

‘Approved’
Central Bank of
the Republic of Azerbaijan
Resolution № 25/2
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Regulation

on governing mutual payments between insurers in connection with compensation for damage caused to the vehicle driven by the damaged party in a road traffic accident

1. General provisions

1.1. This Regulation has been developed in accordance with Articles 34.1 and 52-1.3 of the Law of the Republic of Azerbaijan ‘on Compulsory Insurances’ (the Law) and determines the procedure for governing mutual payments between that insurer and the insurer liable for civil liability of the damaging party, during payment for the damage caused to the vehicle driven by the damaged party in a road traffic accident by the insurer who has compulsorily insured the civil liability related to that vehicle.

1.2. This Regulation does not apply when civil liability of participants of the event under the compulsory civil liability insurance of vehicle owners is insured by the same insurer, when the accident results in damage to health (except for unspecified bodily injuries) or other property other than the vehicles involved in the road traffic accident.

2. Definitions

2.1. Definitions used for the purposes of this Regulation bear the following meanings:

2.1.1. Damaged party’s insurer – the insurer who insured liability of the damaged party under vehicle owners’ compulsory civil liability insurance under the Law.

2.1.2. Damaging party’s insurer – the insurer who insured liability of the damaging party under vehicle owners’ compulsory civil liability insurance under the Law.

2.1.3. Settlement – execution of mutual liabilities between the damaged and damaging parties’ insurers.

2.1.4. Settlement participant (hereinafter – participant) – the insurer who submitted and (or) received a subrogation claim.

2.1.5. Special account – a bank account opened by the Compulsory Insurance Bureau (hereinafter – the Bureau) opened with a settlement bank for conduction of settlements, participants pay funds to.

2.1.6. Guarantee account – a bank account opened by the participant with the bank(s) operating in the Republic of Azerbaijan opened by him/her in order to provide conduction of settlements.

2.1.7. Settlement period – the period during which those claims are settled after the week in which subrogation claims are submitted ends under this Regulation.

2.1.8. Settlement bank – the bank the special account is located in and bank accounts of participants are opened for settlement.

2.1.9. Netting – conversion of claims and liabilities resulting from subrogation claims sent and received by participants into a net claim or liability.

2.1.10. claim file – an e-carrier of the documents specified in Articles 17.1, 58.1 and 58.2 of the Law and Item 5.3 herein, as well as photos related to the insured event, created in the electronic information system of the Bureau to make insurance payments;

2.1.11. Subrogation claim – a claim made to exercise the right of subrogation against the damaging party's insurer after the damaged party's insurer makes insurance payment;

2.1.12. Agreement on control – an agreement signed among the Bureau, the participant and the bank according to Article 5.6 of the Law of the Republic of Azerbaijan on 'Encumbrance of Movable Property'.

2.2. Other definitions used herein bear the meanings specified in the Law of the Republic of Azerbaijan 'on Compulsory Insurances' and other normative legal acts of the Republic of Azerbaijan.

3. Grounds for claiming the payment from the damaged party's insurer

3.0. The damaged party requests from the damaged party's insurer payment of the compensation for damage in the road traffic accident (RTA) if:

3.0.1. The damage affects only the vehicles involved in the incident (one or both).

3.0.2. Two vehicles, each of which has a valid civil liability insurance contract, are involved in the RTA.

4. Registration of the insured event

4.1. An insurance claim related to the insurance payment is given to the damaged party's insurer.

4.2. On the day of receipt of an insurance claim appeal, the claim is registered by the damaged party's insurer through the Bureau's electronic information system (hereinafter - the information system).

