitment programme for the judiciary and amending the amended law of 7 March 1980 on the organisation of the judicial system.⁸

8. the law of 6 December 2019 on the mandatory installation of autonomous smoke detectors in buildings including at least one dwelling and amending the amended law of 27 July 1997 on the insurance contract.⁹

9. the law of 19 December 2020 concerning the State revenue and expenditure budget for the year 2021.¹⁰

* * *

⁷ Mémorial A No. 229 of 9 December 2015

⁸ Mémorial A No. 589 of 12 July 2018

⁹ Mémorial A No. 833 of 10 December 2019

¹⁰ Mémorial A No. 1061 of 23 December 2020

PART I

THE INSURANCE CONTRACT IN GENERAL

Chapter I – General provisions

Section I - Definitions and preliminary provisions

Art. 1 – Definitions

For the purpose of this law:

- A. “Insurance contract” means a contract under which one party, the insurer, in consideration of the payment of a fixed or variable premium, commits to another party, the policyholder, to provide a benefit stipulated in the contract where:
- in the case of damage insurance, an uncertain event occurs, the occurrence of which is not in the interest of the insured person;
 - in the case of personal insurance, an uncertain event occurs, which affects the life, personal injury, or the family situation of the insured person.
- A contract indicating the names of the parties, setting out capitalisation methods, and including a beneficiary clause is considered an insurance contract.
- B. “Capitalisation” means a bearer contract comprising the commitment to provide a benefit stipulated in the contract or linked to changes in value or the yield of the assets to which the contract is backed, in consideration of one-off or periodic payments.
- C. “Holder” or “policyholder” means the person who takes out the insurance contract or the capitalisation contract.
- D. “Insured person” means:
- a) in the case of damage insurance, the person who is covered by the insurance against the pecuniary loss;
 - b) in the case of personal insurance, the person at risk of the occurrence of the insured event.
- E. “Beneficiary” means the person in favour of whom the insurance benefits are stipulated.
- F. “Injured party” means, in the case of liability insurance, the person who suffers the damage for which the insured person is liable.
- G. “Premium” means any kind of remuneration requested by the insurer in consideration of its commitments.
- H. “Insurance benefit” means the amount payable or the service to be provided by the insurer in performance of its obligations under the insurance contract.
- I. “Damage insurance” means an insurance in which the insurance benefit depends on an uncertain event which causes damage to a person's property.
- J. “Personal insurance” means an insurance in which the insurance benefit or the premium depends on an uncertain event which affects the life, the physical integrity, or the family situation of a person.

- K. "Indemnity insurance" means an insurance in which the insurer undertakes to provide the benefit necessary to compensate all or part of some damage suffered by the insured person or for which the insured person is liable.
- L. "Insurance with lump-sum payouts" means an insurance in which the benefit undertaken by the insurer is not commensurate with the extent of the damage.
- M. "Cover note" means a document issued by the insurer in which the insurer, upon request of the policyholder, temporarily undertakes the risk.
- N. "Insurance proposal" means a form issued by the insurer, completed and signed by the policyholder, the purpose of which is to inform the insurer of the nature of the transaction and the facts and circumstances which allow the insurer to assess the risk.
- O. "Pre-signed policy" means an insurance policy which has been previously signed by the insurer and containing an offer, which was not solicited by the policyholder, to contract under the conditions that are described therein, which are supplemented by the policyholder's specifications, if any, indicated in the designated sections.
- P. "Reduction in indemnity insurance" means a penalty imposed by the insurer which reduces its payment in light of a breach, by either the policyholder or the insured person, of one of the obligations in the insurance contract.
- "Q. Distance insurance contract" means any insurance contract entered into between an insurer and a policyholder under a distance sales or service-provision scheme run by the insurer, which, for the purposes of that contract, makes exclusive use of one or more means of distance communication up to and including the time at which the insurance contract is concluded.
- R. "Means of distance communication" means any means which without, the simultaneous physical presence of the insurer and the policyholder, may be used for the distance marketing of an insurance contract between those parties.
- S. "Durable medium" means any instrument which enables the policyholder to store information addressed personally to them in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows for identical reproduction of the information stored.
- T. "Operator or supplier of a means of distance communication" means any public or private, natural or legal person whose trade, business or profession involves making one or more means of distance communication available to insurers."¹¹
- "U. "Law on the insurance sector" means the law of 7 December 2015 on the insurance sector."¹²

Art. 2 - Capacity of insurer

- "1. Any insurance contract covering risks situated in the territory of the Grand Duchy of Luxembourg other than large risks within the meaning of Article 43, point 21, of the Law on the insurance sector or accepting commitments therein and concluded by an insurance undertaking which is neither approved nor authorised to carry out insurance operations in the territory of the Grand Duchy of Luxembourg pursuant to the abovementioned law shall be null and void."¹³

¹¹ Law of 18 December 2006

¹² Law of 7 December 2015

¹³ Law of 7 December 2015

"An insurance contract remains valid and its performance remains subject to the present law, in the event that an insurance undertaking from the European Economic Area or a third country loses its approval to carry out direct insurance operations in the Grand Duchy of Luxembourg while retaining its authorisation in its home State and that this contract has been validly issued or renewed by an undertaking authorised to work in the Grand Duchy of Luxembourg under the freedom of establishment or the freedom to provide services at the time of issue or renewal of this contract. Such a contract may not, however, be renewed or be the subject of any direct insurance transaction giving rise to the issue of premiums after the loss of authorisation."¹⁴

2. The nullity of the contract may only be invoked by the policyholder, acting in good faith, or by their legal claimants.
3. In the case of liability insurance, the nullity resulting from the application of this Article shall not be enforceable against injured parties.

Art. 3 - Mandatory rules

1. Unless otherwise provided for in this law, the provisions of "the law of 8 April 2011 concerning the implementation of a Consumer Code"¹⁵ shall apply to contracts falling within the scope of this law.
2. The provisions of this law are mandatory, except where the possibility of derogation by way of special agreements results from their wording.
3. The parties to a contract covering large risks within the meaning of "Article 43, point 21, of the law on the insurance sector"¹⁶, with the exception of baggage and removals insurance, can derogate from the provisions of Articles, 10, 13, 15, second paragraph, 17 to 23, 25 to 29, 33, 34, points 1, 2, 3a and 3b, 38 to 42, 47, 49, 52, first and second paragraphs, 53, first paragraph, 56 to 58, 64, 67, 73, 74, 77 to 79, 81, first paragraph, 82 to 85, if such derogation is expressly permitted in their contract.

Section II – Scope of application

Art. 4 – Scope of application

1. This law shall apply to all insurance contracts referred to in the first paragraph of point A under Article 1 insofar as no special laws allow for derogations.
2. Articles 2, 3, 9, 10, 16, points 1 and 2 (except for information mentioned at indents 3 to 6), 17, 19, 20, 38, 39, 46, 100, 105, 114, point 1, 115, point 1, 116, point 1 and 117 shall apply to operations mentioned at points A, paragraph 2 and B of Article 1 and concluded by insurance undertakings.

¹⁴ Law of 19 December 2020

¹⁵ Law of 7 December 2015

¹⁶ Law of 7 December 2015

3. Articles 30, 31, 44, point 1, 45, points 1 and 2, 106 to 112, 114, point 2, 115, point 2, 116, point 2, 118 to 122, 123 and 124 shall apply to operations mentioned at point A, paragraph 2 of Article 1 and concluded by insurance undertakings.
4. This law does not apply to reinsurance contracts.
- “5. This law does not apply to undertakings and operations provided for in Article 37, points b) to e) of the Law on the insurance sector.”¹⁷

“Art. 5 - Rules on the determination of the applicable law

The provisions of Regulation (EC) No. 593/2008 are applicable to determine the law governing insurance contracts falling within Article 7 thereof.”¹⁸

Art. 6 - Specific rules for mandatory insurance

1. *(Repealed by the law of 7 December 2015)*
2. *(Repealed by the law of 7 December 2015)*
3. *(Repealed by the law of 7 December 2015)*
4. If, by virtue of Luxembourg law, which imposes compulsory insurance, the insurance undertaking is required to notify any cessation of insurance coverage, such cessation shall be binding on injured third parties only in the circumstances laid down by Luxembourg law.

Art. 7 - Public policy provisions

(Repealed by the law of 7 December 2015)

“Art. 8 – General rules of private international law

Without prejudice to the provisions of Articles 5 and 6, the general rules of private international law regarding contractual obligations are applicable.”¹⁹

¹⁷ Law of 7 December 2015

¹⁸ Law of 7 December 2015

¹⁹ Law of 7 December 2015

Chapter II - Common provisions for all contracts

Section I - Conclusion of the contract

Art. 9 - Insurance proposal, pre-signed policy and cover note

1. An insurance proposal does not bind the prospective policyholder nor the insurer to enter into a contract. The insurer is required, to notify the prospective policyholder within thirty days of receipt of the proposal, of either an insurance offer, the subjection of the insurance to an inquiry, or the refusal to provide insurance, failing which it may face a penalty of damages. These provisions, as well as a statement to the effect that signature of the proposal does not trigger commencement of cover, must be expressly stated in the insurance proposal.
2. In the event of a pre-signed policy, the contract is formed upon signature of this document by the policyholder.

Unless otherwise agreed, insurance coverage takes effect at midnight on the day following receipt of the pre-signed policy by the insurer. The insurer will notify the policyholder of this date. With the exception of contracts with a duration of less than thirty days, the policyholder has the option to terminate the contract, with immediate effect, within a period of thirty days starting from the date of receipt of the pre-signed policy by the insurer. The insurer has the option, with the exception of contracts for a duration of less than thirty days, to terminate the contract within thirty days of the receipt of the pre-signed policy, such termination becoming effective eight days after notification. These provisions must be expressly stated in the terms and conditions of the pre-signed policy.

3. In the event of a cover note and unless otherwise stated, insurance coverage takes effect at midnight on the day following its issuance by the insurer.

The cover note and the insurance proposal must be provided in separate forms.

The cover note must contain:

- the name of the insurance undertaking and its registered office along with the address of the branch granting the cover, if applicable;
- the name and domicile of the policyholder;
- the insured object or the name of the insured person;
- the nature of the risks covered;
- the time from which the risk is covered and the duration of insurance coverage;
- the rate basis.

The policy holder may, at any time, including with effect for the future, choose to discontinue the cover provided.

