

Chapter – 4
***Role of Insurance Regulatory
Development Authority in
Insurance Business***

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Role of Insurance Regulatory and Development Authority i.e.

I.R.D.A. :

Before studying the role of I.R.D.A. let us see the structure or organization of G.I.C. in brief.

The General Insurance Corporation of India (G.I.C.) was formed and registered on 1st January 1973 under the Insurance Act, 1938. In accordance with the provisions of the General Insurance Business (Nationalization) Act, 1972.

Activities to be carried out by G.I.C. :

- (1) To receive from the prospective buyers, applications for General Insurance, which are called as proposals for granting of desired covers.
- (2) Scrutinise the applications or proposals for insurance cover and inspect the object for cover and after taking the decision, granting of cover applied for which is known as underwriting and decide premium.
- (3) Insurance is contract between a prospective buyer who has applied for insurance cover and Insurance company who after underwriting the proposal-agrees to issue an Insurance policy of course after receiving agreed premium which is known as consideration in a contract.
- (4) Upon insurance of a policy document to a prospective buyer for insurance cover, it is obligatory on the part of Insurance company to mention terms and conditions of the contract and exclusions or warranties in the policy document itself.
- (5) The activity of issuing an Insurance policy does not leave the Insurance company to obviate from its liability to meet with the terms of a contract in case any claim arises against issued policy. Hence it will be the utmost important activity of an Insurance company to arrange for the processing and paying of the claim which may

arise after arranging for surveys and assessment of loss by duly competent professionals.

- (6) Other than the issue of policy under writing, paying of claims there are certain other activities like :
- (a) Investment of Funds
 - (b) Maintaining of accounts
 - (c) Managing Manpower and H.R.D. Management
 - (d) Processing of data through Information Technology
 - (e) Compling with different regulations and Laws of the country.

Since nationalisation of General Insurance business in India in 1973 only the General Insurance Corporation of India (G.I.C.) was transacting General Insurance business in India through its four subsidiaries namely :-

- (1) National Insurance Co. Ltd., Head Office, Calcutta.
- (2) The New India Assurance Co. Ltd., Head Office, Mumbai.
- (3) The Oriental Insurance Co. Ltd., Head Office, New Delhi.
- (4) United India Insurance Co. Ltd., Head Office, Chennai.

The Overall planning controlling, directing and managing the final accounts rest with the Head Offices of concerned subsidiary companies.

Need for Insurance Regulatory and Development Authority :

Due to recent liberalisation and Globalization followed by entry of private sector in General Insurance business an uniform code of conduct to be exercised became necessary and restrict the players to act according to their own whims and choice. This raised because of two reasons :-

- (i) To have a common, and acceptable ground for play.
- (ii) To promote healthy competition among G.I.C. and private sector.

To have some controlling and regulatory authority in General Insurance business, a controlling system was required and this was provided by I.R.D.A. which was formed under the Insurance Regulatory and Development Act, 1999 and accordingly as at the beginning of the year 2000 the Insurance Regulatory and Development Authority (I.R.D.A.) had been given powers to issue certificates of registration to New India Insurance Companies to transact General Insurance business in India. Hence crors are now open for India Insurance Companies after complying with the terms and conditions of I.R.D.A.

Characteristis Of I.R.D.A. System :

- (1) The scope of functioning of insurer should be comprehensive.
- (2) To protect the interest of the policyholder by taking care of his rights as to entitlements under the policy and to provide him a proper system of redressal complaints and grievances which should be speedy and economical.
- (3) To provide a system which should be standard and easily understood by the public and should create a sense of confidence in the minds of insuring public.
- (4) It should develop a system to make known to public the latest developments in the industry through newspapers and electronic media.

- (5) Providing the information to public and sections of the society who do not afford to get the benefits of insurance cover namely :
- Life cover
 - Pensions
 - Health care (Mediclaime)
 - Savings etc.
- (6) Regulatory system requires that the insurers spread the insurance to the different segments of the society like :
- (i) Weaker sections – people who live in under developed areas.
 - (ii) People who are mentally or physically handicapped.
- (7) The regulator is acting as an arbiter in case of conflict or any dispute between the insurers and the insuring public or bodies in the industry and dispute can be adjudicated upon by the regulator.
- (8) To maintain balance of interests between various interested groups or classes within the industry such as –
- Policy holders,
 - Share holders,
 - Intermediaries, and others
- (9) The regulator frames the regulations as to the disclosure of financial statements providing transparency to the interested groups including insuring public.

