

R4HCW FORUM

SASRIA INSURANCE CLAIMS AND YOUR PRACTICE



Contents

Part 1 Introduction

Part 2 How do you obtain cover?

Part 3 SASRIA Perils

Part 4 What's not covered?

Part 5 Limits

Part 6 How to claim?

Part 7 Tax implications

Part 8 What to do if you are uninsured?

Part 9 What's not covered

INTRODUCTION

South Africa is one of the few countries in the world where you can purchase insurance cover for “special risks” caused by certain events, being primarily politically motivated acts, acts of terrorism and political riots and civil unrest as well as damage caused by lawful attempts to control, suppress or prevent them through SASRIA. SASRIA insurance is provided by Sasria SOC Limited, a wholly government owned entity.

Your commercial insurer will exclude special risks in their cover of your business or vehicles, so you won't be able to claim from them. However, most commercial brokers/insurers are agents for SASRIA and will have included SASRIA cover automatically in your cover with your general insurer. SASRIA cover is not compulsory however. The agent (your insurer or broker) will also act as agents for submitting your claim.

OBTAINING COVER

Coupons:

You (an individual or business) can obtain cover with a SASRIA coupon - which attaches to an underlying insurance policy with your usual insurer for example for Business All Risks/Fire - it will incorporate the terms, conditions and exclusions of the underlying policy but not the extensions. It should be noted that your underlying contract must be in place and premiums paid to benefit from the SASRIA coupon. Lay persons may not know that these policies generally include Goods in Transit cover - which in the events of mid-July 2021 attract SASRIA cover as well.

Where a lease agreement requires a tenant to arrange Glass cover, for the windows and doors SASRIA will cover such losses even if it is not covered by the underlying Fire policy for example.

There are two kinds of coupon Contract Works (CW) and Material Damage (FE). This caters to the fact that all insurers exclude special perils as explained above; with a SASRIA coupon you will have more comprehensive cover.

SASRIA Policies:

You can also obtain two types of cover as a standalone SASRIA policy. A Motor Policy (ME), however, it should be noted that some coverage may only be for static and not road risks i.e. damage to your vehicle while it is parked. You should discuss this with your broker.

You can also obtain business interruption policies called Standing Charges (SC) or Working Expenses (WE), Net Profit (NP) and Gross profit (GP). This will cover you for the costs of your business being unable to run due to the civil unrest.

The SASRIA Business Interruption Policy is stand alone, however, there must be a Material Damage coupon which applies to the same property. In other words you must have cover with an insurer for material damage with an accompanying coupon to get cover for business interruption.

You should discuss your current cover and SASRIA coupon/policy with your broker as soon as possible to understand the nuances of your cover.

SASRIA PERILS

Loss or damage to the insured property caused by any act or attempt calculated or directed to:

- 1 Overthrow or influence the government, or any provincial, local or tribal authority with force, or by means of fear, terrorism or violence
- 2 Bring about loss or damage in order to further any political aim, objective or cause, or to bring about any social or economic change, or in protest against the government, or any provincial, local or tribal authority, or for the purpose of inspiring fear in the public
- 3 Bring about any riot, strike or public disorder;
- 4 And (2) the act of any lawfully established authority in controlling, preventing, suppressing or in any other way dealing with any occurrence in 1-3 above.

Application: It is not necessary to get into the details of these court decided definitions as President Ramaphosa has confirmed that the incidents of the 2nd-3rd week of July will be covered by SASRIA meaning, by implication, that they fall within one of the above definitions.

WHAT'S NOT COVERED

Damage to property connected with or caused by:

1. civil commotion, labour disturbances, riots, strike, lockout or public disorder or any act or activity which is calculated or directed to bring about either:
 - a. War, invasion, act of foreign enemy, hostilities or warlike operations (whether war be declared or not) or civil war;
 - b. mutiny, military rising, military or usurped power, martial law or state of siege, or any other event or cause which determines the proclamation or maintenance of martial law or state of siege;
 - c. Insurrection, rebellion or revolution.

WHATS NOT COVERED...

