

OG# 694, amended OG# 874

INSURANCE LAW

CHAPTER ONE GENERAL PROVISIONS

Article 1:

This law has been enacted for regulation of insurance affairs.

Article 2:

In this law, the following terms shall have the meanings set forth:

1-Insurance: A contract concluded between the insurer and the insured by virtue of which the insurer undertakes to compensate the losses of insured against receipt of a fixed insurance premium.

2- Insurer: The insurance company.

3- The insured: A natural or legal person which concludes one of the insurance policies personally or as a proxy for his own or for someone else's interests.

4- The insured amount: The maximum commitment of the insurer vis-à-vis the sustained losses which is stipulated in the insurance policy.

5- The insurance premium: Pertains to the amount which the insured pays to the insurance company for obtaining the insurance policy.

6- Compensation of loss: Pertains to the cash amount or the equivalent thereof, which is paid to the insured upon occurrence of insurable event and ascertainment of the loss.

7- The subject of insurance: Human life when faced by death or disability; or objects, goods and properties which are faced with damage and loss.

8- Insurance policy: Is a legal document submitted by the insurer to the insured as an insurance agreement.

9- Event: A certain circumstance under which the insured claims compensation of loss in accordance with the insurance policy.

10- Insurance reserves: Financial funds which are created out of revenues of the insurance company for compensation of losses, operational expenses of the insurance company and payments against reinsurance.

11- Reinsurance: Insurance of insurance risks with other insurance companies on the basis of contracts and agreements.

12- Ex gratia payment: In exceptional circumstances compensation of losses to the insured by the insurer even though the insurer has no legal obligation to pay the insured.

Article 3:

Insurance shall take place against the following risks:

1- Risks to which air, land, and marine transportation means are subjected as the result of accidents.

2- Arson, theft and accidents which threaten physical wellbeing.

3- Force majeure, i.e., earthquake, flood, storm, etc.

4- Collision of vehicles and the risks resulting from their motion.

5- Risks resulting from working in industrial, construction, service-providing institutions and the like.

6- Theft of cash from safe and loss of money while being transferred.

7- Accidents and risks resulting from war, demonstration, strike and riots.

8- All other risks and accidents which may require to be insured in the future.

Article 4:

For realization of the objectives mentioned under article 3 of this law as well as for sound operation of insurance, the insurance company shall function in accordance with international norms.

Article 5:

Objectives and modus operandi of an insurance company shall be regulated by its articles of association.

CHAPTER TWO

Establishment & dissolution of insurance company

Article 6:

The authority to establish insurance company rests with the Council of Ministers.

Article 7:

Professional and commercial activities of the insurance company shall be carried out in accordance with this law and the relevant articles of association.

Article 8:

The insurance company shall be obligated to submit a copy of its annual balance sheet to the ministry of finance before end of the first six months of the year.

Article 9:

Accounting activities of the company shall be audited and verified annually by internal or external authorized auditors.

Article 10:

The Company can invest in government, mixed and private sectors of the Republic of Afghanistan.

Article 11:

(1) The Company shall be dissolved on account of one of the following reasons:

1- When its respective functions stipulated in the relevant articles of association could not be carried out.

2- Council of Ministers' decision concerning dissolution thereof.

(2) Recommendation of the shareholders of the Company concerning dissolution of the Company when they deem functions of the Company to be uneconomical as a result of continuous loss shall be submitted to the Council of Ministers for their decision.

CHAPTER THREE

INSURANCE AGREEMENT

Article 12:

Insurance shall be concluded in writing and the registration document of the agreement is called the insurance policy. All documents, papers and forms being used for concluding the insurance agreement shall constitute annexes thereof.

Article 13:

The insurer shall be authorized to inspect the person, goods or properties being insured.

Article 14:

The insurer and the insured shall be obligated to inform the other party of the facts which may cause increase or decrease in their respective obligations.

Article 15:

The insurance premium shall be subject to the payment of stamp duties, which shall be paid by the insured.

CHAPTER FOUR PAYMENT OF INSURANCE PREMIUM

Article 16:

The insured shall pay a fixed insurance premium in accordance with the insurance policy issued by the insurer. The payment methodology of insurance premium shall be determined by the insurance company.

Article 17:

Obligation of the insurance company vis-à-vis the insured shall commence upon payment of insurance premium by the insured unless otherwise stipulated in the agreement.

CHAPTER FIVE COMPENSATION OF LOSS

Article 18:

Compensation of loss shall be in proportion to the loss sustained, in accordance with the insurance policy, and shall never exceed the amount being insured.

Article 19:

The insurance company shall compensate the losses in cash or shall partially or totally repair or replace the damaged goods.

Article 20:

In a third party accident insurance compensation of medical treatment expenses is also included provided the insured is obligated to pay the losses as stipulated by the law.

Article 21:

Under fire insurance, in addition to the amount of expenses being determined in accordance with stipulation of article 18 of this law, the value of other goods being damaged as a result of fire extinguishing measures is also included in the sustained losses taking into account the terms and conditions of the insurance policy.

Article 22:

Under transportation insurance compensation of loss includes transportation charges and other expenses being defrayed for transportation of goods provided such expenses have been recorded in the insurance agreement.

