

LAW OF MONGOLIA

LAW ON INSURANCE

CHAPTER ONE General Provisions

Article 1. Purpose of the law

1.1. The purpose of this Law is to define the legal framework for conducting insurance activities in the territory of Mongolia, to regulate relations between insurance companies, citizens and legal entities, and to create principles for State auditing of insurance activities.

Article 2. Laws and legislation on insurance

2.1. The legislation on insurance consists of the Constitution of Mongolia, the Civil Code, this Law and other relevant legislation, which is consistent with those laws.

2.2. If an international treaty to which Mongolia is a party is inconsistent with this Law, then the provisions of the international treaty shall prevail.

Article 3. Regulatory scope of the Law

3.1. The present Law shall regulate non-property insurance interests that are not contradictory to the property of citizens and legal entities as well as to the laws.

3.2. Relations connected with the social insurance and health insurance of citizens shall be regulated by their respective laws. Certain types of social insurance and citizens' health insurance that are insured on a voluntary basis may be regulated under this Law.

Article 4. Definitions

4.1. In this Law the following terms shall have the following meaning:

4.1.1. "insurance" shall mean the insurance activities over the property of business entities, organizations and citizens as well as against possible risk/s of their non-property interests not contradictory to laws;

4.1.2. "whole life, health and interests insurance" shall mean the re-compensation deal with the insurance company to cover pending damaged to the health, life and interests of citizens according to the terms agreed upon;

4.1.3. "liability insurance" shall mean an agreement deal, concluded by the insured, to have reimbursed by the insurance company the damages that might be caused to a third party due to unintentional activity of the insured;

4.1.4. "insurance item" shall mean the non-property interests not contradictory to the property and laws;

4.1.5. "non-property interests" shall mean all types of interests relations other than those arising in connection with the ownership, use and administrative disposal of material property;

4.1.6. "insurer" means the profit-earning company that obtains a license to conduct insurance activities in the territory of Mongolia in conformity with laws and legislation.

- 4.1.7. "insured" means the citizens and legal entities that insure their items with the insurer on the basis of laws and agreements;
- 4.1.8. "insurance agent" means the citizens and legal entities entitled to carry on activities on the insurer's behalf within the framework of rights entrusted to him/her by the insurer indicated in paragraph 4.1.6 of this Law;
- 4.1.9. "insurance broker" means an intermediary agent between the insurer and the double insurer on the license obtained according to laws and regulations;
- 4.1.10. "insurance risk" means the conditions and environment that might cause damage to the items involved in the insurance;
- 4.1.11. "insurance accident" means the creation of agreed circumstances for and damages to the insured items;
- 4.1.12. "insurance valuation" means the pecuniary expression of the value of the property and non-property interests being insured;
- 4.1.13. "insurance life" means the term of validity of the insurance policy;
- 4.1.14. "insurance royalty" shall mean the payment of the insured to the insurer for the enacted insurance of his/her property and non-property interests;
- 4.1.15. "insurance compensation" shall mean the money given to the insured by the insurer following the occurrence of an insurance accident;
- 4.1.16. "insurance certificate" shall mean the official document which conveys the insurance terms accorded by the insurer, certifying that the property and interests of the insured are covered by insurance;
- 4.1.17. "insurance reserve fund" shall mean the saved pecuniary assets saved by the insurer from the net income of insurance duties for the purpose of reimbursing damages which may occur to the insured;
- 4.1.18. "reinsurance" shall mean the purchaser of insurance by the insurer from other domestic and foreign insurers that fully or partially covers its obligations.

