



UDC 349.42:368.52

DOI: 10.31548/law2021.04.12

## Some issues of legal regulation of animal insurance as a compulsory type of insurance

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### *Article's History:*      *Abstract*

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Received: 21.8.21

Revised: 26.10.21

Accepted: 19.11.21

Agrarian insurance is a prerequisite for the existence of agriculture, especially for agrarian countries. The present puts before agricultural production serious climatic, economic, and biological challenges. Insurance should become a tool that will help balance risks between all participants in agrarian insurance relations and reduce the adverse impact on agricultural production and the standard of living in the state. Proceeding from this, the purpose of this study was to investigate the issue of legal regulation of animal insurance as a compulsory type of insurance and outline the prospects for the development of such types of insurance. The method for investigating this issue was the analysis of the current national legislation, which suggested that the legal regulation of animal insurance meets its conditions in national regulations. Based on the analysis of regulations governing the procedure for insurance of farm animals, the study examined the problematic issues and suggested ways to eliminate conflicts in the legal regulation of this type of insurance. The problems of determining the list of animals subject to

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### *Suggested Citation:*

Gorislavska, I. (2021). Some issues of legal regulation of animal insurance as a compulsory type of insurance. *Law. Human. Environment*, 12(4), 92-98. doi: 10.31548/law2021.04.012.



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compulsory insurance were investigated and ways to solve them were proposed. The paper analysed the issue of legal expansion of the range of insurance risks for animal insurance contracts within the framework of the Law of Ukraine “On the Specifics of Insurance of Agricultural Products with State Support”. The proposed amendments to the regulations in the field of breeding animal insurance will harmonize the corresponding legislation, as well as improve awareness of breeding animals for regulatory authorities, consumers of relevant products and insurers. The materials of this paper are of practical value for further research of the legal regulation of animal insurance, their improvement, and identification of new issues in national regulations

**Keywords:** insurance, compulsory animal insurance, breeding animal insurance, insurance risk, insurance of agricultural products with state support

### **Introduction**

According to the Concept of Insurance of Agricultural Products with State Support, developed by the National Bank of Ukraine, in the civilized world, agrarian insurance is a prerequisite for the existence of agriculture, especially for agrarian countries [1]. The first “pet insurance” policy was issued in 1890 in Sweden and “covered” horses and livestock, later in 1947 the first pet insurance policy was issued in the United Kingdom (Great Britain). In these countries, modern pet insurance policies have been developed with the possibility of covering the medical expenses of pets and liability to third parties for the actions of pets [2]. The national system of state support for agricultural product insurance went through various stages. Presently, starting from July 1, 2021, the amount of partial reimbursement of insurance payments (premiums) to agricultural producers is determined at the level of up to 60%, considering the practice of previous periods of analogous support programs [3].

The issues of insurance legal relations became the object of research by many scientists, such as V. Bazylevych, K. Bazylevych, S. Dombrovskiy, R. Sabodash, S. Osadets, N. Patsuriia, and many others. The specifics of animal insurance are determined by many factors, both biological and legal, that cannot but consider their natural properties and state needs in the context of the national and global food crisis. The theoretical framework of this study also included the studies of Ukrainian legal scholars in the field of agrarian law, such as N.A. BaHai, V.M. Yermolenko, V.P. Zhushman, I.I. Karakash, T.H. Kovalchuk, A.M. Stativka, V.Yu. Urkevych, V.Z. Yanchuk, and others.

### **Results and Discussion**

Agriculture is characterized by certain regular partial crop losses, catastrophic losses caused by a range of factors of influence: biological, climatic, etc. Therefore, added stimulation of the market of insurance services of agricultural insurance is being formed, both

from the position of business owners and from the position of the state, for which the stability of the functioning of the socially and export-important agrarian sphere is one of the priorities [4].

According to the Law of Ukraine No. 85/96-BP "On Insurance" dated March 7, 1996, insurance is carried out in a compulsory and voluntary form. According to Article 7 of this Law, a compulsory type of insurance is insurance of animals (except those used for agricultural production) in case of death, destruction, forced slaughter, disease, natural disasters and accidents in cases and per the list of animals established by the Resolution of the Cabinet of Ministers of Ukraine (the Resolution) [5].

According to the Law of Ukraine No. 3691-XII "On Breeding in Livestock Breeding" dated 15.12.1993, breeding is a system of zootechnical, selection, and economic measures aimed at improving the breeding and productive qualities of animals. To ensure all conditions for breeding highly productive animals, breeding is developed, and to reduce the possibility of adverse consequences in breeding, insurance of breeding animals is ensured legislatively. According to the Resolution, the object of this insurance is property interests that do not contradict the law, are related to the death, destruction, forced slaughter of animals that are subject to state insurance, communal or private property rights, as a result of diseases, natural disasters and accidents.