4.3. After the insurance claim is registered through the information system, the system generates a claim file.

4.4. Only one claim file is created per insurance claim.

4.5. On the day the claim file is created, the information system sends a notification to the damaging party's insurer.

4.6. On the day the damaged party's insurer receives the last of the documents provided for in Articles 17.1, 58.1 and 58.2 of the Law for insurance payment, it shall keep originals of those documents (and electronic documents if they are in the form of

electronic documents) and enters their scanned copies and the information contained in those documents into the claim file. When required documents, including new and additional documents, are included in the claim file, the information system sends a notification to the damaging party's insurer.

4.7. Damaging and damaged parties' insurers have access to the claim file for at least 5 (five) years, to review and print documents.

4.8. The damaged party's insurer should keep the documents required for insurance payment within the period provided for in Article 123.2 of the Law of the Republic of Azerbaijan 'on Insurance Activities'.

5. Filing a subrogation claim against the damaging party's insurer

5.1. The damaged party's insurer uses the right of subrogation against the damaging party's insurer after making insurance payment in accordance with the Law.

5.2. The damaging party's insurer has a liability to the damaged party's insurer, who has submitted a subrogation claim, to make insurance payment in accordance with the Law and this Regulation.

5.3. After the insurance payment is made, the damaged party's insurer enters the information and copies of the documents confirming the insurance payment, reflecting results of the assessment and confirming that the beneficiary agrees with the amount of the insurance payment in the claim file.

5.4. After the last of the documents specified in Item 5.3 herein is included in the claim file, the damaged party's insurer creates a subrogation claim against the damaging party's insurer via the information system and submits to the Bureau via the information system.

5.5. When the damaged party's insurer makes additional insurance payment within the period specified in Item 6.1 herein, it withdraws the subrogation claim and submits a renewed subrogation claim. If the additional insurance payment is made after the mentioned period, the damaged party's insurer forms and submits an additional subrogation claim up to that amount.

5.6. The list of information to be included in the subrogation claim and additional subrogation claim is defined in Annex No. 1 herein.

6. Register of subrogation claims

6.1. The Bureau collects subrogation claims on a weekly basis (Monday to Sunday) and performs netting based on them, calculating liability of each participant in accordance with Item 7.2 herein.

6.2. Subrogation claims and the result of netting are reflected in the register of subrogation claims formed for each participant as per Annex No. 2 herein.

6.3. Every participant has access to the register formed in relation to him/her.

7. Procedure for mutual payments

7.1. Settlements between damaged and damaging parties' insurers are cashless.

7.2. Amount of liability of the damaging party's insurer to the damaged party's insurer is equal to the sum of average sums of all subrogation claims by the damaged party's insurer against the damaging party's insurer. The procedure for calculating average amounts is determined by the collective agreement concluded by insurers who have the right to operate on the type of vehicle owners' compulsory civil liability insurance who are members of the Bureau.

7.3. The settlement period starts on the first working day of each week and lasts for a maximum of 3 (three) working days. If the number of working days in a week is less than 3 (three) days, settlement for the relevant settlement period is carried out together with the next settlement period.

7.4. The Bureau provides a register of subrogation claims to each participant by 10:00 on the first working day of the settlement period.

7.5. The participant should ensure transfer of funds specified in the register of subrogation claims to the special account of the Bureau by 17:00 on the first working day of the settlement period.

7.6. If participant's funds cannot be accepted by the settlement bank for any reason, the participant informs the Bureau accordingly. The Bureau provides requisites of the Bureau's bank account opened with another bank to the participant to receive funds.

7.7. If funds required for settlement are not transferred to a special account within the period specified in Item 7.5 herein, the Bureau immediately informs the participant who should transfer the funds.

7.8. If the participant fails to transfer funds specified in the register of subrogation claims to the special account by 15:00 on the second working day of the settlement period, the Bureau orders to transfer required funds from the participant's guarantee account to the special account in accordance with the collective agreement and the agreement on control provided for in Part 10 herein.

7.9. On the third working day of the settlement period, the Bureau transfers funds in the special account to bank accounts of participants opened for settlement with the settlement bank in accordance with the register of subrogation claims until 17:00.

