

Insurance Regulatory and Development Authority of India (Appointed Actuary) Regulations, 2022

UNION OF INDIA

India

The Insurance Regulatory and Development Authority Act, 1999

Insurance Regulatory and Development Authority of India (Appointed Actuary) Regulations, 2022

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In exercise of the powers conferred by clause (zd) of sub-section (2) of section 14A of the Insurance Act, 1938 (4 of 1938), sections 4 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.

A. These Regulations may be called Insurance Regulatory and Development Authority of India (Appointed Actuary) Regulations, 2022. B. The Insurance Regulatory and Development Authority of India (Appointed Actuary) Regulations, 2017 and any amendments made thereafter shall be repealed from the date these Regulations come into force. C. These Regulations shall come into force from the date of their publication in the Official Gazette. D. These Regulations shall be reviewed once in every three years from date of notification, unless the review or repeal or amendment is warranted earlier.

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 the Actuaries Act 2006; iii. "Appointed Actuary" means an actuary mentioned in Regulation 3(A) of these Regulations; 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 (4 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 Regulation 3(B) and Regulation 3(F) of these Regulations, 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 of the Institute of Actuaries of India (IAI), satisfying the following requirements in case of a Life Insurer:
 - At least 12 years of experience in the area of Life Insurance and out of which at least 7 years shall be post fellowship experience. Provided, if the applicant has passed the Specialist Application or Specialist Advanced level subject in Life Insurance from Institute of Actuaries of India or from any other institute or body with which IAI has Mutual Recognition Agreement, the experience criteria including post fellowship experience criterion as mentioned in Regulation 3(B)(iii)(a) above shall be reduced by 2 years. At least 3 years post fellowship experience out of 7 years or 5 years as applicable, as specified under Regulation 3(B)(iii)(a) shall be in the preparation or review of annual statutory valuation or product pricing of an Indian Life Insurer. Notwithstanding above, experience in the area of Life Insurance as a Peer Reviewer or Independent Actuary or Panel Actuary or Actuary certifying the reinsurance returns for Life reinsurance business or experience in actuarial consultancy in Life Insurance business or relevant experience with the Authority shall also be considered. At least 3 years of experience shall be in the role of middle or senior level management.
- iv. A Fellow Member of the Institute of Actuaries of India (IAI), satisfying the following requirements in case of a General Insurer:
 - At least 9 years of experience in the area of General Insurance and out of which at least 4 years shall be post fellowship experience. Provided, if the applicant has passed the Specialist Application or Specialist Advanced level subject in General Insurance from Institute of Actuaries of India or from any other institute or body with which IAI has Mutual Recognition Agreement, the experience criteria including post fellowship experience criterion as mentioned in Regulation 3(B)(iv)(a) above shall be reduced by 2 years. At least 2 years post fellowship experience out of 4 years or 2 years as applicable, as specified under Regulation 3(B)(iv)(a) shall be in the preparation or review of annual statutory valuation or product pricing of an Indian General Insurer. Notwithstanding above, experience in the area of General Insurance as a Peer Reviewer or Panel Actuary or Actuary certifying reinsurance returns for General reinsurance business or experience in actuarial consultancy in General Insurance business or relevant experience with the Authority shall also be considered. At least 3 years of experience shall be in the role of middle or senior level management.
- v. A Fellow Member of the Institute of Actuaries of India (IAI), satisfying the following requirements in case of a Health Insurer:
 - At least 9 years of experience in the area of General or Health Insurance and out of which at least 4 years shall be post fellowship experience. Provided, if the applicant has passed the Specialist Application or Specialist Advanced level subject in General or Health Insurance from Institute of Actuaries of India or from any other institute or body with which IAI has Mutual Recognition Agreement, the experience criteria including post fellowship experience criterion as mentioned in Regulation 3(B)(v)(a) above shall be reduced by 2 years.

b. At least 2 years

post fellowship experience out of 4 years or 2 years as applicable, as specified under Regulation 3B(v)(a) shall be in the preparation or review of annual statutory valuation or product pricing of an Indian General or Health Insurer. Notwithstanding above, experience in the area of General or Health Insurance as a Peer Reviewer or Panel Actuary or Actuary certifying reinsurance returns for General or Health reinsurance business or experience in actuarial consultancy in General or Health insurance business or relevant experience with the Authority shall also be considered. c. At least 3 years of experience shall be in the role of middle or senior level management. vi. An employee of the insurer on full time basis; vii. A person who has not committed any professional or other misconduct; viii. | Not an Appointed Actuary of any other 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 70 years. Provision for existing Appointed Actuaries as on date of notification of these Regulations: The existing Appointed Actuaries as on the date of notification of these Regulations are eligible to continue as Appointed Actuary of the respective insurer. An insurer shall seek the approval of the Authority for the appointment of Appointed Actuary, submitting the application in the format as may be specified from time to time. 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. An insurer, who is unable to appoint an Appointed Actuary in accordance with Regulation 3(B) shall make an application to the Authority in writing for relaxation of any of the eligibility conditions. The Authority may grant relaxation of one or more conditions. However, there shall be no relaxation in respect of conditions under Regulations 3(B)(ii), 3(B)(vii) & 3(B)(ix). The appointment of an Appointed Actuary shall take effect on or after the date of approval by the Authority. Effect of rejection of the application. - The insurer shall, within four weeks of rejection of the application referred to under Regulation 3(E), apply to the Authority under Regulation 3(D) for the appointment of a person as an Appointed Actuary other than the one rejected by it under Regulation 3(E). Carrying on business without Appointed Actuary. (a) No insurer shall carry on the business of insurance/reinsurance without an Appointed Actuary. Any non-compliance in this regard shall attract appropriate actions under the relevant provisions of the Insurance Act, 1938. (b) The Authority, on request of the insurer for relaxation of the provisions under Regulation 5(a), may grant relaxation for such period as may deem appropriate but not exceeding one year. (c) The Chairperson of the Authority may issue circular(s) from time to time regarding the transitory provisions for consideration of relaxation referred under Regulation 5(b) above.