4. The insurer shall systematically date the insurance proposals and the pre-signed policies immediately upon receipt.

Art. 10 - Informing the policyholder prior to the conclusion of the contract

- “(1) In good time prior to the conclusion of the insurance contract, the following information must be communicated by the insurance undertaking to the policyholder:
- a) the denomination or firm name of the insurance undertaking and its legal form;
 - b) the name of the Member State in which the head office, and, where applicable, the agency or branch concluding the contract is situated;
 - c) the address of the insurance undertaking’s registered office and its registration number in trade and companies register, or in any foreign equivalent public register, and, where applicable, the address and registration number of the agency or the branch concluding the contract;
 - d) if the policyholder has a commercial relationship with a professional other than those referred to at letter c) above, the identity of this professional, the capacity in which it is acting vis-à-vis the policyholder and the geographical address relevant to the policyholder’s relationship with the professional;
 - e) the contact details of the competent supervisory authorities vis-à-vis the entities and persons mentioned at letters c) and, where applicable, d);
 - f) the definition of each insurance coverage and each option, as well as any limitation on or exclusion to these insurance coverages;
 - g) the term of the contract;
 - h) the means of terminating the contract, including any penalties imposed by the contract in the event of termination;
 - i) the existence or absence of any cancellation right during the cooling-off period and, if such a right exists, its duration and the procedures for exercising it, including information on the amount that the policyholder can be required to pay, as well as the consequences arising from the lack of exercise of such right, along with practical instructions for the exercise of the cancellation right during the cooling-off period, indicating, among other things, the address to which the notification of a cancellation must be sent;
 - j) the means of payment of premiums and duration of payments;
 - k) information on ancillary charges and taxes arising from the conclusion of the contract;
 - l) information on the premiums for each insurance coverage, whether main benefits or supplementary benefits, where applicable;
 - m) the law applicable to the contract where the parties have no freedom of choice or, where the parties are free to choose the law applicable, the law the insurer proposes to opt for;
 - n) the competent jurisdiction for disputes arising out of the contract;
 - o) provisions relating to the investigation of complaints by policyholders regarding the contract, including, where appropriate, the existence or absence of a body in charge of investigating such complaints and, where such a body exists, the terms of access to it, without prejudice to the policyholder’s option to instigate legal proceedings;

- p) the language or languages in which the contractual terms and conditions, as well as the information referred to in this point and in Article 62-2 point 1, are supplied, and furthermore the language or languages in which the insurance undertaking, with the agreement of the policyholder, undertakes to communicate during the term of the contract;
- q) any limitations on the period during which the information provided is valid;
- r) if applicable, a notice indicating that the insurance contract is linked to instruments which imply special risks resulting from their particular features, or the transactions to be carried out, or where their value depends on fluctuations in the financial markets over which the insurer has no influence and where past performance is no indicator of future performance,
- "s) where a contract is issued by an insurance undertaking in the European Economic Area, a clear reference to the report on its solvency and financial status as set out in Article 82 of the law on the insurance sector, which allows the policyholder easy access to this information;
where a contract is issued by an insurance undertaking outside the European Economic Area, information on its solvency with regard to the prudential regulations applicable to it,

and in addition, for life insurance,

- t) the means of calculation and distribution of bonuses;
- u) details of surrender and paid-up values and the extent to which they are covered;
- v) for unit-linked policies, the list of units to which the benefits are linked;
- w) details as to the nature of underlying assets for unit-linked policies;
- x) general information on the tax regime applicable to the type of policy.

Where, in connection with an offer or conclusion of a life insurance contract, the insurance undertaking provides figures relating to the number of potential benefits above and beyond the contractually agreed benefits, the insurance undertaking shall provide the policyholder with a specimen calculation in which the potential maturity payment is set out, applying the basis for the premium calculation using three different interest rates. This does not apply to term life insurance and fixed-term contracts. The insurer shall inform the policyholder in a clear and comprehensible manner that the specimen calculation is only an example of computation based on notional assumptions, and that the policyholder shall not derive any contractual claims from the specimen calculation.²⁰²¹

2. The information referred to in this Article must be provided in a clear and accurate manner, in writing, in one of the official languages of the Grand-Duchy of Luxembourg.

However, this information may be communicated in another language understood by the policyholder if the latter so requests and the law so permits, or if the policyholder is free to choose the applicable law.

²⁰ Law of 7 December 2015

²¹ Law of 18 December 2006

Art. 11 - Declaration Obligation

When concluding the contract, the policyholder has an obligation to precisely declare all of the circumstances known to them which can reasonably be considered by the policyholder as relevant to the assessment by the insurer of the risk. However, they have no obligation to declare to the insurer the circumstances already known to it, or circumstances which the insurer should reasonably be aware of. In the case of personal insurance, the same obligation falls on the insured person insofar as information is requested from them. Genetic data cannot be disclosed.

If certain written questions from the insurer remain unanswered, but the insurer has nonetheless concluded the contract, the insurer cannot, with the exception of fraud, rely on any omissions at a later *date*.

Art. 12 – Intentional omission or inaccuracy

Notwithstanding the provisions of Article 102 of this law, where an omission or an intentional inaccuracy in the declaration leads the insurer to erroneously evaluate the risk, the insurance contract shall be deemed null and void.

Premiums accrued up until the moment when the insurer became aware of the intentional omission or inaccuracy are due to the insurer.

Art. 13 - Unintentional omission or inaccuracy

1. When an omission or an inaccuracy in the declaration is unintentional, the contract shall not be deemed null and void.

Within one month of the date it became aware of the omission or inaccuracy, the insurer shall propose modification of the contract which shall take effect from the day on which it became aware of the omission or inaccuracy.

If the insurer can produce evidence that it would not have insured the risk under any circumstances, it shall be entitled to terminate the contract within the same time frame.

If the proposition for the modification of the contract is rejected by the policyholder, or, if at the end of a period of one month from receipt of the proposal, it has not been accepted, the insurer is entitled to terminate the contract within fifteen days.

An insurer that has not terminated or proposed a modification to the contract within the time periods indicated above may not rely on the facts now known to it in the future.

2. If the policyholder cannot be held responsible for the omission or inaccurate statement, and if a claim arises before the modification or termination of the contract takes effect, the insurer must provide the agreed benefit.
3. If the policyholder can be held responsible for the omission or inaccurate statement, and if a claim arises before the modification or termination of the contract takes effect, the insurer is only obliged to provide a benefit which reflects the difference between the premium actually paid and the premium that the policyholder should have been paid, had they properly disclosed the risk to the insurer.

However if a claim arises and the insurer produces evidence that it would not, under any circumstances, have insured the risk of which the true nature is exposed by the claim, the benefit is limited to reimbursement of all premiums paid.

4. If a circumstance which is unknown to both parties at the time the contract was concluded comes to light during the execution of the contract, the provisions of Articles 33 or 34 must be applied, depending on whether the circumstance constitutes a reduction or an increase of the insured risk.

Section II - Scope of the insurance coverage

Art. 14 - Fraudulent misrepresentation and negligence

Notwithstanding any agreement to the contrary, but without prejudice to the application of Article 103 point 1, the insurer cannot be required to provide insurance coverage to anyone who has intentionally or fraudulently brought about a claim.

The insurer is liable for damage caused by negligence, even gross negligence, of the policyholder, insured person or beneficiary. However, the insurer may exempt itself from its obligations in cases of gross negligence listed explicitly and exhaustively in the contract.

Art. 15 - War

Unless otherwise agreed, the insurer is not liable for claims resulting from war, events of a similar nature, or from civil war.

The insurer must provide evidence to this effect in order to exempt it from insurance coverage.

“Art. 15-1 - Equal treatment between men and women

1. “In all new insurance contracts, gender shall not be used as a differentiating factor in the calculation of premiums and insurance benefits.
2. For contracts entered into after 20 December 2009, costs relating to pregnancy and maternity shall under no circumstances give rise to differences in premiums and insurance benefits.”²²²³

²² Law of 12 April 2015

²³ Law of 21 December 2007

Article 16 - Evidence and content of the contract

1. Subject to admission and sworn testimony, and irrespective of the value of the commitments, the insurance contract as well as amendments to it shall be evidenced in writing between the parties. No witness or presumptive evidence shall be admissible in contradiction of or in addition to a written contract.

However, where prima facie evidence exists in writing, witness or presumptive evidence shall be admissible.

Articles 1325 and 1328 of the civil Code are not applicable to insurance contracts or its amendments.

2. The insurance contract shall be dated the day it is drawn up.

It shall state:

- the name of the insurance undertaking and its registered office, along with the address of the branch granting the cover, if applicable;
- the name and domicile of the policyholder;
- the insured object or person;
- the nature of the risks covered;
- the time from which the risk is covered and the duration of insurance coverage;
- the amount of insurance coverage
- the insurance premium or contribution, or the way to determine them;
- the conditions and modalities of terminating the contract;
- the competent jurisdiction for hearing disputes arising from the contract.

“Without prejudice to the provisions in the second paragraph, insurance contracts resulting from the class of land motor vehicle liability and all other documents which give coverage in this class, concluded in the Grand Duchy of Luxembourg under the regime of free provision of services, shall include the name and address of the representative designated by virtue of Article 145 point 1, of the law on the insurance sector.”²⁴

Contracts are only valid if they are written in one of the official languages of the Grand Duchy of Luxembourg, or in a language understood by the policyholder.

They must be written legibly and any limitation or exclusion of insurance coverage must be highlighted made clear.

²⁴ Law of 7 December 2015

The information in the first indent of the second paragraph must also appear on every other document granting that cover, as well as the on insurance proposals in the event of them binding the policyholder.

3. The insurer must issue the policyholder with a certified copy of the information that the policyholder communicated to it in writing regarding the covered risks, at the latest by the time of conclusion of the contract.

Article 17 - Information given to the policyholder whilst the contract is in force

1. In addition to the general and special terms and conditions, which must be communicated to the policyholder, the latter must also receive the following information throughout the duration of the contract:

- any change to the insurer's denomination or firm name, its legal form or the address of its head office and, if applicable, the agency or branch with which the contract was concluded,
- all information listed under letters "f) to l)"²⁵ of Article 10 point 1 in the event of an amendment to the contract or a change in the law applicable to it,

and in addition, for life insurance:

- all information listed under letters t) to w) of Article 10 point 1 in the event of an amendment to the contract or a change in the law applicable to it,
- each year, information on the status of the policyholder's rights with a separate section on the capital originally insured, participation in profits from the financial year and participation in profits accumulated since the beginning of the contract. Additionally, where the insurance undertaking provides figures on the possible future development of participation in benefits, the insurer must inform the policyholder of the differences between the recorded development and the initial data."²⁶

2. The information referred to in this Article must be provided in a clear and precise manner, in writing, and in one of the official languages of the Grand Duchy of Luxembourg.

However, such information may be written in another language understood by the policyholder, if they so request or if they have the freedom to choose the applicable law.

"Article 17-1 - Language of communication

Communications between the policyholder and the insurer throughout the performance of the contract must be made in the language in which the insurance contract was drawn up.

However, the parties can agree that such communications may be written in another language understood by the policyholder if the policyholder so requests or if the policyholder is free to choose the applicable law."²⁷

²⁵ law of 18 December 2006

²⁶ law of 7 December 2015

²⁷ Law of 18 December 2006

Section IV - Execution of the contract

Article 18 - Partial or total forfeiture of the right to insurance benefits

The insurance contract may only provide for the partial or total forfeiture of the right to insurance benefits in the event of a failure to fulfil a specific obligation in the contract and provided that such a failure is causally linked to the occurrence of the insured event.

