

**1**

# **INSURANCE REGULATORY & DEVELOPMENT AUTHORITY ACT**

## **1.0 INTRODUCTION**

In other modules of this course you have studied the meaning of insurance and its importance and how it plays a very important role in economic development of the country. By now you must be well versed that in insurance business, there is a contract between individuals or group or businessmen and insurance companies. The duration of these contracts varies from one year to thirty years or more and volume of such contracts are also very large.

As you know the insurance contract is of promises or assurances by the insurance companies to compensate the insured in case of mishappening but nothing is tangible. When the product is intangible (which can not be seen or touch) and volume of such contracts is huge then the disputes do arise in any industry. To settle these disputes the Government of any country appoints regulator and also enforces the law which controls the industry.

## **1.1 OBJECTIVES**

In this module we will study various Acts which are directly related to insurance business and some acts which indirectly deal with the insurance business. In the following para we have referred about two Acts LIC Act 1956 and GIBN Act 1972 but we will not explain these acts as they have lost their importance due to changed scenario in respect of the Insurance sector in the country. We will be covering the following Acts in this module:

**Notes****Insurance Regulatory & Development Authority Act**

- Insurance Regulatory & Development Authority Act 1999.
- Insurance Act 1938.
- Consumer Protection Act 1986.
- Insurance Ombudsman.
- Marine Insurance Act 1963.
- Carriage of Goods by sea Act 1925.
- Bill of Lading Act 1855.
- Motor Vehicle Act 1988.
- Inland Steam Vessels Act 1977.
- Public Liability Act 1991.
- Workman's Compensation Act 1923.

For the benefit of those of you who are studying various Acts for the first time, we would like to mention that Acts lay down the rules and regulations framed by the Government in respect of specific activities. These rules & regulations are explained in sections which have been serially numbered and are called "Section 1 or 2 or 30 and so on".

At the end of this lesson, you will be able to:

- Know about the Controlling and regulating Authority for Insurance sector in India.
- Define how many members constitute the Authority.
- Enumerate procedure of their appointment.
- Enlist the Duties, Power and functions of Authority.

**1.2 HISTORY**

In India also, Government started exercising control on Insurance business by passing two acts in the year 1912 namely

- Provident Insurance Societies Act V of 1912 and
- Indian Life Insurance Companies Act VI of 1912.

These acts were later comprehensively amended and a new Act namely Insurance Act 1938 came into existence for controlling

- Investment of funds,

- Expenditure and
- Management of the insurance companies

The Office of Controller was established to implement this act.

Again, this Act was amended in 1950 as per the need of the hour. But in view of growing malpractices in Life Insurance business and also due to the illiteracy level being high and lack of will for spread of Life Insurance business, it was nationalized by Government of India.

LIC Act was passed in June; 1956, and this Act came into force from 1<sup>st</sup> Sept. 1956. Similarly general insurance business was nationalized Act came into force w.e.f 1<sup>st</sup> April 1973 through General Insurance Business Nationalization Act 1972 (GIBNA 1972). To implement these acts the Government made some minor changes in the Insurance Act 1938.

In early 90's, with the world market forces playing with full strength; growing literacy level; better regulatory systems and need for fast growth in this sector, the need of the hour was to go with the world and throw open Life & General Insurance Sector to private entrepreneurs once again so that there is no monopoly and the customer/ consumer/ buyer gets more choices than one type of Insurance product.

To study the liberalization process in Insurance sector in India, Malhotra Committee was formed under the Chairmanship of Late Shri R.N. Malhotra. The Malhotra committee submitted its report in 1994 which recommended that private companies be allowed to operate in India. The Government accepted the Committee's recommendation and Insurance Regulatory Authority (IRA) was set up in 1996 to show the path for privatization of insurance Industry. The main aim was the development of Insurance covering all strata of society (to not only rich but poor, folks from rural, tribal, unorganized sector, social sector, disabled community, daily wagers, women at large, etc.) gained importance through concerns put forth by political leaders, trade unionists, social organisations, co-operatives and policy makers; which amended the name IRA to IRDA (Insurance Regulatory & Development Authority). Again some amendments were made in the Insurance Act 1938 for smooth functioning of IRDA.





