

CONTENTS

Short title, extent and commencement

Definition

Ownership in relation to goods

War Risks Insurance Scheme

Scheme with respect to property

Scheme with respect of goods and in transit

Extend of Scheme with respect to property

Compulsory insurance of goods

Compulsory insurance of factories

Compulsory insurance of buildings

[Omitted]

Obligation under section 9, or section 10 includes obligation to insure repaired or reconstructed property

Penalty for contravention of sections 8, 9, or section 10

Transfer of property insured under this Ordinance

War Risks Insurance Funds

Power of Federal Government to extend Ordinance to certain undertakings, etc.

Certain premiums and claims not payable

Employment of agents by Federal Government

20.

21.

22.

23,

24.

25.

Power to call for information

Restriction on carrying on certain insurance business

Recovery of arrears of premium instalments

Limitation of prosecution

Composition of offences

Bar of legal proceedings

Delegation of powers

Power to make rules

Page 2 of 12

'THE WAR RISKS INSURANCE ORDINANCE, 1971.

ORDINANCE NO. XXXII of 1971.

[5th December, 1971]

An Ordinance to provide for the insurance of certain goods and property in Pakistan against war risks.

WHEREAS it is expedient to provide for the insurance of certain goods and property in Pakistan against war risks;

NOW, THEREFORE, in pursuance of the Proclamation of the 25th day of March, 1969, read with the Provisional Constitution Order, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. Short title, extent and commencement.—(1) This Ordinance may be called the War Risks Insurance Ordinance, 1971.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once 7[and shall be deemed to have taken effect on the third day of December, 1971].

2. Definition. In this Ordinance, unless there is anything repugnant in the subject or context—

(a) "building" includes. foundations, boundary walls, plinths, garages, floors, staircases, tanks, engine and boiler beds, chimneys and flues, but does not include a factory building, or undertakings referred to in section 16;

(b) "company" means a company within the meaning of the Companies Act, 1913 (VII of 1913), and includes a co-operative society registered under any law for the time being in' force relating to the registration of co-operative societies and a corporation established by or under any law for the time being in force which has a share capital of which a part is held by the members of the public;

(c) "factory" means any premises including the precincts thereof where-on twenty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on, with the aid of power, or is ordinarily so carried on, but does not include a mine subject to the operation of the Mines Act, 1923;

(d) "factory buildings" includes all buildings comprised in the factory and such other buildings including residential buildings for staff and workmen, hospitals and welfare centres within a radius of two miles from the main factory building as are in the same ownership or occupation as the factory and are used for the purpose of the factory;

¹Validated by the Validation of Laws Act, 1975 (63 of 1975), s. 2 and Sch.,

?Added and shall be deemed always to have been so adde*d by the War Risks Insurance (Amdt.) Act, 1971.

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“Fund” means a War Risks Insurance Fund established under section 15;

“goods” means any materials, commodities or articles which are insured against fire with any insurer registered in Pakistan;

“goods in transit” means such goods as are being imported into Pakistan or are shipped or otherwise despatched from one Province to another or are in transit in the same Province by railways, inland steamer, barge or a goods vehicles;

“goods or property insurable under this Ordinance”—

(i) in relation to any goods, means goods which are for the time being insured against fire with an insurer registered in Pakistan and includes—

(a) any spares and stores and other consumable material kept in the premises of a factory for the upkeep, maintenance and running of the factory provided such material are insured against fire with an insurer registered in Pakistan;

(b) any materials, commodities or articles lying within the precincts of a port or on barges or on ships and are intended either for export or for movement outside the port area in Pakistan for final disposal and are insured against fire with an insurer registered in Pakistan;

in relation to any goods in transit, means all goods which are imported into Pakistan or shipped or otherwise despatched from one Province to another or are in transit in the same Province by railways, inland steamer, barge or a goods vehicle, but does not include goods which are in transit by a ship that sailed from a port of shipment before the coming into force of this Ordinance:

Provided that no insurance cover shall be extended to goods carried in goods vehicles, barges and inland steamers unless a notification in this behalf is issued by the [Federal Government];

(iii)

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(i)

in relation to any factory, means the factory, building and, except where they are goods insurable under this Ordinance, all plant and machinery in the factory and such other plant and machinery as may be prescribed;

in relation to any building, includes plinths, floors, staircases, tanks or any immovable construction which forms part of the building ;

* * Ok *

"goods vehicle" means any motor vehicle constructed or adapted for use for the

carriage of goods or any motor vehicle not so constructed or adapted when used for the carriage of goods solely or in addition to passengers;

'Subs. by P. O. No. 4 of 1975, Art. 2 and Table.

