

**OFFICE OF THE
MILITARY ACCOUNTANT GENERAL
Kashmir Road, Rawalpindi Cantt.**

No. /AN/0241-LXIII

July, 2021

The Dy. MAG Rawalpindi;
All Controllers.

Subject: ⇒ INSURANCE OF VITAL PROJECTS AND VALUABLE PROPERTIES & ASSETS OWNED BY GOVERNMENT OF PAKISTAN

Please find enclosed a copy of Ministry of Commerce's letter No.2 (48)/2019/NLC-Ins dated. 21/6/2021 on the above subject, received under Ministry of Defence U.O.No.166/D-23/2010, dated.06/07/2021 for necessary action and furnish the compliance report thereon, for onward submission to Ministry of Defence at the earliest.

sd
(MUHAMMAD MUNIR)
Accounts Officer (AN-I)
Tele# 051-9270702

69/268
No. /AN/0241-LXIII Dated. 13/07/2021
Copy to:-


1. The Section Officer (D-7) Ministry of Defence.
2. ✓ The Accounts Officer (Automation) Local.
3. PS to the M.A.G.
4. APS to the Dy. MAG.
5. L.C.O to the A.M.A.G (Admin

[Signature]
Accounts Officer (AN-I)

GOVERNMENT OF PAKISTAN
MINISTRY OF DEFENCE
(DEFENCE DIVISION)

Subject:- INSURANCE OF VITAL PROJECTS AND VALUABLE PROPERTIES & ASSETS OWNED BY GOVERNMENT OF PAKISTAN

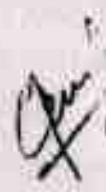
Kindly find enclosed a copy of Ministry of Commerce's letter No.2(48)/2019/NICL-Ins dated 21st June, 2021 on the above cited subject for further necessary action and submission of a compliance report thereon.

(K) 
Sector Officer

1. Military Accountant General, PMAD, Rawalpindi
2. Surveyor General, Survey of Pakistan, Rawalpindi
3. Director General, ML & C, Rawalpindi
4. Director General, FGEI (C/G) Dte, Rawalpindi
5. Director General, PMSA, Karachi
6. Director General, PASB, Rawalpindi
7. Directorate General, ISI, Islamabad
8. Director Admin, JSHO, Chaklala, Rawalpindi
9. SD Directorate (SD-1), GHQ, Rawalpindi
10. ACAS (Admin), AHQ, Islamabad
11. ACNS (Admin & Pers), NHO, Islamabad
12. National Defence University, Islamabad



MoD's u.o. No. 166/D-23/2010 dated 6th July, 2021


26/07/21
Munir

Copy to:

- i. PS to AS-I
- ii. APS to JS-III



No. 2(48)/2019/NICL-Ins
 Government of Pakistan
 Ministry of Commerce

Secretary

AS-X



22 circulare

Islamabad, the 21st June, 2021

SUBJECT: INSURANCE OF VITAL PROJECTS AND VALUABLE PROPERTIES & ASSETS OWNED BY GOVERNMENT OF PAKISTAN

I am directed to refer to this Ministry's O.M. of even number dated 14-07-2009 and 05-10-2020 (copies enclosed) on the above subject wherein all concerned were directed to ensure compliance of Section 166 read with Section 156 of Insurance Ordinance, 2000, which requires Federal and Provincial Governments to place all insurance business relating to public property with National Insurance Company Limited (NICL) only.

2. It has been noticed with grave concern that most of the Government functionaries working in the Federal and Provincial Governments on one hand, are not aware of the above statutory requirement and on the other hand, Government organizations/entities under the guise / cover of PPRA Rules, opt for tendering for procurement of insurance services from private sector insurance companies instead of placing their insurance business with NICL in violation of the provisions of the Insurance Ordinance, 2000. This has led to loss of revenue to the Government of Pakistan and the public assets, non-compliance of these provisions also results in personal liability of the concerned functionaries.

3. Further, Ministry of Law and Justice vide their O.M. No. 82/2020-Law-I dated 12.05.2020 (Annex-I) has also clarified that "substantive law (statute) takes precedence over subordinate law / delegated legislation (rules) or a general principle of law... Therefore, the insurance ordinance, 2000 should be implemented for insurance of Government property which falls within the definition of "public property" as defined in section 166(2) of Insurance Ordinance, 2000".

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4. With a view to ensure compliance with the law and avoid further financial loss to the Government of Pakistan, it is once again reiterated that:-

- a. The enclosed copy of the relevant Sections of the Insurance Ordinance, 2000 may be disseminated among all concerned under administrative control of your Ministry/Division (Annex-II);
- b. A list of all insurable public properties/assets, as defined /required under the aforesaid law, held under the administrative control of the Ministry and its attached / sub-ordinate departments, be furnished directly to National Insurance Company Limited (NICL), 3rd floor NIC building, Abbassi Shaheed Road, Karachi; and
- c. Respectives of internal audit departments be sensitized to check and ensure compliance of these mandatory requirements of law.