“However, any clause affecting forfeiture for the insured person in the event of non-compliance with the provisions of the law of 6 December 2019 on the compulsory installation of autonomous smoke detectors in buildings with at least one housing unit shall be deemed void.”²⁸

Article 19 - Combined policies

In the absence of an agreement to the contrary, where the insurer provides various benefits under the same contract, either by reason of prospective insurance coverage benefits offered or the risks insured, the reason for termination of one of the benefits shall not affect the contract as a whole.

If the insurer terminates insurance coverage for one or more of the benefits, the policyholder may terminate the whole contract.

Circumstances that render one of the benefits null and void shall not affect the contract as a whole.

“Article 20 - Premium payment and renewal date notification

Unless otherwise agreed, the premium is payable in the place where the insurer, or its agent appointed by the insurer for this purpose, is domiciled. At each annual premium payment date, the insurer must advise the policyholder of:

- the renewal date;
- the existence and terms of the right of termination set out under Article 38 or Article 42, and the date up until which this right may be exercised;
- any increase in premiums, if applicable, and
- the amount due.”²⁹

²⁸ Law of 6 December 2019

²⁹ Law of 21 December 2012

Article 21 - Failure to pay the premium

Upon the failure to pay all or part of the premium within ten days of the renewal date, irrespective of the insurer's right to pursue the performance of the contract through the courts, insurance coverage may be suspended after at least thirty days after sending a registered letter to the policyholder's last known address.

Article 22 - Formal notice and the right of termination

The registered letter must contain a formal notice to the policyholder to pay the premium due, remind the renewal date and the amount of the premium due, and mention the consequences of the failure to pay at the expiration of the aforementioned time limit.

The insurer has the right to terminate the contract ten days after the expiration of the time limit mentioned above.

Article 23 - Reinstatement of insurance coverage

A contract which has not been terminated will be reinstated for the future at midnight on the day following the day on which payment of the premium or in the case of a part payment of annual premium, the part of the premium due, which was the subject of formal notice together with those which arose during the suspension period, along with, if any, any costs and expenses arising from legal proceedings and collections, was made to the insurer or to the agent appointed by the insurer for this purpose.

Article 24 - Life insurance

The provisions of Articles 21 to 23 shall not apply to life insurance.

Article 25 - Effects of suspension on future premiums due

The suspension of insurance coverage shall not affect the insurer's right to claim premiums due in the future, on the condition that the policyholder has received formal notice in accordance with the provisions of Article 22. In this case, the formal notice must refer once more to the suspension of the insurance coverage.

The insurer's right is, however, limited to premiums pertaining to two consecutive years.

Unless otherwise agreed, a contract suspended for more than 2 years is automatically terminated.

Article 26 – Claims notification

1. The insured person must notify the insurer of a claim as soon as possible and in any event, within the period stipulated in the contract.

However, the insurer cannot rely on the fact that the contractual notification period referred to in the first paragraph has not been respected if notice has been given as soon as it could reasonably have been given.

2. The insured person must, without delay, provide the insurer with all the relevant information and respond to any requests sent to them in order for the insurer to determine the circumstances and scope of the claim.

Article 27 - Obligations of the insured person in the event of a claim

The insured person must take all reasonable steps to prevent and mitigate the consequences of the claim.

Article 28 - Penalties

1. If the insured person does not fulfil one of the obligations set out in Articles 26 and 27 and if this prejudices the insurer, the latter is entitled to claim a reduction of benefits proportionate to the loss suffered.
2. The insurer may decline to provide insurance coverage if the insured person has not fulfilled the obligations set out in Articles 26 and 27 with fraudulent intent.

Article 29 - Benefit of the insurer

1. The insurer must provide the contractually agreed benefits as soon as it has all the relevant information about the occurrence and the circumstances of the claim, and the value of the damage, where applicable.
2. The amounts due must in any case be paid within thirty days of their assessment. Beyond this period, interest at the current legal interest rate on overdue payments shall be payable.

Section V – Beneficiary designation

Article 30 - Designation of the beneficiary

The parties may agree, at any time, that a third party can claim the benefits of the insurance, in accordance with the conditions they determine.

This third party is not required to be designated or even have been conceived at the time of designating the beneficiary, however they must be identifiable by the day the insurance benefits become payable.

Article 31 - Communication of the conditions of insurance coverage

Any beneficiary of insurance coverage for valuable consideration has the right to obtain information about the conditions of the insurance coverage from the policyholder or, failing that, the insurer.

Section VI - Non-existence and modification of the risk

Article 32 - Non-existence of the risk

If, at the time of entering into the contract, the risk does not exist or has already materialised, the insurance is deemed to be null and void.

The same applies in the event of insurance of a future risk, if this risk does not materialise.

The insurer may, however, stipulate that it shall be reimbursed for reasonable and justified expenses incurred in such events.

Where, in the same circumstances, the policyholder contracted in bad faith or committed an inexcusable error, the insurer is entitled to keep the premium for the period from the date of the anticipated effective date of the contract and the date of becoming aware of the non-existence of the risk.

Article 33 - Risk reduction

During the term of the contract, if the risk of occurrence of the insured event has reduced considerably and permanently to the extent that, if the reduction existed at the time of underwriting the contract, the insurer would have granted cover under different terms, it shall grant a proportional reduction of the premium from the date of becoming aware of the risk reduction.

If the contracting parties do not reach an agreement about the revised premium within one month from the request for a reduction by the policyholder, the latter may terminate the contract.

The provisions of this Article are not applicable to life or health insurance, if the insured person's state of health changes.

Article 34 - Risk increase

1. As long as the contract is in force, in accordance with the provisions of Article 11, the policyholder has the obligation to declare new or modified circumstances which are likely to cause a significant and permanent increase in the risk of occurrence of the insured event.

During the term of the contract, if the risk of occurrence of the insured event is increased to the point that had the increase existed at the time of the underwriting of the contract, the insurer would have only granted cover under different conditions, it shall, within a month from the day of becoming aware of the increase, propose an amendment to the contract with retroactive effect from the day of the increase in risk.

If the insurer provides evidence that it would not, under any circumstances, have insured the increased risk, it is entitled to terminate the contract within the same time frame.

If the policyholder refuses the proposed amendment to the contract or if, a month after the receipt of the proposal it has not been accepted, the insurer is entitled to terminate the contract within fifteen days.

If the insurer has not terminated the contract or proposed an amendment to it within the time frames set out above, it is not entitled to invoke the increase in risk in the future.

2. If a claim arises before the amendment or termination of the contract has taken effect, and if the policyholder has fulfilled their obligation referred to in point 1 of this Article, the insurer must provide the agreed benefit.
3. If a claim arises and the policyholder has not fulfilled their obligation referred to in point 1 of this Article:
 - a. The insurer must provide the agreed benefit where the blame for the lack of declaration cannot be attributed to the policyholder;
 - b. If blame for the lack of declaration can be attributed to the policyholder, the insurer is only required to provide the benefit calculated by the difference between the premium paid and the premium which would have been paid if the increase in risk had been taken into consideration. However, if the insurer provides proof that it would under no circumstances have insured the increased risk, the benefit of the claim is limited to reimbursement of the premiums paid for the period after to the point at which the risk increased;
 - c. If the policyholder acted fraudulently, the insurer may refuse insurance coverage. Premiums up until the moment the insurer gained knowledge of the fraud are owed to it in damages.
4. The provisions of this Article are not applicable to life or health insurance, when the health of the insured person has been modified, nor to credit insurance.

Section VII - Coinsurance and lead underwriting

Article 35 - Coinsurance

Unless otherwise agreed, coinsurance does not imply joint and several liability.

Article 36 - Lead Underwriting

In the case of coinsurance, a lead underwriter must be designated in the contract. This underwriter is deemed to be an agent of the other insurers for the purposes of receiving notifications required under the contract, and for carrying out due diligence required for the settlement of claims, including determining the amount of compensation.

Consequently, the insured person must serve documents on, and send all notifications to, it, with the exception of those relating to legal proceedings against the other coinsurers. If a lead underwriter has not been designated in the contract, the insured person may consider any of the coinsurers to be the lead underwriter for the purposes of this Article. The insured person must, however, always contact the same coinsurer as lead underwriter.

Section VIII – Effective date of insurance coverage and term of the contract

Article 37 - Effective date of insurance coverage

1. Insurance coverage shall take effect at the date and the time specified in the contract.
2. The contract may, however, stipulate that insurance coverage shall not take effect until after the first premium has been paid.

“Article 38 - Term of the obligations

The parties shall agree the duration of the contract.

However, excluding life and health insurance, the policyholder shall have the right to terminate the contract each year in accordance with the formalities set out in Article 39, on the annual premium renewal date or, failing that, on the policy anniversary date on which the contract came into force, hereinafter referred to as the renewal date, by notifying the insurer of the termination thirty days before this date. The insurer has the same right, under the same conditions, provided that a notice period of sixty days is observed. This annual right of termination must be reiterated in every contract.

Without prejudice to the previous paragraph, for contracts with annual premiums, the renewal date notification referred to in Article 20 must grant the latter a minimum period of thirty days to terminate the contract. This period shall start on the date the notification is sent and expire at the earliest thirty days before the renewal date. Where the deadline for the policyholder to exercise the right to terminate the contract has not been explicitly mentioned in the renewal date notification to the policyholder, the policyholder may terminate the contract without penalty at any time after the renewal date, but no later than sixty days after the policy renewal date.

In the cases referred to in paragraphs 2 and 3, termination shall take effect on the second working day after the letter of termination has been sent, but no earlier than the renewal date .

The premium for the risk coverage period after the renewal date shall be calculated *pro rata temporis* based on the premium rates in effect during the previous annual coverage period.

The contract must also mention that the period of automatic renewal may not, under any circumstances, exceed one year³⁰.

Section IX - Contract termination

Article 39 - Circumstances, formalities and effects of termination

1. Termination of the contract shall be effected either by means of a registered letter by post, or a writ served by a bailiff, or by delivery of a duly receipted termination letter.
2. Unless the law provides otherwise, termination shall only take effect at the end of a minimum notice period of one month from the day after service of the writ or the date of the receipt or, in the case of a registered letter, one day after the letter was posted.

The notice period referred to in the first paragraph above must be stipulated in the contract and mentioned once more in the termination notice.

3. Other than the cases provided for by law, the insurer may not terminate the contract.

³⁰ Law of 21 December 2012

Article 40 - Partial premium refund

When the contract is terminated, for whatever reason, the premiums paid pertaining to the period of insurance after the date termination takes effect are reimbursed within a period of 30 days of termination coming into effect. Beyond this period, interest at the current legal interest rate shall be payable.

