

Law of the Republic of Tajikistan on insurance

DIVISION 1. COMMON REGULATIONS

Article 1. Procedures defined by the present law

The present law defines the insuring procedures between insurance companies and citizens, enterprises, organizations, between insurance companies themselves, and also establishes general principles of state control over insurance activities.

Insurance procedures are also regulated by other legal acts of the republic of Tajikistan adopted on the basis of the present law. The present law is not valid for state social insurance.

Article 2. Concept of insurance

Insurance is an activity aimed at interests' protection of individuals and legal entities from specific force major (insurance cases) at the expense of monetary funds funded by payments (fees) of individuals and legal entities.

Article 3. Kinds of insurance

Insurance may be voluntary and compulsory.

Voluntary insurance is performed on the basis of an agreement between an insured individual and an insurer. Procedures of voluntary insurance stipulating its general conditions and the implementation order are determined by the insured individual himself in accordance with the provisions of this law. Specific insurance conditions are determined while concluding the insurance agreement.

Compulsory insurance is the one executed on the basis of legal acts of the republic of Tajikistan, which identify the types, conditions and the way it should be conducted.

State compulsory insurance is performed by state insurance companies. (Law of the RT as of 14.05.1999, No. 762)

Article 4. Objects and subjects of insurance

Objects of insurance are property interests related to:

- 1) life, health, and work capacity of the insurer or an insured individual (personal insurance);
- 2) property, its use and command (property insurance);
- 3) compensation by the insurer of the personal damage to the individual or his property, and also of the damage to the legal entity (responsibility insurance);

Subjects of insurance are the insured and insurers.

Insurers are legal entities and capable individuals which have concluded with the insured agreements of insurance or which are the insured according to the law. Insurers are entitled to contract with the insured agreements for the third party persons for the benefit of the latter.

Insurers are entitled, while contracting agreements of insurance, to authorize individuals or legal entities (profiteers) to receive insurance payments on insurance agreements and also to replace them to their own discretion until the insurance case occurs.

Insurers are legal entities, regardless of their organizational-legal form as stipulated by the legislation of the republic of Tajikistan, which are set up to perform insurance operations (insurance agencies), which have been registered in the established order and received a license for insurance operations on the territory of the republic of Tajikistan.

The intermediary activities on insurance related to concluding insurance agreements on behalf of foreign insurance companies on the territory of the republic of Tajikistan are performed when registered and received a license at the state insurance control of the Ministry of Finances of the republic of Tajikistan, if otherwise not stipulated by state agreements of the republic of

Tajikistan with other countries. Insurance agencies should major in insurance activities. Legal entities which do not meet the requirements stipulated by this article are not entitled to perform insurance activities.

Article 5. Insurance risk. Insurance case. Insurance payment

An insurance risk is an assumed event which, in case of occurrence, envisages insurance.

The event, which is considered as an insurance risk, should possess signs of an incident and probability. An insurance case is a occurred event which, in case of occurrence, according to the insurance agreement or the law, envisages the responsibility of the insurer to make an insurance payment to the insured, the profiteer, and other third persons. When an insurance property case occurs, the insurance payment is compensation. When the insurance case is connected with the insured or a third person, the insurance payment is an insurance sum.

Article 6. Insurance sum and insurance compensation

The insurance sum is a money sum stipulated by the insurance agreement or determined by law. The insurance sum envisages the amount of the insurance payment (fee) and the insurance compensation, if otherwise not foreseen by the agreement and legislative acts of the republic of Tajikistan.

When insuring property, the insurance sum may not exceed its actual cost at the moment of concluding the contract (insurance cost.) The sides may not contest the insurance cost of property fixed in the insurance agreement, excepting the cases when the insurer proves that he has intentionally been misled.

If the insurance sum determined by the insurance agreement exceeds the insurance cost of property, that part of the insurance sum which exceeds the actual cost of the property at the moment of concluding the contract is considered invalid.

The insurance compensation may not exceed the amount of direct damage to the insured or the third person's property when the insurance case occurs, if otherwise not stipulated by the insurance agreement.