5. Kindly acknowledge receipt and compliance.

Encl. As above.


(Mirza Haseeb Balg)
Section Officer (Ins/Ser)

All Federal Ministries/Divisions

All Provincial Chief Secretaries

The Secretary, Ministry of Planning, Development and Special Initiatives, Islamabad.

The Chairman, National Highway Authority (NHA), Islamabad

Copy to:-

- i. Auditor General, Office of Auditor General of Pakistan Revenues (AGPR), Islamabad with the request to issue instructions / directions to all Federal and Provincial Auditors to ensure during the audit that all Government entities are following the above statutory directives.
- ii. Chairman, Securities and Exchange Commission of Pakistan, Islamabad.
- iii. Secretary, Communication & Works Dept., Govt. of Punjab, Lahore.
- iv. Secretary, Communication & Works Dept., Govt. of Sindh, Karachi.
- v. Secretary, Communication & Works Dept., Govt. of KPK, Peshawar.
- vi. Secretary, Communication & Works Dept., Govt. of Baluchistan, Quetta.
- vii. Secretary, Communication & Works Dept., Govt. of AJK, Muzaffarabad.
- viii. Secretary, Communication & Works Dept., Govt. of GB, Gilgit.
- ix. Chairman, Planning & Development Dept., Govt. of Punjab, Lahore.
- x. Chairman, Planning & Development Dept., Govt. of Sindh, Karachi.
- xi. Chairman, Planning & Development Dept., Govt. of KPK, Peshawar.
- xii. Chairman, Planning & Development Dept., Govt. of Baluchistan, Quetta.
- xiii. Chairman, Planning & Development Dept., Govt. of AJK, Muzaffarabad.
- xiv. Chairman, Planning & Development Dept., Govt. of GB, Gilgit.



No. 3(48)/2019/NICL-Ins

Islamabad, the 5th October, 2020

OFFICE MEMORANDUM

SUBJECT: INSURANCE OF VITAL PROJECTS AND VALUABLE PROPERTIES & ASSETS OWNED BY GOVERNMENT OF PAKISTAN

Reference is invited to this Ministry's O.M. of even number dated 14.07.2009 (copy enclosed for ready reference) on the above subject wherein all concerned were directed to ensure compliance of Section 166 read with Section 156 of Insurance Ordinance, 2000, which requires Federal and Provincial Governments to place all insurance business relating to public property with the National Insurance Company Limited (NICL) only.

2. It has been noticed with grave concern that most of the Government functionaries working in the Federal and Provincial Governments on one hand, are not aware of the above statutory requirement and on the other hand, Government organizations/entities under the guise / cover of PPRA Rules, opt for tendering for procurement of insurance services from private sector insurance companies instead of placing their insurance business with NICL in violation of the provisions of the Insurance Ordinance, 2000. This has led to loss of revenue to the Government of Pakistan and the public assets, non-compliance of these provisions also results in personal liability of the concerned functionaries.

3. Further, Ministry of Law and Justice vide their O.M. No. 82/2020-Law-I dated 12.05.2020 (Annex-I) has also clarified that "*substantive law (statute) takes precedence over subordinate law / delegated legislation (rules) or a general principle of law... Therefore, the insurance ordinance, 2000 should be implemented for insurance of Government property which falls within the definition of "public property" as defined in section 166(2) of Insurance Ordinance, 2000*".

4. With view to ensure compliance with the law and avoid further financial loss to the Government of Pakistan, it is once again reiterated that:-

- a. The closed copy of the relevant Sections of the Insurance Ordinance, 2000 may be disseminated among all concerned under administrative control of your Ministry/Division (**Annex-II**);
- b. A list of all insurable public properties/assets, as defined /required under the aforesaid law, held under the administrative control of the Ministry and its attached / sub-ordinate departments, be furnished directly to National Insurance Company Limited (NICL), 3rd floor NIC building, Abbassi Shaheed Road, Karachi; and
- c. Rectives of internal audit departments be sensitized to check and ensure compliance of these mandatory requirements of law.

