

ASSESSOR (LICENCING PROFESSIONAL REQUIREMENTS AND CODE OF CONDUCT) REGULATIONS, 2000

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SCHEDULE 1 :-

ASSESSOR (LICENCING PROFESSIONAL REQUIREMENTS AND CODE OF CONDUCT) REGULATIONS, 2000

Notification No. ENo. IRDA/Reg/11/2000, dated 20th November, 2000.1 In exercise of the powers conferred by Secs. 42D, 64UM and 114A of the Insurance Act, 1938 (4 of 1938) and Sec. 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:-

CHAPTER 1 PRELIMINARY

1. Short title, commencement and application :-

(1) These regulations may be called the Insurance Surveyors and Loss Assessors (Licencing, Professional Requirements and Code of Conduct) Regulations, 2000.

(2) They shall come into force on the date of their publication in the Official Gazette and shall apply to all licensed insurance surveyors and loss assessors.

2. Definitions :-

(1) In these regulations, unless the context otherwise requires,

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

(b) "applicant" means any person who applies for the grant of a surveyor's and loss assessor's licence or renewal thereof;

(c) "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);

(d) "Designated Person" means an officer of the Authority detailed by the Authority to discharge the functions assigned to him under all or any of these regulations;

(e) "Inspecting Authority" means the person(s) appointed by the

Authority to inspect and investigate the affairs of any surveyor and loss assessor;

(f) "IRDA Act" means the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);

(g) words and expressions used and not defined in these regulations but defined in the Insurance Act, 1938 (4 of 1938) or Insurance Regulatory and Development Authority Act, 1999 (41 of 1999) or the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972), or in any rules or regulations made under those Acts, shall have the meanings respectively assigned to them in those Acts or rules or regulations, as the case may be.

CHAPTER 2

LICENSING PROCEDURE

3. Application for, and matters relating to, grant of licence

:-

(1) Every person who is an individual and intending to act as a surveyor and loss assessor in respect of general insurance business shall apply to the Authority for grant of licence in FORM-IRDA-1-AF as given in the Schedule to these regulations.

(2) The Authority shall, before granting licence, take into consideration all matters relating to the duties, responsibilities and functions of surveyor and loss assessor and satisfy itself that the applicant is a fit and proper person to be granted a licence. In particular and without prejudice to the foregoing, the Authority shall satisfy itself that the applicant, in addition to submitting the application complete in all respects:

(a) satisfies all the applicable requirements of Section 64UM read with Section 42D of the Act and Rule 56A of the Insurance Rules, 1939;

(b) possesses such additional technical qualifications as may be specified by the Authority from time to time;

(c) has furnished evidence of payment of fees for grant of licence, depending upon the categorisation;

(d) has undergone a period of practical training, not exceeding 12 months, as contained in Chapter VII of these regulations; and

(e) furnishes such additional information as may be required by the

Authority from time to time.

(3) The Authority on being satisfied that the applicant is eligible for grant of licence, shall grant the same in FORM-IRDA-2-LF as given in the Schedule to these regulations and send an intimation to the applicant together with an identity card mentioning the particular class or category of general insurance business namely, fire, marine cargo, marine hull, engineering, motor, miscellaneous and loss of profit for which the Authority has granted licence and the licence shall remain valid for a period of five years from the date of issue therefore, unless cancelled earlier.

(4) A surveyor and loss assessor, whose licence has been cancelled or suspended for any reason, may submit an application for issuance of licence, after the expiry of three years from the date of such cancellation or suspension, and, such an application shall be treated as a fresh case, and, accordingly, the applicant shall satisfy all the requirements of sub-regulation (2).

(5) A surveyor and loss assessor shall be subject to categorisation as specified in Chapter V of these regulations.

(6) A licence issued, before the commencement of these regulations, by the Controller of Insurance or his authorised representative shall be deemed to have been issued in accordance with these regulations.

4. Corporate surveyors and loss assessors :-

(1) Where the applicant is a company or firm, the Authority shall be satisfied that all the directors or partners, as the case may be, possess one or more of the qualifications specified in Section 64UM sub-section (1)(i) of the Act and none of such directors or partners, as the case may be, suffers from any of the disqualifications mentioned in Section 42D of the Act read with Section 42 , sub-section (4) of the Act.

(2) The applicant referred to in (1) shall apply in FORM-IRDA-3-AF as given in the Schedule to these regulations.