In the event of a partial termination or any other reduction of the insurance cover, paragraph 1 shall apply only to such reduction and the extent of it.

Article 41 - Termination after a claim

1. With the exception of life and health insurance, the contract may reserve the right for the insurer to terminate the contract after the occurrence of an event giving rise to payment of compensation. The policyholder must be notified of termination in this case within one month of the first payment of the benefit by the insurer.
2. If the insurer exercises this right, the policyholder shall have the right to terminate other contracts they may have entered into with the same insurer. This termination shall be notified within one month following the notification referred to in point 1.
3. The insurer may declare termination of the contract and, by way of derogation from Article 39 point 3, give such termination immediate effect upon notification, if the policyholder, the insured person or the beneficiary has failed to execute one of the obligations arising from the occurrence of a loss with the intention of deceiving the insurer. This right may be exercised by the insurer notwithstanding non-payment of any benefit and it must be exercised in the month of discovery of the fraud.

“Article 42 - Increase in premium rates

The contract may reserve the right for the insurer to increase the premium rates for an existing contract.

An insurance undertaking that in the course of a contract, intends to increase the premium rates may only do so with effect taking place from the next annual renewal date of the contract. The insurance undertaking must notify the policyholder of the modification to the rates at least thirty days before the date the modification will take effect.

In the event of an increase in premium rates, the provisions of Article 38 paragraphs 2, 3 and 4 shall apply. The minimum period during which the policyholder may terminate the contract following the sending of the renewal date notification is however extended to sixty days.

When an increase in premium rates has not been communicated to them explicitly in the renewal letter, as provided for in Article 20, the policyholder may terminate the contract without penalties at any time from the renewal date, but at the very latest sixty days after the renewal date of the contract.”³¹

Article 43 - Bankruptcy of the policyholder or the insurer

1. In the event of policyholder becoming bankrupt, the insurance continues to exist for the benefit of the general body of creditors which, collectively, become debtors to the insurer for the premiums that remain payable after the declaration of bankruptcy.

However, the insurer and the trustee in bankruptcy shall have the right to terminate the contract.

Termination of the contract by the insurer may only be effected, at the earliest, three months after the declaration of bankruptcy, and such termination must be notified within one month following the expiration of this time limit. The trustee in bankruptcy may only terminate the contract within the three months following the declaration of bankruptcy.

This point shall not apply to personal insurance.

2. In the event of the application of “Article 246 of the law of 7 December 2015³² on the insurance sector”, or of any similar measure against the insurer, the policyholder shall have the right to terminate the contract with immediate effect.

Section X - Statutory limitation

Article 44 – Statutory limitation period

1. The statutory limitation period for any action arising from an insurance contract shall be three years.

This time limit runs from the day the event occurs which gives rise to this action. However, where the person bringing the action can prove that they only became aware of the event at a later date, the time limit shall only run from that date, but shall not exceed five years from the occurrence of the event, except in the case of fraud.

In terms of liability insurance, as far as recourse action by the insured person against the insurer is concerned, the time limit shall run from the date of the application to the court by an injured party, whether it is a new claim for compensation or a subsequent claim resulting from aggravation of the damage or the occurrence of new damage.

³¹ Law of 21 December 2012

³² Law of 7 December 2015

For personal insurance, the time limit for a beneficiary to take action shall run from the date when they first become aware not only of the existence of the contract, but also of their status as a beneficiary and of the occurrence of the event on which the insurance benefits depend.

2. Without prejudice to any particular legal provisions, an action arising from the rights that the injured party has against the insurer by virtue of Article 89 is limited to five years from the date of the event which gave rise to the loss or, in the case of a criminal offence, from the date on which the criminal offence was committed.

However, where the injured party can prove that they only became aware of their rights against the insurer at a later date, the time limit shall only run from that date, but shall not exceed ten years from the date of the event which gave rise to the loss or, in the case of a criminal offence, from the date on which the criminal offence was committed.

3. Recourse action by the insurer against the insured person is limited to three years from the date of payment by the insurer, except in the case of fraud.

Article 45 - Suspension and interruption of the statutory limitation period

1. The statutory limitation period shall apply to minors, the mentally certified and other legally incapable persons, except where an action as referred to in Article 44 point 2 is concerned.
2. The statutory limitation period shall not apply to the insured person, the beneficiary or the injured party who are prevented from taking action within the prescribed period as a result of force majeure.
3. If a claim notification has been made in due time, the statutory limitation period shall be interrupted until the time when the insurer has made its decision known to the other party, in writing.
4. The statutory limitation period for an action referred to in Article 44 point 2 shall be interrupted from the time the insurer is informed of the intention by the injured party to obtain compensation for his loss. This interruption shall cease the moment that the insurer advises the injured party, in writing, of its decision whether or not to pay the claim. Any referral to a body responsible for examining complaints as provided for in Article 10.1. o) shall interrupt the statutory limitation period.”³³

Section XI - Arbitration and jurisdiction

Article 46 - Arbitration

Notwithstanding Article 96, a clause under which the parties to an insurance contract commit themselves in advance to submit disputes arising from the contract to arbitrators shall be deemed void in contracts other than those referred to in Article 3 point 3.

³³ Law of 21 December 2012

Article 47 - Competent jurisdiction

Notwithstanding the application of international treaties and agreements, all disputes relating to contracts covered by this law shall come under the exclusive jurisdiction of the competent Luxembourg courts.

Chapter III - Specific provisions for indemnity insurance

Article 48 - Insurable interest

The insured person must be able to justify an economic interest in the preservation of the insured property or in the entirety of the estate.

Article 49 - Insurance on behalf of others

Indemnity insurance may be taken out on behalf of a third party, or on behalf of the person it concerns. The insured is the person that justifies an insurable interest when a loss occurs.

A policyholder that takes out insurance on behalf of a third party must make the conditions of the insurance coverage available to the insured persons.

Exceptions inherent in the insurance contract, which the insurer could enforce against the policyholder, shall be equally enforceable against the insured person, whoever they may be.

Article 50 - Extent of the insurance benefit

Notwithstanding Articles 65 to 67, the benefit due from the insurer shall be limited to the loss suffered by the insured person.

In particular, this loss may consist of being deprived of the use of the insured item, as well as a shortfall in anticipated profits.

Article 51 - Accumulation of different types of insurance

Unless otherwise agreed, the benefits due under an indemnity insurance contract shall not be reduced by the benefits due under a lump-sum insurance contract.

Article 52 - Subrogation of the insurer

The insurer that has paid indemnity benefits shall acquire the right of subrogation, up to the indemnity limit, in the rights and actions of the insured person or the beneficiary against third parties liable for the damage.

If, as a result of an act by the insured person or the beneficiary, the subrogation right cannot be effected in favour of the insurer, the latter may claim the return of any indemnity benefits paid, to the extent of the loss suffered.

The subrogation right shall not be exercised so as to cause a loss to the insured person or the beneficiary that has only been partly indemnified. In such a case, they may exercise their rights in respect of any amount which remains due to them, in preference to the insurer.

Except in the event of malicious intent, the insurer has no recourse against the descendants, ascendants, spouse and relatives by marriage in direct lineage of the insured person, nor against persons living in their household, their guests or domestic servants.

However, the insurer may have recourse against those persons, insofar as their liability is effectively covered by an insurance contract.

Article 53 - Overinsurance taken out in good faith

Where, in good faith, the amount insured under one or more insurance contracts taken out with the same insurer exceeds the value of the insurable interest, each party has the right to reduce the sum insured to the appropriate amount.

Where the sum insured is divided amongst several contracts taken out with different insurers, in the absence of an agreement between all the parties, this reduction shall be applied to the sums insured under those contracts in the order of their date, starting with the most recent and may eventually require the termination of one or more contracts, under which the sum insured would thus be rendered null and void.

Article 54 - Overinsurance taken out in bad faith

Where the same insurable interest is insured for too high an amount in bad faith, under one or more contracts taken out with one or more insurers, the contracts shall be null and void, and the insurer or insurers, provided they are acting in good faith, shall have the right to retain the premiums collected, by way of damages.

Article 55 - Apportionment of the cost of a claim in the case of several contracts

1. If the same interest is insured against the same risk with more than one insurer, the insured person may, in the event of a claim, seek indemnity from each insurer within the limits of the obligations of each of them, up to the amount of indemnity to which they are entitled.

Save in the case of fraud, none of the insurers may rely on the existence of other contracts covering the same risk in order to refuse insurance coverage.

2. Unless the insurers agree on some other method of apportionment, the burden of the loss shall be apportioned as follows:
 - a) if the value of the insurable interest can be determined, apportionment among the insurers shall be in proportion to their respective obligations;
 - b) if the value of the insurable interest cannot be determined, apportionment shall be in equal shares among all the contracts up to the maximum common sum insured by all the contracts; without account being taken of the contracts giving cover which actually reaches the latter sum, the balance, if any, of the indemnity shall be apportioned in the same way among the other contracts, and this method of apportionment shall be reproduced in successive tranches up to the total amount of the indemnity or until the insurance coverage actually granted by all the contracts;
 - c) If one or more insurers cannot pay all or part of their share, this shall be reapportioned among the other insurers in the manner provided for in point b) above, provided however that the sum insured by each may not be exceeded.
3. If one or more insurers cannot pay all or part of their share, the other insurers shall have a right of recourse against them in so far as they take on an additional burden.

Article 56 - Underinsurance: pro-rata rule

1. Unless otherwise agreed by the parties, if the value of the insurable interest is determinable and if the sum insured is lower than that value, the insurer shall only be obliged to pay out benefits in proportion with that value.
2. The pro-rata rule shall not apply where the value of the insurable interest has been determined by the insurer or its agent, except in so far as the insurer can prove that underinsurance is the result of circumstances which came into effect after the date of fixation.

Article 57 - Death of the policyholder benefiting from insurance coverage

In the event of a transfer of the insured interest following the death of the policyholder, the rights and obligations arising under the insurance contract shall be transferred to the new owner of that interest.

However, the new owner of the insured interest and the insurer may give notice to terminate the contract, in the case of the former by registered letter within three months and forty days of the death, and in the case of the latter, to the last known address of the policyholder, under the terms laid down in Article 39 point 2, within three months of becoming aware of the death.

Article 58 - Contracts concluded *intuitu personae*

By way of derogation from Article 57, the contract concluded on behalf of the insured person shall automatically terminate on their death.

Chapter IV - Specific provisions for insurance with lump-sum payouts

Article 59 - Insurable interest

The life or personal injury to an individual may be insured by that individual themselves or by a third party.

Life or personal injury insurance of a third party shall be null and void if it is established that the beneficiary of the insurance has no interest in the life or health of the third party.

Article 60 - Consent of the insured party

An insurance contract providing mainly for benefits in the event of death or personal injury which has been concluded by a third party on the insured person's life shall be null and void if the latter has not given their consent in writing.