7.10. The Bureau maintains the register of bank accounts provided for in Item 7.9 herein. By notifying the Bureau, the participant may change the bank account entered in that register with another bank account opened with the settlement bank before the start of the next settlement period.

8. The guarantee account

8.1. In order to ensure the settlement, each participant opens a guarantee account in the national currency in the amount specified in Items 8.3 and 8.4 herein in a non-related party bank.

8.2. The Participant may open a guarantee account with one or more banks that meet the requirements of this Regulation, if only one guarantee account is opened with one bank.

8.3. Minimum total amount of funds in the guarantee account(s) per participant is determined as follows:

8.3.1. Average amount of insurance payment for one calendar day is determined by dividing total insurance payments made by the participant for vehicle owners' compulsory civil liability insurance over last four quarters by 365;

8.3.2. 50% of the sum of insurance premiums for one calendar day is determined by dividing sum of insurance premiums calculated by the participant for vehicle owners' compulsory civil liability insurance over last four quarters by 365;

8.3.3. the highest of the values resulting from application of sub-items 8.3.1 and 8.3.2 herein is multiplied by thirty and divided by four;

8.3.4. If the amount calculated in accordance with sub-item 8.3.3 herein falls below AZN100,000 (one hundred thousand), minimum total amount of the guarantee account(s) is set in the amount of AZN100,000 (one hundred thousand);

8.3.5. If the amount calculated in accordance with sub-item 8.3.3 herein exceeds AZN100,000 (one hundred thousand), minimum total amount of the guarantee account(s) is set in the amount calculated in accordance with sub-item 8.3.3 herein.

8.4. When an insurer previously not engaged in vehicle owners' compulsory civil liability insurance obtains a permit to operate on that type of compulsory insurance, minimum total amount of the guarantee account for that insurer is set at AZN100,000 (one hundred thousand).

8.5. Calculations provided for in sub-items 8.3.1 and 8.3.2 herein are carried out by the Bureau on a quarterly basis on the tenth working day of each next quarter based on the information available in the information system, and the result of calculations is reported to the relevant participant through the information system. If minimum total amount of the guarantee account increases as a result of calculations, the participant should enter the difference in the guarantee account within 3 (three) working days. If amount of the guarantee account decreases as a result of calculations, the participant may withdraw the resulting difference from the guarantee account, taking into account the requirements of sub-item 8.3.4 herein and the agreement on control.

8.6. If settlement is made with funds in the guarantee account, minimum amount of the guarantee account is set by increasing it by 1.2 times the amount recalculated in accordance with Item 8.3 herein on the settlement day. Within 3 (three) working days, the participant should enter the difference between the amount specified in this clause and the remaining amount in the guarantee account into the guarantee account.

8.7. In the following quarter, if minimum amount of the guarantee account calculated in accordance with Item 8.3 herein exceeds the amount specified in Item 8.6 of herein, the insurer should enter the resulting difference into the guarantee account within 3 (three) working days.

8.8. In accordance with Item 8.6 herein, the coefficient specified in Item 8.6 herein is not taken into account when setting minimum amount of the guarantee account, if

funds in the guarantee account are not used during settlements within one year from the day of increase of guarantee account amount.

8.9. If the bank of guarantee account fails to meet the requirements of Item 8.1 herein, if the banking license of the bank servicing the guarantee account is revoked or if it is impossible to transfer funds in the guarantee account for other reasons, the participant opens a guarantee account with another bank that meets the requirement of Item 8.1 herein within 3 (three) working days.

8.10. A guarantee account is opened with another bank by concluding an agreement on control and placing funds (in case of several guarantee accounts, the shortfall) in another bank, specified in Item 8.3 herein. After the new agreement is signed and funds are transferred, the agreement on control with the previous bank is terminated.

8.11. The participant may open a guarantee account with another bank at own initiative in compliance with the requirements of Items 8.9 and 8.10 herein.

