

**THE BANGLADESH INSURANCE (EMERGENCY
PROVISIONS) ORDER, 1972**

PRESIDENT'S ORDER NO. 30 OF 1972

[26th March, 1972]

WHEREAS it is necessary to provide for taking over in the public interest the management of certain life and general insurance business pending nationalisation thereof;

NOW, THEREFORE, in pursuance of the Proclamation of Independence read with the Provisional Constitution of Bangladesh Order, 1972 and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Order:-

1. (1) This Order may be called the Bangladesh Insurance (Emergency Provisions) Order, 1972.

(2) It shall extend to the whole of Bangladesh.

(3) It shall apply to all insurers as defined hereunder.

(4) It shall come into force at once.

2. In this Order, unless the context requires otherwise-

(1) "Insurance business" means all business as defined in clauses (6B), (6C), (11), (13A) and (13B) of section 2 of the Insurance Act of an insurer.

(2) "Custodian" means the person appointed under section 3 to take over the management of any Insurance business of an insurer.

(3) "Insurance Act" means the Insurance Act, 1938.

(4) "Insurer" means the insurer as defined under clause (9) of section 2 of the Insurance Act, 1938 as adapted in Bangladesh under the Bangladesh (Adaptation of Insurance Act) Order, 1972, and includes a provident society as defined in section 65 of the said Act.

(5) "notified order" means an order as notified in the *official Gazette*.

- (6) All other words and expressions used in this Order but not defined, and defined in the Insurance Act, 1938 shall have the same meanings respectively assigned to them in that Act.

3. (1) On the commencement of this Order, the management of the business of an insurer shall vest in the Government.

(2) The Government may appoint a Custodian for the purpose of taking over the management of the insurance business of an insurer pending which the persons in charge of the management of such business immediately before the commencement of this Order shall, on and from the date of the commencement of the Order, be in charge of the management of the insurance business for and on behalf of the Government, and the insurance business shall be carried on by them subject to such directions as the Government may give.

(3) On the appointment of a Custodian under sub-section (1) all persons in charge of the management of the insurance business of the insurer shall cease to be in charge of such management and shall be bound to deliver to the Custodian all books of account, registers, or other documents relating to the insurer in their custody.

(4) The Government may issue such directions to the Custodian as to his powers and duties or prohibit him from performing such acts or deeds as it deems necessary.

(5) The Custodian may seek instructions from Government as to manner in which he shall conduct the business of the insurer or on any other matter arising in course of its management.

(6) The Custodian shall receive such remuneration as the Government may determine.

(7) The Government may at any time cancel the appointment of any person as Custodian.

(8) Notwithstanding anything contained in this Order or under any law for the time being in force, any act or deed performed by the management of an insurer after the 25th day of March, 1971 in the form of making new appointments, giving promotions or increments in salary, bringing in changes in the salary structure involving additional expenditure, giving loan (other than loan granted against the security of life policies) or advances, incurring any expenditure other than for routine payments of salaries, commissions, etc. shall be treated as void unless expressly exempted by a notified order.

4. (1) Every insurer shall forthwith deposit all securities and documents of title to any assets appertaining to the insurance business in any Bank in which the insurer had an account immediately before the appointed day in the place where the head office or any of the principal offices of the insurer is situated; and no such security or documents shall be withdrawn from the Bank, as the case may be, except with the permission of the Government.

Provided that nothing contained in this sub-section shall apply to any security or document of title kept pursuant to the provisions contained in sub-section (4) of section 27 of the Insurance Act, or kept in trust with an Official Trustee in pursuance of the Articles of Association of an insurer unless the Government, by notified order, otherwise directs.

(2) Every insurer shall deliver forthwith at the place and to the person specified in this behalf by the Government in respect of the insurer the following documents, namely:-

- (i) the minutes book or any other book in Bangladesh containing all resolutions of the persons in charge of the management of the insurance business;
- (ii) the current cheque books relating to the insurance business which are at the head office and/or the principal offices of the insurer in Bangladesh;
- (iii) all registers or other books containing particulars relating to the investment of any moneys appertaining to the insurance business including investments or mortgaged properties and all loans granted and advances made otherwise than on policies;

- (iv) all brokers' notes or certificates in possession of the insurer in respect of any orders for the investment of any moneys to the insurance business.

(3) The Government may require the persons in charge of the management of the insurance business of an insurer under this Order to furnish to the Government or to any person authorised by Government such returns, statements and other information relating to the insurance business as may be mentioned in the direction.

(4) The persons in charge of the management of the business of an insurer under this Order shall be entitled to such remuneration, whether by way of allowance or salary as the Government may determine; and any such person may, by giving a month's notice in writing to the Government of his intention so to do, relinquish charge of the management of the insurance business.

5. (1) The amount of compensation payable in respect of the vesting in the Government of the management of the insurance business, which had not already vested in or been taken over by the Government by or under any law, of an insurer shall, be such sum as may be determined by the Government.

(2) The compensation payable under section 7 shall be distributed among the persons entitled thereto by the Government in such manner as may be prescribed by rules made in this behalf.

6. If any person-

- (a) fails to deliver to the Custodian any books of account, registers or any other documents in his custody relating to the business of an insurer in respect of its management; or
- (b) retains any property of such insurer; or
- (c) fails to comply with any directions issued or provisions contained in this Order, he shall be punishable upon conviction in a court of law with imprisonment which may extend to six months, or with fine which may extend to one thousand taka, or with both.

7. No proceeding for the winding up of an insurer, the management of whose insurance business has vested in the Government under this Order or for the appointment of a receiver in respect of such business, shall lie in any Court.

8. In computing the period of limitation prescribed by any law for the time being in force for any suit or application against any person by an insurer in respect of any matter arising out of his insurance business, the time during which this has been in force shall be excluded.

9. The provisions of this Order shall have effect notwithstanding anything to the contrary contained in other law or any instrument having effect by virtue of any law.

10. The Government may, by notified order, direct that all or any of the powers exercised by it under this Order may also be exercised by any such person as may be specified in the order.

11. (1) No suit, prosecution or other legal proceeding shall lie against any Custodian in respect of anything which is in good faith done or intended to be done under this Order.

(2) No suit or other legal proceeding shall lie against the Government or any Custodian for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Order.

12. Nothing contained in this Order shall apply to-

- (a) any insurer to whom the Insurance Act does not apply by reason of the provisions contained in section 2B thereof;
- (b) any insurance business carried on by the Government;
- (c) any insurer carrying on life insurance business incorporated under the law of any country or State (excluding Pakistan) outside Bangladesh.

13. (1) The Government may, by notified order, make rules to carry out the purposes of this Order.

(2) In particular, and without prejudice to the generality of the foregoing power, rules made under clause (1) may provide for-

- (a) the form and manner in which books of accounts of an insurance business shall be maintained by insurers;
- (b) the manner in which any compensation payable under this Order may be paid to the persons entitled thereto;
- (c) the circumstances in which the remuneration payable to persons in charge of the management of business of an insurer under this Order or to Custodian whether wholly or in part shall be met by the Government.

14. On a dispute arising on the meaning or interpretation of any sentence or part of a sentence or word contained in this Order, the decision of the Government shall be final.

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