If the insurance sum is lower than the property insurance cost, the amount of the insurance compensation is reduced proportionally regarding the insurance sum to the property insurance cost, if the insurance agreement does not stipulate otherwise.

If the insured has concluded insurance agreements with several insurers for the amount which, on the whole, exceeds the property insurance cost (double insurance), the insurance compensation on property insurance paid by all insurers may not exceed its insurance cost. Each of the insurers pays the insurance compensation in the amount proportional to the ratio of the insurance sum of the concluded agreement to the total sum of all property insurance agreements contracted by the insured.

The insurance agreement may foresee the replacement of the insurance payment by natural compensation of the damage equal to the sum of the insurance compensation.

For personal insurance, the insurance sum is an amount which the insurer is to pay when the insurance case occurs. The insurance sum is determined by the insured and the insurer when concluding the insurance contract.

The insurance sum is paid to the insured or the third person regardless of the sums which due to on other insurance agreements, also on social insurance, social provision, and to compensate damage.

When concluding the insurance agreement, the insured is entitled to authorize any person to receive the insurance sum in case of his death. The insurance sum received by this person should not be considered as part of inherited property.

Excluded (Law No.16 as of 12.05.2001)

Article 7. Insurance payment (installment) and insurance tariff

The insurance payment (installment) is an insurance payment which the insured is to pay to the insurer in accordance with the insurance agreement or law.

Insurance tariffs are the payment rates (installments) determined in amounts sufficient for the insurance agency to stockpile funds to pay its way.

Legislative and normative acts on compulsory insurance may provide rights for the insured to independently determine tariffs as agreed with appropriate ministries and agencies.

Insurance tariffs on voluntary kinds of insurance may be determined by the insured independently.

The concrete amount of the insurance tariff is determined by the insurance agreement.

Foreign citizens and legal entities, joint ventures on the territory of the republic of tajikistan pay insurance payments (installments) to the insurers in hard currency or other currency stipulated by insurance agreements.

Insurance payments paid in the validity period of the insurance agreement are not subject to confiscating, excluding the confiscation of funds due to the court's decision or a passed verdict. In such cases paid installments amounting to the redeemed sum are subject to confiscating.

Enterprises and organizations (regardless of the form of property) must fulfill written requests of their employees to deduct insurance payments (installments) from their salaries (incomes) and to transfer the payments to the account of the insurance agency.

The administration of an enterprise or an organization (regardless of the form of property) jointly with the work force council and the trade-union committee may decide to pay payments (installments) on personal and property agreements of their employees at the expense of organizations.

Article 8. Consequences of non-payment of payments (installments) on compulsory insurance

In case of non-payment on compulsory insurance, the confiscation of payments is executed by insurance agencies in the order established for fiscal tax and non-tax payments in the budget.

Article 9. Co-insurance and re-insurance

Co-insurance is a kind of insurance for one insurance object by two or more insurers. If so, the agreement must include the conditions stipulating the rights and obligations for each insurer.

Re-insurance is a transfer by the insurer (re-insurer) in full or in part of his obligations before the insured on the conditions stipulated by the agreement to a specialized re-insuring agency or other insurer (re-insurer) which has a license for a specific kind of insurance activity.

When the insurance case occurs, the re-insurer bears responsibility in the amount of borne re-insurance obligations. The insurer remains responsible before the insured in full amount.

Article 10. Insurers' unions

Insurers may create unions, associations, and other entities to coordinate their activities, to protect the interests of their members and to implement joint programs if the creation of such entities does not contradict to the legislation of the republic of Tajikistan. Such entities are not entitled to insurance activities.

Insurers' associations act in accordance with their charters and acquire the rights of legal entities after they get registered with State Insurance Control of the Ministry of Finances of the republic of Tajikistan.

Chapter 2. Insurance agreement

Article 11. Concept of insurance agreement

The insurance agreement is a written agreement between the insured and the insurer which obliges the insurer, when the insurance case occurs, to make an insurance payment to the insured or other person to whose benefit the insurance agreement has been concluded, and the insured undertakes responsibility to pay insurance installments in the fixed periods of time.

