

THE INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY (TREATMENT OF DISCONTINUED LINKED INSURANCE POLICIES) REGULATIONS, 2010¹

In exercise of the powers conferred by clause (zd) of sub-section 114A of the Insurance Act, 1938 (4 of 1938) read with sections 14 and 26 of the Insurance Regulatory and Development Authority Act, 1999 (4 of 1999), the 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 (Treatment of Discontinued Linked Insurance Policies) Regulations, 2010.

(2) They shall come into force on the date² of their publication in the Official Gazette and shall apply to all products of linked life insurance cleared by the Authority thereafter.

2. Definitions.—(1) Unless the context otherwise requires,—

- (i) "Act" means the Insurance Act, 1938 (4 of 1938);
- (ii) "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);
- (iii) "date of payment of premium" shall in terms of the provisions of Section 64 VB(2) of the Act mean the date on which payment is received by the insurer;
- (iv) "date of discontinuance of the policy" shall for the purpose of these regulations, be the date on which the insurer receives the intimation from the insured or policyholder about discontinuance of the policy or on the expiry of the notice period provided for in the sub-regulation (1) of regulation 5 of these regulations, whichever is earlier;
- (v) "grace period" means the time granted by the insurer from the due date for the payment of premium without levy of any interest or penalty during which time the policy is considered to be in-force with the risk cover without any interruption as per the terms of the policy;
- (vi) "discontinuance" means the state of a policy that could arise on account of non-payment of the contracted premium due before the expiry of the notice period provided for in sub-regulation (1) of regulation 5 of these regulations:

1. *Vide* Notification F. No. IRDA/Reg./2/52/2010, dated 1st July, 2010, published in the Gazette of India, Extra., Pt. III, Sec. 4, dated 6th July, 2010.

2. Came into force on 6-7-2010.

Provided that no policy shall be treated as discontinued if, within the grace period, the premium has not been paid due to the death of the policyholder or the insured or both or upon the happening of any other contingency covered under the policy;

- (vii) "Discontinued Policy Fund" means the segregated fund of the insurer that is set aside and is constituted by the fund value of all discontinued policies determined in accordance with these regulations;
- (viii) "lock-in-period" means the period of five consecutive years from the date of commencement of the policy, during which period the proceeds of the discontinued policies cannot be paid by the insurer to the policyholder or to the insured, as the case may be, except in the case of death or upon the happening of any other contingency covered under the policy;
- (ix) "revival of a policy" means restoration of the policy by the insurer, which was discontinued due to the non-payment of premium, with all benefits, with or without rider benefits if any, mentioned in the policy document, upon the receipt of all the premiums due and other charges if any, as per the terms and conditions of the policy, upon being satisfied as to the continued insurability of the policyholder on the basis of the information, documents and reports furnished by the policyholder;
- (x) "segregated fund" means the funds as referred to in Schedule II-A of the IRDA (Assets, Liabilities and Solvency Margin of the Insurers) Regulations, 2000;
- (xi) "discontinuance charge" means a charge that does not exceed the limits specified in these regulations, expressed as a percentage of one annualized level premium or fund value that can be levied upon discontinuance of a non-single premium policy.

(2) Words and expressions used and not defined in these regulations but defined in the Act, or the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999) shall have the meanings respectively assigned to them in those Acts or the rules and regulations made there under, as the case may be.

3. Grace Period.—The grace period for payment of the premium for all types of linked insurance policies shall be as follows:—

- (i) fifteen days, where the policyholder pays the premium on a monthly basis;
- (ii) thirty days, in all other cases.

4. Options of a policyholder upon discontinuance of the policy.—A policyholder shall be entitled to exercise one of the following options upon the discontinuance of the policy:—

- (i) revival of the policy, or
- (ii) complete withdrawal from the policy without any risk cover.

5. Obligations of the insurer for revival of the policy.—Where a policy is discontinued, the insurer shall take the following steps to enable the policyholder to exercise the option as available in terms of regulation 4:—

- (i) Send a notice within a period of fifteen days from the date of expiry of grace period to such a policyholder to exercise the said options within a period of thirty days of receipt of such notice:

Provided that where the policyholder does not exercise the option within the stipulated period of thirty days, the policyholder shall be deemed to have exercised the option mentioned at sub-regulation (ii) of regulation 4.

Explanation.—The fund value of the policy shall be part of the segregated fund chosen till the policyholder exercises his/her option or till the expiry of thirty days of notice period whichever is earlier. During this period the policy is deemed to be in force with risk cover as per terms and conditions of the policy.

- (ii) Where the policyholder exercises the option to revive the policy, the risk cover along with investments made in the segregated funds, less applicable charges as per the terms and conditions of the policy, shall be continued.

6. Obligations of the insurer upon complete withdrawal of the policy.—

(1) Where the policyholder exercises the options available at sub-regulation (ii) of regulation 4 or does not exercise the option available in terms of the proviso to sub-regulation (i) of regulation 5, the fund value of the policy shall be credited to the discontinued policy fund. The proceeds of the discontinued policy shall be refunded only upon completion of the lock in period. The income earned on the fund value shall also be apportioned to the discontinued policy fund and shall not be made available to the shareholders.