CHAPTER TWO

Insurance Activities

Article 5. Insurance and its forms

- 5.1. Insurance involves a relationship of accepting obligations and enjoying rights on a contractual basis; when the insured, on the one hand, insures the property and interests of his/her own in order to guarantee reimbursement for damages which may occur due to possible danger and risks on mutually negotiated terms, accompanied by the due payment of insurance duties, and on the other hand insurer promises to reimburse the pending damages in-full or in-part.
- 5.2. Insurance has two forms: obligatory and voluntary compliance insurance.
- 5.3. Compulsory or obligatory insurance consist of the following types:
- 5.3.1. liability insurance;
 - 5.3.2. other types of insurance established by laws.
- 5.4. Foreign and joint venture entities and organizations conducting their activities in the territory of Mongolia shall insure their properties and interests with the Insurance Company of Mongolia under the laws and legislation of Mongolia.**

5.5. Other types of insurance that do not fall under the stipulations of the laws of Mongolia shall be referred to as voluntary insurance.

5.6. Voluntary insurance relations shall be regulated by the present law and by contracts concluded between the insurer and the insured.

Article 6. Insurance classification

6.1. Insurance handled by an insurance company shall be classified in the following manner:

- 6.1.1. whole-life insurance, health and interests insurance;
- 6.1.2. property insurance;
- 6.1.3. liability insurance.

6.2. The list of insurance types to be included in the insurance classification shall be issued by the Insurance Supervision Service (hereinafter referred to as “the supervision service”).

Article 7. Insurance duties

7.1. The insured shall pay insurance duties for having his/her properties and interests insured.

7.2. The rate of compulsory insurance duties shall be established by the State law of Mongolia. In case a given rate is not established by law, the value of the compulsory insurance duties shall be established by the supervision service. The maximum and minimum limits of voluntary insurance duties shall be set by the supervision service and the insurer and insured shall reach mutual agreement on the value of insurance duties within these limits and reflect it in the contract, which they sign.

7.3. The insured shall pay the compulsory insurance duties within the period stipulated in law and within the time limit established by the supervision service; voluntary insurance duties shall be paid within the period indicated in the contract signed by the insured and insurer.

Article 8. Insurance valuation

8.1. Insurance valuation shall be defined by the insurer and the insured on the basis of mutual consent and be reflected in the insurance contract.

Article 9. Contract of insurance and the insurance certificate

9.1. The contract of insurance (hereinafter referred to as the “contract”) shall be set forth in writing and the insurer shall issue to the insured a certificate witnessing that a contract has been concluded. The contract shall contain the following conditions:

- 9.1.1. the rights, duties and obligations of the insurer and insured;
- 9.1.2. the articles/items of the insurance;
- 9.1.3. the rate of insurance valuation;
- 9.1.4. the insurance risks;

- 9.1.5. the amount of the insurance duties and their payment period;
- 9.1.6. the term of the insurance and the conditions for its extension;
- 9.1.7. statement of the appraisal, dissolution and conditions for revising the contract;
- 9.1.8. all matters connected with the involvement of third-party persons as indicated in paragraphs 13.5 and 13.14 of this Law;
- 9.1.9. the settlement of disputes.

9.2. The contracting parties may also agree on accessory duties, responsibilities and rights to be accepted by the insurer and the insured and added to the contract.

Article 10. Rights and duties of the insurer

- 10.1. The insurer shall enjoy the following rights and duties:
- 10.1.1. In case of the emergency of reasons such as those indicated in paragraph 13.11 of this Law, waiver of the insurance quid pro quo shall be permitted fully or partially;
 - 10.1.2. If the powers and rights of the insured are delegated to a new proprietor the insurer shall present to the new proprietor a proposal to introduce modifications to the contract;
 - 10.1.3. If the insured fails to implement the duties set forth by the laws and contract, the insurer shall demand termination of contract and/or introduce modifications;
 - 10.1.4. If an insurance accident occurs, indemnification shall be performed according to the time limit and the rate stipulated by law and/or by a negotiated contract;
 - 10.1.5. An insurance certificate shall be developed within the period indicated in the contract and issued to the insured;
 - 10.1.6. Relevant insurance laws and regulations and the terms and conditions of the contract shall be introduced to the insured;
 - 10.1.7. If not otherwise indicated in the laws of Mongolia, data and information materials on the insured shall be kept confidential and not transferred to others;
 - 10.1.8. The costs of measures taken by the insured to minimize the extent of possible and anticipatory damages due to insurance risks shall be indemnified to the insured and added to the insurance quittance;
 - 10.1.9. In case of the death of the insured, his/her rights and duties shall be transferred legally or by his/her elogium to the inheritor;
 - 10.1.10. If the course of the contract the disability of the insured is proven, a legal Trustee shall be appointed by the Court to administer his/her rights and duties exercising control and auditing over the activities of the insured.

