

THE INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY OF INDIA (APPOINTED ACTUARY) REGULATIONS, 2017¹

In exercise of the powers conferred by clause (zd) of sub-section (2) of 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 (41 of 1999), the Authority in consultation with the Insurance Advisory Committee, hereby makes the following regulations, namely:—

1. Short title and commencement.—(A) These regulations may be called the Insurance Regulatory and Development Authority of India (Appointed Actuary) Regulations, 2017.

(B) These regulations supersede the "Insurance Regulatory and Development Authority (Appointed Actuary) Regulations, 2000".

(C) They shall come into force from the date² of their publication in the Official Gazette.

2. Definitions.—(A) In these regulations, unless the context otherwise requires,—

- (i) "Act" means the Insurance Act, 1938 (4 of 1938);
- (ii) "Actuary" means an actuary as defined in clause (a) of sub-section (1) of section 2 of Actuaries Act, 2006;
- (iii) "Appointed Actuary" means an actuary mentioned in regulation 3 below;
- (iv) "Authority" means the Insurance Regulatory and Development Authority of India established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);
- (v) "Institute of Actuaries of India" means a statutory body established under section 3 of the Actuaries Act, 2006 (35 of 2006);
- (vi) "Professional Standard" means the standard of practice specified by the Institute of Actuaries of India by issue of guidance notes/ Actuarial Practice Standard to its members.

(B) 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.—(A) An insurer registered to carry on insurance business in India shall, subject to sub-regulation (B) and sub-regulation (F) appoint an actuary, who shall be known as the 'Appointed Actuary' for the purposes of the Act.

(B) A person shall be eligible to be appointed as an Appointed Actuary for an insurer, if he or she is:

- (i) Ordinarily resident in India;
- (ii) A Fellow member in accordance with the Actuaries Act, 2006;
- (iii) A Fellow member satisfying the following requirements in case of a Life insurer:
 - (a) Passed specialization subject in life insurance. Currently, the specialization shall mean Specialist Application level subject as prescribed by the Institute of Actuaries of India.

1. Vide Notification F. No. IRDAI/Reg/6/143/2017, dated 27th April, 2017, published in the Gazette of India, Extra., Pt. III, Sec. 4, No. 196, dated 9th May, 2017.

2. Came into force on 9-5-2017.

- (b) Relevant experience of at least 10 years in life insurance industry out of which at least 5 years shall be post fellowship experience.
- (c) The applicant shall have at least 3 years post fellowship experience in annual statutory valuation of a life insurer.
- (iv) A Fellow member satisfying the following requirements in case of a General insurer or reinsurer:
 - (a) Passed specialization subject in general insurance. Currently, the specialization shall mean Specialist Application level subject as prescribed by the Institute of Actuaries of India.
 - (b) Relevant experience of at least 7 years in general insurance industry out of which at least 2 years shall be post fellowship experience.
 - (c) The applicant shall have at least 1 year post fellowship experience in annual statutory valuation of a general insurer.
- (v) A Fellow member satisfying the following requirements in case of a health insurer:
 - (a) Passed specialization subject in health or general insurance. Currently, the specialization shall mean Specialist Application level subject as prescribed by the Institute of Actuaries of India.
 - (b) Relevant experience of at least 7 years in health or general insurance industry out of which at least 2 years shall be post fellowship experience.
 - (c) At least 1-year post fellowship experience shall be in respect of annual statutory valuation of a health insurer or a general insurer.
- (vi) An employee of the insurer;
- (vii) A person who has not committed any breach of professional or other misconduct;
- (viii) Not an appointed actuary of another insurer in India;
- (ix) A person who possesses a Certificate of Practice issued by the Institute of Actuaries of India;
- (x) Not over the age of 65 years.

