



**Republic of Equatorial Guinea**  
**P R E S I D E N C Y**

**Decree No. 28/2008, dated 31 March for the adoption of the implementing Regulation on insurance relating to Motor civil liability, Construction risk and Import of goods in the Republic of Equatorial Guinea.**

The economic development of Equatorial Guinea requires the opportunity to provide the country with a new regulatory framework, adequate to the insurance market, which will allow private and economic operators to promote and develop their activities normally in the country. Because insurance plays a key social and economic role extremely important both in the field of domestic economies and of affairs,

Equatorial Guinea is a signatory state of the Treaty that established an Organization for the Insurance Industry in the African Free Zone and CIMA Insurance Code. However, this very important instrument for the development and establishment of insurance companies has yet to be effectively implemented in the country.

The Government remains faithful to its constitutional mandate, to protect people and their property and asserts its will to establish mandatory insurance in Equatorial Guinea.

Pursuant to the Fundamental Law of Equatorial Guinea in its article 38 subparagraph (1)

Pursuant to the instrument of ratification of the Treaty establishing an Organization for the Insurance Industry in the African Free Zone and the CIMA Insurance Code.



Pursuant to Articles 55, 56 of the Treaty and 278 of the Insurance Code CIMA, determining the conditions and procedures applicable in the collection of contributions from each Member State, and the compulsory nature of insurance.

By virtue of, and on the proposal of the Ministry of Economy, Trade and Industry, after deliberation by the Council of Ministers at its meeting held on 29 February 2008.

## **I DECREE**

**Article 1.-** The Implementing Regulation on insurance relating to Motor civil liability and Import of goods, in accordance with the provisions of the Insurance Code of the Member Countries of the Inter-Africa Conference of Insurance Markets (CIMA), and to Construction risk, is adopted.

## **CHAPTER 1**

### **GENERAL PROVISIONS OF INSURANCE COMPANIES**

**Article 2.-** With the exception of public or private welfare institutions or companies established by special laws and regulations, are subject to the provision of this Regulation all insurance companies that:

- a) Are committed, through a grant or contribution, to proceed to indemnify in case of a loss.
- b) Carry out reinsurance transactions
- c) Carry out brokerage transactions.



**Article 3.-** To operate in the Republic of Equatorial Guinea, insurance companies must be incorporated in the national territory, governed by Equatorial Guinean law and obtain:

- a) Prior authorization of establishment issued by the Presidency of the Government.
- b) A favourable report of CRCA Insurance commission issued by CIMA.
- c) A licence to Operate in the Republic of Equatorial Guinea issued by the Ministry of Economy, Trade and Industry.

**Article 4.-** Insurance Contracts on risk of assets located in the country or in registers, subscribed by persons who are not resident in the Republic of Equatorial Guinea, can only be subscribed with the authorised entities to carry out insurance activities in the territory of the Republic of Equatorial Guinea..

**Article 5.-** In regard to already existing contracts, the provisions of the preceding article shall enter into force at the time of the next claim of premiums.

**Article 6.-** Shall be null, subscribed contracts whose extent is not covered by the provisions of Article 3 of this Regulation provided that this revocation is not opposed to insurers in good faith.

**Article 7.-** Brokerage firms that are involved in the subscriptions of an insurance contract referred to in article 3 shall be required to:

- a) Be of Equatorial Guinean nationality or governed by Equatorial Guinean law
- b) Locate their headquarters in the Republic of Equatorial Guinea
- c) Obtain the required authorisations, issued by the national authorities
- d) Meet the requirements dictated by Book V of the CIMA code.



## CHAPTER 2

### PROFESSIONAL ORGANISATION

**Article 8.-** All licensed insurance companies shall be required to adhere to the professional association of insurance companies established in accordance with the regulation of professional associations.

**Article 9.-** The association shall operate under the supervision of the Ministry of Economy, Trade and Industry. No other professional association or trade union of the insurance company may be established outside that framework.

**Article 10.-** This association will be managed by an office selected by the General Assembly of the Association of Insurers.

**Article 11.-** Statutes of the association of insurance companies, prior to its statement, and its publication, shall be submitted for approval of the Ministry of Economy Trade and Industry.

**Article 12.-** The Professional Association of insurance companies shall apply, through its members, any regulation relative to insurance transactions. It serves as an intermediary between insurance companies and supervisory authorities. Also, it may serve as an advisory board to the authorities with regards to decisions of a general nature to be taken.



**Article 13.-** The Professional Association of Insurance Companies shall examine issues concerning the exercise of the insured's profession, creation of common of services of prevention, agreements on settlement of claims, etc. It adopts agreements on insurance issues, and may be commissioned by the Ministry of Economy, Trade and Industry, to effectively manage common entities composed of insurance companies.