Article 11. Rights and duties of the insured

- 11.1. The insured shall enjoy the following rights and duties:
- 11.1.1. shall demand indemnification from insurer according to the terms and conditions of the contract in the event of an insurance accidents;
 - 11.1.2. if the insurer fails to implement the obligations and duties set forth in the laws and contract, the insured shall require termination of the contract or/and introduce modifications to it;
 - 11.1.3. If the rights and duties of the insured are delegated to a new proprietor, the insured shall require the new proprietor to present a proposal to introduce modifications into the contract;

- 11.1.4. payment of insurance duties to the insurer in the time established by laws and the contract;
- 11.1.5. to undertake feasible measures to prevent insurance accidents and minimize risks, to minimize damages at the time of an insurance accident and to notify the insurer of an insurance accident in due time;
- 11.1.6. to develop fairly and present to the insurer the documents and materials connected with the performance of the contract.

Article 12. Insurance life

- 12.1. The contract shall become effective the next day after the insurance duties are paid.
- 12.2. The duration of whole-life and health and other interests contracts shall be established by agreement between the insurer and the insured. The duration of all other types of contracts shall not exceed 365 (three hundred and sixty five days only) days unless otherwise stipulated in laws and/or in contracts.
- 12.3. The contract shall be terminated under the following circumstances:
 - 12.3.1. the duration established by the laws and by the contract/s has expired;
 - 12.3.2. the insurer or the insured has become insolvent or/and dissolved;
 - 12.3.3. the Court has declared the contract null and void;
 - 12.3.4. the insured's property has been confiscated by a Court decision;
 - 12.3.5. both parties have agreed that the contract be terminated before its stipulated completion;
 - 12.3.6. the insurer has completely fulfilled his/her duties as set forth in the contract.
- 12.4. If the contract has been terminated for the reasons indicated in paragraphs 12.3.2, 12.3.3 and/or 12.3.4, the Court shall decide how to calculate the balance of payments due.
- 12.5. If contract is terminated before its expiration due to the fault of the insurer, the insurer shall reimburse the insured for all duties paid by him/her.
- 12.6. If the contract is terminated before its expiration date due to the fault of the insured, the insurer shall deduct the cost connected with the given insurance from the insurance duties quota for the rest of the period and the remaining part should be repaid to the insured.

Article 13. Insurance quid pro quo

- 13.1. The insurer shall pay the insurance quid pro quo in the basis of the documents cited in paragraph 13.10 of this Law in conformity with the terms and conditions indicated in this Law and in the contract.
- 13.2. The total amount of the indemnification to be offered by the insurer to the insured and the quid pro quo stipulated in paragraph 10.1.8 of this Law shall not exceed the valuation of the insurance.
- 13.3. If the insurance valuation is less than the true cost of the insured's property the insurance indemnification shall be calculated from the insured value for issuance.

13.4. The insurance quid pro quo shall be issued to the insured in its full amount even though indemnification payments may have been made other types of insurance. But if the insured had insured his/her articles simultaneously with several insurers, the quid pro quo shall not prevail over the agreed upon conditions and exceed the value of damages incurred.

13.5. The quid pro quo may be issued directly to a third party that has suffered from the fault of the insured once the concerned stipulation is available in the contract.