The insurance agreement may contain other conditions determined by the sides and the agreement shall correspond to the civil legislation of the republic of Tajikistan.

Article 12. Order of concluding insurance agreement

To conclude the insurance agreement, the insured submits to the insurance agency an application or orally declares his wish to conclude the insurance agreement.

Insurers may perform the insurance activity through insurance agents and also authorize other individuals and legal entities to perform it.

Insurance agents are individuals or legal entities acting on behalf of the insurer in accordance with granted authorities.

The insurance agreement comes into force from the payment moment of the first installment by the insured if otherwise not stipulated by agreement or law.

Article 13. Contents of insurance agreement

When concluding the insurance agreement, the insurer is obliged to issue an insurance certificate (policy) or a document replacing it with extracts from attached insurance rules.

The documents must include:

- 1) name of document;
- 2) name and legal address of insurer;
- 3) last name, first name, and middle name of the insured and his address;
- 4) name of insurance object;
- 5) mention the insurance risk against which insurance agreement is concluded, and also name of insurance case due to which insurer is obliged to pay to the insured insurance sum or compensation;
- 6) amount of insurance sum;
- 7) amount of insurance payment (installment);
- 8) terms and order of payment;
- 9) start and cancellation of insurance agreement;
- 10) other conditions of agreement, including supplements to insurance procedures or exceptions from them;
- 11) signature (facsimile) of insurer;

Article 14. Responsibilities of insurer

The insurer is obliged:

- 1) to get the insured acquainted with insurance procedures;
- 2) to re-insure the insurance agreement on the application of the insured if the insured takes measures to reduce the risk of occurring the insurance case and the size of possible damage to the insured property, or if the actual cost of property has been increased, taking into consideration all these circumstances;
- 3) to make an insurance payment in the period stipulated by the agreement when the insurance case occurs;

The insured is financially responsible for an undue payment of the insurance sum (insurance compensation) within voluntary and compulsory insurance agreements, and also for early cancellation of voluntary insurance agreements due to faults of employees of the insurance agency through payment of forfeit the size of which is determined by the insurance conditions;

- 4) to refund expenses of the insured in the insurance case to prevent or to lessen the damage to the insured property;
- 5) not to divulge information about the insured and his property status, excluding the cases stipulated by the legislation of the republic of Tajikistan.

The insurance agreement may also provide for other responsibilities of the insured.

Article 15. Responsibilities of the insured

The insured is responsible:

- 1) to make timely insurance payments (installments);
- 2) while concluding the insurance agreements, to inform the insured of all the circumstances known by him which may be meaningful to help estimate an insurance risk, and also of the all concluded or being concluded insurance agreements concerning some specific insurance object;
- 3) to take necessary measures to prevent and lessen damage to the insured property when the insurance case occurs, and to

inform the insurer that the insurance case occurs in the period stipulated by the insurance agreement.

The insurance agreement may also foresee other responsibilities of the insured.

Article 16. Replacement of insured in insurance agreement

In case of the death of the insured which has concluded the insurance agreement, his rights and responsibilities will go to a person which has inherited this property.

In case of the death of the insured which has concluded the agreement of personal insurance for the benefit of the third person, the rights and responsibilities determined by this agreement will go to the third person at the consent of the latter. If this person is not able to fulfill his responsibilities on the insurance agreement, the rights and responsibilities determined by the agreement may go to persons which, in accordance with the legislation of the republic of tajikistan, implement responsibilities on safeguarding rights and legal interests of the insured person.

In case of sale, exchange, donation, or rental of the insured property, the rights and responsibilities of the insured may go to the person which received this property.

During the validity period of the insurance agreement the insured has been declared incapable or limited in his capability by court, the rights and responsibilities of such an insured are performed by his trustee. In this case, the responsibility insurance terminates from the moment when the capability restriction of the insured starts or his capability ends. When the insured is a legal entity and it is being reorganized or liquidated, all the rights and responsibilities at the consent of the insurer in the validity period of the insurance agreement go to the corresponding legal successor in the order established by appropriate legislative acts of the republic of Tajikistan.