(2) The insurer shall refund the amount by means of a cheque or demand draft, to be delivered to the insured or the nominee, at his last known address or by any other electronic mode of payment. However, the insurer may deduct discontinuance charges on the date of discontinuance on such policies, which shall, not exceed the charges stated in sub-regulation (v) of regulation 7 of these regulations:

Provided that in case of pension and annuity linked products, the insurer shall not refund more than one-third of the proceeds of the discontinued policy while the remaining amount shall be used to purchase an annuity subject to the provisions of section 4 of the Act.

Explanation.—“Proceeds of the discontinued policies” means the fund value as on the date the policy has discontinued, after addition of interest computed at the minimum interest rate of 3.5% p.a.

(3) Where the insured or his nominee cannot be traced, the said proceeds shall be set aside and shown separately in the annual report of the insurer with its age-wise break-up. The insurer shall not write back or apportion the said proceeds to the income of the shareholders or to that of any other policyholder. The proceeds so set aside shall be dealt with in such manner as may be specified by the Authority from time-to-time.

7. Obligations of an insurer upon discontinuance of a policy.—The obligations of the insurer in this regard shall be as follows:—

- (i) to impose discontinuance charges only to recoup expenses incurred towards procurement, administration of the policy and incidental thereto;
- (ii) to design the discontinuance charges to encourage the policyholder to continue with the contract for the full term;
- (iii) to ensure that the discontinuance charges reflect the actual expenses incurred;
- (iv) to structure the discontinuance charges within the statutory ceilings on commissions and expenses; and
- (v) to ensure that the charges levied on the date of discontinuance (as a percentage of one annualized premium) do not exceed the limits specified below:

Where the policy is discontinued during the policy year	Maximum discontinuance charges for the policies having annualized premium up to Rs. 25,000	Maximum discontinuance charges for the policies having annualized premium above Rs. 25,000
1	Lower of 20% *(AP or FV) subject to a maximum of Rs. 3000	Lower of 6% *(AP or FV) subject to maximum of Rs. 6000
2.	Lower of 15% *(AP or FV) subject to a maximum of Rs. 2000	Lower of 4% * (AP of FV) subject to maximum of Rs. 5000
3.	Lower of 10% * (AP or FV) subject to a maximum of Rs. 1500	Lower of 3% *(AP or FV) subject to maximum of Rs. 4000
4.	Lower of 5% *(AP or FV) subject to a maximum of Rs. 1000	Lower of 2% *(AP or FV) subject to maximum of Rs. 2000
5 and onwards	NIL	NIL

AP—Annualised premium

FV—Fund value on the date of discontinuance

Provided that where a policy is discontinued, only discontinuance charge may be levied by the insurer, and no other charges by whatsoever name called shall be levied:

Provided that no discontinuance charges shall be imposed on single premium policies and on top ups.

8. Disclosures relating to discontinued policies.—(1) The funds arising from discontinuance policies shall be shown under a separate head in the Balance Sheet in the following manner:—

Funds for discontinued policies

- (i) Discontinued on account of non-payment of premium;
- (ii) Others.

(2) The amount refunded to the policyholders and amount transferred to the "Funds for discontinued policies" during the financial year shall be shown under a separate head.

(3) The following disclosures shall be made in the notes of the accounts:—

- (i) Number of policies discontinued during the financial year;
- (ii) Percentage of discontinued to total policies (product-wise) during the year;
- (iii) Number and percentage of the policies revived during the year;
- (iv) Charges imposed on account of discontinued policies.

9. Every insurer shall send a statement of account, on a half-yearly basis, within fifteen days, in respect of every policy in force including discontinued policies where the proceeds are yet to be paid to the policyholder or her nominee as the case may be, his last known address, which shall contain the following details:—

- (i) The total premium paid by the policyholder
- (ii) Next due date of the premium
- (iii) Pattern of the investment chosen
- (iv) Pattern of investment
- (v) Status of the policy
- (vi) Total fund value
- (vii) Total units
- (viii) Detail of charges recovered.

10. **Action in case of default.**—(i) The Authority may, at any time, by an order in writing, direct any officer of the Authority to inspect the affairs of any insurer and submit a report on the reasonableness or otherwise of discontinuance charges, treatment of all discontinued policies and the treatment of the proceeds thereof.

(ii) Upon receipt of the report, the Authority shall, after giving an opportunity to the insurer to make a representation in connection with the findings in the report on the, direct the insurer to reduce the discontinuance charges and refund the excess charges so imposed, to the policyholder.

(iii) Without prejudice to the above, the Authority may also initiate such action against the said insurer, as deemed appropriate, under the provisions of the Act, the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999) and the relevant regulations framed thereunder.

11. **Power of the Authority to issue clarifications.**—In order to remove any difficulties in respect of the application or interpretation of any of the provisions of these regulations, the Authority may issue appropriate clarifications or guidelines, as and when required.