

I. General provisions

MINISTRY OF ECONOMY AND FINANCE

18700 RULING of 12 November 2008 by the General Directorate of Insurance and Pension Funds, which modifies the Ruling of 27 November 2006, approving the surcharges which must be paid by insureds in favour of the Consorcio de Compensación de Seguros in the matter of insurance of extraordinary risks, the cover clause to be inserted in the policies of ordinary insurance and the information to be provided by the insurance organisations regarding the policies included in the cover scheme of extraordinary risks.

In accordance with article 23.2 of the redrafted text of the Legal Statute of the Consorcio de Compensación de Seguros, approved by Royal Legislative Decree no. 7/2004 of 29 October, and modified by Act 12/20, the tariffs of the surcharges in favour of the Consorcio de Compensación de Seguros without specific regulation will be approved by the General Directorate of Insurance and Pension funds following a proposal by the Consorcio and will be published in the «Boletín Oficial del Estado» (*official state journal*). At present, the tariffs in question are those approved by the Ruling of 27 November 2006 by the aforementioned directorate.

Since the publication of the previous ruling in the «Boletín Oficial del Estado» of 7 December 2006, practice has thrown light upon new specific cases not dealt with and also upon new insurance clauses, for which the Consorcio, in common agreement with the insurers responsible for the application of the tariffs in their contracts, drafted and introduced a series of norms on its website, which could be used for the handling of such cases.

In addition, among the strategic targets that the Consorcio itself set in its Tri-annual Action Plan 2007-2009, approved by its management board, was the revision of its surcharge tariffs. This had the purpose of obtaining a reduction in the final cost for the insurance user, among other reasons in view of the favourable development in recent years of its reserves specifically intended to deal with the risks for which it is responsible. This had already been undertaken in the ruling that is now being modified, with regard to the surcharges for the cover of extraordinary risks upon persons.

In view of both circumstances, the objective of this ruling is two-fold: on the one hand, the reduction of the surcharges in favour of the Consorcio to cover the extraordinary risks upon property, which is undertaken at an average of 15 percent, even though the percentages are much higher for those types of risks where past claims experience is historically more favourable – in this way, for example, passenger cars will have their surcharge reduced by more than 35 percent –; and on the other hand, the inclusion of implementation provisions not anticipated in the previous ruling and in some very precise cases, not specifically dealt with previously.

By virtue of the above, this General Directorate has ruled as follows:

First.– The following modifications will be introduced in appendix I, 1st part («Tariff of surcharges in favour of the Consorcio de Compensación de Seguros in the cover of direct damage to persons and property as a consequence of extraordinary risks»), of the Ruling of 27 November 2006:

1. In section I. Tariff for damage to property:

1° Letter d) of section «B) Classification of risks» will be drafted as follows:

«d) Within the public works group the following risks will be included: motorways, expressways, highways, railways, pipe works, tunnels, mining operations, bridges, dams, ports and extraction of underground water. For the purposes of the application of the tariff, civil works as a whole will be considered, that is, both the works proper and their installed facilities (lighting, signalling, etc.). Within the area of piping, the following will be considered as included: water pipes, gas pipes, oil pipes, electrical and telephone lines and sewer systems, provided they are outside the enclosures where the materials that the pipes transport or distribute are manufactured, stored or intended.»

2° Section «C) Premium rates» will be drafted as follows:

«C) Premium rates.— The payment of the premium resulting from the application of the following rates will be effected in cash for the total amount, unless it is opted to pay this in instalments, in agreement with the regulations in force.

C.1) General rate.— The premium rates to be applied on the insured capital amounts on ordinary policies for the calculation of the annual commercial premiums will be as follows:

1. Property and property-owning communities. 0.08 per thousand.
2. Offices. 0.12 per thousand.
3. Shops (including shopping malls), stores and remaining ordinary risks. 0.18 per thousand.
4. Industrial risks. 0.21 per thousand.

5. Motor vehicles:

- 5.1 Passenger cars and commercial vehicles up to 3,500 KGs: 3.50 €.
- 5.2 Lorries: 17.60 €.
- 5.3 Industrial vehicles: 14.60 €.
- 5.4 Tractors and agricultural and forestry machinery: 10.00 €.
- 5.5 Coaches, omnibus and trolley-buses: 26.60 €.
- 5.6 Trailers and semi-trailers: 8.50 €.
- 5.7 Mopeds, tricycles, box tricycles and bicycles with an engine: 0.60 €.
- 5.8 Motorcycles: 2.30 €.

