

The Insurance Ombudsman Rules, 2017

UNION OF INDIA

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Rule THE-INSURANCE-OMBUDSMAN-RULES-2017 of 2017

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The Insurance Ombudsman Rules, 2017 Published vide Notification No. G.S.R. 413(E), dated 25th April, 2017 Ministry of Finance (Department of Financial Services) (Insurance Division) G.S.R. 413(E). - Whereas, the draft of certain rules namely, the Insurance Ombudsman Rules, 2016, were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) dated the 15th September, 2016 under the notification of the Government of India in the Ministry of Finance (Department of Financial Services) number G.S.R. 886 (E), dated the 15th September, 2016 inviting objections or suggestions from all persons likely to be affected thereby before the expiry of a period of forty-five days from the date on which the copies of the Official Gazette containing the said notification were made available to the public; And whereas, the copies of said Official Gazette were made available to the public on the 15th September, 2016; And whereas, the objections and suggestions received from the public on the said draft have been considered by the Central Government. Now, therefore, in exercise of the powers conferred by section 24 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999) and in supersession of the Redressal of Public Grievances Rules, 1998, except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely:-

1. Short title and commencement.

(1) These rules shall be called the Insurance Ombudsman Rules, 2017. (2) They shall come into force from the date of their publication in the Official Gazette.

2.

The objects of these Rules is to resolve all complaints of all personal lines of insurance, group insurance policies, policies issued to sole proprietorship and micro enterprises on the part of insurance companies and their agents and intermediaries in a cost effective and impartial manner.

3. Application.

- These rules shall apply to all insurers and their agents and intermediaries in respect of complaints of all personal lines of insurance, group insurance policies, policies issued to sole proprietorship and micro enterprises.

4. Definitions.

(1) In these rules, unless the context otherwise requires, - (a) "award" means an award passed by the Insurance Ombudsman under rule 17; (b) "financial year" means a period of twelve months commencing on the 1st day of April and ending on the 31st day of March; (c) "Insurance Council" means the Life Insurance Council and the General Insurance Council constituted under section 64C of the Insurance Act, 1938 (4 of 1938); (d) "Executive Council of Insurers" means the Executive Council of Insurers constituted under rule 5; (e) "Insurance Ombudsman" means the Insurance Ombudsman established under rule 7; (f) "IRDAI" means the Insurance Regulatory and Development Authority of India established under section 3 of the Insurance Regulatory and Development Authority Act, 1999; (g) "Ombudsman" means a person appointed as an Insurance Ombudsman under these rules; (h) "personal lines" means an insurance policy taken or given in an individual capacity; (i) "Group insurance" means insurance cover obtained by a group of individuals, either through an employer or otherwise, under a single contract; (j) "sole proprietorship" means a business that legally has no separate existence from its owner and the income and losses are taxed on the individual's personal income tax return; (k) "micro enterprise" means the micro enterprises as defined in clause (h) of section 2 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006). (2) All other words and expressions used in these rules but not defined shall have the meanings respectively assigned to them in the Insurance Act, 1938 and the Insurance Regulatory and Development Authority Act, 1999.

5. Executive Council of Insurers.

(1) There shall be an Executive Council of Insurers consisting of nine members including the Chairperson. (2) The members of the Executive Council of Insurers shall comprise of - (i) two persons representing life insurers to be nominated by the Life Insurance Council; (ii) two persons representing General insurers, other than stand-alone health insurers, to be nominated by the General Insurance Council; (iii) one person representing stand-alone health insurers to be nominated by the General Insurance Council; (iv) one representative of the IRDAI; and (v) one representative of the Central Government in the Ministry of Finance from the Department of Financial Services not below the rank of Director; (vi) the Chairman, Life Insurance Corporation of India (LIC of India) established under the Life Insurance Corporation Act, 1956 (31 of 1956) or the Chairman, General Insurers' (Public Sector) Association of India (GIPSA) established under the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972) provided they are not acting as Chairperson of the Executive Council of Insurers. (3) The Chairperson of the Executive Council of Insurers shall be either the Chairman of the LIC of India or the Chairman of the GIPSA by rotation. (4) The term of the Chairperson and members of the Executive Council of Insurers shall be three years from the date of assumption of charge. (5) The nominations to the Executive Council of Insurers shall be revised every

three years or as and when the vacancy arises, whichever is earlier.(6)A member of the Executive Council of Insurers shall not be eligible for re-nomination for a period of three years from the date he ceases to be a member:Provided that this sub-rule shall not apply to the Chairperson or to the members nominated under clauses (iv), (v) and (vi) of sub-rule (2).

