

Regulating Insurance in Iraq

Ahmed Al Jumaili
a.aljumaili@tamimi.com

September 2013

Early legislation

The introduction of the Insurance Companies Law No. 74 of 1936 and its relevant regulations, namely the Regulation for the Insurance Company Permits No. 25 of 1936 mark the introduction of legislation that deal solely with the insurance industry in the country.

With the introduction of the Insurance Firms and Agents Law No. 49 of 1960, the aforementioned Law No. 74 of 1936 as well as Regulation No. 25 of 1936 were abolished.

Furthermore, the aforementioned law no. 49 of 1960 was repealed by a decision granting the Iraqi Ministry of Finance the authority to proceed with activities in insurance and reinsurance for the purposes of the Iraqi Companies Law No. 21 of 1997. In accordance with this law, an insurance agent is the natural person or legal entity granted a license to practise insurance agency by the Minister of Finance under the law.

Additionally, several regulations and instructions have been enacted in relation to the work of the insurance agency license. These include the Rules of Procedure of the National Insurance Company Law No. 1 of 1987 and the Rules of Procedure of the Iraqi Public Insurance Company Law of 1999.

Permitted activities

In accordance with the Instructions to Exercise Insurance and Re-Insurance No. 12 of 1999, the Iraqi legislator has classified the types of insurance which may be practiced by insurance and reinsurance companies in Iraq. Some of these include the following:

- Life insurance;
- Insurance against risks of all types of transportation, ships and aviation;
- Fire insurance and additional risks attached to it;
- Vehicle insurance;
- Different kinds of engineering insurance; and
- Personal accident insurance and work accidents, theft, security guaranteeing, civil liability and other types of insurance against accidents.

Licensing body

Order No. 10 of 2005 for Regulating the Insurance Business has identified the Iraqi Insurance Diwan (IID) as the sole authority capable of granting such licenses to practice insurance activities in the country. In this capacity, the IID has issued instructions identifying the requirements and qualifications that have to be met by companies before being granted a license to practice insurance-related activities. Furthermore, the IID has issued further instructions identifying the responsibilities of any such company licensed for the same.

Permitted practitioners

In accordance with the aforementioned instructions issued by the IID, insurance activities in Iraq should

only be practiced by the following:

- Iraqi public companies;
- Iraqi joint stock corporations (private/ mixed);
- Branches of foreign insurers registered in Iraq;
- Takaful or retakaful entities; and
- Insurers or reinsurers considered by the Head of Diwan eligible and with the financial capacity.

In accordance with Iraqi legislation, any natural person wishing to perform any insurance-related activities in Iraq should be a holder of a high school diploma as a minimum requirement. Furthermore, the aforementioned person wishing to conduct insurance activities in Iraq has to have experience in the insurance business, or, in the case where no experience is attained, the same should prove that he has passed a training course specialised in insurance business not less than 15 days from the date of the application.

Cases where licences may not be granted

Additionally, Article 19 of the aforementioned order grants the IID the right to refuse granting a license to all or some of the insurance branches stated in the application, based on one of the following reasons:

- The application does not satisfy the specified conditions, some of the required documents are missing or the documents do not satisfy the required conditions;
- The technical basis is not compatible with the costs of the operations that the insurer carries out, the reserves or the investment funds; or
- Non-compliance with insurance-related laws, orders, regulations or instructions currently in force.

Obligations of insurance branches

When it comes to the functions and obligations of Iraqi insurance branches, Iraqi legislation has provided for this to include claims, paying insurance reimbursements prepared by the insurer, issuing insurance policies under an agreement with the insurer, tackling any queries regarding the insurance policies, and much more.

Further, it is provided for by the order that no insurer may reinsure insurance contracts with another insurer for any of the branches of insurance that are practised, unless the reinsurer is licensed to practice in that branch. As for any financial obligations, it is important to note that no insurer may practise insurance business unless it adheres to the minimum level of capital as specified by the relevant Iraqi legislation at hand.

Role of the IID

Established under the order above, the aim of the IID is to regulate the insurance sector, supervise it to ensure its development and to secure an open market, and strengthen the role of the insurance industry to insure people and property against risks.

In accordance with the order, the IID shall be administered by a President. This President shall be appointed on the basis of a recommendation by the Minister of Trade for a period of four years, renewable for one term only. Additionally, the order requires that certain requirements be met for a person to be eligible for the position of IID President. Some of these requirements include:

- That the President be no less than 24 years of age;
- That the President have, as a minimum, a degree in law or public accounting or any other specialisation related to the insurance business; and

- That the President has no less than five years' experience in insurance or any related field.

Other instructions and regulations

Finally, it is important to note that several instructions and regulations have been issued on the organizing of insurance and reinsurance business in Iraq, such as:

- Instructions No. 8 of 2006 on granting insurance and reinsurance business licenses;
- Instructions No. 9 of 2006 – types and branches of insurance;
- Instructions No. 10 of 2006 – organizing the work and determining the responsibilities of insurance brokers; and
- Instructions No. 11 of 2008 – any natural person or legal entity can practise as an insurance agent after obtaining a license by the IID.

Progress report

After decades of economic stagnation, wars and economic boycott, the organisational development of the laws and regulations of insurance and reinsurance in Iraq and of Law No. 5 for the year 2005 has broadened the scope of the insurance industry in Iraq. Additionally, it has provided for scope to help attract international insurance and reinsurance companies, thereby developing competitiveness and supporting the development and revival plans of the economy.

Moreover, the Security Council recently unanimously adopted Resolution 2017 (2013), which removed Iraq from its Chapter VII obligations of the United Nations Charter. This significant step will lead to positively generating a number of gains to the insurance sector of Iraq, as it contributes to a reduction in insurance costs for air freight & passenger flights, shipping and sea cargo costs. In addition, change will grow the insurance industry by the opening and creation of local and international insurance agencies in Iraq.

First published in "Middle East Insurance Review" October 2012 issue.