

INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY

NOTIFICATION

New Delhi, the 14th July, 2000

Insurance Regulatory and Development Authority (Appointed Actuary) Regulations, 2000

F. No. IRDA/Reg./7/2000.—

In exercise of the powers conferred by clause (zd) of sub-section (2) of section 114A of the Insurance Act, 1938 (4 of 1938), the Insurance Regulatory and Development Authority, in consultation with the Insurance Advisory Committee, hereby makes the following regulations, namely:-

1. Short title and commencement.---(1) These regulations may be called the Insurance Regulatory and Development Authority (Appointed Actuary) Regulations, 2000.

(2) They shall come into force from the date of their publication in the Official Gazette.

2. Definitions.-(1) In these regulations, unless the context otherwise requires ----

(a) "Act" means the Insurance Act, 1938 (4 of 1938);

(b) "Actuarial Society of India" means Actuarial Society of India registered under Societies Registration Act 1860; (21 of 1860);

(c) "Appointed Actuary" means an actuary mentioned in Regulation 3 below;

(d) "Authority" means the Insurance Regulatory and Development Authority established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);

(e) "Professional Standard" means the standard of practice specified, with the concurrence of the Authority, by the Actuarial Society of India by issue of guidance notes to its members.

(2) All words and expressions used herein and not defined herein but defined in the Insurance Act, 1938 (4 of 1938), or in the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), shall have the meanings respectively assigned to them in those Acts.

3. Procedure for Appointment of an Appointed Actuary.---(1) An insurer registered to carry on insurance business in India shall, subject to sub-regulation (2), appoint an actuary, who shall be known as the 'Appointed Actuary' for the purposes of the Act.

(2) A person shall be eligible to be appointed as an appointed actuary for an insurer, if he or she shall be-----

(i) ordinarily resident in India;

(ii) a Fellow Member of the Actuarial Society of India;

- (iii) an employee of the life insurer, in case of life insurance business;
- (iv) an employee of the insurer or a consulting actuary, in case of general insurance business;
- (iv) a person who has not committed any breach of professional conduct;
- (v) a person against whom no disciplinary action by the Actuarial Society of India or any other actuarial professional body is pending;
- (vi) not an appointed actuary of another insurer;
- (vii) a person who possesses a Certificate of Practice issued by the Actuarial Society of India; and
- (viii) not over the age of seventy years.

(3) An insurer shall seek the approval of the Authority for the appointment of appointed actuary, submitting the application in Form IRDA-AA-1.

(4) The Authority shall, within thirty days from the date of receipt of application, either accept or reject the same:

Provided that before the rejecting the application, the Authority shall give an opportunity of being heard to the insurer.

(5) If an insurer does not receive approval within thirty days of the receipt of such application by the Authority, the insurer shall deem that the approval has been granted by the Authority.

(6) An insurer, who is unable to appoint an appointed actuary in accordance with sub-regulation (2), shall make an application to the Authority in writing for relaxation of one or more conditions mentioned in sub-regulation 2.

(7) The Authority shall, on receipt of the application referred to in sub-regulation (6), communicate its decision to the insurer within thirty days of receipt of such application.

(8) The appointment of an appointed actuary shall take effect from the date of approval by the Authority.

4. Effect of rejection of the application.—The insurer shall, within four weeks of rejection of the application referred to under regulation 3, apply to the Authority for the appointment of a person other than the one rejected by it under regulation 3 as an appointed actuary, for the purposes of these regulations.

5. Life Insurer not to carry on business of insurance without an appointed actuary.— A life insurer shall not carry on business of insurance without an appointed actuary.

6. Cessation of Appointment of Appointed Actuary.—(1) An appointed actuary shall cease to be so, if he or she has been given notice of withdrawal of approval by the Authority on the following grounds:-

- (a) that he or she ceases to be eligible in accordance with sub-regulation (2) of regulation (3), or;
- (b) that he or she has, in the opinion of the Authority, failed to perform adequately and properly the duties and obligations of an appointed actuary under these regulations.

(2) The Authority shall give an appointed actuary a reasonable opportunity of being heard, if he or she has been given a notice of withdrawal of approval by it.

(3) If a person ceases to be an appointed actuary of an insurer otherwise than on the grounds mentioned in sub-regulation (1), the insurer and the appointed actuary shall intimate the Authority the reasons therefor within fifteen days of such a cessation.

7. Powers of Appointed Actuary.—(1) An appointed actuary shall have access to all information or documents in possession, or under control, of the insurer if such access is necessary for the proper and effective performance of the functions and duties of the appointed actuary.

(2) The appointed actuary may seek any information for the purpose of sub-regulation (1) of this regulation from any officer or employee of the insurer.

(3) The appointed actuary shall be entitled, --

- (a) to attend all meetings of the management including the directors of the insurer;

(b) to speak and discuss on any matter, at such meeting,--

- (i) that relates to the actuarial advice given to the directors;
- (ii) that may affect the solvency of the insurer;
- (iii) that may affect the ability of the insurer to meet the reasonable expectations of policyholders; or
- (iv) on which actuarial advice is necessary;

(c) to attend,--

- (i) any meeting of the shareholders or the policyholders of the insurer; or
- (ii) any other meeting of members of the insurer at which the insurer's annual accounts or financial statements are to be considered or at which any matter in connection with the appointed actuary's duties is discussed.