- (10) Regulator has to determine the desired level of competition that should prevail in the general insurance business and frame regulations accordingly.
- (11) Regulator will decide to make use of information technology to provide better and speedy service to its customers in the insurance business.
- (12) Regulator should see the development of insurance activities which should be just, honest and to the maximum possible satisfaction of insuring public.
- (13) Last but not the least, the regulator will see that the insurers obey and follow the different laws of the country and the overall system grows with development and continued progress.

Functions of I.R.D.A. :

At the time of presentation of the I.R.D.A. bill in the parliament, the duties and functions of I.R.D.A. were stated which included following functions :-

- (1) To issue, new withdraw, suspend, or cancell, certificate of registration, that is licences.
- (2) To protect the interest of the policy holders, in matters including settlement of claims, nominations, terms and conditions of the contract, specifying requisite qualifications, code of conduct, and practical training for agents and insurance intermediaries.
- (3) Promote efficiency in the conduct of insurance business.
- (4) Levy fees and charges for its functioning.

- (5) Specify manner in which the books of accounts will be maintained and accounts furnished to the regulator.

Chapters and Schedules under I.R.D.A. Act 1999 :

I.R.D.A. Act, 1999 is divided into 6 chapters and three schedules the main provision under these chapters and schedules are briefly listed below :

Chapter – I (Section 1 and 2)

Section 1 and 2 of the Act contains provisions regarding the name of the Act, its jurisdiction and definitions. Accordingly the Act extends to the whole of India. In definitions clause it refers to the Insurance Act, 1938, the L.I.C. of India Act, 1956 and General Insurance Business (Nationalization) Act, 1972 and it states that the words and expressions used in the Act but not defined here, but defined in these earlier Acts, shall have the same meaning as in the earlier Acts.

Chapter – II (Sections 3 to 12) :

These sections deal with the establishment, in corporation, composition, tenure of regulators, grounds for their removal from office, their salaries and allowance and the provisions of staff.

Chapter – III (Sections –13) :

This section transfers to the I.R.D.A. all the assets and liabilities of the insurance regulatory Authority and while the assets shall be deemed to include all rights and powers and all properties movable and immovable, the liabilities shall include debts, suits and legal

proceedings which have been instituted against the interim authority or which could have been instituted against it.

Chapter – IV (Section – 14) :

This section deals with the duty of I.R.D.A. to regulate, promote and ensure orderly growth of the insurance and reinsurance business in India. Various duties enumerated in the section 14 of the Act are :

- (1) To issue, modify, renew, suspend or cancel certificate of registration i.e. License.
- (2) Protecting the interest of the policy holders on matters like settlement of claims, assignment and nomination, determination of insurable interest, interpretation of terms and conditions of the contracts of Insurance.
- (3) Promoting efficiency in the conduct of insurance business – speed as well as economy of operations.
- (4) Promoting and regulating professional organizations.
- (5) Levying specified fees from insurers for the purpose of providing finance for the working of the regulator.
- (6) Calling for information from, inspecting, conducting investigation, auditing insurers, insurance intermediaries or other organisations connected with insurance business.
- (7) Control and regulation of premium rates.

- (8) Specifying the manner in which books of accounts shall be maintained by insurers and the form in which accounts shall be furnished by insurers and insurance intermediaries.
- (9) Regulating investment of funds by insurers.
- (10) Regulating maintenance of margins of solvency.
- (11) Adjudication of disputes.
- (12) Specifying the percentage of premium income of the insurers to finance schemes for promoting and regulating professional organizations.

Though the section provides certain functions and powers to be exercised, the government may broaden or expand the scope of activities of I.R.D.A. if it desires.

Chapter – V (Sections 15, 16 and 17) :

These sections deal with the grants that can be made by the central government for meeting the expenses towards salaries, allowances and other remuneration of the members, officers and other employees of the authority as well as other expenses of the authority. As per these sections the I.R.D.A. itself is required to render accounts annually to the controller and Auditor General of India which after auditing and certifying the account shall forward it to the Central Government and the Government shall put it before each House of Parliament.

Chapter – VI (Section 18 to 32) :

These sections deal with Miscellaneous provisions.

Section – 18

States that the central Government shall issue directions to the I.R.D.A. on policy matters in writing from time to time and these policy directions shall be binding on the I.R.D.A.

Section – 19

States that if the I.R.D.A. is not able to discharge its functions on account of circumstances beyond its control or is persistently defaulting in complying with the directions of the Central Government or if circumstances require it in the interest of the public, the Central Government may issue a notification (Stating the reason thereof) suspending the authority and appointing a person to act as the controller of Insurance (with all the powers and functions under Section 28 of the Insurance Act 1938.)