Under penalty of invalidating modifications, the same consent shall be required for any subsequent modification to the contract with the object of:

- substantially increasing the benefits provided;
- changing the beneficiary designation clause;
- assigning or pledging the rights under the contract.

In order for the consent of a person without capacity to be valid, it shall be given by their legal representative.

Article 61 - Absence of subrogation

An insurer that has paid the insured benefits shall not acquire the right of subrogation against third parties in the rights of the policyholder or the beneficiary.

Article 62 - Accumulation of indemnities and benefits

Indemnities or benefits, which the beneficiary accumulates on other grounds, shall not reduce the insurer's obligations.

Chapter V - Additional provisions applicable to distance insurance contracts

Article 62-1 – Scope of application

- (1) Without prejudice to other provisions of this law, the supplementary provisions of this chapter shall apply to distance insurance contracts, concluded with a policyholder, who is a natural person, and is acting for purposes other than their commercial or professional capacity.

- (2) For distance insurance contracts comprising an initial service agreement followed by successive transactions or a series of separate transactions of the same nature over time, the provisions of this chapter shall apply only to the initial agreement.
- (3) Distance insurance contracts that add new components to the initial service agreement set out in the preceding paragraph shall be subject to the provisions of this law in the same way as the initial service agreement.
- (4) If there is no initial insurance agreement but successive transactions or separate transactions of the same nature are performed over time between the same contractual parties, the obligations imposed by Articles 10 point 1 and 62-2 shall only apply when the first transaction is executed.

Where, however, no transaction of the same nature is carried out for more than one year, the next transaction will be deemed to be the first in a new series of transactions and accordingly Articles 10 point 1 and 62-2 shall apply.

Article 62-2 – Precontractual information

- (1) In addition to the information referred to in Article 10 point 1, the policyholder shall be provided with the following information, in good time before they are bound by any distance insurance contract or offer:
 - (a) general and special terms and conditions;
 - (b) in addition to information referred to in Article 10 point 1, letters f) and g), a description of the main characteristics of the contract;
 - (c) the methods of payment and execution;
 - (d) any specific additional costs to the policyholder for using the means of remote communication, if such additional costs are invoiced;
 - (e) the Member State or States whose laws are relied upon by the insurer as a basis for the establishment of relations with the policyholder prior to the conclusion of the distance insurance contract;
 - (f) the existence or absence of a guarantee fund or another compensation mechanism.
- (2) The information referred to in Article 10 point 1, as well as in this Article, the commercial purpose of which must be made clear, shall be provided in a clear and comprehensible manner by any means appropriate for the remote communication used, taking account in particular of the principles of good faith in commercial transactions, and the principles governing the protection of those who are deemed incapable, under Luxembourg law, such as minors.
- (3) In the case of telephonic communications:
 - (a) the identity of the insurer and the commercial purpose of the call initiated by the insurer shall be made explicitly clear at the beginning of any conversation with the policyholder;
 - (b) by way of derogation from Article 10 point 1 and point 1 of this Article and subject to the explicit consent of the policyholder, only the following information must be provided during the telephone call:

- the identity of the person contacting the policyholder and their relationship to the insurer;
- a description of the main characteristics of the insurance contract;
- the total price to be paid by the policyholder to the insurer for the insurance contract including all taxes paid through the insurer or, if an exact price cannot be determined, the basis for calculation of the price allowing the policyholder to verify it,
- an indication of the possible existence of other taxes and/or charges which are not paid through or invoiced by the insurer;
- the existence or absence of a cancellation right during the cooling-off period in accordance with Article 62-3 and, where the cancellation right during the cooling-off period exists, its duration and the conditions for exercising it, including information on the amount that the policyholder may be required to pay on the basis of Articles 100-1 and 62-3 point 4.

During the telephone call, the insurer shall inform the policyholder that other information is available on request, on one hand, and the nature of this information, on the other hand. In any event, the insurer shall provide full information when fulfilling its obligations under points 5 and 6 below.

- (4) Obligations arising from the insurance contract must be in conformity with the information provided by the insurer during the pre-contractual phase.
- (5) The policyholder must receive, in writing or in another durable medium available and accessible to them in good time, the general and special conditions and confirmation of the information referred to in Article 10 point 1 and in point 1 of this Article in good time before the conclusion of the contract.

The insurer shall fulfil its obligation under the preceding paragraph immediately after the conclusion of the contract, if it was concluded at the policyholder's request using a means of distance communication that does not allow transmission of the information referred to in the preceding paragraph.

- (6) At any time during the contractual relationship, the policyholder is entitled, at their request, to receive a paper copy of general and special terms and conditions. In addition, the policyholder is entitled to change the means of distance communication, unless it would be incompatible with the distance contract concluded or the nature of the insurance contract provided.

Article 62-3 - Cancellation right during the cooling-off period

- (1) Without prejudice to the longer time period provided for in Article 100, the policyholder has a period of fourteen calendar days to cancel the contract during the cooling-off period without penalty and without giving any reason.

The period during which the cancellation right during the cooling-off period is exercisable begins to run

- a) either from the day the distance contract is concluded, or
- b) from the day on which the policyholder receives the general and special terms and conditions and the information in accordance with Article 62-2 point 5, if that day is later than the date referred to in point (a).

- (2) The cancellation right during the cooling-off period shall not apply to:
- a) travel and baggage insurance policies or similar short-term insurance policies with a duration of less than one month;
 - b) insurance contracts that have been fully executed by both parties at the policyholder's express request before the policyholder exercises their cancellation right during the cooling-off period.
- (3) If the policyholder exercises their cancellation right during the cooling-off period they shall give notice before the expiry of the cooling-off period by registered letter or any other durable medium available and accessible to the recipient. The deadline shall be deemed to have been observed if the notice is dispatched before the deadline expires.

Cancellation during the cooling-off period has the effect of releasing the policyholder from any future obligations arising from the contract.

- (4) The provisions of Article 100-1 regarding payment for the service provided before cancellation during the cooling-off period shall apply.

Article 62-4 - Unsolicited services

Without prejudice to the provisions of Article 38 on the duration of tacit renewal:

- a) the issuance of insurance contracts to a policyholder without a prior request on their part, when this issuance includes a request for immediate or deferred payment, is prohibited
- b) the policyholder is exempted from any obligation in the event of unsolicited issuances, the absence of a reply not constituting consent.

Article 62-5 - Commercial communications

- (1) The use of electronic mail, automated calling systems without human intervention, telephone or facsimile machines by the insurer for the purpose of commercial communication to the policyholder is only permitted with the latter's prior consent.

Commercial communication means any form of communication designed to promote, directly or indirectly, the goods, services or reputation of an insurer. The following shall not constitute commercial communications:

- contact details giving direct access to this insurer, in particular a domain name or an e-mail address;
 - communications relating to goods, services or the reputation of this insurer prepared independently from this insurer, in particular when they are provided without financial consideration.
- (2) Other than those referred to in point 1, means of distance communication allowing for personalised communication may only be used if the policyholder has not expressed their manifest objection.

- (3) Commercial communications must comply with the following conditions:
- a) it shall be clearly identifiable as such;
 - b) the insurer on behalf of whom the commercial communication is made must be clearly identifiable;
 - c) promotional contests, offers and games must be clearly identified as such and participation terms and conditions must be easily accessible and presented in a precise and non-ambiguous manner.

Unsolicited commercial communications by electronic means must be clearly and unambiguously identified as such upon receipt of them by the policyholder.

- (4) Notwithstanding its right set out in point 1 and applicable provisions concerning precontractual information, the insurer that, in the context of the provision of an insurance contract, has obtained directly electronic contact details from policyholders for the purpose of sending an electronic mail, may make use of such contact details for the purpose of canvassing similar products or services that it offers, provided that the policyholders clearly and explicitly have the right, easily and free of charge, to oppose the use of their electronic contact details, both at the point of initial collection by the insurer, as well as in each communication sent by the insurer in the event that the policyholders had not previously opposed such use.
- (5) Measures taken in accordance with points 1 and 2 must not give rise to any costs to policyholders.

Article 62-6 – Preliminary technical information to be provided by the insurer in the event of distance insurance contracts offered by electronic means

- (1) Without prejudice to the other obligations to provide information set out in this law, an insurer offering distance insurance contracts by electronic means must allow the policyholders and the competent authorities easy, direct and permanent access to the following information:
- a) its name;
 - b) the geographical address at which it is established;
 - c) contact details to provide for rapid, direct and efficient contact, including an email address;
 - d) where appropriate, its registered number at the trade register, VAT identification number and authorisation to undertake this activity, as well as contact details of the authority giving authorisation;
 - e) the professional title and the Member State where it has been granted;
 - f) reference to the professional order to which it belongs;
 - g) reference to the applicable professional rules and how to gain access to them.

An electronic insurance contract refers to any insurance contract originally sent and received by means of electronic processing equipment (including digital compression) and storage of data, and which is fully transmitted, conveyed and received by wire, radio, optical or other electromagnetic means.

- (2) In addition to the obligation of information referred to in Articles 10 point 1, 62-2 points 1, 2, and 4 and 62-6 point 1, information on the technical aspects of the formation of the insurance contract by electronic means shall be clearly and unambiguously transmitted before concluding the contract.

This information must cover:

- a) the various technical steps to follow in order to conclude the contract;
 - b) whether or not the contract, once concluded, will be archived by the insurer and whether or not it is accessible;
 - c) the technical means to identify and correct errors in the data input before the contract is concluded.
- (3) The insurer shall indicate which potential relevant code of conduct it is subject to and how these codes can be consulted electronically.
- (4) Points 2 and 3 of this Article shall not apply to distance insurance contracts exclusively concluded by exchange of email or equivalent individual communications.
- (5) Concerning products and services not covered by the cancellation right during the cooling-off period in accordance with Article 62-3, the following additional information must be provided to the policyholder:
- characteristics of the operating system or the necessary equipment to use efficiently the ordered product or service;
 - approximate duration and the costs of the potential download of a product or service and, if applicable, the terms and conditions of the licence agreement.

Article 62-7 - Time of conclusion of the distance insurance contract by electronic means

- (1) If the policyholder is asked to give consent to the insurer's offer by means of electronic communication, the insurance contract is concluded when the insurer receives the policyholder's acceptance.

Acknowledgment of receipt must be transmitted as soon as possible to the policyholder confirming that an insurance contract has been concluded and informing them of the precise time of the conclusion of the contract.

The acceptance and acknowledgment of receipt are presumed to have been received as soon as the recipient has access to them.

- (2) The insurer must provide the policyholder with appropriate, efficient and accessible electronic communication techniques, enabling them to identify any error in the data input in order to correct them before concluding the contract.

- (3) The provisions of the two preceding points shall not apply to insurance contracts concluded exclusively by email exchange or equivalent individual communication means.