There shall be no cover for lawful attempts by an established authority in controlling, preventing, suppressing or in any other way dealing with any occurrence referred to in paragraph 1(a-c). This means any damage caused by the government in dealing with the unrest set out above.

If SASRIA alleges that there is no cover on the basis of the loss falling within the above exceptions the onus or burden of proof to prove otherwise will be on you, the insured.

SASRIA does not provide cover for personal injuries that may have occurred during the unrest.

There is an option to get an extension called Riot Wrap which provides wider coverage such as sabotage, insurrections, terrorism, rebellion or revolution, mutiny, coup d'états, looting and malicious damage to property. If you do have the Riot Wrap in place you are likely to be covered for the majority of your losses.

Application: President Ramaphosa has made statements that the unrest was caused, in part, by a failed insurrection. This makes the exceptions tricky as it may be possible for claims to be denied on the basis that they fall within exception 1(c) above. I would caution claimants and their brokers to ensure that they frame their claims as non-insurrection related. This may be easier for those businesses affected by politically motivated looting rather than pure infrastructure destruction.

This said, we doubt whether SASRIA will be denying claims on this basis based on the President's pronouncement of government's stance on cover.

LIMITS & DECLARATIONS

The above limits will be subject to the sum insured in the underlying agreement or SASRIA policy and the type of indemnity offered i.e. full value, replacement value etc.

Your broker should have you make declarations about the value of the insured property, stock and escalation and inflation annually. If you do not reflect this correctly this could mean you are under insured and your whole loss will not be covered.

THERE ARE NO DEDUCTIBLES FOR SASRIA COVER EXCEPT FOR CONSTRUCTION RISK

SASRIA cover is automatically renewed.

YOUR INFORMATION RIGHTS

The Financial Sector Conduct Authority (**FSCA**) requires all agents (your broker or insurer) to disclose the following:

1. whether SASRIA cover was bought by you;
2. the cover applicable and cost;
3. a full copy of the policy or coupon.

HOW TO CLAIM

You should notify your broker and your insurer of the occurrence as soon as possible. It is essential that you put your claim in as soon as possible and within 30 days of the occurrence

1. Notify your broker/insurer of the occurrence;
2. Start collecting evidence of your loss as soon as possible. Remember that malls etc do not keep video footage for long so it is best to do this early;
3. Obtain the agent claim form and get assistance from your broker or attorney in correctly completing it;
4. Ensure you give full details of the incident;
5. Sign and date the form and submit it to your SASRIA agent (broker or insurer) well ahead of the 30 day deadline;
6. Ask your SASRIA agent (broker or insurer) whether any additional documentation is necessary for your type of cover i.e. Motor Vehicle;
7. Do not effect repairs without SASRIA's go ahead.

TAX IMPLICATIONS

There are a number of ways in which a SASRIA pay out can have tax implications for your business:

- 1.SASRIA is a VAT vendor. If you are a VAT vendor and indemnified by them for a loss incurred while carrying on an enterprise VAT must be declared and paid on that indemnity;
- 2.You may incur a capital gain is you are indemnified for the loss of an asset;
- 3.If you have Business Interruption cover under SASRIA it may have income tax implications.

You should discuss these with a tax practitioner to structure your tax affairs beneficially

WHAT TO DO IF YOU ARE UNINSURED

President Ramaphosa has announced that a relief fund will be established shortly to assist uninsured businesses. We do not have the details of this fund and claims process as yet but we will update you as soon as we do.

Should you need any assistance please feel free to contact us on:

admin@aryalegal.com.

Aarya Legal

R4HCW FORUM

ACKNOWLEDGEMENTS

We are grateful for the professional support of AARYA LEGAL in ensuring our members and colleagues are adequately guided throughout this process

Aarya Legal is a specialist legal and B-B BEE consultancy for owner-managed businesses and entrepreneurs. We provide value-driven services at fixed fee's and in line with your business imperatives, because we are business people too.

Contact

AARYA LEGAL

+27 83 280 8327

www.aaryalegal.com

admin@aaryalegal.com

R4HCW Forum Coalition Partners



Email: r4hcw@uffp.co.za