

Law n° 2014-47 dated 24 July 2014, amending and completing the insurance code (1).

In the name of the People,

The National Constituent Assembly having adopted,

The President of the Republic enacts the following law:

Article one- Shall be introduced to the insurance code enacted by law n° 92-24 dated 9 March 1992, a seventh title called; “Takaful insurance” and comprising the articles from 201 to 217 as follows:

Title VII

Takaful insurance

Chapter I

Takaful insurance and its system

Art. 201 - Takaful insurance is a contractual system through which a group of persons called “the members” are committed to help each other in case of materialization of the risk or at the end of the term of the contract of takaful insurance and this by a payment as a form of donation called “contribution”.

The contribution amount consists of “the members’ fund” which shall be intended for the payment of allowances that should be fully separated from the accounts of Takaful insurance enterprises.

The Takaful insurance enterprises rules on the members’ fund and invest the collected amounts against a commission and this, in accordance with Sharia norms.

Art. 202 - The enterprises of Takaful insurance are authorized to practice Takaful insurance activities according to the forms stipulated in article 53 of this code and which have to comply with Sharia norms in all their activities of insurance and investment.

The insurance enterprises may not cumulate the conventional insurances activities and Takaful insurance activities.

Art. 203 - The enterprises of Takaful insurance may not transfer, fully or partially, their portfolio only to enterprises of Takaful insurance. In addition, any fusion or absorption of an enterprise of Takaful insurance may be undertaken only by another enterprise of Takaful insurance.

(1) Preparatory works:

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The operation of transfer, fusion and absorption is submitted to the approval of the Minister of Finance on the basis of a report from the general committee of insurances charged of informing the concerned part.

Art.204 - The agent of insurances may not present at once the operations of the conventional insurances and the operations of Takaful insurance.

Art. 205 - The enterprise of Takaful insurance is bound to manage the operations of Takaful insurance on the basis of a contract of trustee (Wakala) and to manage the operations of investing the contributions on the basis of a control commission contract (Moudharaba), as fixed by the code of obligations and contracts.

In return, the enterprise of Takaful insurance, as a trustee, a commission “Wakala” calculated on the basis of attributions and as an agent, a control commission “Moudharaba” calculated on the basis of percentage of the investment inputs, charged by the enterprise to stipulate the percentage of these commissions to the level of the specific conditions of Takaful insurances contract.

An order of the Minister of Finance shall fix the calculation basis of the commission “Wakala” and the percentage of the control commission “Moudharaba”.

Art. 206 - The enterprise of Takaful insurance shall include a Sharia supervising committee authorized to control, to follow-up all the transactions of the enterprise and to issue its opinion about how far they comply with Sharia norms.

The Sharia supervising commission is composed of three (3) members appointed by the general assembly of the enterprise for mandate of three years renewable twice.

The members of the Sharia supervising committee shall declare any conflict during the exercise of their mandate within this committee.

Is considered as a conflict of interest, any direct or indirect personal interest or personal relation, likely to affect the good operating of the committee and its independence.

It is also prohibited to the member of the Sharia Supervising committee to cumulate more than two mandates in two Sharia supervising committees of the enterprises of Takaful insurance.

Art. 207 - The Sharia supervising committee may ask the enterprise all necessary documents to perform their duties.

All the decisions emanating from this committee are obligatory for the enterprise of Takaful insurance.

The Sharia supervising committee draws-up a report dealing with the results of its performances which shall be delivered to the board of directors of the enterprise or to its directory and which one copy will be transmitted to the general committee of insurances within a deadline not exceeding 31 July of each year.

The conditions of exercise, the attributions and the operating methods of the Sharia supervising committee shall be fixed by joint order of the Minister of Finance and the Minister of Religious Affairs.

Art. 208 - The enterprise of Takaful insurance is bound, after opinion of the Sharia supervising committee, to appoint among its employees, a Sharia auditor charged of controlling the conformity of the enterprise's transactions with the opinions and decisions of the Sharia supervising committee.