6. Functions of the Executive Council of Insurers.

(1)The Executive Council of Insurers shall issue such guidelines, including, inter-alia, relating to the procedure for the day to day administration, secretariat staffing, secretariat administrative infrastructure, and such other related aspects of functioning of Insurance Ombudsman system.(2)In case any vacancy arises in any Insurance Ombudsman due to resignation or retirement or death of the Ombudsman, the Executive Council of Insurers shall direct an Ombudsman of such other territorial jurisdiction to hold additional charge of the Insurance Ombudsman where such vacancy may arise.(3)The Executive Council of Insurers may constitute such committees and as and when deemed necessary obtain the assistance of outside expertise for preparing the guidelines referred to in sub-rule (1).

7. Insurance Ombudsman.

(1)There shall be established such number of Insurance Ombudsman for such territorial jurisdiction as the Executive Council of Insurers may specify, for discharging the duties and functions prescribed under these rules.(2)An Ombudsman shall be selected from amongst persons having experience of the insurance industry, civil service, administrative service or judicial service.(3)An Ombudsman shall be selected by a Selection Committee comprising of-(a)Chairperson of the IRDAI, who shall be the Chairman of the Selection Committee;(b)one representative each of the Life Insurance Council and the General Insurance Council from the Executive Council of Insurers - members;(c)A representative of the Government of India not below the rank of a Joint Secretary or equivalent, in the Ministry of Finance, from the Department of Financial Services-member.(4)The Executive Council of Insurers shall prepare a panel through an open process by inviting applications from amongst the eligible candidates and the selection process shall be in accordance with the selection criteria finalised by the Executive Council of Insurers with the approval of the Central Government in the Ministry of Finance.(5)An Ombudsman shall be appointed after satisfactory vigilance clearance from the immediate previous employer and medical fitness report from an authorised doctor.

8. Term of office of Insurance Ombudsman.

- An Ombudsman shall be appointed for a term of three years and shall be eligible for reappointment:Provided that no person shall hold office as an Ombudsman after he has attained the age of seventy years.

9. Removal from office of Insurance Ombudsman.

- An Ombudsman may be removed from office on the ground of gross misconduct during his term of office, after following due procedure specified as under, namely:-(a)The Executive Council of Insurers shall draw up articles of charge or charges, if any, on the Ombudsman after giving him a reasonable opportunity of being heard;(b)The Executive Council of Insurers shall, as and when deemed necessary, appoint such person or persons to inquire into the allegations levelled against the Insurance Ombudsman;(c)Upon conclusion of the inquiry, the Executive Council of Insurers or the person nominated by it shall forward the inquiry report to the concerned Ombudsman who shall submit his comments or submissions within a specified time;(d)Upon receipt of the comments or submissions or after the expiry of the stipulated period, the Chairperson of the Executive Council of Insurers shall forward the inquiry report, the submissions of the concerned Insurance Ombudsman along with the recommendations of the Executive Council of Insurers to the IRDAI;(e)The IRDAI shall decide upon the action to be taken, if any, against the concerned Insurance Ombudsman and shall communicate such decision to the Executive Council of Insurers who shall implement the decision of the IRDAI.(f)The IRDAI may, wherever it considers necessary, initiate an inquiry suo moto against any Insurance Ombudsman and in such case, it shall request the Executive Council of Insurers to initiate the proceedings and the Executive Council of Insurers shall proceed with the inquiry in accordance with the procedure laid down in this rule.

10. Remuneration, etc., of Insurance Ombudsman.

(1)The Ombudsman shall be allowed a fixed pay of two lakh twenty-five thousand rupees per month and any pension to which he is entitled from the Central Government or a State Government shall be deducted from his salary.(2)The revised pay shall be such as may be determined by the Central Government: Provided that the other allowances and perquisites payable to the Ombudsman shall be such as may be determined by the Executive Council of Insurers with the prior approval of the Central Government.

11. Territorial jurisdiction of Insurance Ombudsman.

(1)The office of the Insurance Ombudsman shall be located at such places and shall have such territorial jurisdiction as may be specified by the Executive Council of Insurers from time to time.(2)The Executive Council of Insurers shall specify the territorial jurisdiction of each Ombudsman.(3)The Ombudsman may hold sitting at various places within his area of jurisdiction in order to expedite disposal of complaints.