(3) The Authority on being satisfied that the applicant is eligible for grant of licence, shall grant the same in FORM-IRDA-4-LF as given in the Schedule to these regulations, and, all the provisions of Regulation 3 above, shall apply mutatis mutandis to corporate surveyors.

5. Fee structure :-

On and from May 1,2001, the fee payable to the Authority by fresh applicants for grant of licence to act as surveyors and loss assessors, category wise, shall be as stated in the following table.

S.No.	Category of surveyor and loss assessor	Amount payable by individuals	Amount payable by Corporate Surveyor and Loss Assessor
		Rs.	Rs.
1.	A	Ten thousand	Twenty-five thousand
2.	B	Seven thousand five hundred	Twenty thousand
3.	C	Five thousand	Fifteen thousand

6. Application to conform to the requirements :-

Any incomplete application not conforming to the requirements of these regulations shall be rejected:

Provided that before rejecting any such application, the applicant shall be given a reasonable opportunity to make good the application.

7. Renewal of licence :-

(1) An insurance surveyor and loss assessor, desiring to renew the licence granted earlier, either under these regulations or prior to the commencement of these regulations, shall apply to the Authority at least thirty days before the expiry of the period of validity thereof, in FORM-IRDA-5-AF (for individuals)FORM-IRDA-6-AF (for corporate surveyors) as given in the Schedule to these regulations, along with a renewal fee of two hundred rupees:

Provided that the Authority may, if it is satisfied that undue hardship would be caused otherwise, accept any application, within six months of its expiry on payment by the applicant of a penalty of

seven hundred and fifty rupees:

Provided further that a licence not so renewed can be revalidated only as a fresh case.

(2) A licence so renewed shall be valid for five years from the date of renewal unless cancelled earlier. The renewed licence shall be in FORM-IRDA-7-LF or FORM- IRDA-8-LF, as the case may be.

(3) Every applicant, be it an individual or a company or a firm, while applying for renewal of the licence shall certify to the Authority that he or any of its directors or any of its partners, as the case may be, has

(i) not contravened any of the provisions of the Act or the IRDA Act, or any rules or regulations made under those Acts or any order or direction issued by the Authority;

(ii) not made a statement which is false in material particulars with regard to his eligibility for the licence or renewal thereof or in any of the activities transacted by him or them or the matters connected therewith as a surveyor and loss assessor;

(iii) neither had his licence cancelled or suspended under the Act, nor had violated the Code of Conduct prescribed under these regulations;

(iv) discharged the duties and responsibilities as a professional;

(v) not been negligent in the discharge of his obligations; and

(vi) not been sentenced to a term of imprisonment by any Court of law.

8. Procedure where licence is not to be granted or renewed, or where licence is to be suspended or cancelled :-

(1) Where an applicant does not satisfy the provisions of the Act and these regulations, the Authority may reject the application for grant of licence or renewal thereof and refund to the applicant not more than 60 per cent of the fee received:

Provided that no application shall be rejected unless the applicant has been given a reasonable opportunity to make good the application within a time frame as may be deemed appropriate by the Authority, according to the facts and circumstances of each case.

(2) The refusal shall be communicated to the applicant within thirty days of such refusal, stating the grounds of rejection.

(3) Where it is found that a surveyor and loss assessor suffers from any of the disqualifications or has knowingly contravened any provisions of the Act or the IRDA Act, or the rules or regulations made under those Acts or any order or direction or instruction issued by the Authority, the Authority may, after giving such surveyor and loss assessor an opportunity of being heard, cancel his licence, with effect from such date as may be specified by it and the Authority shall notify such cancellation in the Official Gazette.

(4) The Authority may refuse to grant or renew licence, or suspend or cancel a licence already granted, to a surveyor and loss assessor, if he/it:

(i) fails to discharge the duties and responsibilities in a satisfactory and professional manner; or

(ii) violates the code of conduct prescribed under these regulations; or

(iii) makes a statement which is false in material particulars with regard to the eligibility for obtaining licence or has, after the issue or renewal of such licence, acquired any of the disqualifications provided under sub-section (4) of Section 42 of the Act, read with Cl. D of sub-section (1) of Section 64UM of the Act:

Provided that the Authority shall give a reasonable opportunity, to the person concerned, of being heard, before such refusal or suspension or cancellation. The Authority shall notify only cancellations in the Official Gazette:

Provided further that the powers conferred on the Authority in this sub-regulation are without prejudice to the powers conferred on it by sub-section (7) of Section 64UM of the Act.