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### 1.3 INSURANCE REGULATORY DEVELOPMENT AUTHORITY ACT (IRDA) 1999

This Act was passed by Parliament in Dec.1999 & it received presidential assent in Jan.2000. The aim of the Authority is **“to protect the interest of holders of Insurance policies to regulate, promote and ensure orderly growth of Insurance industry & for matters connected therewith or incidental thereto.”**

Under this Act, an authority called IRDA is established which replaces Controller of Insurance under Insurance Act 1938.

#### 1.3.1 Definitions

Like any other Act, various terms have been defined as follows under section 2: -

- a) “Appointed Day” means the date on which the Authority is established.
- b) “Authority” means the Insurance Regulatory and Development Authority.
- c) “Chairperson” means the chairperson of the Authority.
- d) “Fund” means the Insurance Regulatory and Development Authority Fund.
- e) “Interim Insurance Regulatory Authority” means the Insurance Regulatory Authority set up by the Central Government.
- f) “Intermediary or Insurance intermediary” includes Insurance brokers, reinsurance brokers, insurance consultants, surveyors and loss assessors.
- g) “Member” means a whole time or a part time member of the Authority and includes the Chairperson.
- h) “Notification” means a notification published in the Official Gazette.
- i) “Prescribed” means prescribed by rules made under this Act.
- j) “Regulations” means the regulations made by the Authority.



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### 1.3.2 Features of Authority

- Corporate body by the aforesaid name which means it will act as group of persons, called members, who will work jointly not as an individual person like Controller of Insurance.
- Having perpetual succession which means any member may resign or die but the Authority will work.
- A common seal with power to enter into a contract by affixing a stamp on the documents.
- Sue or be sued means the Authority can file a case against any person or organization and vice versa.

### 1.3.3 Composition of Authority

The Authority shall consist of nine persons as per details given below:.

- Chairperson.
- Not more than 5 whole time members.
- Not more than 4 part time members.

These persons shall be appointed by the Central Govt. from amongst persons of ability, integrity & standing who have knowledge or experience in life Insurance, general Insurance, actuarial science, finance, economics, law accountancy, administration or other discipline which would in the opinion of the Central Govt. be useful to the Authority. (Section 4)

### 1.3.4 Tenure (Section 5)

- The Chairman tenure will be for 5 years and eligible for reappointment till he attains the age of 65 years.
- The appointment of members will be for 5 years and eligible for reappointment but not exceeding the age 62 years.

### 1.3.5 Removal of Members (Section 6)

The Central Government can remove any member of the Authority if he :-

- a) Is declared bankrupt
- b) Has become physically or mentally incapable of acting as a member

**Notes**

- c) Has been awarded punishment by any Court.
- d) Has acquired such financial or other interest which affect his function as a member.
- e) Has so abused his position as to render his continuation in office detrimental to the public interest.

But no member can be removed from the office unless & until the reasonable opportunity of being heard is given to such member in the matter.

**1.3.6 Salary & Allowances (Section 7)**

The Chairperson and full time members' shall receive the salary & allowance as prescribed by the Government.

**1.3.7 Bar on future employment (Section 8)**

The Chairperson and the whole time members cannot accept any appointment without Govt. approval within 2 years from the date on which he ceases or retires from the office.

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**INTEXT QUESTIONS 1.1**

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1. List the Composition of Authority.
2. The Authority shall consist of nine persons i.e. Chairperson, not more than 5 whole time members and not more than 4 part time members.
3. Mention the maximum age of the Chairperson of IRDA.
  - a. Maximum age of Chairperson of IRDA is 65 years.

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**1.3.8 Superintendence & Direction (Section 9)**

The Chairperson shall have overall control & provide direction in respect of all administrative matters of the Authority. He will chair the meeting as and when he is present in the meeting.