?Sub-clause (v) omitted and shall be deemed always to have been omitted by the War Risks Insurance (Amdt.) Act, 1972 (12

1971).

Page 4 of 12

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“insurable value” in relation to any goods or property means the value of the goods or property as ascertained for the purpose of insurance under this Ordinance;

“occupier”, in relation to a factory, means the person who has ultimate control over the affairs of the factory and, where the affairs of the factory are entrusted to a managing agent, such managing agent;

“owner” in relation to a factory or building, when parts of the property insurable under this Ordinance in relation to such factory or building are owned by different persons, means each such person in respect of the part owned by him ;

“prescribed” means prescribed by rules made under this Ordinance;

“Scheme” means a War Risks Insurance Scheme prepared under section 4;

Ix * * * * *

“war risks” means such risks as may be prescribed arising from—

(i) action taken by an enemy or action taken in combating an enemy or in repelling an imagined attack by an enemy;

(ii) any explosion or fire which involves any explosives or munitions or other dangerous things required for war purposes and which happens, or is caused by through or in connection with, the manufacture, storage or transportation of any such explosives, munitions or other dangerous things;

(iii) measures taken under proper authority to avoid the spreading of, or otherwise to mitigate, the consequences of damage occurring (whether accidentally or not) as the direct result of any such action as is described in sub-clause (i) or of any such explosion or fire as is described in sub clause (ii);

(iv) precautionary or preparatory measures taken under proper authority with a view to preventing or hindering the carrying out of any attack by an enemy, being measures involving risks to property;

(v) precautionary or preparatory measures involving the doing of work on land and taken under proper authority in any way in anticipation proper authority in any way in anticipation of enemy action, being measures involving risks to property;.

(vi) precautionary or preparatory measures taken under proper authority with a view to denying facilities to an enemy, being measures involving

damage to or diminution of the value of property; and

(vii) capture or seizure by the enemy of any ship, aircraft, vehicle or goods.

'Clause (0) omitted and shall be deemed always to have been omitted by the War Risks Insurance (Amdt.) Act, 1972 (12 of 1971).

3. Ownership in relation to goods. Save as otherwise provided in this Ordinance, any goods shall, for the purposes of this Ordinance, be deemed to be owned—

(a)

(b)

if the property in the goods is for the time being vested in a person, by that person;

if the property in the goods is not so vested, by any person who is for the time being entitled, either unconditionally or conditionally, to have the property in the goods vested in him.

4. War Risks Insurance Scheme.—may prepare one or more War Risks Insurance Schemes whereby it undertakes in relation to any goods or property insurable under this Ordinance the liabilities of insuring against war risks subject to the provisions of, and to the extent provided by or under, this Ordinance, and may, by notification in the official Gazette, put into operation any such Scheme which shall be published with such notification.

(2) Any Scheme prepared under sub-section (1) may be such as to secure—

(a)

(b)

(d)

that the liability of the '[Federal Government] as insurer shall not exceed such percentage of insurable value of the goods or property as may be prescribed in relation to any goods or property or any class of goods or property;

that in respect of each claim the insured shall bear such percentage of loss or damage as may be prescribed in relation to any goods or property or any class of goods or property, or such other amount as may be fixed with reference to the insurable value of prescribed scale, whichever is greater;

that any liability of the '[Federal Government] as insurer in relation to any goods or property is determined by the policy of insurance issued by a person acting on behalf of the '[Federal Government] in such form and for such period as may be prescribed in relation to such goods or property under different circumstances;

that any premium under a policy so issued is payable at such rate, and the amount of any one such premium is not less than such sum, as may, from time to time, be prescribed for different description of goods or kinds of property in respect of different period and under different circumstances.

(3) When the rate of premium prescribed in relation to any policy or class of policies for any period fixed for the purpose is altered during the continuance of such policies, the rate so altered shall be the rate applicable to all policies under which premiums are payable in respect of that period notwithstanding that the policies may have been issued on payment of premium at the rate in force before the alteration; and any policy issued on payment at the rate in force before the alteration shall, when the rate has been increased by such alteration, cease to be valid on such date as may be fixed in this behalf by the '[Federal Government]', unless before such date any deficiency in the amount paid

as premium is made good by the policy holder.

¹Subs. by P. O No. 4 of 1975, Art. 2 and Table.