(5) The refusal or suspension or cancellation of licence referred to in sub-regulation (4) shall take effect from the date of such refusal, suspension or cancellation, as the case may be, and, no such surveyor and loss assessor shall carry out any survey and loss assessment work thereafter, including the jobs on hand. All such pending jobs shall be returned by him/it to the insurer or the insured, as the case may be.

9. Suspension of the licence :-

(1) A licensed surveyor and loss assessor whose licence is proposed to be suspended by the Authority may be granted an opportunity before suspending the licence:

Provided, however, that the Authority may not follow this procedure if the continued employment of the licensed surveyor and loss assessor is considered to be detrimental to the cause of insurance underwriting.

(2) The period of suspension will be indicated in the order of the Authority.

(3) On receipt of the order of suspension, the licensed surveyor and loss assessor may file an appeal with the Authority asking for revocation of suspension. The Authority may designate an officer who will hear the representation of the licensed surveyor and loss assessor and make such orders as are deemed fit. The order made in this regard shall be communicated to the suspended surveyor and loss assessor.

(4) If, on the basis of the order of the designated person, the Authority restores the licence of the surveyor and loss assessor, it will indicate the date from which the restoration will take place.

(5) During the period of suspension, the surveyor and loss assessor shall be prohibited from carrying out any surveys and all work that was handled prior to suspension and has remained incomplete shall be returned to an insurer or the insured as the case may be.

(6) The licence granted by the Authority may be cancelled by the Authority where the surveyor and loss assessor does not represent within a period of 45 days from the date of order of suspension.

(7) Any order of suspension or revocation of the order thereof shall be intimated to the insurers.

10. Issue of duplicate licence/identity card :-

(1) A person to whom a licence has been issued or renewed, shall, if such licence and/or identity card is/are lost, destroyed or mutilated, make an application in FORM-IRDA-9 given in the Schedule to these regulations to the Authority requesting for issuance of duplicate thereof, along with a fee of five rupees.

(2) The application referred to in sub-regulation (1) shall contain full particulars of licence/identity card and as to how the

loss/destruction or mutilation has occurred, and the application shall be accompanied by mutilated pieces, if any, in possession of the person making the application.

(3) The Authority, on being satisfied, may issue a duplicate licence and/or identity card in FORM-IRDA-10-LF as given in the Schedule to these regulations.

(4) The duplicate so issued shall remain in force for the remainder of the period of validity of the licence and/or identity card, unless cancelled earlier, and the duplicate shall bear an endorsement thereon that it is a duplicate.

CHAPTER 3

CONSTITUTION AND FUNCTIONS OF SURVEYORS AND LOSS ASSESSORS COMMITTEE

11. Constitution :-

(1) The Authority shall constitute a Committee to be called "Surveyors and Loss Assessors Committee" (hereinafter referred to as "the Committee"), for assisting the Authority on the matters and affairs relating to Insurance Surveyors and Loss Assessors.

(2) The Committee may consist of the following persons:-

(i) an Officer of the Authority;

(ii) two representatives of the Surveyors and Loss Assessors;

(iii) a representative of Insurer; and

(iv) a representative of the policy holders.

(3) The Committee will be for a period of three years and will be presided over by the officer of the Authority.

12. Functions of the Committee :-

(1) The Committee shall perform the following functions:

(i) recommending the syllabus for examination and practical training requirements for persons to qualify as surveyors and loss assessors;

(ii) recommending to the Authority for its consideration to recognise foreign qualifications and training for the purposes of grant of licence to act as surveyors and loss assessors;

(iii) improving and developing the status and standard of the

profession of surveyors and loss assessors;

(iv) co-ordinating with educational or other institutions, having as their objects, wholly or partly, similar to those of the profession of surveyors and loss assessors, in such manner as may be conducive for the attainment of common objectives;

(v) looking into the matters of professional misconduct, indiscipline, non-adherence to code of conduct by surveyors and loss assessors; and dealing with complaints of insured/insurer in respect of survey work done by surveyors and loss assessors; and

(vi) discharging any other function, which may be entrusted by the Authority, from time to time.

