

Q U I D J U R I S ?

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INSURANCE LAW.

The months of January and February have witnessed the last stage up to date of the official codification related to insurance, started in 2002 with the promulgation of the law 17-99 by the Dahir 1-02-238 of the 3rd of October 2002.

This last stage marks some kind of achievement, this is why Quid Juris decided to dedicate a special edition to the insurance system in the kingdom of Morocco by presenting the different texts of reform which serve as a common base to insurance law inside our territory.

This process of modernizing insurance law witnesses the Moroccan legislator's will to take the reform from a relatively important sector of the Kingdom's economy and to register it within the perspective planed by the international agreement on the deregulation of financial services of 1999, which is itself part of the larger planed perspectives of the G.A.T.S

This reform enables the Moroccan insurance system to align itself on the international standards.

It presents the advantage to endow insurance law with a common base, united and organized in a pyramidal structure (laws, decrees,), which is at odds with the multitude of different texts that we know up to now.

The reform facilitates the interpretation of insurance law for the great benefit of insurance product consumers – natural person and enterprises- as well as the law practitioners. At most, it uses a better-structured and therefore more efficient restrictive environment.

Moreover, the legislator inscribed his law-elaborating work, in an obvious concern to watch over the well-balanced contractual relationship between the insured and the insurer. We can outline as an example: "the nullity of forfeiture clause" mentioned in article 35 of the Dahir» which proves a reinforced protection of the insured.

On the other hand, we notice the obligation weighing on the insured to pay the price of the premium of the insurance he wishes to contract or to renew it 10 days before the due date. This latter measure is used to fight certain practices, somewhat laxist, of some operators in the insurance business who allow their customers huge paying facilities and who have finally led to high-unpaid amounts, causing prejudice to insurance companies and the country's economy.

The activity of distributing insurance products has been submitted to exercise and management conditions that could be deemed rigorous but control the activity of insurance products distribution and the insurance brokers.

We will name at this effect the Order n° 1548-05 of the 10th of October 2005, issued by the minister of finance and privatization, related to the insurance and reinsurance company that sets the conditions of exercise of the insurance and reinsurance companies. It mentions the procedures to follow to obtain the approval in order to practice the activity of insurance and reinsurance; it also establishes the list of documents that need to be enclosed to the application.

These documents should contain information about the company, the administrators, the directors, the shareholders; they should also contain information about the company's activities, its bank accounts etc.

However, we notice the existence of two sorts of conditions to the approval for insurance and reinsurance companies: objective conditions on one hand, concerning intangible- tangible elements, and the subjective conditions submitted to the discreet appreciation of the authority giving the approval on the other hand.

The ministerial Order also supervises transfer of shares operations and the taking of control, direct or indirect, of capitals belonging to insurance and reinsurance companies.

1. Compulsory legal reinsurance :

The compulsory legal reinsurance conditions beside the Société Centrale de Réassurance have been set by the decree n° 2000-05 dated on the 10th of October 2005 by the finance and privatization minister.

This decree determines, the amount of premiums related to risks of all categories that are covered in Morocco and that the insurance and reinsurance companies have to let to the Société Centrale de Réassurance.

The rate varies according to the operations covered it is either a rate of 0 % (for most of the insurance operations) or a rate of 10 % (for death, marriage or birth insurance).

2. General conditions of work related accidents and professional illnesses :

As a reminder, the insurance contract for work related accidents and professional illnesses is governed by the following texts :

- Law n° 17-99 on insurance code des assurances and the texts used for its application;
- The Dahir n° 1-60-223 of the 6th of February 1963 modifying in the form the dahir of the 25th of June 1927 concerning the compensation of work related accidents as modified and completed
- The Dahir of the 31st of May 1943, as modified and completed, applying to professional illnesses the dispositions of the legislation on the compensation of work related accidents ; and
- The law n° 65-99 concerning labor law.

In order to protect the weaker side, in this case the employee, the order n° 2003-05 dated October 17th 2005, by the minister of finance and privatization, repeals the dispositions of an older order of the under secretary of state (n° 668-64 dated November 24th 1964). It sets new general typical conditions for the insurance contracts concerning « work related accidents and professional sickness».

BANKING LAW :

By the dispositions of the first article of the order by the minister of finance and privatization, n° 2468-05 dated on the 6th of December 2005, all the banks are required to keep in their portfolio Treasury Bonds of 1-year up to 1% of their payability.

AIR LAW :

In the field of aeronautics and civil aviation, a recent order, n° 1150-05 dated 24th of October 2005, by the minister of transport brought new dispositions concerning the regulation in process.

This order deals notably with :

- The conditions for registering an aircraft with the Moroccan Registry ,
- The space and the measurement for the nationality logo, as well as the aircraft's registration.
- The inscription on the aircrafts and the taxes to be perceived for the inscriptions and registrations.

This new text repeals the dispositions of an older order by the minister of public works n° 072-63 dated on the 30th of January 1963 concerning nationality and registration logos of aircrafts as well as the formalities of registration and the amount of taxes to be perceived.

QJ:

2006 deeply marks the Moroccan legislation, since some important fields in the national economy have seen the birth of new texts which go with the development of Morocco and the ascending liberalization of its exchanges, and make of the Kingdom a partner more and more attractive economically, as well as a country for prosperous investments.

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