Article 17. Procedures and conditions of executing insurance payment

Insurance payments are executed by the insurer in accordance with the insurance agreement or law grounded on the application of the insured and the insurance act.

The insurance act is compiled by the insurers or the person authorized by the insurer. If necessary, the insurer requests the data connected with the insurance case from the law-enforcement structures, banks, medical institutions, and other agencies which possess information of the circumstances of the insurance case. The insurer is entitled to investigate the cause and circumstances of the insurance case.

Organizations and agencies (regardless of the form of property) are obliged to inform insurers upon their request of the information connected with the insurance case, including information of confidential character. Insurers are responsible for its disclosure in any form, excluding the cases stipulated by the legislation of the republic of Tajikistan.

Article 18. Invalidity of insurance agreement

Insurance agreement is invalid in cases stipulated by the civil code of the republic of Tajikistan and the present law.

According to the present law, the insurance agreement is declared invalid in the following cases:

- 1) if the insurance object is property which is subject to confiscating, grounded on the appropriate court's verdict which has come into force;
- 2) when the insured has intended to get an unfair profit and if the insurance agreement has been concluded with the same purpose, after the insurance case has occurred;

The insurance agreement is declared invalid by court. (Law of RT No. 421 as of 15.05.1997)

Article 19. Refusal to pay the insurance

The insurer is entitled to refuse in full or in part the insurance payment if the insurance case has occurred as a consequence of the following:

- 1) premeditated actions of the insured or the profiteer aimed at the insurance case to occur;
- 2) if the insured or the person in whose benefit the insurance agreement has been concluded has committed an intentional crime directly connected with the insurance case;

- 3) if the insured intentionally reports false information of the insurance object;
- 4) if the insured gets the property insurance compensation from the person responsible for the damage;
- 5) other cases stipulated by other legislative cases;

The conditions of the insurance agreement may foresee other grounds for refusal of the insurance compensation if they do not contradict to the legislation of the republic of Tajikistan.

The decision on refusal of the insurance compensation is made by the insurer and the insurer notifies the insured of the refusal in the written form with clearly presented grounds.

The refusal of the insurer to pay the insurance compensation may be appealed by the insured, the insured person, the profiteer, or any other individual or legal entity in court or arbitration. (Law of RT no. 421 as of 15.05.1997)

Article 20. Termination of the insurance agreement

The insurance agreement is terminated in the following cases:

- 1) the insurance agreement has expired;
- 2) the insurer has fully fulfilled his obligations on the agreement before the insured;
- 3) the insured fails to pay timely insurance payments (installments) in the periods stipulated by the insurance agreement;
- 4) the insured, which is a legal entity, is canceled or the insured, which is an individual, passes away, excluding the cases stipulated by article 16 of this law;
- 5) the insurer is canceled in the order established by legislative acts of the republic of Tajikistan;
- 6) if court declares the insurance contract invalid;
- 7) other cases stipulated by legislative acts of the republic of Tajikistan;

The insurance agreement may be canceled ahead of schedule on the insurer's demand or the demand of the insured when it agrees with the insurance agreement, or the sides have agreed about this.

The sides are obliged to notify each other of an intention to early cancel the insurance agreement in the period of not less than 30 days before the proposed date the insurance agreement terminates if otherwise not stipulated by agreement.

The issue of mutual payments on installments of the early terminated contract are settled in accordance with the procedures (conditions) of insurance.

Article 21. Transfer to insurer of rights of the insured on property insurance concerning the person responsible for caused damage

The right of demand, which the insured (or any other individual which has received the insurance compensation) has to the person responsible for the caused damage, goes the insurance agency which paid the property insurance compensation.