(2) The Committee may meet as frequently as necessary to conduct its affairs.

(3) The Members of the Committee, other than the officer of Authority will be entitled to such allowances as may be determined by the Authority from time to time.

CHAPTER 4

DUTIES AND RESPONSIBILITIES OF A SURVEYOR AND LOSS ASSESSOR

13. :-

(1) A surveyor and loss assessor shall, for a major part of the working time, investigate, manage, quantify, validate and deal with losses (whether insured or not) arising from any contingency, and report thereon, and carry out the work with competence, objectivity and professional integrity by strictly adhering to the code of conduct expected of such surveyor and loss assessor.

(2) The following shall, inter alia, be the duties and responsibilities of a surveyor and loss assessor:

(i) declaring whether he has any interest in the subject-matter in question or whether it pertains to any of his relatives, business partners or through material shareholding;

Explanation. For the purpose of this clause 'relatives' shall mean any of the relatives as mentioned in Schedule 1A to the Companies Act, 1956;

(ii) maintaining confidentiality and neutrality without jeopardising the liability of the insurer and claim of the insured;

- (iii) conducting inspection and re-inspection of the property in question suffering a loss;
- (iv) examining, inquiring, investigating, verifying and checking upon the cause and the circumstances of the loss in question including extent of loss, nature of ownership and insurable interest;
- (v) conducting spot and final surveys, as and when necessary and comment upon franchise, excess/under insurance and any other related matter;
- (vi) estimating measuring and determining the quantum and description of the subject under loss;
- (vii) advising the insurer and the insured about loss minimisation, loss control, security and safety measures, wherever appropriate, to avoid further losses;
- (viii) commenting on the admissibility of the loss as also observance of warranty conditions under the policy contract;
- (ix) surveying and assessing the loss on behalf of insurer or insured;
- (x) assessing liability under the contract of insurance;
- (xi) pointing out discrepancy, if any, in the policy workings;
- (xii) satisfying queries of the insured/insurer and of persons connected thereto in respect of the claim/loss;
- (xiii) recommending applicability of depreciation and the percentage and quantum of depreciation;
- (xiv) giving reasons for repudiation of claim, in case the claim is not covered by policy terms and conditions;
- (xv) taking expert opinion, wherever required; and
- (xvi) commenting on salvage and its disposal wherever necessary.

(3) A surveyor or loss assessor shall submit his report to the insurer as expeditiously as possible, but not later than 30 days of his appointment:

Provided that in exceptional cases, the aforementioned period can be extended with the consent of the insured and the insurer.

CATEGORISATION OF SURVEYORS

14. . :-

(1) A surveyor and loss assessor shall be categorised, as mentioned in sub regulation (3), based on the following criteria:

(i) professional qualifications;

(ii) training undergone;

(iii) experience as a surveyor and loss assessor and any other relevant professional experience; and

(iv) any other criteria, as may be specified by the Authority from time to time.

(2) The categorisation shall be done and reviewed from time to time on the basis of a point system evolved by the Authority in consultation with the Committee referred to in Chapter III of these regulations.

(3) The categorisation shall consist of allocation of one or more specified departments of insurance business, based on the factors mentioned above and shall include categorisation of the surveyors and loss assessors into three categories, viz. Category A, Category B and Category C.

(4) Every surveyor and loss assessor, whether a company or firm or an individual shall be eligible to carry on the work as a surveyor or loss assessor, as per the categorisation specified in the licence.

CHAPTER 6

CODE OF CONDUCT

15. Every surveyor and loss assessor shall :-

(1) behave ethically and with integrity in the professional pursuits. Integrity implies not merely honesty but fair dealing and truthfulness;

(2) strive for objectivity in professional and business judgment;

(3) act impartially, when acting on instructions from an insurer in relation to a policy holder's claim under a policy issued by that insurer;

(4) conduct himself with courtesy and consideration to all people with whom he comes into contact during the course of his work;