**1.3.9 Meeting of Authority (Section 10)**

The meeting of the Authority will be held at the time and place as decided by the Chairperson as per regulation made under this act. If the Chairperson is unable to attend the meeting then the members will choose the Chairperson from amongst the present members.

All the issues to be discussed in the meeting shall be decided

by a majority of votes by the present and voting. In case of equal voting the decision of Chairperson of that meeting will be final.

### 1.3.10 Invalidation of proceedings of Authority (Section 11)

The proceedings of Authority will not become invalidate ( not valid in the eyes of law) due to following reasons:-

- Defects in the formation of the Authority.
- Defect in appointment of any Member.

### 1.3.11 Officers & Employees of Authority (Section 12)

The Authority may appoint officers and employees as it considers necessary for the efficient discharge of its functions. The terms & conditions of such officers shall be governed as per the regulations made under this Act.

### 1.3.12 Transfer of Assets, Liabilities etc (Section 13)

As stated above that initially the Authority was formed under the name “Insurance Regulatory Authority (IRA)” and later on the name was changed to “Insurance Regulatory & Development Authority.”(IRDA) Therefore the assets and liabilities of IRA will be transferred to IRDA on the date of establishment of the Authority.

### 1.3.13 Duties, Powers & Functions of Authority (Section 14)

**Duties:** The Authority shall have the duty to regulate, promote and ensure orderly growth of the Insurance business and re-insurance business subject to the provisions of any other provisions of the act.

#### **Powers & Functions to:-**

- (a) Issue to the applicant (Insurance company or Insurance Agent or Surveyors or Insurance Brokers or Third Party Administrators) a certificate of registration, renew, modify, withdraw, suspend or cancel such registration;
- (b) Protection of the interests of the policyholders in matters concerning assigning of policy, nomination by policyholders, insurable interest, settlement of insurance claim, surrender value of policy and other terms and conditions of contracts of insurance;



Notes

**Notes****Insurance Regulatory & Development Authority Act**

- (c) Specifying requisite qualifications, code of conduct and practical training for insurance brokers , agents, surveyors, Third Party Administrator ;
- (d) Specifying the code of conduct for surveyors and loss assessors (Who assess the loss of policyholder in case of General Insurance);
- (e) Promoting efficiency in the conduct of insurance business;
- (f) Promoting and regulating professional organisations connected with the insurance and re-insurance business;
- (g) Levying fees and other charges on insurance companies, Agents, Insurance Brokers, Surveyors and Third party Administrator;
- (h) Calling for information from, undertaking inspection of, conducting enquiries and investigations including audit of the insurers, intermediaries, insurance intermediaries and other organisations connected with the Insurance business;
- (i) Control and regulation of the rates, advantages, terms and conditions that may be offered by insurers in respect of general insurance business not so controlled and regulated by the Tariff Advisory Committee under section 64U of the Insurance Act, 1938 (w.e.f., 1/1/2007 TAC has ceased to function).
- (j) Specifying the form and manner in which books of account shall be maintained and statement of accounts shall be rendered by insurers and other insurance intermediaries;
- (k) Regulating investment of funds by insurance companies;
- (l) Regulating maintenance of margin of solvency i.e., having sufficient funds to pay insurance claim amount;
- (m) To settle the disputes between insurers and intermediaries or insurance intermediaries;
- (n) Supervising the functioning of the Tariff Advisory Committee;
- (o) Specifying the percentage of premium income of the insurer to finance schemes for promoting and regulating professional organisations referred to in clause(f);
- (p) Specifying the percentage of life insurance business and general insurance business to be undertaken by the insurer in the rural or social sector; and
- (q) Exercising such other powers as may be prescribed.





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### 1.3.14 Grants from the Central Government (Section 15)

The Government after approval from the Parliament may grant funds to discharge their duties as per this Act.