### **CHAPTER 3**

#### **OBLIGATION TO SUSCRIBE TO A MOTOR CIVIL LIABILITY INSURANCE**

**Article 14.-** Any natural, legal person, public or private, must be covered by insurance, which guarantees its civil liability, under the conditions laid down in this Regulation to circulate a land motor vehicle, trailers or semi-trailers.

Within the spirit of this Regulation, shall be meant by trailer or semi-trailer:

- a) Land vehicles built to be attached to a land motor vehicle engine, and intended for the transport of people, animals or transferable objects.
- b) All land equipment attached to a motor vehicle:

**Article 15 -** Insurance contracts must be subscribed with insurance companies authorised to carry on insurance business in the National Territory.



**Article 16.-** These insurance entities shall issue a certificate of insurance upon signing the contract, whose form and content shall be in accordance with articles 213 to 222, Title 1, Book V of the insurance code of CIMA countries members.

**Article 17.-** In case of alienation of an insured vehicle, the beneficiary must comply with the provisions laid down in article 13 and 14 of this Regulation.

**Article 18.-** The conditions of settlement of the seller's rights relating to insurance shall be laid down by Ministerial order of the competent Department.

**Article 19.-** Subject to estimates of the insurance entities, the obligation to insure established covers:

- 1) Civil liability
- 2) Fire
- 3) Persons in transit
- 4) Theft
- 5) All risk.

**Article 20.-** The victims or beneficiaries shall take direct action against the aforementioned insurance entities upon occurrence of the loss.

## **CHAPTER IV**

### **OBLIGATION TO SUBSCRIBE TO A CONSTRUCTION RISK INSURANCE**



**Article 21.-** Any natural or legal person in quality of 'Master Builder' responsible for the realization of a work, within the national territory, is required to subscribe an insurance contract with an insurance company authorised in Equatorial Guinea. This insurance as a matter of 'All Construction risk' shall cover both construction risks and risks inherent to the setting-up of equipment of the aforementioned work.

**Article 22.-** The persons referred to in the previous article, architects, engineers, consultants, etc. are also under the obligation of a contractual civil liability insurance in case of construction defect or defect in the works carried out by these persons.

**Article 23.-** After a ten year period from the official delivery of the work, the contractual civil liability insurance loses its compulsory nature.

**Article 24.-** The insurance referred to in the above paragraphs can be directly subscribed with insurance entities authorised in Equatorial Guinea.

**Article 25.-** Conditions for the application of the nature and value of the works to ensure, as well as the definition of covered risks shall be determined by Ministerial order of the competent department.

**Article 26.-** For the correct application of construction risk insurance, are understood by:

**1) Master of the Work.-**the owner of the works, i.e. the person on whose behalf construction works are carried out, on the basis of a rental contract of works.

**2) Entrepreneur** – Natural or legal person exercising a self-employed profession linked to the Master of the Work by a contract for the physical execution of the Work and within the rules of art, at a fixed price

**3) Office of Technical Studies - Engineers - Consultants.** – It is the organism (or engineer - council) in charge of establishing the technical studies supporting the project of producing a work. The Office for Technical Studies (engineers – consultants) may be associated with the control of the execution of the work.

**4) Works -.** They are the result of the execution of a contract within the framework of the same construction site.

**5) Control Office** – It is the organism in charge of checking the quality and durability of construction, the control of technical installations, plumbing, ventilation, air conditioning, etc.

**Article 27** - Subject to the provisions of the preceding paragraphs, the obligation to insure established must include a global insurance of the work, covering:

- 1) Civil Liability guarantee, for damage caused to the work during its execution;
- 2) Civil Liability guarantee, for damage caused to third parties due to the execution of the work;
- 3) Guarantee for damage caused during the assembly operations to machines and other materials supplied for the production of the work.

**Article 28** - The last guarantee takes effect from the start of assembly operations and stops after the trial period, which allows checking the proper functioning of the installed devices.





**Article 29.-** Businessmen, architects and all persons linked to the Master of the Work, by a rental contract of the work, should subscribe a civil liability guarantee insurance, that is incumbent on their participation in the conception or the making of the work.

**Article 30.-** This insurance covers, from the final delivery of the work, and extends on a case-by-case basis, to a period from two (2) years up to ten (10) years, subject to common law provisions in matters of prescription.

Furthermore, the works concerned must be subject to a control from the start of the works by an authorised body.

**Article 31.-** The two or ten-year civil liability insurance is mandatory for all works of a value equal to or greater than Cfa F. 100 million.

**Article 32.-** Global construction site insurance applies to work of any kind, whose value amounts to at least Cfa F. 100 million.

**Article 33.-** The insurance policy must be signed for the warranties contained in article 26, before any execution of the works.

**Article 34.-** The two or ten-year civil liability is the object of an insurance subscribed to thirty days prior to the delivery of the work.