5. Scheme with respect to property. Any Scheme with respect to any property insurable under this Ordinance may provide—

- (a)
- (b)
- (c)
- (d)

for undertaking in relation to works in course of construction which when completed will become a property insurable under this Ordinance, the same liabilities as are undertaken by the Scheme appertaining to such property;

that the payments due under a policy of insurance issued under the Scheme may, at the option of the [Federal Government] take either of the following forms, namely:—

- (i) payment, within the limit of the liability assumed by the [Federal Government] in such manner and by such instalments as the [Federal Government] may think fit, of the cost necessary to restore the property as far as practicable to the condition in which it existed before the occurrence of the damage ; or
- (ii) compensation, within the aforesaid limits, for the loss in value ascertained on the basis of values and prices ruling at the time at which the policy of insurance was taken out, or at which the loss occurred, whichever is less, suffered by the property as a result of the damage, after due allowance has been made for depreciation during the current period of insurance cover;

for the postponement, in accordance with such principles and under such circumstances as may be prescribed, of payments due under a policy of insurance issued under the Scheme in respect of any damage sustained by property insured thereunder;

for making it a condition of any policy of insurance issued under the Scheme —

- (i) that the owner or occupier of a property shall comply with all regulations or instructions made or issued under the authority of Government for safeguarding the property against damage from war risks; or
- (ii) that, where the [Federal Government] exercises its option to pay the cost necessary to restore the property to its original conditions, the owner of the property shall, if so required by the [Federal Government] repair or reconstruct the property or remove it to another locality and reconstruct thereon.

6. Scheme with respect of goods and in transit. Any Scheme with respect to goods or goods in transit may extend to—

(a) the undertaking by the [Federal Government] of the liability of insuring any person against war risks in respect of goods or goods in transit insurable under this Ordinance which are not owned by him but in which he has an interest arising in the course of his business; or

(b) the undertaking by the [Federal Government] of the liability of insuring any person against war risks in respect of goods imported into Pakistan through any port, while such goods are situated at such port or are in transit from such port to a place in Pakistan;

(c) the undertaking by the [Federal Government] in relation to a Provincial Government, of the liability of insuring the Provincial Government in such special cases as it thinks fit against war risks with respect to goods or goods in transit insurable under this Ordinance for the time being owned by the Provincial Government.

7. Extend of Scheme with respect to property. Any Scheme with respect to property insurable under this Ordinance may extend to the undertaking by the [Federal Government] in relation to any person in Pakistan, of the liability of insuring such person against war risks with respect to any such property which is not owned by him but in which he has an interest up to the extent of such interest.

8. Compulsory insurance of goods.—(1) On or after such date as the [Federal Government] may, by notification in the official Gazette, specify, every owner of any goods or goods in transit insurable under this Ordinance shall take out a policy of insurance against war risks issued in accordance with the Scheme relating to such goods or goods in transit.

(2) The provisions of sub-section (1) shall not apply—

(i) to goods insurable under this Ordinance, other than goods in transit referred to in sub-clause (ii) of clause (h) of section 2, if and so long as the value of such goods does not exceed such amount as the [Federal Government] may, by notification in the official Gazette, specify in this behalf; or

(ii) to goods of any description which the [Federal Government] may, by notification in the official Gazette, specify in this behalf.,

9. Compulsory insurance of factories.—(1) Every owner of a factory or a factory under construction exceeding in value such amount as the [Federal Government] may, by notification in the official Gazette, specify in this behalf, except a factory belonging to the [Federal Government] or a Provincial Government or a factory exempted under sub-section (2), shall, by such date as the [Federal Government] may, by a like notification, specify in this behalf; take out a policy of insurance, against war risks issued in accordance with the Scheme whereby he is insured in respect of all property which appertains to the factory for a sum not less than the insurable value of such property:

'Subs. by P. O. No. 4 of 1975, Art. 2 and Table.

Provided that, where the owner of the factory is not himself the occupier of the factory, the occupier of the factory shall, unless the owner has already taken out a policy of insurance as required by this sub-section, himself take out a policy and in such a case the occupier shall be deemed to act as the agent of the owner and shall be entitled to receive from the owner all sums paid as premiums on the policy.

(2) The '[Federal Government] may, by notification in the official Gazette, except from the operation of sub-section (1) any factory, or any description of factories, belonging to or managed by a corporation established by or under any law for the time being in force.

10. Compulsory insurance of buildings. Every company which owns a building, or a building under construction exceeding in value such amount as the '[Federal Government] may, by notification in the official Gazette, specify in this behalf, shall, by such date as the'[Federal Government] may, by a like notification, specify in this behalf, take out a policy of insurance against war risks issued in accordance with the Scheme whereby the owner is insured in respect of all property insurable under this Ordinance which appertains to the building for a sum not less than the insurable value of such property.