12. Offices of Executive Council of Insurers and Insurance Ombudsman.

(1)The IRDAI shall make available to the Insurance Ombudsman such secretarial staff as may be determined by the Executive Council of Insurers.(2)The salary, allowances and perquisites payable to the staff of the Insurance Ombudsman secretariat and all expenses incurred in connection with administration, including expenses to be incurred by the Executive Council of Insurers, fees of

professional experts engaged under sub-rule (3) of rule 15 and expenses towards Advisory committee constituted under rule 19 shall be borne by the Life Insurance Council and the General Insurance Council in such proportion as the Executive Council of Insurers may, by a general or special order specify, from time to time, in this behalf.(3)The Insurance Ombudsman shall submit its annual budget requirements for the ensuing financial year by the 31st January every year to the Executive Council of Insurers and the Executive Council of Insurers shall, after finalising the budget in consultation with the Ombudsman,, advise the Life Insurance Council and the General Insurance Council to allocate to it the funds including funds for the budgeted expenses of the Executive Council of Insurers, and the Executive Council of Insurers shall in turn allocate funds to the respective offices of the Insurance Ombudsman.(4)The decision of the Executive Council of Insurers on allocation of fund to an office of Insurance Ombudsman shall be final.

13. Duties and functions of Insurance Ombudsman.

(1)The Ombudsman shall receive and consider complaints or disputes relating to-(a)delay in settlement of claims, beyond the time specified in the regulations, framed under the Insurance Regulatory and Development Authority of India Act, 1999;(b)any partial or total repudiation of claims by the life insurer, General insurer or the health insurer ;(c)disputes over premium paid or payable in terms of insurance policy;(d)misrepresentation of policy terms and conditions at any time in the policy document or policy contract;(e)legal construction of insurance policies in so far as the dispute relates to claim;(f)policy servicing related grievances against insurers and their agents and intermediaries;(g)issuance of life insurance policy, general insurance policy including health insurance policy which is not in conformity with the proposal form submitted by the proposer;(h)non-issuance of insurance policy after receipt of premium in life insurance and general insurance including health insurance; and(i)any other matter resulting from the violation of provisions of the Insurance Act, 1938 or the regulations, circulars, guidelines or instructions issued by the IRDAI from time to time or the terms and conditions of the policy contract, in so far as they relate to issues mentioned at clauses (a) to (f).(2)The Ombudsman shall act as counsellor and mediator relating to matters specified in sub-rule (1) provided there is written consent of the parties to the dispute.(3)The Ombudsman shall be precluded from handling any matter if he is an interested party or having conflict of interest.(4)The Central Government or as the case may be, the IRDAI may, at any time refer any complaint or dispute relating to insurance matters specified in sub-rule (1), to the Insurance Ombudsman and such complaint or dispute shall be entertained by the Insurance Ombudsman and be dealt with as if it is a complaint made under rule 14.

14. Manner in which complaint to be made.

(1)Any person who has a grievance against an insurer, may himself or through his legal heirs, nominee or assignee, make a complaint in writing to the Insurance Ombudsman within whose territorial jurisdiction the branch or office of the insurer complained against or the residential address or place of residence of the complainant is located.(2)The complaint shall be in writing, duly signed by the complainant or through his legal heirs, nominee or assignee and shall state clearly the name and address of the complainant, the name of the branch or office of the insurer against whom the complaint is made, the facts giving rise to the complaint, supported by documents, the nature

and extent of the loss caused to the complainant and the relief sought from the Insurance Ombudsman.(3)No complaint to the Insurance Ombudsman shall lie unless-(a)the complainant makes a written representation to the insurer named in the complaint and-(i)either the insurer had rejected the complaint; or(ii)the complainant had not received any reply within a period of one month after the insurer received his representation; or(iii)the complainant is not satisfied with the reply given to him by the insurer;(b)The complaint is made within one year-(i)after the order of the insurer rejecting the representation is received; or(ii)after receipt of decision of the insurer which is not to the satisfaction of the complainant;(iii)after expiry of a period of one month from the date of sending the written representation to the insurer if the insurer named fails to furnish reply to the complainant .(4)The Ombudsman shall be empowered to condone the delay in such cases as he may consider necessary, after calling for objections of the insurer against the proposed condonation and after recording reasons for condoning the delay and in case the delay is condoned, the date of condonation of delay shall be deemed to be the date of filing of the complaint, for further proceedings under these rules.(5)No complaint before the Insurance Ombudsman shall be maintainable on the same subject matter on which proceedings are pending before or disposed of by any court or consumer forum or arbitrator.