(C) Provisions for existing Appointed Actuaries as on date of notification of these regulations:

- (i) The existing Appointed Actuaries as on date of notification of this Regulation shall stand exempted from the requirement of passing the subject specialization as per regulation 3(B)(iii), 3(B)(iv) or 3(B)(v) provided he/she satisfies the following conditions as on the date of notification of these Regulations:
 - (a) In case of a life insurer, he/she has worked for at least 5 years as Appointed Actuary of a life insurer in India during 7 years period preceding the date of notification.
 - (b) In case of a general insurer, he/she has worked for at least 3 years as Appointed Actuary of a general insurer in India during 5 years period preceding the date of notification.
 - (c) In case of a health insurer, he/she has worked for at least 3 years as Appointed Actuary of a health insurer or general insurer in India during 5 years period preceding the date of notification.
 - (d) In case of a re-insurer, he/she has worked for at least 3 years as Appointed Actuary of a general insurer in India during 5 years period preceding the date of notification.

(ii) The Appointed Actuaries existing on the date of notification of these Regulations who have not passed the specialization subject as per regulation 3(B)(iii), 3(B)(iv) or 3(B)(v) above and do not comply with the conditions prescribed under sub-regulation (C)(i) above, shall pass the relevant specialization subjects within two years from the date of notification of these regulations.

(iii) The existing Appointed Actuaries who have already passed the specialization subject as required above under regulation 3(B)(iii), 3(B)(iv) or 3(B)(v) above as on date of notification of these regulations, shall be eligible to continue as Appointed Actuary on the same terms and conditions of such approvals.

(D) An insurer shall seek the approval of the Authority for the appointment of Appointed Actuary, submitting the application in Form IRDA AA-1.

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

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

(F) An insurer, who is unable to appoint an Appointed Actuary in accordance with sub-regulation (B) of regulation 3, shall make an application to the Chairperson of the Authority in writing for relaxation of conditions. The Chairperson may grant relaxations under one or more conditions. However, there shall be no relaxation in respect of conditions 3(B)(ii), 3(B)(vii) & 3(B)(ix).

(G) The appointment of an Appointed Actuary shall take effect on or after 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(D), apply to the Authority for the appointment of a person other than the one rejected by it, under regulation 3(D) as an Appointed Actuary, for the purposes of these regulations.

5. Business Continuance.—No insurer/reinsurer shall carry on the business of insurance/reinsurance without an Appointed Actuary for a period exceeding one year. Any non-compliance in this regard shall attract appropriate actions under the relevant provisions of the Insurance Act, 1938.

6. Transitory Provisions.—The Chairperson of the Authority may issue guidelines from time to time regarding the transitory provisions available for the insurers to take care of the situations where:

- (a) Insurers are not able to appoint Appointed Actuaries
 - (b) The young Actuaries need mentoring
- so that the statutory works are not hampered.

7. Cessation of Appointment of Appointed Actuary.—(A) An Appointed Actuary shall be given a notice of withdrawal of approval by the Authority on the following grounds:

- (i) that he or she ceases to be eligible in accordance with sub-regulation (B) of regulation (3), or;
- (ii) 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.

(B) The Authority after serving a notice to such Appointed Actuary shall grant an opportunity of being heard and thereafter issue appropriate order either withdrawing approval or revocation of the notice issued.

(C) If a person ceases to be an Appointed Actuary of an insurer otherwise than on the grounds mentioned in sub-regulation (A), the insurer and the Appointed Actuary shall intimate the Authority the reasons there for within one week of such cessation.

8. Powers of Appointed Actuary.—(A) 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.

(B) The Appointed Actuary may seek any information for the purpose of sub-regulation (A) of this regulation from any officer or employee of the insurer.

(C) The Appointed Actuary shall be entitled:

- (i) to attend all meetings of the management including meeting of the directors of the insurer;
- (ii) to speak and discuss on any matter, at such meeting,—
 - (a) that relates to the actuarial advice given to the directors;
 - (b) that may affect the solvency of the insurer;
 - (c) that may affect the ability of the insurer to meet the reasonable expectations of policyholders; or
 - (d) on which actuarial advice is necessary.
- (iii) to attend,—
 - (a) any meeting of the shareholders or the policyholders of the insurer; or
 - (b) 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.