11. [Compulsory Insurance of ships] Omitted by and shall be deemed to have been omitted by the War Risks Insurance (Amendment) Act, 1972 (XII of 1972), s. 4.

12. Obligation under section 9, or section 10 includes obligation to insure repaired or reconstructed property. The obligation imposed by section 9, *[or section 10] includes, where the owner of a property insured under this Ordinance is required by the '[Federal Government] to repair reconstruct such property which has suffered damage, an obligation to take out an additional policy of insurance in respect of the property so repaired or reconstructed.

13. Penalty for contravention of sections 8, 9, or section 10. Whoever contravenes the provisions of section 8, section 9 7*[or section 10] or, having taken out a policy of insurance, fails to pay any instalment of premium thereon which is subsequently due shall be liable to pay, in addition to the premium due from him, a surcharge equal to twenty per cent of the premium so due as also interest at the rate of one per cent per annum above bank rate calculated at monthly rates:

Provided that the !'[Federal Government] may, if satisfied that the contravention of the provisions of section 8, section 9, [or section 10] or failure to pay any instalment of premium by any person was due to his having become destitute or having been prevented by circumstances beyond his control from complying with the provisions aforesaid or paying the instalment of premium, by order in writing, waive the recovery from such person of the whole or any part of the surcharge and interest payable by him.

14. Transfer of property insured under this Ordinance. When a property in respect of which a policy of insurance is obligatory and has been taken out as is required by this Ordinance is transferred from one owner to another or there is a change of occupier of such property, the policy may, subject to the rules, if any, made in this behalf be transferred to the. new owner or occupier, and such new owner or occupier shall succeed .to all rights and liabilities under and in relation to the policy as if the policy had been in the first instance taken out by him.

'Subs. by P. O. No. 4 of 1975, Art. 2 and Table.

?Subs by the War Risks Insurance (Amdt.) Act, 1972 (12 of 1972), s. 5, for "section 10 or section 11" (w.e.f. 1.1.1973)

3Subs. by the War Risks Insurance (Amdt.) Act, 1972 (12 of 1972), s. 5, for "section 10 or section 11" (w.e.f. 1.1.1973)

15. War Risks Insurance Funds.—(1) The '[Federal Government] shall establish a Fund to be called the War Risks Insurance Fund in which shall be paid all sums received by the '[Federal Government] by way of insurance premiums under any Scheme or by way of payments made on composition of offences under this Ordinance and out of which shall be paid all sums required for the discharge by the '[Federal, Government] of any of its liabilities under any Scheme or for the payment by the '[Federal Government] of the remuneration and expenses of agents employed under section 17.

(2) Where the '[Federal Government] requires the owner of any property insured under this Ordinance to repair the property or to remove and reconstruct it in another place, it shall make to such owner out of the Fund such payment, in addition to any sums payable under the policy of insurance, as it considers sufficient to defray the cost of repair, removal or reconstruction, and, if necessary, replacement of any part of the property in respect of which no compensation is payable.

(3) If, at any time when a payment is to be made out of the Fund the sum standing to the credit of the Fund is less than the sum required for the making of that payment, an amount equal to the deficiency shall be paid into, the Fund as an advance out of general revenues.

(4) If, after all the liabilities of the '[Federal Government] under this Ordinance have been met, there remains a surplus in the Fund, such surplus shall be transferred to a Fund which shall be created for the purpose and shall be utilised for meeting any losses , in any future emergency.

(5) The '[Federal Government] shall prepare in such form and manner as may be prescribed, and shall publish either annually or at such intervals as may be prescribed, an account of all sums receive into and paid out of the Fund.

(6) Notwithstanding anything contained in sub-section (1), the '[Federal Government] may establish two or more War Risks Insurance Funds each to cover one or more Schemes under this Ordinance and the provisions of this section shall apply to each such Fund.

16. Power of Federal Government to extend Ordinance to certain undertakings, etc.—(1) The '[Federal Government] may, by notification in the official Gazette, declare that the provisions of this Ordinance and of any Scheme made thereunder relating to factories shall apply to the insuring against war risks of—

(a) the machinery above ground appertaining to mines, as defined in the Mines Act, 1923.

(b) the distribution systems of gas supply undertakings, or

(c) the whole or a specified part of the distribution and transmission systems, sub-stations, switch houses and transformer houses of electric supply undertakings generally or of specified electric supply undertakings, as they apply to property insurable under this Ordinance which appertains to a factory.