Encl. As above.


o/c (Quiser Khan Khattak)
Deputy Secretary (I&C)
Ph: 051-9104017

All Federal Ministries/Divisions
All Provincial Chief Secretaries

Copy to:-

- i. The Auditor General, Office of Auditor General of Pakistan Revenues (GPR), Islamabad with the request to issue instructions / directions to all Federal and Provincial Auditors to ensure during the audit that all government entities are following the above instructions regarding insurance of all government properties / assets in letter and spirit.
- ii. Mr. Mohammad Altaf Madraswala, General Manager (Operations), National Insurance Company Limited (NICL), NIC Building, Abbassi Shaheed Road, Karachi with reference to letter No. NICL/OPS/H.O/MOC/SEPT-2020/0015 dated 08.09.2020 with direction to follow up with the concerned offices and further course of action on the matter under intimation to this Ministry.


o/c (Quiser Khan Khattak)
Deputy Secretary (I&C)



Government of Pakistan
Ministry of Commerce
(Insurance Wing)

No. 20458/2009-Ins

12th August 2009

OFFICE MEMORANDUM

SUBJECT: INSURANCE OF VITAL PROJECTS, AND VALUABLE PROPERTIES & ASSETS OWNED BY GOVERNMENT OF PAKISTAN

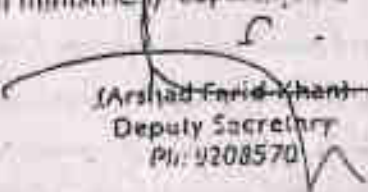
The understyled is directed to draw the attention of all concerned to Section 156 read with Section 156 of Insurance Ordinance, 2000 which requires Federal and Provincial Governments to place all insurance business relating to public property with the NICL only. Any person who insures, and any Insurer which accepts insurance of, any public property or liability, knowing such insurance to be in contravention of this statutory requirement shall be guilty of an offence and any insurer who makes a default in complying with or acts in contravention of any provisions of the Ordinance, and where the Insurer is a Company any Director or the Officer of the Company, who is knowingly a party to the default shall be punishable with fine which may extend to one million rupees and, in the case of continuing default, with an additional fine which may extend to Rs. 10,000/- for every day during which the default continues.

2. It has, however, been noticed that most of the government functionaries working in the Federal and Provincial Governments are ignorant of the above statutory requirement. This has not only led to heavy loss of revenue to the government but also exposed the public assets to irreparable risk. Besides, non-compliance of these provisions also results into

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personal liability of the concerned functionaries. With a view to ensure compliance with the law and avoid further financial loss to the government, it is requested that:-

- a. the enclosed copy of the relevant Sections of the Insurance Ordinance, 2000 may be disseminated among all concerned under administrative control of your Ministry/Division;
- b. a list of all insurable public properties/assets, as defined /required under the aforesaid law, held under the administrative control of the Ministry and its attached /subordinate departments, be furnished directly to National Insurance Company Limited 3rd floor NIC building Abbasi Shaheed Road, Karachi; and
- c. make it a point of their internal audit to check and ensure compliance with this mandatory requirement of law. A separate reference has also been made to the Accountant General of Pakistan for making it a part of the annual audit of all Federal and Provincial ministries / departments, as well.


Arshad Farid Khan
Deputy Secretary
Ph: 2208570

- i. All Federal Ministries/Divisions;
- ii. All Provincial Chief Secretaries.

Copy to Mr. Mohammad Altaf Madraswala, Marketing & Business Development Department, National Insurance Company Limited 3rd floor NIC building, Abbasi Shaheed Road, Karachi with reference to letter No. NICT/HQ/M&BD/09/07/0031 dated 6-7-2009 with direction to follow up with the concerned office further action on the matter under intimation to this Ministry.

GOVERNMENT OF PAKISTAN
MINISTRY OF LAW AND JUSTICE

No. 82/2020-Law-I

Islamabad, the 12th May, 2020

OFFICE MEMORANDUM

Subject: - COMPLAINT UNDER SECTION 20/21 OF SECP ACT 1997
READ WITH SECTION 166 OF THE INSURANCE
ORDINANCE-2000.

The undersigned is directed to refer to the Ministry of Commerce's O.M. No. 2(48)/2019/NICL-Ins, dated 27-01-2020 on the subject noted above and to state that Section 166 (3) of the insurance ordinance, 2000 takes precedence over:

- a) Punjab Regulatory Authority Act, 2009, since under Article 143 of the Constitution of Pakistan, 1973 any provision of an Act of a Provincial Assembly if it is in conflict with any provision of an Act of Parliament, the Act of Parliament/ provision of an Act of Parliament shall prevail. Since Insurance ordinance is a federal law therefore it shall prevail over conflicting Provincial law.
- b) Public Procurement Rules, 2004 since there is no mandatory provision in the PPRA Ordinance, 2002, pursuant to which PPRA Rules, 2004 were made, which make it mandatory for public sector companies to make procurement through competitive bidding. On the other hand, the Insurance Ordinance, 2000 contains a mandatory provision requiring public sector companies to procure insurance for public property from NICL. Nor there is any prohibition in the PPRA Ordinance prohibiting public sector companies from making procurements from any particular agency.