The subjects of this case, on the side of the insurer, include owners of breeding (genetic) resources; enterprises, institutions,

and organizations regardless of the form of ownership and individuals – subjects of entrepreneurial activity that take part in the production, preservation, use, creation, determination of the breeding value of breeding (genetic) resources, trade in breeding (genetic) resources and provide services, related to the breeding business in animal husbandry; owners of non-breeding animals are consumers of breeding (genetic) resources and customers of breeding services in animal husbandry (Article 5 of the Law of Ukraine "On Breeding in Livestock Breeding").

The Ministry of Agrarian Policy and Food of Ukraine determines the procedure for assigning the appropriate status to subjects of breeding in animal husbandry. Accordingly, the requirements apply to breeding subjects in animal husbandry who are owners of breeding (genetic) resources or are economic entities that take part in the production, preservation, use, creation, determination of the breeding value of breeding (genetic) resources, trade in breeding (genetic) resources and provide services related to breeding in animal husbandry [6].

On the side of the insurer in this type of compulsory insurance, according to the Law of Ukraine No. 4391-VI "On Specifics of Insurance of Agricultural Products with State Support" dated February 9, 2012 (the Law), act insurers who have received a licence to insure agricultural products established legislatively and added requirements established by the regulations of the National Bank of Ukraine.

Appendix 1 to the Resolution defines the list of animals subject to compulsory

insurance. These include breeding animals (cattle, pigs, sheep, goats, horses aged from 1 year). However, Appendix 1 of the Resolution does not mention such animals as fish, and in general “aquatic bioresources”. However, according to Article 3 of the Law of Ukraine No. 2894-III “On Animal Life” dated 13.12.2001, animals include fish and invertebrates (arthropods, molluscs, echinoderms, etc.) in all their species and population diversity and at all stages of development (embryos, eggs, pupae, etc.), which are in a state of natural will, kept in semi-free conditions or in captivity.

According to the Law of Ukraine No. 3677-VI “On Fish Farming, Industrial Fishing, and Protection of Aquatic Bioresources” dated 08.07.2011 and the Law of Ukraine No. 486-IV “On Fish, Other Aquatic Living Resources and Derivative Food Products” dated 06.02.2003, aquatic biological resources are defined as a set of aquatic organisms (hydrobionts), the life of which is impossible without being in water. Aquatic biological resources include freshwater, marine, anadromous, and catadromous fish in all stages of development, Cyclostomi, aquatic invertebrates, including molluscs, crustaceans, worms, echinoderms, sponges, gastropods, terrestrial invertebrates in the aquatic stage of development, algae, and other aquatic plants. The reasons for expanding the list of breeding animals subject to compulsory insurance also include the Order of the Ministry of Agrarian Policy and Food of Ukraine No. 414 “On approval of the Procedure for Artificial Breeding (Reproduction), Cultivation of Aquatic Bi-

ological Resources and Their Use” dated 07.07.2012. Evidently, there is a need to harmonize the norms of the above-mentioned sub-legislative acts with the updated wording of the Law, which since July 1, 2021 prescribes the following definition of farm animals: animals, including fish, reptiles, and amphibians, grown and/or kept by humans to produce of foods, by-products of animal origin (wool, skin, fur), as well as for other agricultural needs.

Another sub-legislative regulation allows discussing the expansion of the list of animals subject to compulsory insurance – the Instruction on the organization of service canine in the National Guard of Ukraine No. 772, among service dogs, singles out breeding animals used by service dog kennels for breeding work, and subject to accounting from 05.08.2014.

To insure breeding animals, they are subject to a class indexing procedure, namely a comprehensive assessment of breeding and controlled animals by breeding and productive qualities and types of animals; based on the results of which a certificate of breeding (genetic resources) is obtained (Articles 1, 13 of the Law of Ukraine “On Breeding Business in Animal Husbandry”; Regulations on the certificate of breeding (genetic) resources and sample forms of certificates of breeding (genetic) resources [7]. Class indexing is conducted according to the instructions for class indexing of individual species of animals, for instance, the Instruction on class indexing of poultry, the Instruction on keeping breeding records in poultry farming and sample forms

of breeding records [8]. Corresponding sub-legislative regulations are also adopted for cattle, pigs, breeding horses, and fish.

Attention is drawn to the word “indirect”, through the definition of the subject of the insurance contract, the expansion of the range of insurance risks, namely “damages incurred in connection with animal breeding” (Article 20<sup>1</sup> of the Law). However, Article 8 of the Law does not prescribe this type of risk, and the types of risks listed in it may factually be the basis for “losses incurred in connection with their cultivation”.