Division 3. Securing financial stability of insurers

Article 22. Basis of financial stability of insurers

82. The basis of insurers' financial stability is the availability of the following:

- 1) the paid authorized capital and, in case of implementing insurance in foreign currency, the currency fund;
- 2) insurance reserves;
- 3) the re-insurance system;

Article 23. Insurance reserves and funds of insurers

To fulfill the taken insurance obligations and to ensure their activities insurers set up out of the received insurance payments (deposits) and other profits (funds) the necessary insurance reserves. For voluntarily insurance, such reserves (funds) are set up by insurers independently and, in case of compulsory insurance, the order and the conditions are stipulated by legislative acts of the republic of Tajikistan. (Law No. 421, as of 15.05.1997)

Analogously, insurers are entitled to set up reserves funding measures to prevent accidents, losses, or damage of insured property. Funds used for these purposes are included in the cost of insurance operations. The list of such measures is approved by the Government of the republic of Tajikistan.

Insurance funds set up by insurers are not subject to exempting to republican or other funds.

Insurers are entitled to invest insurance reserves or other means and to place them otherwise, or to issue loans to the insured amounting to insurance sums on personal insurance agreements as well as to execute any other production activity allowed by law.

Placing reserves and other funds shall be performed by insurers on the conditions of recurrency and profitability.

Article 24. Guarantees of insurers' solvency

To ensure solvency, insurers are obliged to observe normative correlations between the assets and insurance liabilities. The calculation method of the correlations and their normative sizes are established by the state insurance control of the Ministry of Finances of the republic of Tajikistan.

The insurers, which have accepted the obligations in amounts exceeding the possibilities to perform them based at the expense of their own funds and insurance reserves, are obliged to insure the risk of performing appropriate obligations with re-insurers.

Article 25. Registration and book-keeping of insurers

Book-keeping procedures, indices, and types of insurance operations are determined by the state insurance control of the Ministry of Finances of the republic of Tajikistan in coordination with the ministry of finance and the statistical committee of the republic of Tajikistan. (Law of RT as of 15.05.1997)

90. Operations on personal insurance are being considered separately from the operations on personal insurance and responsibility insurance.

Article 26. Publication of annual balances by insurers

91. Insurers publish annual balance reports in terms stipulated by the state insurance control of the Ministry of Finances of the republic of Tajikistan after the auditor confirms their data authenticity.

Division 4. State control over insurance activity in the republic of Tajikistan

Article 27. State control on insurance activity in the republic of Tajikistan

In purposes of state control over insurance activity is to observe the requirements of the insurance legislation of the republic of Tajikistan, effective developments of insurance services, protection of rights and interests of the insured, other concerned entities and the state.

State control over insurance activities on the territory of the republic of Tajikistan is performed by the state insurance control of the Ministry of Finances of the republic of Tajikistan acting in accordance with regulation approved by the government of the republic of Tajikistan.

Article 28. Registration of insurance agencies and licensing insurance activity

The activities of all insurance agencies as well as of the foreign ones, including joint insurance ventures with foreign capital and their branches performing insurance activities on the territory of the republic of Tajikistan are subject to compulsory registration at the state Notary's office and also subject to compulsory licensing at the Ministry of Finances of the Republic of Tajikistan. (Law of RT No. 421 as of 15.05.1997)

95. Registration of insurance agencies is performed in the period of not later than 30 days from the receive date by the state insurance of the relevant Notary's office (Law of RT no. 498 as of 12.12.1997) of the republic of Tajikistan of an application with the following documents attached:

- 1) protocol of the creation of an insurance agency;
- 2) constituent agreement;
- 3) insurer's statute;
- 4) information of professional proficiency of insurance agency managers (director and chief accountant.)

96. The insurance agency obtains the status of a legal entity from the registration moment.

97. Registration for the insurance agency may be refused due to the following:

- 1) violation of the established order envisaged by this law and legislative acts of the republic of Tajikistan when creating the insurance agency;
- 2) disparity of constituent documents with legislation requirements of the republic of Tajikistan;
- 3) managers' professional inprofficiency

98. If the insurance agency has not been registered in the established period of time or registration has been refused, the agency may apply to court.