6. Public works:

- 6.1 Motorways, expressways, highways, railways and pipes: 0.28 per thousand.
- 6.2 Tunnels: 1.25 per thousand.
- 6.3 Mining operations: 1.25 per thousand.
- 6.4 Bridges: 1.03 per thousand.
- 6.5 Dams: 0.76 per thousand.
- 6.6 Marinas: 1.63 per thousand.
- 6.7 Other ports: 0.80 per thousand.
- 6.8 Extraction of underground water: 0.80 per thousand.

In multi-risk or combined insurance, the capital upon which the fixed rates must be applied will be the one that corresponds to the sum of all the insured property protected against risks covered by the Consorcio. If any of this property had different fixed capital amounts for the various insured risks covered on the ordinary policy, for the aforementioned purposes, the greater insured capitals out of those established must be taken for risks covered by the Consorcio.

If different types of risk co-exist on a policy, each type will have its corresponding rate applied to it. Notwithstanding the above, if the capital amounts corresponding to one of the groups established in the tariff on a policy represent 75 percent or more of the total capital of said risk, then the rate corresponding to this majority group may be applied to the total capital, notwithstanding the aforementioned indications regarding the classification criteria of a risk as « property-owning communities », and excluding public works, to which their specific rate will be applied whatever the case. For the purposes of the above, access roads or those within a commercial or industrial risk that form part of the risk and that are used for the fulfilment of the corresponding activity will not be considered as public works.

For the motor vehicle group, whatever damage to the vehicle is covered, the premium rate applicable will be the one established for these vehicles. In this case, and for the purposes of the cover, the whole of the vehicle will be understood to be insured, including its accessories if these are covered by the ordinary policy.

C.2) Reduced rate.— On those policies with insured capital, excluding that corresponding to any public works greater than 600,000,000 Euros, the aforementioned rates will be applied to the first 600,000,000 Euros and, solely to the capital exceeding this amount, the following reduced rates:

Risk groups	Reduced rate for the excess over 600,000,000 €
Property and property-owning communities	0.06 per thousand.
Offices.	0.08 per thousand.
Shops, stores and other risks.	0.14 per thousand.
Industrial risks	0.18 per thousand.

For the aforementioned purposes, in the cases of first risk insurance, the capital to be considered for the application of the reduced rates will be the one covered at first risk.»

3.º In section «D) First risk insurance» a further figure will be added, which will be drafted as follows:

«5. If a joint indemnity limit is established on the policy for material damage and loss of profit, with or without a specific sublimit for either of these schemes, the tariffing of the risk will be undertaken by distributing the joint indemnity limit between both cover schemes in proportion the total capital amounts insured for each them.»

2. Section II. Tariff for damage to persons (life and accident insurance):

Two further figures will be added, which will be drafted as follows:

«8. In accident insurance for the occupants of motor vehicles where the capital amounts covered are determined by the application of the system of valuation given in the appendix of the redrafted text of the Law concerning Third Party Liability and Insurance on Motorised Road Traffic Vehicles, the annual premium will be 3 Euros per insured.

9. In the case where the application of the tariff gives rise to a premium lower than one Euro-Cent, this amount will be set as the minimum premium.»

Second. The following modifications will be introduced in appendix I, 2nd part («Surcharge tariff in favour of the Consorcio de Compensación de Seguros for the cover of loss of profit as a consequence of extraordinary risks»), of the Ruling of 27 November 2006:

1. To section «B) Premium rates»:

The last clause of the first paragraph of this section will be modified, drafted as follows:

«... so that the rate corresponding to these risks, in the case that this cover is included, will be 0.085 per thousand on these capital amounts ».

2. To section «C) Insurance with indemnity limit »:

Two final paragraphs will be added, drafted as follows:

«When this insurance system is set up on an indemnity cover raised per day of stoppage or for extraordinary or permanent expenses, the rate will be applied directly to the indemnity limit.

If the policy establishes a joint indemnity limit for material damage and loss of profit, with or without a specific sublimit for either of these cover schemes, the tariffing of the risk will be undertaken as indicated in figure 5 of section D) of the tariff for damage to property.»

3. A new section F) will be added, drafted as follows:

«F) Specific rates for cover of loss of profit, where the capital amount is a percentage of the capital amount for material damage, set as a non-additional sublimit to the this amount.

In the case of cover of loss of profit of the types: stoppage, eviction or loss of rent, included within the corresponding damage policy, and where the capital amount is defined as a percentage of the capital amount set for material damage, which represents a non-additional sublimit to this, the following specific rates may be

applied on the capital amounts for damage, which jointly group together the surcharges of material damage and loss of profit:

Offices: 0.135 per thousand.

Shops, stores and other ordinary risks: 0.195 per thousand.

Industrial risks: 0.225 per thousand.