(2) In interpreting this Ordinance applied by a notification under clause (a) of sub-section (1) to mines, references to the owner of a factory shall be read as references to the owner or agent of a mine as defined in the Mines Act, 1923, and references to the occupier of a factory shall be read as references to the manager of mine for the purposes of that Act.

'Subs. by P. O. No. 4 of 1975, Art. 2 and Table.

116A. Certain premiums and claims not payable. Notwithstanding anything contained in this Ordinance, unless the *[Federal Government], by notification in the official Gazette, otherwise directs, no premium shall be payable on a policy of insurance taken out in pursuance of this Ordinance in respect of any goods or property situated in East Pakistan nor shall any claim be payable for any damage suffered by any goods or property to which such a policy of insurance relates.]

17. Employment of agents by Federal Government. The 7[Federal Government] may employ, or authorize the employment of, any person or firm to act as its agent for any of the purposes of this Ordinance and may pay to a person or firm so employed such remuneration as it thinks fit.

18. Power to call for information (1) Any person authorised in this behalf by the 7[Federal Government] may, for the purpose of ascertaining whether or not any goods or property insurable under this Ordinance has been so insured, or for the purposes of determining the insurable value of any goods or property insured, or required or proposed to be insured, under this Ordinance, or for the purpose of assessing the damage suffered by any goods or property insured under this Ordinance,—

(a) require the owner or occupier of any goods or property, or any person carrying on in Pakistan the business of any kinds of insurance or banking or of selling goods to submit to him by such date as he may specify such accounts, books or other documents or to furnish to him such information as he may reasonably consider necessary, and

(b) at any reasonable time,—

(i) enter into any premises .occupied or otherwise used by any such person or any premises containing or comprising any goods or property insurable under this Ordinance,

(ii) inspect any such premises and goods contained therein, and

(iii) require any person found in or on any such premises whom he believes to be in possession of, or otherwise capable of furnishing information relevant to his investigation to furnish to him such information as he may reasonably think necessary.

(2) Whoever wilfully obstruct any person in the exercise of his powers under sub- section (1) or fails without reasonable cause to comply with anything required of him thereunder shall, in respect of each such obstruction or failure, be punishable with fine which may extend to five thousand rupees and with a further fine which may extend to one thousand rupees for every day after the first during which the obstruction or failure continues.

(3) Whoever, in purporting to comply with his obligations under sub-section (1), knowingly or recklessly makes a statement false in material particular, shall be punishable with imprisonment which may extend to two years, or with fine which may extend to one thousand rupees.

*New section 16A ins. by the War Risks Insurance (Amdt.) Act, 1972 (12 of 1972), s. 7, (w.e.f. 3-12-71).
*Subs. by P. O. No. 4 of 1975, Art. 2 and Table

19. Restriction on carrying on certain insurance business.—(1) After the date on which any Scheme or part of any Scheme is put into operation, no person shall, except a person employed by the 'Federal Government] as its agent to issue policies in pursuance of such Scheme, carry on the. business of insuring against war risks any goods or property insurable under this Ordinance:

Provided that nothing in this section shall be construed as absolving any person carrying on the business of insurance from the liabilities assumed or incurred by him relating to war risks before the commencement of this Ordinance.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to five thousand rupees and with a further fine which may extend to one thousand rupees for every day after the first during which the contravention continues.

20. Recovery of arrears of premium instalments. Any instalment of premium due on a policy required to be taken out under any of the Schemes or any sum due under section 13 may be recovered as an arrear of land revenue.

21. Limitation of prosecution. No prosecution for any offence punishable under this Ordinance shall be instituted against any person except by, or with the sanction of, the '[Federal Government] or an authority authorised by it in this behalf.

22. Composition of offences. Any offence under this Ordinance may, either before or after the institution of the prosecution, be compounded by the '[Federal Government] or by any authority authorized by it in this behalf, on payment for credit to the Fund, or, when there are more than one fund, to the appropriate Fund determined by the '[Federal Government], of such sum as the '[Federal Government] or such authority, as the case may be, thinks, fit.

23. Bar of legal proceedings. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Ordinance.

24. Delegation of powers. The '[Federal Government] may, by notification in the official Gazette, direct that the powers exercisable by it under this Ordinance shall, in such circumstances and under such conditions, if any, as may be specified in the notification, be exercisable also by such officer or authority as may be so specified.

25. Power to make rules. The '[Federal Government] may, by notification in the official Gazette, make rules" for carrying out the purposes of this Ordinance.

'Subs. by P. O. No. 4 of 1975, Art. 2 and Table.

?For the War Risk Insurance Rules, 1971, see S. R. O. No. 567 (1)/ 71, dated 5-12-71 Gaz. of P., 1971, I.