99. Licenses for insurance activity are issued to insurers grounded on their application with the following supplements:

- 1) information from credit institutions about the paid authorized capital and license fee;
- 2) a feasibility study of insurance activity;
- 3) rules or conditions of a specific kind of insurance;
- 4) calculations of insurance tariffs.

100. Licenses are issued for performance of voluntary personal, property insurance, and responsibility insurance. In licenses specific kinds of insurance which the insurer is entitled to perform are indicated.

101. The state insurance control of the Ministry of Finances of the republic of Tajikistan considers an application of legal entities to get a license in the period not exceeding 45 days from the receive moment of documents envisaged by this article.

102. Refusal to issue a license to perform insurance activities for the legal entity may be grounded on disparity of documents attached to the application with requirements stipulated by the legislation of the republic of Tajikistan. The state insurance control of the Ministry of Finances of the republic of Tajikistan notifies the legal entity in the written form with indicated reasons for rejection.

103. The insurer is obliged to report all amendments to constituent documents to the state insurance control of the Ministry of Finances of the republic of Tajikistan in a month's period from the moment the decision of these amendments has been adopted.

104. Registration of re-insurance agencies and licensing of their activities is implemented in the order stipulated by this article.

Article 29. Observance of insurer's commercial classified information

Officials of the state insurance control of the Ministry of Finances of the republic of Tajikistan are not entitled to mercenarily use or to disclose information which is a commercial secret of the insured. Otherwise they are subject to legal penalty.

Division 5. Final regulations

Article 30. Protection of rights and interests of the insured connected with information from insurance agreements, other insurance documents and arrest of insurers' accounts

The insurer and insurance intermediaries must keep confidential the data contained in agreements and other insurance documents. These data may be disclosed only to the insured and his legal representatives, and also to courts and preliminary investigation bodies if they investigate a civil or economic case against the insured or the insurance agency. (Law of RT No.421 as of 15.05.1997)

Employees of insurance agencies, insurance intermediaries, and other officials (specified in paragraph 1 of this article) which have disclosed confidential information contained in the agreement and other insurance documents are subject to legal penalty. Funds received by the insurer as insurance payments (installments) may be arrested and exempted in cases which are not specified as the insurer's responsibilities before the insured only if this insurance responsibility is acknowledged invalid by law.

Article 31. Insurance of foreign citizens, stateless persons, foreign legal entities present in the republic of Tajikistan

Foreign citizens, stateless persons, and foreign legal entities present on the territory of the republic of Tajikistan are entitled for insurance protection equally as citizens of the republic of Tajikistan.

Article 32. Insurance of property and property interests of organizations and agencies of the republic of tajikistan being abroad

Property and property interests of enterprises and agencies of the republic of Tajikistan (regardless of the forms of property) being abroad, are subject to insuring in accordance with this law if it does not contradict to the legislation of the country of residence.

Article 33. Solving disputes related to insurance agreement

Disputes related to insurance are settled by the court or economic or arbitrary within their competence. Insurers and the insured are freed from payment of state fee during this procedure. (Law of RT No. 421 as of 15.05.1997)

Article 34. International treaties

If international treaties envisage other rules on insurance than those which are stipulated by the legislation of the republic of tajikistan, international treaty rules count.

Article 35. Advertising of insurance activity

The insurer is entitled to advertise insurance services for which a license is available through mass media (radio, television, press, and the other.)

The insurer is not allowed to conduct anti-advertising activity aimed against other insurance agency.

Article 36. Termination of insurance agency

Termination of the insurance agency is conducted in the order established by law.

To dissolve an insurance agency, a liquidation committee with representatives of the state insurance control of the Ministry of Finances is set up.

The liquidation committee considers claims from the insurance agency, determines the amount of insurance installments which are subject to returning by the insured or transferring the insurer's obligations and rights to other insurance agencies. The obligations before the insured are subject to immediate fulfilling in comparison with other creditors and recipient of dividends.

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IMOMALI Rahmonov
chairman
the supreme council
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