The Sharia auditor draws-up reports that are submitted to the examination of the Sharia supervising committee.

Chapter II

Financial management and accounting of Takaful insurance enterprises

Art. 209 - The enterprise of Takaful insurance should separately hold financial and accounting accounts as follows:

- An account related to the investment of the investors' capital of Takaful insurances enterprise,
- An account related to the fund of the members or many accounts according to the insurances branches to which are allocated the contributions and their investment revenues and from which the allowances are paid.

Art. 210 - The enterprise of Takaful insurance is bound to place the available amounts in the members' fund in accordance with the list of assets fixed by order of the Minister of Finance and after authorization from its Sharia supervising committee.

The enterprise of Takaful insurance is also bound to place the available amounts in the investors' fund in accordance with Sharia norms as well as with what is authorized by its Sharia supervising committee.

Art. 211- The enterprise of Takaful insurance shall distribute to the members, the surplus of insurance according to the methods fixed after opinion of the Sharia supervising committee.

The surplus of insurance is the difference between the net contributions' amount of avoidances, their investment revenues and all the other revenues on one hand, and the amount of the paid claims, the technical provisions, the conditions, the remuneration of investors against the management of the Takaful insurance operations of investment and all the other fees related to the fund of members on the other hand.

The enterprise of Takaful insurance may not distribute any profit to the investors on the surplus of insurance emanated by the accounts of members.

Art. 212 - The enterprise of Takaful insurance shall deduct at least 30% of the annual insurance surplus in order to constitute a balance provision of the allowance percentages and which overcomes the eventual deficit of the members' fund for the coming financial years.

This deduction stops being mandatory when the constituted provision reaches 50% of the net attributions of avoidances of the current financial year.

Art. 213 - The enterprise of Takaful insurance does not participate in the risks supported by the members' fund and it is not responsible for any resulting loss, only if this loss results from an infraction or violation of the conditions fixed in the contract of Takaful insurance.

In case of inability of the members' fund to meet the obligations, the enterprise of Takaful insurance is committed to lend the fund, an interest-free loan which overcomes the recorded deficit and this after depletion of all insurance treaties and the provision stipulated in article 212 of the code herein.

The interest-free loan is the amount lent by the enterprise of Takaful insurance to the members' fund and which will be reimbursed and no interest will be paid.

Art. 214 - The amount of the interest-free loan will be reimbursed from the insurance surplus which will be achieved later and this before any constitution of the provisions stipulated in article 212 of the code herein.

The amount of the interest-free loan may not exceed the amount of the equity capitals of the enterprise of Takaful insurance.

Chapter III

The compulsory provisions of Takaful insurance contract

Art. 215 - In addition to the provisions stipulated in article 3 of the code herein, the enterprise of Takaful insurance shall compulsory stipulate in the Takaful insurance contract, the following:

- The commitment of the enterprise to meet Shari norms,
- The indication that the payment of the contribution shall be made on the basis of a commitment of donation,
- The commitment of the enterprise of Takaful insurance to achieve the total separation between the accounts of the members and those of the investors,
- The management methods used for the operations of the insurances and the operations of the investment of attributions,
- The policy of the investment of the technical provisions of the enterprise,
- The method adopted for the distribution of the insurance surplus,
- The commitment of the enterprise of Takaful insurances to give an interest-free loan as fixed in article 213 of the code herein, in case of inability of the members' fund to meet its obligations.

Chapter IV

The Takaful Reinsurance

Art. 216 - The enterprise of Takaful insurance may not cede its operations only to enterprises of reinsurance exercising the activities of Takaful insurance.

In case the reinsurance enterprises which are exercising the activities of Takaful insurance do not have the capacity of sufficient retention or in case of absence of hedging the risk to be reinsured, the enterprises of Takaful insurance may resort to conventional reinsurers on condition to reduce a maximum cession rate as well as the coverage period and this after approval of the Sharia supervising committee.