13.6. If there arises an insurance accident after the death of the insurer, the insurance quid pro quo shall be given to his/her legal heir or to the testamentary heir.

13.7. The insurance quid pro quo shall be issued according to following percentages and quotas:

13.7.1. If the person insured with life or health and other interests insurance dies and/or becomes completely disabled, he/she shall be granted 100 percent of the insurance quid pro quo, and in other cases it will be offered calculated out of the insurance valuation at the extent and rate of disability;

13.7.2. in case of a complete loss of property of the insured according to the stipulations of the contract, the insurance indemnification shall be offered at 100 percent, unless he/she suffers a complete loss of property due to his/her own fault, in which case the quid pro quo shall be issued at 80 percent.

13.7.3. if the property of the insured suffers a half-loss under the contract stipulations, the value of the damages incurred shall be defined in a right manner and the insurance quid pro quo issued in equal proportion. In identifying truly the extent of damages caused to certain parts of the property (pecuniary damages), the regulatory enactment of the breakage and losses as well as the detriment damages at large rules shall be taken as a basis for their assessment. The given enactment and the rules shall be approved by the supervision service;

13.7.4. damages caused to a third-party person due to the fault of the insured shall be included in the insurance valuation and the quid pro quo shall be calculated at 80 percent of the actual damage;

13.7.5. if at the time of an insurance accident certain parts of the insurance duties have not been paid, the amount of the insurance quid pro quo shall be calculated in equal proportion to the duties that have been paid.

13.8. The insured shall notify the insurer within 72 hours of damages caused to his/her insured items.

13.9. Upon receipt of notification that damages have taken place, the insurer may undertake to identify the reasons for the damages. If needs be the insured shall cooperate with the Commission consisting of such professional specialists bodies as law protection and enforcement, police offices, banking and medical organizations.

13.10. Insurance indemnification shall be based on the following documents:

13.10.1. insured's application;

13.10.2. mother copy of the insurance averment;

13.10.3. injury definition, acts and materials;

13.10.4. if required, the assessment and certification of concerned professional bodies.

13.11. The insured shall waive his/her rights to the quid pro quo in full or partially on the following grounds:

13.11.1. if the insured had intentionally caused the damages or had created the conditions and environment for the insurance accident;

13.11.2. if the insured has provided the insurer with a false statement of insurance items and/or false evidence;

13.11.3. if the injury has occurred due to reasons not reflected in the contract;

13.11.4. if the insured has been indemnified by the perpetrator for the pecuniary damages, that occurred;

13.11.5. other cases stipulated in laws and legislation.

13.12. If it is not contradictory to the laws and legislation, the parties may agree upon and reflect in the contract reasons other than those stipulated in the laws for the waiver of detriments.

13.13. The insurer shall definitely identify the reasons for his/her waiver of detriments and shall inform the insured of these reasons in written form.

13.14. If it is indicated in the contract, the insured's right of action from the nocent for indemnification shall be conveyed to the insurer at the extent of the quid pro quo profited through the insurance and at the volume of expenses incurred in connection with it.

13.15. If after the payment of the insurance reimbursement the justifications indicated in paragraphs 13.11 and 13.12 of this Law are witnessed, the insurer shall make the insured reimburse the paid indemnification to the extent necessary to offset the loss to the insurance fund.

CHAPTER THREE

Insurance Company's Finances and Capacity to Pay Debt

Article 14. Insurance company financial capacity

14.1. An insurance company's Charter fund must consist of pecuniary assets valued at no less than 100 million togros. It is prohibited to form the Charter Fund by loan stock.

14.2. The net duty income is defined through the deduction of the reinsurance duties paid by the insurers from the grand total of insurance duty income. A Reserve Fund shall be established in the amount of 60 percent of net income duties. Indemnification payments for the fiscal year and for the on-account shall be made from the Reserve Fund.