Article 62-8 - Proof of professional obligations for distance contracts

- (1) The burden of proof in respect compliance with the insurer's obligations to inform the policyholder, and the policyholder's consent to the conclusion of the insurance contract and, where applicable, its performance, shall be on the insurer.
- (2) Any contractual term or condition providing that the burden of proof of compliance by the insurer of all or part of the obligations incumbent on it pursuant to Article 10, point 1 and the provisions of this Chapter rests on the policyholder is unfair and shall be deemed null and void.

Article 62-9 - Mandatory nature of the provisions on distance selling

- (1) The policyholder may not waive the rights conferred on them by this Chapter.
- (2) Any clause contrary to point 1 is unfair and shall be deemed null and void.

Article 62-10 - Choice of the law of a State which is not a Member State of the European Union

Where the policyholder has their habitual residence in a Member State of the European Union and the insurance contract has been proposed, concluded or performed in the territory of one or more Member States of the European Union, the policyholder shall not be deprived of the protection deriving from the provisions of European Community legislation on distance marketing of consumer financial services by virtue of the laws of a third country being applied to the contract. Consequently, the provisions of this law shall be applied unless the provisions of the Rome Convention of 19 June 1980 on the law applicable to contractual obligations designate the law of another Member State which has transposed European Community legislation on distance marketing of consumer financial services.

Article 62-11 - Action for prohibitory injunction

- (1) The judge presiding in the chamber of the Tribunal d'Arrondissement (District Court) sitting in commercial matters may, at the request of the organisations referred to in Article L.313-1 and in accordance with the Consumer Code or the instructions of the Commissariat aux Assurances, order any measure to cease all actions contrary to this law."³⁴

³⁴ Law of 8 April 2011

(2) The order can be made independently from a lawsuit by the State prosecutor. The measure ordered by the judge presiding in the chamber of the Tribunal d'Arrondissement sitting in commercial matters shall, however, cease in the event of an acquittal order by a criminal judge with the force of *res judicata*.

“(3) An action for prohibitory injunction shall be brought in accordance with the procedure applicable to the court sitting in summary proceedings. The judge presiding in the chamber of the Tribunal d'Arrondissement sitting in commercial matters shall deal with the merits of the case. The time limit for lodging an appeal is 15 days.”³⁵

(4) The judge may order to display the judgment inside or outside the offender's sales facilities at their expense. The order will specify the duration of the display, and it may also order publication in whole or in part of the judgment in newspapers or any other media at the offender's expense.

Such display or publication shall only be performed pursuant to a judicial decision, which has the force of *res judicata*.

(5) Any failure to comply with an injunction or prohibition in a judgment handed down in accordance with this Article and having force of *res judicata* is punishable by a fine of 251 to 50,000 euros.”³⁶

PART II

DAMAGE INSURANCE

Chapter 1 - General Provisions

Article 63 - Principle of indemnification

All damage insurance has an indemnificatory nature.

Article 64 - Mitigation costs

Costs arising from both actions required by the insurer to be taken for the purpose of preventing or mitigating the consequences of damage or loss and from the urgent and reasonable measures taken on the initiative of the insured person when in imminent danger to prevent damage or loss or, if damage or loss has already begun, to prevent or mitigate the consequences, shall be borne by the insurer when these actions have been carried out with due and proper diligence, even when the precautions taken have proved unsuccessful.

³⁵ Law of 8 April 2011

³⁶ Law of 18 December 2006

Chapter II - Property insurance contracts

Section I - Provisions common to all property insurance

Subsection I - Insurable value

Article 65 - Valuation methods

The parties are free to determine the manner in which property is evaluated for insurance purposes. By way of derogation from Article 50, they may agree to a reconstruction, restoration or replacement cost, without even deducting any depreciation resulting from dilapidation.

Article 66 – Determination of the insured amount

The insured amount is fixed either by the policyholder, or by the insurer or its agent. In the event of the latter, Article 56 point 2 shall apply.

The parties may agree to automatically adjust the amount in accordance with criteria they determine.

Article 67 - Agreed value

The parties may expressly agree the value that they attribute to specific items of property. This value shall bind them, except in the event of fraud.

If the insured property at an agreed value loses significant value, either party is entitled to reduce the agreed value or terminate the contract.

Subsection II - Obligations of the insured person

Article 68 - Condition of property

The insured person may not, on their own authority, make any unnecessary modifications to damaged property that would render it either impossible or more difficult to determine the causes of the loss, or to assess the damage.

If the insured person does not fulfil the obligation referred to in paragraph 1 and to the prejudice of the insurer results therefrom, the insurer has the right to reduce the benefit up to the amount of loss it has suffered or claim damages.

The insurer may decline cover if the insured person has not fulfilled the obligation referred to in paragraph 1 with fraudulent intent.

Subsection III- Transfers

Article 69 - Transfer of an insured item

1. Unless Article 57 applies, in the event of a transfer of a building, the insurance policy shall automatically terminate three months after the date of signature of the transfer deed.

Until the expiry of the time limit referred to in the first paragraph, the transferee shall acquire the insurance coverage granted to the transferor, unless the former benefits from insurance coverage under a separate contract.

2. Unless Article 57 applies, in the event of a transfer of furniture, the insurance policy shall automatically terminate at the time when the insured person no longer has possession of the property, except if the parties to the insurance contract agree to another date.

Subsection IV - Indemnity payments and the insurer's preferential rights

Article 70 - Preferential and mortgage creditors

1. Insofar as the indemnity due as a consequence of loss or deterioration of the property is not entirely allocated to repair or replacement of that property, it is allocated to the payment of preferential or mortgage claims encumbering the insured property, in accordance with the rank of each creditor.

However, payment of the indemnity to the insured person releases the insurer from any further obligation if creditors, whose preferential status has not been publicly disclosed, have not raised any objections in advance.

Paragraphs 1 and 2 above shall not prejudice the legal provisions relating to direct actions against the insurer in specific instances.

2. No exception or forfeiture deriving from an event subsequent to the loss may be enforced by the insurer against a creditor enjoying a preferential right over the insured property known to the insurer.
3. Suspension of the insurer's insurance coverage, a reduction of the insured amount or termination of the contract are enforceable against the creditors referred to above.

However, if one of the creditors has notified the insurer of the existence of its preferential right by registered letter, the suspension, reduction or termination shall only be enforceable against it at the expiry of a period of one month from the date the insurer sends a notification by means of a registered letter; the one month period beginning to run from the day after the letter was posted.

Where suspension or termination takes place as a consequence of non-payment of the premium by the policyholder, a creditor may avoid the consequences by making payment of the outstanding premiums, increased, if necessary, by interest and the legal costs of recovery, within the one month notice period given by the insurer.

Article 71 - Bankruptcy of the insured person

In the event of the bankruptcy of the insured person, the indemnity shall become part of the bankruptcy estate. However, if some of the insured property cannot be seized, the indemnity payable under the insurance contract over that particular property reverts to the bankrupt.

Article 72 - Insurer's preferential right

The insurer shall have a preferential claim over the insured property for the recovery of the premiums relating to the period during which it covered the risk. This preferential claim shall only exist, whatever the method of premium payment, for a sum corresponding to two annual premiums.

This preferential claim is exempt from any registration. It ranks as a priority immediately after the legal costs.

Section II - Provisions for certain property insurance

Subsection I - Insurance against fire and incidental risks

Article 73 - Standard insurance coverage

Fire insurance covers the insured property against damage caused by fire, lightning, explosion, implosion and, unless otherwise agreed, by the falling or collision of aircraft or air navigation devices or objects falling or thrown from them, and by the collision of any other vehicles or animals.

Article 74 - Ancillary insurance coverage

Even where the incident occurs outside the insured property, insurance coverage extends to include the damage caused to the said property by:

- emergency services or any suitable means of extinction, preservation or rescue;
- demolition or destruction ordered to stop the spread of the incident;
- collapse resulting directly and exclusively from an incident;
- fermentation or spontaneous combustion followed by fire or explosion.

Article 75 - Home contents insurance

Insured furniture which furnishes all or part of a building includes, in addition to that which belongs to the insured person, that of all other persons living in his household. The policyholder is deemed to have subscribed for their benefit.

However, the parties may agree to exclude certain furniture specified in the contract from the insured furniture.

Article 76 - Related liabilities Insurance

Unless otherwise agreed, insurance of liabilities incurred as a result of loss affecting property covered by the contract and the cause or object of which is referred to in Articles 73 to 75 does not cover damage resulting from personal injury.

Article 77: Exclusivity clauses

The insurer cannot force the policyholder to insure:

- an increase of insured amounts;
- damages other than those originally guaranteed.

Paragraph 1 is without prejudice to the application of the second paragraph of Article 66.

Article 78 – Restoration clauses

By way of derogation from Article 29 point 1, the parties may agree that compensation shall be payable only as and when the insured property rebuilt or reconstructed.

Failure to rebuild or reconstruct cannot result in a reduction of compensation exceeding 20% of the real value of the property.

Where such default is due to a cause outside the insurer's control, or the latter has just cause, it shall have no effect on the calculation of the compensation.

Subsection II – Crop insurance

Article 79 - Termination following a claim

By way of derogation from Article 41, where, with regard to crop insurance, the insurer has reserved the right to terminate the contract after the occurrence of a claim, such termination shall take effect only after the normal harvest period.

Chapter III - Liability insurance contracts

Article 80 - Scope of application

This Chapter applies to insurance contracts which are intended to insure the insured person against any claim for compensation based on the occurrence of damage provided for in the contract and to hold, within the limits of the insurance coverage, their assets harmless from any debt resulting from an established liability.

Article 81 - Insurer's obligations after the expiry of the contract

1. The insurance coverage shall cover damage occurring during the term of the contract, even if the claim is made after the contract terminates.
2. Except for motor vehicle civil liability insurance, the parties may nevertheless agree that insurance coverage shall be limited to claims made within three years of the occurrence of the damage.

Article 82 - Conduct of litigation

From the moment the insurer's coverage is due and insofar as it has been called upon, the insurer must take up the insured person's defense, within the limits of the insurance coverage.

As regards civil interests, and to the extent that the interest of the insurer and the insured person coincide, the insurer has the right to oppose, on behalf of the insured person, the claim of the injured party. It may indemnify the latter if necessary.

The insurer's interventions do not confer any recognition of liability of the insured person and must not cause the latter any prejudice.

Article 83 - Transmission of documents

Any legal or extrajudicial document relating to a claim must be sent to the insurer as soon as it is notified, served or delivered to the insured, under penalty, in case of negligence, of all damages due to the insurer as compensation for the damage it has suffered.

Article 84 - Failure to appear

Where the insured person negligently fails to appear, or does not submit to investigative measures ordered by the court, they shall compensate the insurer for any damage suffered.

Article 85 - Payment by the insurer of principal, interest and costs

Up to the amount of insurance coverage, the insurer shall pay the principal, the related interest, the costs of civil proceedings, as well as the fees and expenses of lawyers and experts, but only to the extent that the costs have been incurred by it or with its consent, or, in the event of a conflict of interest which is not attributable to the insured person, provided that such costs have not been incurred unreasonably.