9. An agreement on control

9.1. An agreement on control is signed among the participant, the bank and the Bureau to conduct operations on the guarantee account.

9.2. The agreement on control regulates at least the following issues:

9.2.1. Transfer of funds in the guarantee account without requesting consent of the participant to the Bureau's special account based on the Bureau's order in accordance with Item 7.8 herein.

9.2.2. Non-use of funds in the guarantee account for purposes other than those provided for in this Regulation.

9.2.3. Possibility of reducing funds in the guarantee account only with the written consent of the Bureau.

9.2.4. Execution by the bank of the order of the Bureau no later than the day after the order is received.

10. A collective agreement

10.1. To fulfill the obligation on subrogation claims provided for in this Regulation, a collective agreement is concluded between participants and the Bureau within 30 calendar days from the date of entry into force of this Regulation at the latest.

10.2. The collective agreement covers at least the following issues:

10.2.1. Procedure for calculating average amounts provided for in Item 7.2 herein;

10.2.2. Criteria for and the order of selection of the settlement bank;

10.2.3. Procedure for disposal of funds in the guarantee account;

10.2.4. Procedure for submitting the subrogation claim via the information system;

10.2.5. Integration of electronic information systems of participants and the order of data submission;

10.2.6. Subrogation claim and settlement dispute settlement procedure.

10.2.7. Requirements for insurance event related photos, the procedure for including them and other documents and information in the claim file.

11. Information sharing

11.1. If the participant violates requirements of this Regulation, the Bureau informs the Central Bank of the Republic of Azerbaijan about this within 1 (one) working day.

11.2. The Bureau submits to the Central Bank of the Republic of Azerbaijan the number of subrogation claims covering the settlement period, insurance payments made and payments made under subrogation for each participant and summarized information within 20 (twenty) days after the end of each quarter.

12. Final provision

In the event the participant's permit on vehicle owners' compulsory civil liability insurance or insurance license is revoked, the participant should comply with the requirements of this Regulation until the day the last of the contracts concluded for that type expires or insurance contracts are transferred to another insurer.

Annex 1 to the Regulation on governing mutual payments between insurers in connection with compensation for damage caused to the vehicle driven by the damaged party in a road traffic accident

**List
of information to be included to the subrogation claim and additional subrogation claim**

№	Name of the column
General information	
1.	Claim file number:
2.	Date of insured event:
3.	The damaged party's insurer:
4.	The damaging party's insurer:
5.	Damage amount:
6.	Deadline for submission of the last of the documents:
Information on the persons who received insurance payment	
Individual	
7.	ID card number:
8.	PIN code:
9.	1st, last, middle names:
10.	Date of birth:
11.	Address:
Legal entity	
12.	TIN:
13.	Name:
14.	Legal address:
Information on insurance payment made to the damaged party	
15.	Insurance payment amount:
16.	Insurance payment form: ¹
17.	Payment document number:
18.	Payment document date:

¹ Expenditure for repair, restoration or replacement of the vehicle or direct payment of assessed loss amount to the beneficiary

Annex 2 to the Regulation on governing mutual payments between insurers in connection with compensation for damage caused to the vehicle driven by the damaged party in a road traffic accident

Register of subrogation claims of the participant

Participant: _____

Period of register: from _____ to _____

Register creation date: _____

№	Subrogation claim						The damaged party's insurer	The damaging party's insurer	Information on the damaged party and the insured event				Information on the damaging party		
	Claim file number	Claim number	Claim date	Insurance payment made (AZN)	Amount to be received by the participant under the collective agreement (AZN)	Amount to be paid by the participant under the collective agreement (AZN)			The event date	1st, last, middle names of the damaged party	Insurance certificate number	State vehicle registration plate	1st, last, middle names of the damaging party	Insurance certificate number	State vehicle registration plate

Total amount to be paid: _____

Total amount to be received: _____

Difference: _____