**Article 35.-** The insurance entity must deliver, without presenting the expenses invoice to the insured, upon signing the contract, a certificate of insurance.



**Article 36.-** The alleged compliance with the obligation to insure is established by the certificate of Insurance, for the period mentioned on it.

**Article 37.-** Payment of the first discount of the works of a market or the effective execution of any other convention, on the realization of a work, whose value is equal to or greater than Cfa F. 100 million, shall be subject to the presentation of a certificate of insurance, which defines and delimits the activities covered, and the limit of the agreed guarantees with regards to both the amount and duration.

## CHAPTER 5

### OBLIGATION TO SUBSCRIBE TO IMPORT OF GOODS INSURANCE

**Article 38.-**The obligation to subscribe provided for is applied only to the goods whose FOB value exceeds Cfa F. twenty million (20.000.000).

**Article 39.-** The insurance subscription form shall be determined freely between the parties. In the absence of an "All Risks" coverage, insurance must be subscribed, in case of maritime transport, under the minimum conditions of the "**Franco de Averias Particulares**"<sup>1</sup> guarantee, for imports.

**Article 40.-** The risks assigned to the insured in case of subscription of a guarantee insurance different from that of 'All Risk' may only be assured, where required, by an insurance entity recognised in the Republic of Equatorial Guinea.

---

<sup>1</sup> **Franco= Free; Averia Particular = Partial damage.**

It is (particular average) any partial loss, the insured object or expenses without reaching the total amount insured, have been made, due to the materialization of a risk covered by insurance, but that does not redound to the benefit of other interests, whether it is a maritime adventure.



**Article 41.-** Goods in transit must be guaranteed from the shipment port to the port or airport of discharge. The parties can in any case, agree to an insurance coverage that includes preliminary and supplementary risks in cases of maritime or air transportation.

**Article 42.-**The insurance entity shall have to issue an insurance certificate to the policyholder.

**Article 43.-** The insurance certificate is issued to the insured at the time of payment of the insurance premium. This document will be renewed at the time of renewal or entry into effect of new guarantees.

**Article 44.-** The issuance or renewal of any license for import by the Directorate General of Trade, is subject to presentation of the certificate of insurance referred to in the preceding paragraph.

**Article 45.-** The form and content of the certificate of insurance must be in accordance with the model established by the Ministry of Economy, Trade and Industry in charge of insurance in the Republic of Equatorial Guinea.

**Article 46.-** In case of loss or theft of the certified documentary evidence, duly justified, the insurer shall provide the insured with a duplicate at his request.

## CHAPTER 6

### CONTRIBUTIONS FROM INSURANCE COMPANIES.

**Article 47.-** The expenses of any kind resulting from the application of provisions of the CIMA code, relating to control on insurance, taxes will be covered by the insurance companies whose amount and payment is defined in articles 55 and 58 of the treaty.

**Article 48.-** Premiums or contributions, which form the basis of the contribution, are calculated by adding to the amount of premiums or contributions issued, including accessories premiums and costs of policy, taxes and cancellations of the fiscal year and all previous fiscal years included, variation of premiums or contributions of the fiscal year not issued: this amount is to be understood as excluding acceptances. Sessions or rebates are not deducted.

**Article 49.-** The contributions of insurance entities referred to in Articles 47 and 48, shall be entered into the account of the Treasury.

**Article 50.-** The General Directorate of Banking, Insurance and Reinsurance, will have from this date, the powers that were attributed to it by the National Commission for the Control of insurance of the Treasury.

## CHAPTER 7

### APPLICATION OF THE PROVISIONS OF THE CIMA CODE

**Article 51.-** Insurance and reinsurance companies of any kind, brokers or agents will keep strict enforcement in the set of provisions of the CIMA Code and also in the regulations adopted for its application by the Government of the Republic of Equatorial Guinea.



### **Article 52.**

Any breach of the provisions of this Regulation shall be punished in accordance with the provisions of the CIMA Code and provisions in force in Equatorial Guinea.

### **ADDITIONAL PROVISION**

A period of ONE HUNDRED AND EIGHTY (180) days is granted after the entry into force of this decree for all insurance referred to therein to become fully compliant. After this time limit, no one shall be able to carry out the activities contemplated in this Decree without the corresponding compulsory insurance.

### **REPEAL PROVISION**

Are hereby repealed all provisions of equal or lower rank, contrary to this Decree.

### **FINAL PROVISION**

This Decree shall enter into force upon its publication by the National Media and in the Official Gazette of the State.

So I have ordered, by this Decree, done in Malabo, on the thirty-first day of the month of March in the year two thousand and eight.

**Republic of Equatorial Guinea**

**FOR A BETTER GUINEA  
OBIANG NGUEMA MBASOGO  
PRESIDENT OF THE REPUBLIC**

**Government Secretariat**