9. 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:—

- (i) Ensuring 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;
- (ii) 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;
- (iii) Ensuring the solvency of the insurer at all times;
- (iv) 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;
- (v) Complying with the provisions of the section 64VA of the Act in regard to maintenance of required control level of solvency margin in the manner required under the said section;
- (vi) 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—
 - (a) Any contravention of the Act; or
 - (b) Prejudice to the interests of policyholders;
- (vii) Complying with the Authority's directions from time to time;
- (viii) Ensuring that overall pricing policy of the insurer is in line with the overall underwriting and claims management policy of the insurer;
- (ix) Ensuring adequacy of reinsurance arrangements;

- (x) Contributing to the effective implementation of the risk management system;
- (xi) Complying with the provisions of section 21 of the Act in regard to further information required by the Authority;
- (xii) In addition to the above, the duties of an Appointed Actuary of an insurer carrying on life insurance business shall include:
 - (a) Certifying the actuarial report and abstract and other returns as required under section 13 of the Act;
 - (b) Complying 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;
 - (c) Complying with section 40B & 40C of the Act;
 - (d) Ensuring that the premium rates of the insurance products are fair;
 - (e) Certifying that the mathematical reserves have been determined taking into account the guidance notes issued by the Institute of Actuaries of India and any directions given by the Authority;
 - (f) Ensuring 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;
 - (g) Submitting the actuarial advice in the interests of the insurance industry and the policyholders;
 - (h) Coordinating the calculation of mathematical reserves;
 - (i) Ensuring the appropriateness of the methodologies and underlying models used, as well as the assumptions made in the calculation of mathematical reserves;
 - (j) Assessing the sufficiency and quality of the data used in the calculation of mathematical reserves;
 - (k) Informing the Board of insurer about the reliability and adequacy of the calculation of mathematical reserves.
- (xiii) In addition to (i) to (xi) above, the duties of the Appointed Actuary of the insurer carrying on general insurance business or health insurance business include:
 - (a) Ensuring that the premium rates of the insurance products are fair;
 - (b) Ensuring 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 (including incurred but not enough reported claims (IBNER) and premium deficiency reserve (PDR) where actuarial advice is sought by the Authority;
 - (c) Complying with section 40B & 40C of the Act;
 - (d) Coordinating the calculation of IBNR and other reserves (including IBNER and PDR) where actuarial advice is sought by the Authority;
 - (e) Ensuring the appropriateness of the methodologies and underlying models used, as well as the assumptions made in the calculation of IBNR and other reserves (including IBNER and PDR) where actuarial advice is sought by the Authority;

- (f) Assessing the sufficiency and quality of the data used in the calculation of IBNR and other reserves (including IBNER and PDR) where actuarial advice is sought by the Authority;
 - (g) Informing the Board of insurer about the reliability and adequacy of the calculation of IBNR and other reserves (including IBNER and PDR) where actuarial advice is sought by the Authority.
- (xiv) informing the Authority in writing of his or her opinion, within a reasonable time, whether,
- (a) the insurer has contravened the Act or any other Acts;
 - (b) 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;
 - (c) 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
 - (d) 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.
- (xv) If an Appointed Actuary is disqualified to act as an Actuary, he/she ceases to exist as Appointed Actuary forthwith;
- (xvi) While carrying out his/her duties and obligations, the Appointed Actuary shall pay due regard to generally accepted actuarial principles and practice.

10. Absolute Privilege of Appointed Actuary.—(A) 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.

(B) 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 void.

11. Conflict of Interest.—The Appointed Actuary shall function in accordance with these regulations and he/she shall not function in any other capacity which could result in conflict of interest in performing his/her role as Appointed Actuary in accordance with these Regulations.

12. Applicability to reinsurance business.—These regulations shall apply to reinsurers carrying on reinsurance business in India except in case of a foreign insurer engaged in re-insurance business through a branch established in India.

13. Power of the Authority to issue clarifications etc.—In order to remove any doubts or difficulties that may arise in the application or interpretation of any of the provisions under these regulations, the Chairperson of the Authority may issue appropriate clarifications or guidelines as deemed necessary.

For FORMS

Please visit IRDA website (www.irda.gov.in)