Chapter V

Miscellaneous provisions

Art. 217 - All the provisions of the insurance code as well as the implementing legislations which are not contradictory to those of the title herein are applicable to the activities and enterprises of Takaful insurance.

Art. 2 - Shall be repealed, the provisions of paragraph one of article 50 ter and point 1 of article 88 of the insurance code and replaced by the following provisions:

Art. 50 ter (first paragraph new) - The insurance enterprises and reinsurance enterprises are bound to inform the Minister of Finance and any considered appointment within their boards of directors or the supervisory boards and their directories or the Sharia supervising committee or their principal managers by providing a detailed statement of their qualifications and experiences.

Art. 88 (point 1 new) - “ the insurance enterprise and the reinsurance enterprise which does not provide the documents provided for in articles 60 and 207 of the code herein and which does not proceed to the publication of its annual accounts within legal deadlines and liable to a fine of 50 dinars a day a delay”.

Art. 3 - Is added to the provisions of second paragraph of article 58 of the insurance code, a sixth dash worded as follows:

“ The provision of the balance of allowance percentages serving to pay off the eventual deficit of the members’ fund stipulated in article 212 of the code herein constituted by the enterprises of Takaful insurance”.

Art. 4 - A deadline of six months, as from the date of enforcement of the law herein, is granted to the enterprises of insurance exercising the activity of Takaful insurance at the publication of the law herein to comply with it. This deadline may be extended for a period not exceeding another six months after consent of the Minister of Finance and upon a justified request from the concerned enterprise.

The law herein shall be published in the Official Gazette of the Republic of Tunisia and enforced as law of the State.

Tunis, 24 July 2014.

The President of the Republic

Mohamed Moncef Marzougui

Law n° 2014-48 dated 24 July 2014, relating to retirement before reaching the legal age at the National Telecommunications’ Company (1).

In the name of the People,

The National Constituent Assembly having adopted,

The President of the Republic enacts the following law:

Article one - The established agents of the national telecommunications’ company, who are in active duty and who have reached the age of fifty (50) years minimum at the publication of the law herein in the Official Gazette of

(1) Preparatory works:

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the Republic of Tunisia, may ask for retirement before reaching the legal age, and this, within the conditions provided for by the law herein.

In order to benefit from the provisions of the law herein, the active period for the concerned agent, having been submitted to reduction on retirement, shall not be inferior to fifteen (15) years at the lodging of the retirement request.

Art. 2 - Shall be established, in the concerned company, a special committee which composition and operating method are fixed by the decree mentioned in article 7 of the law herein. It will be charged of receiving and ruling on the retirement requests on the basis of criteria fixed by the board of directors of the company, relating notably to the balance of its human resources structure, its needs and the specific nature of its sector of activity.

Art. 3 - The retirement becomes effective after the approval of the commission mentioned in article 2 of the law herein, within a maximum deadline of three (3) years as from the date of its publication in the Official Gazette of the Republic of Tunisia, and this, according to the advancing age.

Art. 4 - In accordance with the provisions of the law herein, the benefit from the retirement pension is immediate as from the end of active duties and with a bonus equivalent to the left period to reach the legal age for retirement.

A convention shall be concluded for this purpose between the company and the national retirement and social security fund.

Art. 5 - The company is responsible for the amounts of the retirement pensions as well as the contributions related to the bonus in the period between the date of retirement in accordance with the provisions of the law herein and the date of reaching the legal age.

These amounts are deducted from the taxable base for corporation tax for the year in which they have been paid at the national retirement and social security fund.

Art 6 - The deadlines of delivering the retirement requests as well as the stages are fixed by the decree mentioned in article 7 of the law herein, and this, within a time limit provided for in article 3 of the law herein.

Art 7 -The procedures and implementing methods of the provisions provided for by the law herein, are fixed by decree.

The law herein shall be published in the Official Gazette of the Republic of Tunisia and enforced as law of the State.

Tunis, 24 July 2014.

The President of the Republic

Mohamed Moncef Marzougui