15. Insurance Ombudsman to act fairly and equitably.

(1)The Ombudsman may, if he deems fit, allow the complainant to adopt a procedure other than under sub-rule (1) or sub-rule (2) of rule 14 for making a complaint, after notifying the parties to the dispute.(2)The Ombudsman shall have the power to ask the parties concerned for additional documents in support of their respective contentions and wherever considered necessary, collect factual information relating to the dispute available with the insurer and may make available such information to the parties concerned.(3)The Ombudsman may obtain the opinion of professional experts, if the disposal of a case warrants it.(4)The Ombudsman shall dispose of a complaint after giving the parties to the dispute a reasonable opportunity of being heard.

16. Recommendations made by the Insurance Ombudsman.

(1)Where a complaint is settled through mediation, the Ombudsman shall make a recommendation which it thinks fair in the circumstances of the case, within one month of the date of receipt of mutual written consent for such mediation and the copies of the recommendation shall be sent to the complainant and the insurer concerned.(2)If the recommendation of the Ombudsman is acceptable to the complainant, he shall send a communication in writing within fifteen days of receipt of the recommendation, stating clearly that he accepts the settlement as full and final.(3)The Ombudsman shall send to the insurer, a copy of its recommendation, along with the acceptance letter received from the complainant and the insurer shall, thereupon, comply with the terms of the recommendation immediately but not later than fifteen days of the receipt of such recommendation, and inform the Ombudsman of its compliance.

17. Award.

(1)Where the complaint is not settled by way of mediation under rule 16, the Ombudsman shall pass an award, based on the pleadings and evidence brought on record.(2)The award shall be in writing and shall state the reasons upon which the award is based.(3)Where the award is in favour of the complainant, it shall state the amount of compensation granted to the complainant after deducting the amount already paid, if any, from the award :Provided that the Ombudsman shall,-(i) not award any compensation in excess of the loss suffered by the complainant as a direct consequence of the cause of action; or (ii) not award compensation exceeding rupees thirty lakhs (including relevant expenses, if any).(4)The Ombudsman shall finalise its findings and pass an award within a period of three months of the receipt of all requirements from the complainant.(5)A copy of the award shall be sent to the complainant and the insurer named in the complaint.(6)The insurer shall comply with the award within thirty days of the receipt of the award and intimate compliance of the same to the Ombudsman.(7)The complainant shall be entitled to such interest at a rate per annum as specified in the regulations, framed under the Insurance Regulatory and Development Authority of India Act, 1999, from the date the claim ought to have been settled under the regulations, till the date of payment of the amount awarded by the Ombudsman.(8)The award of Insurance Ombudsman shall be binding on the insurers.

18. Review of activities of Insurance Ombudsman.

(1)The Ombudsman shall prepare an annual report detailing the activities undertaken during the previous financial year under their jurisdiction, statement of accounts and any other relevant information and submit to the Executive Council of Insurers with a copy to the IRDAI by the 30th June every year.(2)The Executive Council of Insurers shall on receipt of annual reports of all Insurance Ombudsman, furnish a report containing a general review of the activities of Insurance Ombudsman during the preceding financial year and such other information as it may consider necessary, to the Central Government and to the IRDAI any time after the 30th June but not later than the 30th September, every year.(3)The IRDAI shall consider the annual reports so furnished under sub-rule (1) and the report of the Executive Council of Insurers under sub-rule (2) and take suitable steps as it deems fit and necessary.

19. Advisory Committee.

(1)An Advisory Committee consisting of eminent persons not exceeding five and including one Central Government nominee shall be constituted by the IRDAI to review the performance of the Insurance Ombudsman from time to time.(2)The IRDAI shall decide the time, venue and quorum of the meeting of the Advisory Committee.(3)The Advisory Committee shall submit its report to the IRDAI for review and further action as deemed necessary.

20. Recommendations to Central Government.

- The IRDAI, in consultation with the Executive Council of Insurers, may recommend to the Central

Government, proposals for effecting improvements in the functioning of the Insurance Ombudsman.