Article 23:

The insurance company may use the exgratia principle for compensation of loss.

Article 24:

The time limit for claiming compensation of loss shall be one year. The effective date of the above time limit shall be the date on which the accident has taken place.

**CHAPTER SIX
DETERMINING INSTANCES OF OBLIGATIONS**

Article 25:

In accordance with terms and conditions of the insurance policy the insurance company shall be obligated to compensate losses to the insured.

Article 26:

The insurance company shall not be obligated to compensate losses resulting from the following factors:

- 1- Forgery on the part of the insured.
- 2- Trickery and deceit on the part of the insured.
- 3- Intrinsic defect of goods.
- 4- Delay and postponement of goods in accordance with international norms

Article 27:

The insured shall be obligated to inform the insurance company of the occurrence of accident at the soonest, otherwise the insurance company will have no responsibility, unless the insured proves that notification had not been possible due to reasons beyond his control.

Article 28:

The insured shall be obligated to adopt necessary measures to prevent or reduce the loss.

Article 29:

After compensation of loss the insurance company shall legally acquire the status as succedaneum of the insured and the rights and claims of the insured against third natural or legal persons shall be transferred to the insurance company.

Article 30:

Where the insured omitted certain facts or distorted the facts in insurance documents in such a way as to change the essence of risk or to mitigate the importance thereof, the insurance company may either demand additional insurance premium, or annul the insurance or reject the insurance premium.

**CHAPTER SEVEN
CIRCUMSTANCES WARRANTING INVALIDATION AND
ANNULMENT**

Article 31:

The insurance shall be deemed invalid under following circumstances:

- 1- Awareness of the insured of the occurrence of risk at the time of concluding the insurance agreement.
- 2- Insured's intentional refraining from describing the facts or false expressions by him resulting in alteration of the essence of the accident or in mitigating the importance thereof.
- 3- Occurrence of the risk prior to concluding the insurance agreement on account of which the object is being insured.

Article 32:

An insurance agreement shall be annulled under the following circumstances:

- 1- Bankruptcy and dissolution of the insurance company.
- 2- Non-agreement of the insured concerning payment of additional insurance premium stipulated under article 30 of this law. Under such circumstance the insurance premium received from the insured shall be disbursed to the insured.
- 3- Demise of the insured and non-agreement of the heirs or the insurance company on confirmation of the agreement.
- 4- Where the insured transferred the insured goods to a third party and the same party did not want to continue the agreement. Under such circumstance and under the circumstance mentioned under clause (3) of this article, the parties may annul the insurance agreement within one month of the demise of the insured or transfer of the goods.
- 5- Where a change takes place in the quantity, quality and location of the insured goods or in the communications and no agreement has been reached by the parties.

CHAPTER EIGHT MISCELLANEOUS PROVISIONS

Article 33:

In case of the demise of the insured his entire rights shall be transferred to his legal heirs in accordance with the terms and conditions of the insurance policy.

Article 34:

The authority to adjudicate on insurance-related claims in accordance with the stipulations of the agreement, and if not stipulated by the agreement, in accordance with the provisions of this law and the commercial code rests with the commercial court under the jurisdiction of which the head office of the insurance company or a branch thereof may fall. Prior to lodging the case with a court, the parties may settle their dispute through arbitration.

Article 35:

Issues which have not been foreseen in this law shall be settled in accordance the provisions of the commercial code.

Article 36:

This law shall be enforced after being published in the official gazette and with the enforcement hereof the insurance law published in the official gazette # 430, dated 16/04/1358 (07/07/1979) and Chapter 13 of the Commercial code on Insurance, published on 21/09/1334 (12/12/1955) shall be null and void.

**Decree
Of
The President of the Islamic Republic of Afghanistan!
About Amendment, Addition and Deletion of some
provisions from the Insurance Law.**

No 118

Date: 27/9/1384

Article 1:

Amendment of Article six, deletion of part 2 of paragraph (1) of the article eleven, amendment in article fifteenth and addition of paragraph (2) in the article thirty fifth of the Insurance Law, published in the Official Gazette serial No: (694) in the year 1368 is approved as following.

1- Text of the Article 6 shall be amended as follows:

Article 6:

- 1) The Insurance Companies shall be established at the request of the Ministry of Finance and approval of the government.
- 2) Private Insurance Companies may be established in Afghanistan according to the investment Law: License of the activities of the Insurance Companies will be issued by the Ministry of Finance.
- 3) To implement the objectives mentioned in this Law and support the property of the insured's a-five-member insurance board shall be established.
- 4) The Ministry of Finance shall develop special procedures to regulate the affairs of the insurance board.

2- Article 15 shall be amended as following:

Article 15:

Insurance premium shall be subject to the payment of state stamp tax (*Sokook*) which is shared and paid equally by the Insurance Company and the insured.

3- The original text of Article 35 shall be amended as follows :

1. the situations not stipulated under this law shall be settled in accordance with the commercial code.
2. the ministry of finance may process and enact regulations and rules for better implementation of this law.
3. Article 11 Sec.1, Para. 2 shall be deleted.

Article 2:

This decree shall be effective from the date signed by the president and shall be published in the Official Gazette.

Hamid “Karzai”

President of the Islamic Republic of Afghanistan