- (5) not accept or perform survey works in areas for which he does not hold a licence;
- (6) not accept or perform work which he is not competent to undertake, unless he obtains some advice and assistance, as will enable him to carry out the work competently;
- (7) carry out his professional work with due diligence, care and skill and with proper regard to technical and professional standards expected of him;
- (8) keep himself updated with all developments relevant to his professional practice;
- (9) at all times maintain proper record for work done by him and comply with all relevant laws;
- (10) assist and encourage his colleagues to obtain professional qualifications, and, in this behalf provide free articleship and/or practical training for a period of twelve months;
- (11) maintain a register of survey work, containing the relevant information, in FORM-IRDA-11 as given in the Schedule to these regulations, and shall keep important records of the survey reports, photographs and other important documents for a period of three years and furnish the same and such other specified returns, as and when called for by the Authority or by any investigating authority or the insurer;
- (12) disclose to all parties concerned his appointment, where the acceptance or continuance of such an engagement may materially prejudice, or could be seen to materially affect the interests of any interested party. As soon as a conflict of interest is foreseen, every surveyor and loss assessor shall notify all interested parties immediately and seek instructions for his continuance;
- (13) not disclose any information, pertaining to a client or employer or policy-holder acquired in the course of his professional work, to any third party, except, where consent has been obtained from the interested party, or where there is a legal right or duty enjoined upon him to disclose; and
- (14) neither use nor appear to use, any confidential information acquired or received by him in the course of his professional work, to his personal advantage or for the advantage of a third party.

16. . :-

(1) An applicant seeking a licence to act as a surveyor and loss assessor shall undergo a period of practical training of not less than twelve months with a surveyor and loss assessor as specified below;

(2) The surveyor under whom an applicant will be trained shall belong to Category A or Category B as classified by the Authority while granting a licence;

(3) The trainee shall maintain a record of training received during the period and shall get it certified by the surveyor and loss assessor under whom he has trained and the certificate shall be attached to the application for seeking grant of a licence under Regulation 3;

(4) The licence to be granted to an applicant to act as a surveyor and loss assessor shall be in that particular area for which he has been trained;

(5) If a surveyor and loss assessor already licensed by the Authority seeks to obtain a similar licence for acting as a surveyor in a category other than for which he is licensed, he shall undergo a period of training not less than six months under a surveyor and loss assessor holding either Category A or Category B licence issued by the Authority to act in that particular area.

17. . :-

The Authority may also prescribe the passing by an applicant of an examination on the successful completion of the training prescribed above for the grant of a licence under Regulation 3. The examination may be conducted either by the Authority itself or by an institution authorised by it in this behalf.

CHAPTER 8

MISCELLANEOUS

18. **Register of licensed insurance surveyors and loss assessors** :-

(1) The Authority shall maintain a register of all licensed insurance surveyors and loss assessors containing the following particulars :

(i) full name, date of birth, domicile, residential and professional

address;

(ii) the date on which name is entered in the Register;

(iii) licence number and period of validity;

(iv) professional and other qualifications;

(v) areas of survey work licensed to be undertaken;

(vi) categorisation of the surveyor and loss assessor; and

(vii) any other particulars as may be prescribed by the Authority from time to time:

Provided that in the case of corporate surveyors, the particulars to be entered in the register, shall be with reference to every director or partner, as the case may be.

(2) The Authority shall, delete the particulars of surveyors and loss assessors, who are no longer alive, or whose licence has been cancelled or suspended.

(3) The Authority shall cause the publication of the relevant particulars entered in the register, as may be considered appropriate by it, at such intervals and in such manner, as may be deemed fit.

19. Submission of returns :-

Every licensed surveyor and loss assessor shall

(a) furnish such of the document, statement, account, return or report, as and when required by the Authority, and comply with such directions, as may be issued by the Authority in this behalf, from time to time; and

(b) submit an annual statement in FORM-IRDA-12 given in the Schedule to these regulations.

20. Inspection :-

(1) The Authority, may appoint one or more persons as inspecting authority to undertake inspection of survey work, books, records and documents, or to investigate any bona fide complaint received against a surveyor and loss assessor.

(2) The inspecting authority shall, as soon as possible, submit an inspection report to the Authority.

(3) The inspecting authority shall be given all information demanded by it for the purpose of carrying out inspection/investigation work, and shall be extended all possible co-operation, to facilitate the conduct of its work.

(4) The Authority shall, after consideration of the inspection report, communicate the findings of the inspecting authority to the surveyor and loss assessor, and shall also give him a reasonable opportunity of being heard before any action is taken by the Authority on the findings of the inspection report.

21. Power to clarify :-

In case of any doubt or ambiguity in regard to any of these regulations, the same shall be clarified by the Chairperson of the Authority.

SCHEDULE 1

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