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. 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. If a person ceases to be an Appointed Actuary of an insurer otherwise than on the grounds mentioned in Regulation 6(A), the insurer and the Appointed Actuary shall intimate the Authority the reasons there for within one week of such cessation. The insurer in consultation with Appointed Actuary shall endeavour to avoid delay in submission of annual statutory returns arising from cessation of services of Appointed Actuary.

7. Powers of Appointed Actuary: —

A. An Appointed Actuary shall have access to all such information and documents in possession or under control, of the insurer if the same 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 Regulation 7(A) of these Regulations from any officer or employee of the insurer. C. The Appointed Actuary shall be entitled: to attend, speak and discuss on any matter in meetings of the management including directors meeting of the insurer and in meetings of the shareholders or the policyholders of the insurer; D. 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; ord. on which actuarial advice is necessary. An Appointed Actuary shall be entitled to make any statement to insurer, for the purpose of the performance of his or her functions as Appointed Actuary. This is in addition to any other privilege conferred upon an Appointed Actuary under any other Regulations. No provision of the letter of appointment of the Appointed Actuary, shall restrict or prevent his or her duties, obligations and privileges under these Regulations.

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: 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; i. L. 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; Identifying and monitoring the risks associated with the insurer's ability to maintain the solvency at all times; Reporting those risks to the Board of the insurer where the Appointed Actuary believes that there are material concerns which may adversely affect the solvency of the insurer with recommendations on actions to be taken for rectification of solvency position and informing the Authority, if the insurer fails to take necessary steps to rectify the situation; 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 64 VA 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 any contravention of the Act of such a nature that it may affect the interests of the policyholders; vil. Complying with the Authority's directions from time to time; Viil. Ensuring that overall pricing policy of the insurer is in line with the overall underwriting and claims management policy of the insurer;

5. Ensuring adequacy of reinsurance arrangements;

X. Contributing to the effective implementation of the risk management system; XI. Complying with the provisions of section 2] of the Act in regard to further information required by the Authority; Xi.

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 12 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. Rendering actuarial advice in respect of expenses of management of the insurer;
- d. Ensuring that the premium rates of the insurance products are fair;
- e. Certifying that the mathematical reserves have been determined in the manner prescribed in the extant provisions of Insurance Regulatory and Development Authority of India (Assets, Liabilities and Solvency Margin of Life Insurance Business) Regulations, 2016 and taking into account the Guidance Notes /Actuarial Practice Standard 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 mathematical reserves;

14. 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. Certifying that claims reserves including reserves for incurred but not reported claims (IBNR) and other reserves (including reserves for incurred but not enough reported claims (IBNER) and premium deficiency reserve (PDR)) have been determined using actuarial principles and in the manner prescribed in the extant provisions of Insurance Regulatory and Development Authority of India (Assets, Liabilities and Solvency Margin of General Insurance Business) Regulations, 2016;
- c. Rendering actuarial advice in respect of expenses of management of the insurer;
- d. Coordinating the calculation of reserves for IBNR and other reserves (including reserves for IBNER and PDR);
- e. Assessing the sufficiency and quality of the data used in the calculation of reserves for IBNR and other reserves including reserves for IBNER and PDR;
- f. Informing the Board of insurer about the reliability and adequacy of reserves for IBNR and other reserves including reserves for IBNER and PDR;

XIV. Informing the Authority in writing of his or her opinion, within a reasonable time,

- a. any contravention of the Act or any other acts by the insurer is of such a nature that it may affect significantly the interests of the Policyholders or beneficiaries of policies issued by the insurer;
- b. whether the directors of the insurer have failed to take such action as is reasonably necessary to enable him or her to exercise his or her duties and obligations under these Regulations;
- c. whether an officer or employee of the insurer has engaged in conduct in order to prevent him or her exercising his or her duties and obligations under these Regulations.

If an Appointed Actuary is disqualified to act as an Actuary, he or she ceases to exist as Appointed Actuary forthwith; while carrying out his or her duties and obligations, the Appointed Actuary shall pay due regard to generally accepted actuarial principles and practices; the Appointed Actuary shall inform the Authority of any disciplinary proceedings initiated against him or her by any entity within seven days from the date of such initiation.

Conflict of interest --

- a. The Appointed Actuary shall function in accordance with these Regulations, and he or she shall not function in any other capacity which

could result in conflict of interest in performing his or her role as Appointed Actuary in accordance with these Regulations; The insurer and the Appointed Actuary shall comply with the provisions of Regulation 9(a) above at all times during his or her tenure as Appointed Actuary. Obligations of the insurer. a. The insurer shall provide adequate resources to the Appointed Actuary; In order to build up or develop sufficient actuarial expertise, life insurers shall have at least two actuaries and General/ Standalone Health insurers shall have at least one actuary in addition to Appointed Actuary for pricing and valuation purposes within such period as notified by the Authority from time to time; The insurer shall ensure that different functions of the insurer provide adequate support to the Appointed Actuary in discharging his or her duties and obligations; The insurer shall ensure that the Appointed Actuary does not simultaneously perform the role of Chief Risk Officer of the insurer defined as per the extant provisions of Corporate Governance Guidelines issued by the Authority. The Chief Risk Officer however may preferably be an Actuary independent of the Appointed Actuary. The insurer shall ensure that the Appointed Actuary reports directly to Chief Executive Officer of the insurer. 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. 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 may issue appropriate clarifications or guidelines as deemed necessary.