8. Duties and obligations.-- In particular and without prejudice to the generality of the foregoing matters, and in the interests of the insurance industry and the policyholders, the duties and obligations of an appointed actuary of an insurer shall include:--

- (a) rendering actuarial advice to the management of the insurer, in particular in the areas of product design and pricing, insurance contract wording, investments and reinsurance;
- (b) ensuring the solvency of the insurer at all times;

(c) complying with the provisions of the section 64V of the Act in regard to certification of the assets and liabilities that have been valued in the manner required under the said section;

(d) complying with the provisions of the section 64 VA of the Act in regard to maintenance of required solvency margin in the manner required under the said section;

(e) drawing the attention of management of the insurer, to any matter on which he or she thinks that action is required to be taken by the insurer to avoid--

- (i) any contravention of the Act; or
- (ii) prejudice to the interests of policyholders;

(f) complying with the Authority's directions from time to time;

(g) in the case of the insurer carrying on life insurance business,--

- (i) to certify the actuarial report and abstract and other returns as required under section 13 of the Act;
- (ii) to comply with the provisions of section 21 of the Act in regard to further information required by the Authority;
- (iii) to comply with the provisions of section 40-B of the Act in regard to the bases of premium;
- (iv) to comply with the provisions of the section 112 of the Act in regard to recommendation of interim bonus or bonuses payable by life insurer to policyholders whose policies mature for payment by reason of death or otherwise during the inter-valuation period;
- (v) to ensure that all the requisite records have been made available to him or her for the purpose of conducting actuarial valuation of liabilities and assets of the insurer;
- (vi) to ensure that the premium rates of the insurance products are fair;
- (vii) to certify that the mathematical reserves have been determined taking into account the guidance notes issued by the Actuarial Society of India and any directions given by the Authority;
- (viii) to ensure that the policyholders' reasonable expectations have been considered in the matter of valuation of liabilities and distribution of surplus to the participating policyholders who are entitled for a share of surplus;
- (ix) to submit the actuarial advice in the interests of the insurance industry and the policyholders;

(h) in the case of the insurer carrying on general insurance business to ensure, --

- (i) that the rates are fair in respect of those contracts that are governed by the insurer's in-house tariff;
- (ii) that the actuarial principles, in the determination of liabilities, have been used in the calculation of reserves for incurred but not reported claims (IBNR) and other reserves where actuarial advice is sought by the Authority;

(i) informing the Authority in writing of his or her opinion, within a reasonable time, whether,--

- (i) the insurer has contravened the Act or any other Acts;
- (ii) the contravention is of such a nature that it may affect significantly the interests of the owners or beneficiaries of policies issued by the insurer;
- (iii) the directors of the insurer have failed to take such action as is reasonably necessary to enable him to exercise his or her duties and obligations under this regulation; or
- (iv) an officer or employee of the insurer has engaged in conduct calculated to prevent him or her exercising his or her duties and obligations under this regulation.

9. Absolute Privilege of Appointed Actuary.--(1) An appointed actuary shall enjoy absolute privilege to make any statement, oral or written, for the purpose of the performance of his functions as appointed actuary. This is in addition to any other privilege conferred upon an appointed actuary under any other Regulations.

(2) Any provision of the letter of appointment of the appointed actuary, which restricts or prevents his duties, obligations and privileges under these regulations, shall be of no effect.

10. Applicability to reinsurance business.-- These regulations shall apply to reinsurers carrying on reinsurance business in India.

Form IRDA-AA-1
Particulars of Appointed Actuary

1. Name of Insurer:
2. Name of Actuary:
3. Residential Address with telephone number:[Residential addresses during the last five years have to be furnished]
4. Official Address with telephone number:
5. Date of Appointment:
6. Date & Place of Birth
7. Annual Remuneration & Fringe Benefits
8. Shareholding (in per cent. of share holding) in the Indian Insurance Company (for which the applicant is the Appointed Actuary) and also in the promoter's companies, if any.
9. Professional Qualifications:
10. Working Experience (give also particulars of previous experience as Appointed Actuary in India or elsewhere)
11. Achievements and special positions held presently or previously:
12. Names, countries of incorporation, addresses and principal activities of any other firms or companies in which the applicant was a director, partner, proprietor or employee:
13. Particulars of any criminal conviction for offences in India or elsewhere:
14. Has the applicant been adjudicated bankrupt during the last ten years? If so, give details:
15. Has the applicant been disciplined by any professional bodies or any insurance regulator? If so give details:

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Certification:

I hereby certify that the information given in this form is complete, true and correct, and also enclose the Certificate of Practice issued by the Actuarial Society of India.

Place:

Date:

Signature of Actuary.

Countersigned by the principal officer of the Insurer:

N. RANGACHARY, Chairperson

[No. Advt.-3/4/Exty/161/2000]