### **Conclusions**

Insurance of breeding animals is currently a strategic issue, since breeding animals are the main base and foundation of the entire agriculture, which directly determines its development. The author of this paper suggests including information about the insurance contract in the Certificate form

of breeding (genetic) resources and coordinate special legislation on the list of animals subject to compulsory insurance. Appendix 1 of the Resolutions should be read as follows: “Breeding animals: cattle of dairy, milk-meat and meat breeds; pigs; sheep; striped sheep; goats; a horse; fur animals, rabbits; poultry farming; beekeeping; fishery resources and aquatic biological resources; sericulture resources; breeding dogs (pure-bred or animals obtained under an approved breed improvement program that have breeding (genetic) value and can be used in the selection process) aged 1 year or older. Zoo animals aged from 1 year. Circus animals aged from 1 year”. The formulation of the norms of the Law regarding the definition of agricultural risks may lead to an ambiguous interpretation and become an obstacle to the effective application of insurance payment compensation mechanisms to agricultural producers.

### References

- [1] The concept of insurance of agricultural products with state support. Retrieved from <https://apk.cg.gov.ua/index.php?id=410352&tp=0>.
- [2] A regulator's guide to pet insurance. National Association of Insurance Commissioners. Retrieved from <https://content.naic.org/sites/default/files/publication-pin-op-pet-insurance.pdf>.
- [3] Law of Ukraine No. 1601-IX "On Modification of Some Laws of Ukraine Concerning Improvement of Legal Regulation of Insurance of Agricultural Products with the State Support". (2021, July). Retrieved from <https://zakon.rada.gov.ua/laws/show/1601-20#Text>.
- [4] Putsenteilo, P., Klapkiv, Y., & Vovk, V. (2019). Adaptation processes of the agrarian sector for realization of the existing potential. *Economic sciences for agribusiness and rural economy: proceedings of the international scientific conference* (pp. 112-117). Warsaw: Warsaw University of Life Sciences Press.
- [5] Resolution of the Cabinet of Ministers of Ukraine No. 590 "On the statement of the Order and rules of carrying out of obligatory insurance of animals in case of death, destruction, forced slaughter, against illnesses, natural disasters and accidents". (2003, April): Retrieved from <https://zakon.rada.gov.ua/laws/show/590-2003-%D0%BF#Text>.
- [6] Order of the Ministry of Agrarian Policy and Food of Ukraine No. 234 "On the statement of the Order of assignment of the corresponding status to subjects of breeding business in animal husbandry and Technological requirements to carrying out selection and breeding work in the field of beekeeping". (2015, June). Retrieved from <https://zakon.rada.gov.ua/laws/show/z0809-15#Text>.
- [7] Order of the Ministry of Agrarian Policy and Food of Ukraine No. 629 "On approval of the Regulations on the certificate of breeding (genetic) resources and samples of forms of certificates of breeding (genetic) resources". (2011, November). Retrieved from <https://zakon.rada.gov.ua/laws/show/z1422-11#Text>.
- [8] Order of the Ministry of Agrarian Policy and Food of Ukraine No. 17 "On approval of the Instruction on poultry grading, the Instruction on conducting the accounting account in poultry farming and samples of forms of the breeding account". (2019, January). Retrieved from <https://zakon.rada.gov.ua/laws/show/z0145-19#Text>.

## Деякі питання правового регулювання страхування тварин як обов'язкового виду страхування

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### Анотація

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Аграрне страхування – обов'язкова умова існування сільського господарства, особливо для аграрних країн. Сьогодення ставить перед сільськогосподарським виробництвом серйозні кліматичні, економічні, біологічні виклики. Страхування має стати тим інструментом, що допоможе збалансувати ризики між усіма учасниками аграрних страхових відносин, та знизить негативний вплив на аграрне виробництво, та рівень життя у державі. Виходячи з цього, метою даного дослідження є дослідження питання правового регулювання страхування тварин як обов'язкового виду страхування та окреслення перспектив розвитку такого виду страхування. Методом для дослідження цієї проблеми є аналіз чинного національного законодавства, що дає змогу констатувати, що правове регулювання страхування тварин відповідає своїм умовам у національних нормативно-правових актах. У статті на основі аналізу нормативно-правових актів, що регулюють порядок проведення страхування сільськогосподарських тварин, досліджуються проблемні питання та пропонуються способи усунення колізій у правовому регулюванні даного виду страхування. Досліджуються проблеми визначення переліку тварин, що підлягають обов'язковому страхуванню та пропонуються шляхи їх вирішення. Аналізується питання правового розширення кола страхових ризиків для договорів страхування тварин у межах Закону України «Про особливості страхування сільськогосподарської продукції з державною підтримкою». Запропоновані доповнення до нормативно-правових актів у сфері страхування племінних тварин приведе до гармонізації відповідного законодавства, а також покращить поінформованість про племінну тварину для контролюючих органів, споживачів відповідної продукції та страховиків. Матеріали статті становлять практичну цінність для подальших досліджень правового регулювання страхування тварин, їх вдосконалення та виявлення нових питань у національних нормативно-правових актах

**Ключові слова:** страхування, обов'язкове страхування тварин, страхування племінних тварин, страхових ризик, страхування сільськогосподарської продукції з державною підтримкою

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