Interest payable under Article 29 point 2 is nevertheless due, even beyond the limit of the insurance coverage.

Article 86 – Right to freely dispose of the compensation

Without prejudice to the provisions relating to the protection of incapable persons, the injured party shall have the right to dispose freely of the compensation payable by the insurer. The amount of the compensation shall not be adjusted according to the use made of it by the injured party.

Article 87 - Receipt in full and final settlement

Without prejudice to the possibility for the parties to enter into a settlement agreement on the basis of Articles 2044 to 2058 of the Civil Code, a receipt for partial settlements or full and final settlement does not imply that the injured party waives their rights. The insurer must disclose this fact on the receipt.

A receipt in full and final settlement must disclose the elements of damage to which the settlement relates.

Article 88 - Compensation by the insured person

Compensation or the promise of compensation of the injured person made by the insured person without the agreement of the insurer is not enforceable against the insurer.

The admission of the materiality of a fact or the payment by the insured person for first aid for immediate medical care cannot constitute a reason for the insurer to refuse insurance cover.

Article 89 - The injured party's right

The insurance gives the injured party an inherent right against the insurer.

The indemnity payable by the insurer shall be owed to the injured party, to the exclusion of the other creditors of the insured person.

Article 90 - Enforceability of exceptions, nullities and forfeitures

1. In civil liability insurance made mandatory by law, exceptions, nullities and forfeitures deriving from the law or the contract, which find their cause in a fact anterior or subsequent to the claim, are unenforceable against the injured person.

However, cancellation, termination, expiry or suspension of the contract, occurring before the occurrence of the claim, are enforceable against the injured person.

2. For the other categories of civil liability insurance, the insurer can only enforce exceptions, nullities and forfeitures on the injured party deriving from the law or the contract which find their cause in a fact prior to the claim.

Article 91 - Insurer's right of recourse against the policyholder

The insurer may reserve a right of recourse against the policyholder, and if applicable, against the insured person other than the policyholder, to the extent that it could have refused or reduced its benefits according to the law or the insurance contract.

At the risk of losing its right of recourse, the insurer must notify the policyholder or, where applicable, the insured person other than the policyholder, of its intention to appeal as soon as it has knowledge of the facts justifying that decision.

A Grand-Ducal regulation may limit the recourse in the cases and to the extent it determines.

Article 92 - Intervention in the procedure

1. No judgment shall be enforceable against the insurer, the insured person or the injured party unless they were present or summoned to the hearing.

However, the judgment handed down in proceedings between the injured party and the insured person is enforceable against the insurer, if it is established that it has in fact taken responsibility for the conduct of the proceedings.

- “2. The insurer may voluntarily intervene in the proceedings brought by the injured party against the insured person, as well as in any mediation procedure between the injured party and the insured person engaged in accordance with applicable legislation”³⁷.
3. The insurer may call the insured person to account in the lawsuit brought against it by the injured party.
4. If the policyholder is a person other than the insured person, the policyholder may voluntarily intervene or may be held liable in any lawsuit brought against the insurer or the insured person.
5. Where proceedings against the insured person are brought before criminal court, the insurer may be involved in the proceedings by the injured person or the insured person and may voluntarily intervene, under the same conditions as if the proceedings were brought before the civil court, but without the criminal court being able to rule on the rights that the insurer can claim against the insured person or the policyholder.

Chapter IV - Legal expense insurance contracts

“Article 93 – Scope of application

1. Articles 93-1 to 97-1 apply to legal expense insurance, whereby an insurance company undertakes, subject to the payment of a premium, to bear the costs of legal proceedings and to provide other services directly linked to insurance cover, in particular with a view to:
 - a) securing compensation for damage suffered by the insured person, by settlement out of court or through civil or criminal proceedings;
 - b) defending or representing the insured person in civil, criminal, administrative or other proceedings, or in respect of any claim made against them.
2. Articles 93-2 to 97-1 do not apply to:
 - a) legal expenses insurance where such insurance concerns disputes or risks arising out of, or in connection with, the use of sea-going vessels or in connection with such use;
 - b) the activity pursued by the insurer providing civil liability cover for the purpose of defending or representing the insured person in any legal or administrative proceedings if that activity is pursued at the same time in the insurance undertaking’s own interest under such cover;
 - c) the legal expenses insurance activity pursued by an insurer in respect of assistance that meets the following conditions:
 - the activity is carried out in a Member State other than that in which the insured person has their habitual residence;
 - the activity is part of a contract which only concerns assistance provided to persons in difficulty during travel, or absence from their domicile or habitual residence.

³⁷ Law of 21 December 2012

For the purpose of the first sub-paragraph, point (c), the contract shall clearly state that the coverage in question is limited to the circumstances referred to in that point and that it is ancillary to the assistance.”³⁸

Article 93-1. Separate contracts

Legal expenses cover shall be the subject of a contract separate from that drawn up for the other classes of insurance, or shall be dealt with in a separate section of a single policy in which the nature of the legal expenses cover, the amount of the relevant premium and, where applicable, the name of the legally distinct undertaking to which the management of legal expenses claims is entrusted, are specified.

Article 94 – Freedom in choice of advice

1. Any legal expenses insurance contract shall expressly stipulate that when a lawyer is called upon to defend, represent or serve the interests of the insured person, the insured person is free to choose such lawyer.

The contract shall also stipulate that the insured person is free to choose a lawyer, whenever a conflict of interest arises between the insured person and the insurer or, where applicable, the claims settlement office referred to in Article 181, point 3 of the law on the insurance sector.

No clause in the contract shall, within the limits of the insurance coverage, affect the freedom of choice open to the insured person in the two preceding paragraphs.

2. For the purposes of this Chapter, “lawyer” means any person authorised to carry out their professional activities under one of the designations provided for in the Council Directive 77/249/EEC of 22 March 1977 aimed at facilitating the effective exercise by lawyers of the freedom to provide services.

Article 95 - Arbitration

Without prejudice to any right of recourse to legal proceedings as provided for by law, the insurance contract provides for the right of the insured person to have recourse to the arbitration procedure of Articles 1224 et seq. of the new Civil Procedure Code for the settlement of any dispute between the legal expenses insurer and the insured person.

³⁸ Law of 7 December 2015

Article 95-1 - Conflict of interests

Whenever a conflict of interests arises or there is disagreement over the settlement of the dispute, the legal expenses insurer, or, where applicable, the claims settlor shall, inform the insured person of the right referred to in Article 94 and the possibility of having recourse to the procedure referred to in Article 95.

Article 96 - Informing the insured person

Whenever a conflict of interests arises or there is disagreement over the settlement of the dispute, the legal expenses insurer shall inform the insured person of the right referred to in Article 94 and the possibility of having recourse to the procedure referred to in Article 95.

Article 97 - Fines and plea-bargaining

No fine or plea-bargaining shall be the subject matter of an insurance contract, except for those payable by the person legally responsible.

“Article 97-1 - Content of the legal expenses insurance contract

A Grand-Ducal regulation may determine the conditions to be met by a legal expenses contract.”³⁹

PART III

PERSONAL INSURANCE

Chapter I - Common provisions

³⁹ Law of 7 December 2015

Article 98 - Medical information

The medical practitioner chosen by the insured person shall provide the insured who makes such a request with the medical certificates required for the conclusion or performance of the contract. The medical examinations required for the conclusion and the performance of the contract can only be based on the antecedents determining the current state of health of the prospective insured person and not on genetic analysis techniques to determine their future state of health.

Insofar as the insurance contract states that the insured person has given their prior consent, their medical practitioner is required to send a certificate setting out the cause of death to the insurer's medical consultant.

Chapter II - Life insurance contracts

Section I - General requirements

Article 99 - Scope of application

This Chapter applies to all personal insurance contracts in which the occurrence of the insured event depends only on the length of life of a person. This insurance policies are of an exclusively lump-sum nature.

"Section II - Cancellation right during the cooling-off period

Article 100 - Timing and form for cancellation during the cooling-off period

- (1) The policyholder of an individual life insurance contract for a period of more than six months has a period of 30 calendar days from the moment the policyholder is informed that the contract has been concluded, to cancel the contract.

- (2) If the policyholder exercises their cancellation right during the cooling-off period, they must serve notice by registered letter before the expiry of the period. The deadline is deemed to have been met if the notification is sent before the deadline expires. The effect of the cancellation during the cooling-off period is to release the policyholder for the future from any obligation arising from the contract.

Article 100-1 - Payment of the service provided before cancellation during the cooling-off period

- (1) If the policyholder exercises their cancellation right during the cooling-off period, they can only be required to pay, without any undue delay, for the insurance coverage actually provided by the insurer in accordance with the insurance contract. The performance of the contract can only begin after the policyholder has given their approval. The amount payable shall not:
 - exceed an amount proportional to the extent of the service already provided in comparison with the full coverage of the contract;
 - in any event be such that it could be construed as a penalty.
- (2) The insurer may only require the policyholder to pay any amount on the basis of point 1 if it can prove that the policyholder was duly informed about the amount payable in accordance with Article 10 point 1, letter i). However, it may not, in any circumstances, require such payment if it commenced the performance of the contract before the expiry of the period for cancellation during the cooling-off period without the policyholder's prior request.
- (3) The insurer shall, without undue delay and at the latest within thirty calendar days, return to the policyholder any sums it has received from them in accordance with the insurance contract, except for the amount referred to in point 1. This period begins to run from the day on which the insurer receives notification of cancellation during the cooling-off period. If the refund does not take place within a period of thirty calendar days, the amount payable shall be automatically increased by the legal interest rate in force from the first day after the expiry of the period.
- (4) The policyholder shall, without undue delay and at the latest within thirty calendar days, return to the insurer any sums and/or property they have received from the insurer except for insurance benefits due for the period of cover if it has already begun at the policyholder's request. This period begins to run from the day on which the policyholder dispatches the notification of cancellation during the cooling-off period. If the refund does not take place within a period of thirty calendar days, the amount payable shall be automatically increased by the legal interest rate in force from the first day after the expiry of the period."⁴⁰

Section III - Insured risk

Article 101 - Incontestability

As soon as the life insurance contract becomes effective, the insurer can no longer rely on unintentional omissions or inadvertent inaccuracies in the statements of the policyholder or the insured person.

The parties may nevertheless agree to defer incontestability for a maximum period of one year.

⁴⁰ Law of 18 December 2006

Article 102 - Error of the insured person's age

If the age of the insured person is incorrectly stated, the benefits of each of the parties are increased or reduced according to the actual age that should have been taken into consideration.

Article 103 - Excluded risks

1. Unless otherwise agreed, the insurance does not cover suicide committed by the insured person less than one year after the conclusion of the contract or the reinstatement of a contract that has been suspended. The burden of proof of suicide is on the insurer.