14.3. Non-reparation of damages during the period under review and operational expenses incurred in this connection shall be referred to the pending quittance and reserved.

14.4. In order to enrich its Reserve Fund, the insurance company may use up to 30 percent of it to purchase bonds and securities as a long-term investment.

14.5. The Insurance Company if has a waste operation the given loss shall be reimbursed from a fund of its own disposal.

14.6. The income deduction to be granted to insurance agents shall not exceed 15 percent of the total income of the voluntary insurance duties and shall not exceed more than 10 percent of the total income duties of compulsory insurance.

Article 15. Insurance company payment capacity

15.1. The capacity of a company to pay debts shall be ascertained by correlating the total sum of the Charter and Reserves funds against the total income rate of insurance duties.

15.2. It is prohibited to issue commercial credits from the Charter and Reserve funds.

CHAPTER FOUR Auditing Insurance Activities

Article 16. Insurance bodies

16.1. The auditing of insurance activities in the territory of Mongolia shall be supervised by the Insurance Supervision Service of the Ministry of Finance. The rules of the Supervision Service shall be approved by the Government of Mongolia.

16.2. Responsibilities of the Supervision Service:

16.2.1. to work out the substantiation for granting a license to engage in insurance activities and to forward them to the Ministry of Finance for approval;

16.2.2. to keep a unified state register of insurance companies, brokers and agents;

16.2.3. to identify the test criterion indices for the financial condition and payment capacity of insurance companies;

16.2.4. to conduct audit to ensure strict observance of the percentage and rate of insurance duties;

16.2.5. to conduct domestic and foreign market research on insurance, to study insurance statistics, to supply insurance data and information, to supervise the implementation of laws and legislation on assurance/insurance, and to develop comments and conclusions on their further perfection;

16.2.6. to adopt and approve a model draft of an insurance contract;

16.2.7. to defend the interests of both the insurer and the insured, and to examine and settle their proposals, requests and complaints.

16.3. Rights of the Supervision Service

16.3.1. to define the types of insurance activities;

16.3.2. to demand and acquire from insurance companies their quarterly and annual balance sheets and reports, as well as other information and materials connected with their financial state and payment capacity;

16.3.3. to apply the liability measures stipulated in Article 23 of this Law if an insurance company permits violations of the laws and legislation on insurance, fails to obey the instructions and demands of supervision service or repeatedly commits violations;

16.3.4. to exercise control over the activities of insurance companies;

16.3.5. to demand and accept from concerned banking, financial, legal bodies, auditing, supervising and economic organizations and citizens the necessary data information documents and materials related to insurance companies free of charge.

Article 17. Management and Organization of the Supervision Service

- 17.1. The Supervision Service shall operate under the Ministry of Finance.
- 17.2. The Head of the Supervision Service shall be appointed by the Government of Mongolia at the recommendation of the Minister of Finance and released by the Government; the Head of the Service shall be a General Public Inspector.
- 17.3. The senior public inspectors and the public inspectors to be employed by the Supervision Service shall be appointed and released by the Minister of Finance upon the recommendation of the Head of the Service.
- 17.4. The Governor of a given municipality shall appoint and release the public inspectors to work in the locality at the proposal of the Head of the Service.
- 17.5. The staffing chart, structure and management of the Supervision Service shall be approved by the Government. Expenditures incurred in connection with the activities of the Supervision Service shall be financed by the State budget.
- 17.6. The Supervision Service in connection with the trends of its activities and obligations may open non-staff councils.
- 17.7. The Head of the Supervision Service shall report on his/her work to the Finance Minister.
- 17.8. The Supervision Service shall have and apply the stamp and seal and printed official letterform designed according to relevant rules.