### 1.3.15 Constitution of Funds (Section 16)

- (1) There shall be a fund to be called “The Insurance Regulatory and Development Authority Fund” and there shall be credited there to:—
  - a. all Government grants, fees and charges received by the Authority;
  - b. all sums received by the Authority from such other source as may be decided upon by the Central Government;
  - c. the percentage of prescribed premium income received from the insurer/insurance intermediaries.
- (2) The Fund shall be applied for meeting:—
  - a. the salaries, allowances and other remuneration of the members, officers and other employees of the Authority;
  - b. the other expenses of the Authority in connection with the discharge of its functions and for the purposes of this Act.

### 1.3.16 Accounts and Audit (Section 17)

- (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.
- (2) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General.
- (3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the of the accounts of the Authority shall have the same rights, privileges and authority in connection with

**Notes**

such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in the particular shall have the right to demand the production of books of account, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.

- (4) The accounts of the Authority as certified by the Comptroller and Auditor General of India or any other person appointed by him in this behalf together with the audit-report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

**1.3.18 Establishment of Insurance Advisory Committee (Section 25)**

- (1) The Authority may, by notification, establish with effect from such date as it may specify in such notification, a Committee to be known as the Insurance Advisory Committee.
- (2) The Insurance Advisory Committee shall consist of not more than twenty-five members excluding ex-officio members to represent the interests of commerce, industry, transport, agriculture, consumer fora, surveyors, agents, intermediaries, organisations engaged in safety and loss prevention, research bodies and employees' association in the insurance sector.
- (3) The Chairperson and the members of the Authority shall be the ex-officio Chairperson and ex officio members of the Insurance Advisory Committee.
- (4) The objects of the Insurance Advisory Committee shall be to advise the Authority on matters related to insurance.
- (5) The Insurance Advisory Committee may advise the Authority on such other matters as may be prescribed.

**1.3.19 Miscellaneous Provisions**

- The Central Government can issue the direction to the Authority on policy matters not on administrative and technical matters and the Authority is bound to follow such direction.
- The Central Government can supersede any act of the Authority.



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- The Chairperson, Members and employees of Authority shall be deemed to be public servant while performing the duties as per the provision of this Act.
- The Authority can delegate its powers to Chairperson or members or officers and employees of the Authority as per regulation made under this act.
- The Authority has the power to make rules related to salary & allowances and other terms & conditions to be applicable to its Chairperson, members, employees or officers.
- The Authority has power to make regulations to be followed at its meetings
- The rule & regulation made by the Authority shall be placed before the Parliament.
- Any rule or regulations made under this act will bar the applicability of other laws of the land.
- The Authority has the powers to make amendment in Insurance Act 1938, LIC Act 1956 & GIBN Act 1972.

### 1.4 SUMMARY

The main aim to form IRDA is to create a regulator which will regulate and develop the insurance sector in the country and control all individuals or organizations who are directly or indirectly involved with the insurance sector. The Authority has the powers to issue regulations related to insurers, insurance intermediaries, surveyors, third party administrators for their registration, renewal of their license and review their workings for smooth functioning of insurance sector. The Authority also protects the interest of the policyholders for whom the insurers are issuing the policies. With this the Authority does not become supreme as it is accountable to the Central Government.

### 1.5 TERMINAL QUESTIONS

1. Explain the power & functions of the Authority.
2. What is the composition of the Authority and its tenure?
3. Define Insurance intermediary, appointed day and member.

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**1.6 OBJECTIVE TYPE QUESTIONS**

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1. IRDA was formed in \_\_\_\_\_(1999/2001)
2. Total members of IRDA are \_\_\_\_\_(9/10)
3. The retirement age of member is \_\_\_\_ (62/65)
4. Choose the correct option

IRDA does not specify requisite qualifications, code of conduct and practical training for

- a) insurance brokers.
  - b) agents & surveyors.
  - c) Third Party Administrator.
  - d) Insurer.
5. \_\_\_\_\_can supersede the IRDA (Central Govt/Supreme Court)

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**1.7 ANSWERS TO OBJECTIVE TYPE QUESTIONS**

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1. 1999
2. 9
3. 62
4. d
5. Central Govt.