Third.– The following modifications will be introduced in appendix III («General instructions and codes for the completion of the statistical cards of the parties exposed to risk in the cover of extraordinary risks»), of the Ruling of 27 November 2006:

1. The first paragraph of appendix III will be drafted as follows:

«The insurance organisations that operate within the areas with an obligatory surcharge in favour of the Consorcio de Compensación de Seguros, must send the statistical cards to the Consorcio by email, in accordance with the following general instructions:»

2. In table number 3 of appendix III the following type of public works will be added with its code:

«Mining operations: 68».

Fourth. *Transitory adaptation scheme.*– The new insurance contracts that are taken out after the first 6 months following the date of the entry into force of this Ruling must be adapted to the Ruling; portfolio insurance contracts must be adapted to the Ruling, at the latest, by the first expiry date after the first 6 months following its entry into force.

Fifth. *Entry into forced.*– This Ruling will enter into force on the day following its publication in the «Boletín Oficial del Estado».

Madrid, 12 November 2008.– The General Manager of Insurance and Pension Funds, Ricardo Lozano Aragüés.

MINISTRY OF THE OFFICE OF THE PRIME MINISTER

18701 *ROYAL DECREE 1836/2008, of 8 November, by which the criteria for the application of the integration of the extinct scales, both masculine and feminine, of the Assistant Organisations of Prison Institutions are established.*

The thirtieth additional provision of Organic Law no. 3/2007 of 22 March, for the effective equality of women and men, modifies article no. 1 and the first transitory provision of Act no. 36/1977 of 23 May, regulating the Special Prison Organisations and creating the Assistant Organisations of Prison Institutions.

To such effect, the Assistant Organisation of Prison Institutions will be set up as one body, without differentiation in the access to or the fulfilment of posts due to sex, and the previous scales that the Organisation comprised of, both masculine and feminine, will be declared extinct.

The effective application of the provisions may, in some cases and circumstances, clash with the protection of the right to dignity and privacy of prisoners.

In the first case, and in fulfilment of article 23 of General Organic Law no. 1/1979, of 26 September, pertaining to prisons, which establishes the safeguarding of the respect to personal dignity in searches and body searches of internees, article 4.2.b) of the Prison Regulations, passed by Royal Decree no. 190/1996, of 9 February, recognises the right of internees to the safeguarding of their dignity and privacy, with the requirement, in accordance with the third section of article 68 of said regulation, that the practice of nude body searches are

carried out by officers of the same sex and with all the guarantees of privacy. However, this regulatory provision does not deal with the entirety of the cases in which the prison activity may affect the privacy of internees.

Guaranteeing this basic right, in any situation likely to affect it, requires the presence of officials of the same sex as the internees in the various centres, premises and at the times that they may take place.

In this regard, this provision combines various measures:

The guarantee that the specific professional duties relating to the matter of personal privacy of internees are carried out by officers of the same sex as the internees.

The establishment of a minimum percentage of officers in the lists of jobs that are of the same sex as the internees in the various centres, premises and times, to enable the normal fulfilment of the supervision service, guaranteeing the right to dignity and privacy of internees.

In accordance with the provisions of article 5 of Organic Law no. 3/2007 of 22 March, which provides that, when the nature of the specific professional activities or the context in which they are carried out requires, as an «essential and decisive professional requirement», their fulfilment by a person of a specific sex, this fact will not constitute any discrimination, « as long as the objective is legitimate and the requirement is adequate », in this royal decree the conditions and requirements required by this organic law are fulfilled.

On the other hand, the legal suppression of the old scales, both masculine and feminine, that made up the organisation, requires the establishment of transparent and public criteria of the effective regulation of officers among members of the same qualification group and who are at a different level of recruitment, in order to resolve the situations that could arise during their professional career.

To such effect, following a proposal by the Ministers of the Interior and Public Administration, in accordance with the Council of State and subject to deliberation by the Council of Ministers in its meeting of 8 November 2008,

I O R D E R :

Article 1. *Organisation of the prison service.*

1. The General State Civil Service will manage the provision of the services and activities of supervision within prison centres and centres of social integration, in accordance with the principle of non-discrimination for reasons of sex in public employment.

The fulfilment of posts or specific duties by persons of a specific sex will not be considered discriminatory, with the exclusion of persons of a different sex, in the cases that are dealt with in this provision and that are related to certain tasks derived from the execution of the functions entrusted to Assistant Organisations of Prison Institutions in letters a), b) y c) of article 3 of Act 36/1977 of 23 May, regulating the Special Prison Organisations and creating the Assistant Organisations of Prison Institutions.

2. The operative organisation of the prison supervision service must guarantee the preservation of the right to dignity and privacy of internees, in accordance with the provisions of article 4.2.b)