Article 18. Rights and Responsibilities of Public Inspectors

- 18.1. Public inspectors shall be entitled to the universal power and competence of a public inspector as indicated in paragraph 9 of Article 21 of the law on the State Auditing and Control, and, in addition, shall enjoy the following rights and responsibilities:
- 18.1.1. to accept and settle applications and complains related to insurance activities;
 - 18.1.2. to refer business entities that violate the laws and legislation on insurance to law protection and investigation bodies;
 - 18.1.3. to demand and get from relevant organizations, free of charge, data, information, documents and materials related to the insurance company's quarterly and yearly accountant book keeping sheets and reports and records connected with its financial state and payment capacity;
 - 18.1.4. to conduct document verification audits.

Article 19. License on insurance company incorporation and to conduct insurance activities

- 19.1. An insurance company shall be responsible for the activities it conducts on the territory of Mongolia.

19.2. Matters relating to the establishment termination, administration and management of an insurance company shall be regulated by the Civil Law and the Partnership and Company Law unless otherwise stipulated in this Law.

19.3. A license shall be issued only to a company that handles insurance activities. Legal entities and citizens conducting other economic activities are prohibited from engaging in insurance activities.

19.4. The Supervision Service shall examine a compiled application to conduct insurance activities within 21 working days of its receipt and shall present its conclusions on issuing a license to the Minister of Finance.

19.5. If the Supervision Service decides not to issue a license to engage in insurance activities, the reasons and background for its objection shall be explained in a written letter to the Finance Minister.

19.6. The Minister of Finance shall use as a basis for granting a license to carry out insurance activities the conclusion of the Supervision Service and the materials listed below:

19.6.1. the application letter to engage in insurance activities;

19.6.2. the decision of the Meeting of Founders;

19.6.3. the articles/charter of the Company;

19.6.4. the amount of the Charter Fund and the document certifying that the given asset has been duly executed;

19.6.5. certification of the professional qualification and specialization of leading personnel and other employers of the insurance company.

19.7. The certificate of license shall contain detailed indications of the types and forms of insurance activities to be involved and whether the company intends to operate a reinsurance activity as well.

19.8. On the basis of the license granted by the Minister of Finance, the insurance company shall be entered upon the Register of the State Taxation Office.

CHAPTER FIVE Miscellaneous

Article 20. Insurance of Foreign Organizations and Citizens

20.1. Unless otherwise indicated in the laws and legislation of Mongolia, foreign establishments, citizens and expatriates shall have the right to be insured on the territory of Mongolia on equal terms with a legal entity and a citizen of Mongolia.

Article 21. International cooperation in insurance

21.1. An insurance company shall have the right to conclude agreements and contracts with the insurance bodies and citizens of foreign countries, to hold membership in international insurance organizations and to open branch offices in foreign countries.

Article 22. Settlement of disputes

22.1. Unless the contract indicates otherwise, the insurer and insured shall present disputable matters rising from the insurance contract to the Supervision Service for settlement.

22.2. If both the insurer and insured do not agree with a decision of the Supervision Service, each of them has the right to appeal to the Court.

Article 23. Liability of offenders

23.1. If violation of the insurance laws and legislation is not criminal, the public insurance inspector shall impose the following penalties:

23.1.1. if an insurance activity has been conducted without a license, the illegally earned profit shall be alienated and applied to a fine of 200,000-250,000 togrogs;

23.1.2. an official who has violated the laws and legislation on insurance and decisions of the Supervision Service shall be fined 10,000-50,000 togrogs, a company shall be fined 50,000-200,000 togrogs and/or their activity shall be suspended;

23.1.3. the license of a company that has cheated the insured and infringed their interests shall be revoked;

23.1.4. the amercement income shall be transferred into the state budget.

23.2. If the liability indicated in paragraph 23.1 of this Law is considered to have been imposed groundlessly, complaints may be presented through administrative and court channels.

Article 24. Coming into force of the law

24.1. The present law shall come into force commencing the 1st day of the month of January of the year 1998.

Chairman of the State Ih Hural of Mongolia

R. Gonchigdorj

Ulaanbaatar

Mongolia