2. In addition to the above, substantive law (statute) takes precedence over subordinate law/delegated legislation (rules) or a general principle of law (see Pearl Continental vs Govt of NWFP 2005 PLD 25 and Mohammad Younas Sheikh vs FOP 2006 PTD 1036). Accordingly, provisions of the Insurance Ordinance, 2000 should be followed and implemented in letter and spirit.

3. Furthermore, the Insurance Ordinance, 2000 is a special law on insurance whereas PPRA Ordinance, 2000 is a general law on procurement. The Superior Courts in: PLD 1985 SC 159, 2013 SCMR 85, 2017 SCMR 1218 and P.L.D 2018 SC 322 have held that a special law always prevails over a general law. Therefore, the insurance Ordinance, 2000 should be implemented for insurance which falls within the definition of "public property" as defined in section 166 (2) of Insurance Ordinance, 2000.


(Muhammad Abbass)
Section Officer

Ministry Commerce,
(Dr. M Baqir Jahanzeb),
Section Officer (Ins),
Government of Pakistan,
Islamabad

P.U

File No. 153-50(max)
Date: 15-5-20

Insurance Ordinance, 2000**PART XIX
OFFENCES AND PENALTIES**

... complying with, ... of
this Ordinance. Except as otherwise provided in this Ordinance, any insurer who makes default in complying with or acts in contravention of any requirement of this Ordinance, and, where the insurer is a company, any director, or other officer of the company, who is knowingly a party to the default, shall be punishable with fine which may extend to one million rupees and, in the case of a continuing default, with an additional fine which may extend to ten thousand rupees for every day during which the default continues.

166. Insurance of public property. - (1) This section applies to direct nonlife insurance of public property.

(2) In this section -

(a) "Company" means the National Insurance Company Limited;

(b) "public property" means:

(i) any property, movable or immovable, which belongs to, or the safety of which is the legal responsibility of

(A) the Federal Government, a Provincial Government or a local authority or statutory corporation, or

(B) any company, firm, undertaking, institution, organisation or other establishment which is managed or controlled by the Federal or a Provincial Government or local authority or statutory corporation or in which such Government, by itself or jointly with a local authority or corporation or company managed or controlled by it, holds a controlling financial share or interest or which is specified by the Federal Government for the purposes of this clause; and

(ii) a project financed out of an external loan, or with external aid until it reaches

- (A) in the case of an industrial project, the stage at which it is capable of commencing normal production; and
 (B) in the case of any other project, the stage at which it is capable of being put to the use for which it is intended; and

(c) "statutory corporation" means a body corporate, other than a company, established or set up by the Federal Government or a Provincial Government in pursuance of any law.

- (3) Subject to the provisions of sub-sections (4) and (5), all insurance business relating to any public property, or to any risk or liability appertaining to any public property, shall be placed with the Company only and shall not be placed with any other insurer: Provided that marine, aviation and transport insurance relating to goods the import of which is financed out of an external loan, or with external aid, or at the option of the importer, be placed with any insurer authorised to carry out such insurance business in the country giving the loan or aid.
- (4) The Federal Government may -
 (a) by order in writing exempt from compliance with subsection (3) any property or liability to which that subsection applies; or
 (b) by notification in the official Gazette exclude from the application of sub-section (3) such property or liability as is specified in that notification.
- (5) If the Company declares in writing that it is not able, by virtue of the operation of a provision of this Ordinance or for any other reason, to enter into a contract of insurance to which sub-section (3) refers, the property or liability which is the subject of that proposed contract of insurance shall be exempted from the provisions of sub-section (3) to the extent of the insurance proposed to be obtained by means of that contract of insurance.
- (6) Any person who insures, and any insurer which accepts insurance of, any property or liability, knowing such insurance to be in contravention of sub-section (3), shall be guilty of an offence: Provided that no person shall be in contravention of sub-section (3) by reason only of that sub-section becoming applicable to property or liability to which it was not applicable at the time that a contract of insurance in respect of that property or liability was taken out.
- (7) The Federal Government may, by notification in the official Gazette, make rules, regulations and notifications, not

inconsistent with the provisions of this Ordinance, for carrying out the purposes of this section.

- (8) Rules, regulations and notifications, made under the authority of the National Insurance Corporation Act 1976 for the purposes of section 10 of that Act and in force as at the commencement date, shall be deemed to have been made under the provisions of the preceding sub-section and shall apply *mutatis mutandis* except in so far as and to the extent that they conflict with the provisions of this Ordinance.
- (9) This section shall have effect until the earliest of the following dates:
- (a) the effective date of a notification by the Federal Government in the official Gazette that this section no longer has effect;
 - (b) the effective date of a direction by the Commission to the Company to cease entering into new contracts of insurance; and
 - (c) the effective date at which the Federal Government ceases to hold a controlling ownership interest in the Company.