The insurance covers suicide occurring one year or more after the contract was concluded or reinstated.

2. The rules in point 1 also apply in the event of an increase in the insurance coverage not foreseen in the original contract up to the amount of this increase and during the year following the increase.
3. Unless otherwise agreed, the insurer does not cover the death of the insured person:
 - a) where such death results from the execution of a judicial sentence to the death penalty;
 - b) where the immediate and direct cause of death is a crime or an intentional misdemeanour perpetrated or co-perpetrated by the insured person and of which they were able to foresee the consequences.

Article 104 - Occurrence of an excluded risk

In the event of the death of the insured person as a result of the occurrence of an excluded risk, the insurer pays to the beneficiary the surrender value, limited to the insured benefit in the event of death.

Section IV - Payment of premiums and contract effective date

Article 105 – Failure to pay a premium

1. The insurer has no action to demand payment of premiums.
2. Failure to pay a premium or part of the premium within ten days of its due date, the insurer may, to the extent that the insurance contract so provides, and within a period of at least thirty days after sending the policyholder a registered letter to their last known domicile:
 - terminate the contract by paying the surrender value, if applicable;
 - convert the premium or part of the premium not paid in advance on contract, within the limit of the surrender value of the contract; or

- reduce the insurance coverage in the contract.

The registered letter should include a reminder of the due date and the amount of unpaid premiums, and specify the consequences of non-payment on the expiry of the above-mentioned deadline.

Section V - Policyholder's rights

Sub-section I - Beneficiary designation

Article 106 - Beneficiary designation

1. The policyholder has the right to designate one or more beneficiaries. This right belongs to them exclusively and cannot be exercised by their spouse, their legal representatives, their heirs or assignees or their creditors.

Proof of the beneficiary's entitlement shall be established in accordance with Article 16.

2. The beneficiary must be a person whose identity can be determined when the insured benefits become due.
3. In the absence of any agreement to the contrary, designation of a beneficiary shall be deemed to be made free of charge.
4. The insurer is released from any obligation where it made payment to the beneficiary in good faith before the receipt of anything in writing modifying the designation.

Article 107 - Absence of beneficiary

Where the insurance does not contain a beneficiary designation or a beneficiary designation that can have effect, or where the beneficiary's designation has been revoked, the insurance benefits are due to the policyholder or to their estate.

Article 108 - Designation of a spouse as beneficiary

"Where the spouse is specifically named as the beneficiary, the benefit of the contract shall be maintained in the event of remarriage of the policyholder, unless otherwise stipulated or pursuant to the application of Article 251 of the Civil Code regarding loss of matrimonial rights."⁴¹

⁴¹ Law of 27 June 2018

Where the spouse is not specifically named as the beneficiary, the benefit of the contract is attributed to the person who has that status when the insured benefits are payable.

Article 109 - Designation of children

Where children are not specifically named as beneficiaries, the benefit of the contract is attributed to persons who have this status when the insured benefits are payable. Direct descendants are considered representatives of a child who has died prior to the insured benefits becoming due.

Article 110 - Joint designation of children and the spouse as beneficiaries

Where the spouse and children, with or without specifying their names, are jointly designated as beneficiaries, the benefit of the contract shall be allocated half to the spouse and half to the children, unless otherwise agreed.

Article 111 – Prior death of the beneficiary

1. Where benefits of insurance have been allocated free of charge, the benefits shall be payable in the event of the beneficiary's death before the benefits become due and even if the beneficiary had accepted the benefit, to the policyholder or their estate, unless they have designated another beneficiary.
2. Where the allocation of the benefit of the insurance has been effected for valuable consideration, the agreed benefits shall pass to the beneficiary's estate.

Sub-section II – Revocation of the benefit

Article 112 - Right of revocation

As long as there is no acceptance by the beneficiary, the policyholder has the right to revoke the beneficiary designation until the insured benefits become payable.

Proof of revocation shall be established in accordance with Article 16.

The right of revocation is exclusive to the policyholder. They alone can exercise it, excluding their spouse, their legal representatives, their creditors, and except in the case referred to in Article 957 of the Civil Code, their heirs or assigns.

Article 113 - Effects of revocation

Revocation of beneficiary designation results in loss of entitlement to insured benefits.

Sub-section III - Surrender and reduction

Article 114 - Right to surrender and reduction

1. The right to surrender and the right to reduce the contract belong to the policyholder. These rights cannot be exercised by their spouse or by their creditors. A Grand-Ducal regulation may specify the conditions for its existence and exercise.
2. If the benefit is accepted, the exercise of the right to surrender is subject to the consent of the beneficiary.

Sub-section IV - Advance on the benefits provided by the contract

Article 115 - Right to an advance

1. The right to obtain an advance on the insured benefits from the insurer belongs to the policyholder. This right cannot be exercised by their spouse or by their creditors. A Grand-Ducal regulation may specify the conditions for its existence and exercise.
2. If the benefit is accepted, the exercise of the right to an advance is subject to the consent of the beneficiary.

Sub-section V - Pledging of rights resulting from the contract

Article 116 - Right of pledge

1. The rights deriving from the insurance contract can be pledged but only by the policyholder, to the exclusion of their spouse and their creditors.
2. If the benefit is accepted, the pledge is subject to the consent of the beneficiary.

Article 117 - Method

The pledging of the contract can only be achieved by an addendum signed by the policyholder, the pledgee and the insurer.

Sub-section VI - Assignment of rights deriving from the contract

Article 118 - Right of assignment

1. The rights deriving from the insurance contract may be assigned in whole or in part by the policyholder. This right of assignment cannot be exercised by their spouse or their creditors.
2. If the benefit is accepted, the exercise of the right of assignment is subject to the consent of the beneficiary.

Article 119 - Form

The assignment of all or part of the rights resulting from the contract can only be effected by an addendum signed by the assignor, the assignee and the insurer.

However, the policyholder may stipulate in the contract that upon their death, all or part of their rights will be transferred to the person designated for this purpose.

Section VI - Beneficiary's rights

Sub-Section I - Entitlement to insurance benefits

Article 120 - Entitlement to insurance benefits

By the sole fact of their designation, the beneficiary is entitled to the insurance benefits.

This right becomes irrevocable by the acceptance of the benefit, without prejudice to the revocation of the gifts provided for in Articles 953 to 958 and 1096 of the Civil Code and subject to the application of Article 111.

Sub-section II - Acceptance of the benefit

Article 121 - Right of acceptance

The beneficiary may accept the benefit at any time, even after the insurance benefits have become due.

The right of acceptance belongs exclusively to the beneficiary. It cannot be exercised by their spouse or by their creditors.

Article 122 - Method

As long as the policyholder is alive, acceptance can only be achieved by means of an addendum to the policy, bearing the signatures of the beneficiary, the policyholder and the insurer.

After the death of the policyholder, acceptance may be express or tacit. It shall, however, have no effect with regard to the insurer unless the insurer is notified of it in writing.

Sub-section III - Rights of the policyholder's creditors with regard to the beneficiary

Article 123 - Insurance benefits

The policyholder's creditors have no rights to the insurance benefits due to the beneficiary.

Article 124 – Reimbursement of premiums

The policyholder's creditors may claim reimbursement of premiums from the beneficiary free of charge only to the extent that the payments made were manifestly exaggerated in view of the policyholder's financial situation and only in the case where such payments were made fraudulently within the meaning of Article 1167 of the Civil Code.

Such reimbursement may not exceed the amount of the insurance benefits due to the beneficiary.

Chapter III – Personal insurance contracts other than life insurance contracts

Article 125 - Nature of insurance coverage

Personal insurance other than life insurance shall be of an indemnitory or lump-sum nature, depending on what is willingly determined by the parties.

Article 126 - Application of the provisions on life insurance

1. The provisions of this law relating to life insurance contracts are applicable to personal insurance contracts with a lump-sum payouts for which the occurrence of the insured event is not dependent only on the length of life of the person concerned, with the exception of those in Article 24 and without prejudice to point 2 of Article 105.
2. Point 1 of Article 105 is applicable to health insurance contracts.
- “3. Article 114 is applicable to health insurance contracts managed in accordance with life insurance techniques.”⁴²

Article 127 - Choice of medical practitioner

Unless otherwise agreed, the insured person has the freedom to choose their medical practitioner.

“PART IV

CRIMINAL LAW PROVISIONS

Art. 127-1 – Fraudulent overinsurance and fraudulent claims notification

Any person who, with fraudulent intent, at the time of the conclusion of the contract, has exaggerated the value of the insured subject matter and any person who has participated in the conclusion of an insurance contract for subject matters whose value is known by that person to have been fraudulently exaggerated, is punishable by imprisonment from one month to six months and / or a fine of between 251 and 25,000 euros.

The same penalties apply to any person who, with fraudulent intent, has taken out several insurance contracts with different insurance undertakings covering the same subject matter and whose total coverage exceeds the value of the insured subject matter, as well as to any person who in any capacity whatsoever has contributed to it.

⁴² Law of 18 December 2006

The same penalties apply to any person who, with fraudulent intent, has made a false notification of claim or has exaggerated the loss suffered by them, as well as to any person who in any capacity whatsoever has contributed to it.

PART V

FINAL PROVISIONS⁴³

Article 128 - Repeal provisions

1. The amended law of 16 May 1891 on the insurance contract is hereby repealed, subject to its application pursuant to Article 129 point 1 of this law.
2. Articles 82-1, 83-1, 84 c) and 84-1 of the amended law of 6 December 1991 on the insurance sector are hereby repealed.

Article 129 - Transitional provisions

1. Existing contracts entered into prior to the entry into force of this law shall continue to be subject to the provisions of the law of 16 May 1891 on the insurance contract until the date of renewal, extension or conversion of these contracts.
2. Contracts referred to in point 1, which have not been renewed, extended or converted shall be subject to this law on the first day of the twenty-fifth month following the month of publication of the law in the *Mémorial*.
3. With regard to life insurance contracts, the provisions of this law shall apply to existing contracts upon its entry into force.
4. With regard to contracts that entered into force before 1 January 1994, the period after which the policyholder and the insurer may exercise their annual termination right in accordance with Article 38 shall be that fixed by the contract, without exceeding three years from 1 January 1994.

Article 130 - Entry into force

This law enters into force on 1 January 1998.⁴⁴

⁴³ Law of 7 December 2015

⁴⁴ The provisions of the law of 18 December 2006 entered into force on 24 December 2006.

The provisions of the law of 21 December 2007 entered into force on 21 December 2007.

The provisions of the law of 8 April 2011 entered into force on 15 April 2011.

The provisions amending this law, resulting from the law of 21 December 2012, entered into force on 1 March 2013.

The provisions of the law of 12 April 2015 entered into force on 19 April 2015.

The provisions of the law of 7 December 2015 entered into force on 1 January 2016.

The provisions of the law of 7 December 2019 entered into force on 1 January 2020.