Sections – 20

Provides that the I.R.D.A. shall furnish to the Central Government returns, statements and particulars about programme for development and promotion of the insurance industry within nine months after the close of the financial year and these documents shall be placed by the government before each House of Parliament. The Central Government also has the powers to call for such information anytime in the year.

Section – 21

States that the members of the I.R.D.A. the officers and other employees of the authority, shall be deemed to be public servants under section 21 of the Indian Penal code.

Section – 22

States that no suit or legal proceedings can be instituted against the Central Government, the I.R.D.A. or any of the officers or employees for anything done or proposed to be done in good faith. It also states that these persons do not enjoy any absolute immunity under this Act.

Section – 23

This section provides that the I.R.D.A. may delegate powers to the Chairman or to special committees formed under the Act.

Section – 24

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Section – 25

Provides for the establishment of the Insurance Advisory Committee (IAC) which shall consist of upto 25 members.

Section – 26

Gives the general power to the I.R.D.A. to make regulations to carry out the purposes of this Act, that is, to protect the interests of policy holders, to regulate, promote and ensure orderly growth of the insurance industry and for matters, connected therewith or incidental thereto.

Section – 27

As per Sec.27 these regulations will first be placed before the parliament which has the power to amend or modify a proposed regulation before making it effective, provided the notification is agreed upon by both Houses and is not contravening or goes against any earlier provision.

Section – 28

This section provides that the provisions of the I.R.D.A. Act, 1999 are in addition to existing provisions of any other law which is in force.

Section – 29

This section states the special provisions that till upto 2 years after the notification of this Act, if any difficulty arises in giving effect to the provisions of the Act the Central Government may take orders through publication in the Official Gazette for removal of such difficulties. Such orders will have to be placed before the parliament at the earliest.

Section – 30, 31 and 32

These sections provide for amendment to the Insurance Act, 1938 L.I.C. of India Act, 1956 and General Insurance Business (Nationalization) Act, 1972 respectively. The principle effects of these provisions is ending the monopoly of L.I.C. and G.I.C. and put them in the competitive era.

The I.R.D.A. Act, 1999 has been divided into 6 chapters as mentioned above and it has three schedule. Let us see the provisions detailed under these, schedule one by one.

The First Schedule :

The first schedule gives the details of amendments or changes to the Insurance Act, 1938 to enable the insurance industry to face or to meet the new challenges in the liberalised scenario. The important provisions under this schedule are as under :-

- (1) The power of the controller of Insurance get vested in the Regulator under the I.R.D.A. Act, 1999.
- (2) A foreign company, either by itself or through a subsidiary can hold 26% shares of the paid up equity capital of an Indian insurance company.
- (3) No insurer other than an Indian insurance company can carry on insurance business in India.
- (4) An insurer shall carry on only one of the three classes of business.
i.e.
 - (A) Life insurance
 - (B) General Insurance
 - (C) Reinsurance
- (5) Registration obtained by an insurer prior to this act coming into force shall be deemed to be license obtained from the I.R.D.A.
- (6) The I.R.D.A. can charge fee upto Rs. 50,000 for application for registration. The requirement as to capital for registration is paid up equity capital of Rs. 100 Crore for a Life Insurance and General

Insurance company and of Rs. 200 Crore for a reinsurance company.

- (7) In granting of registration the I.R.D.A. shall give preference to an applicant, whether a life or general insurer, who proposes to do business for providing health cover to individuals or groups.
- (8) The I.R.D.A. has the right to suspend or cancel a registration but before making an order to such effect the party concerned will be given a reasonable opportunity of being heard by the I.R.D.A.
- (9) The I.R.D.A. shall by notification in the official Gazettee prescribe the compulsory life insurance business or general insurance business in the rural sector, unorganised or informal sector, economically vulnerable or backward classes and other disadvantaged sections of society like the physically or mentally handicapped persons. The I.R.D.A. has subsequently published the I.R.D.A. (obligations of Insurer) to Rural or social sector) Regulations, 2000.
- (10) The I.R.D.A. has the power to issue to a person a license to act as an insurance intermediary or agent for the purpose of soliciting or procuring insurance business. The I.R.D.A. shall levy a fee of Rs. 250/- for issuing such license which shall be valid for three years and can be renewed for the same period. When required, the I.R.D.A. can also issue a duplicate license. Certain qualifications

required for an insurance agent are also detailed under this schedule.

(11) I.R.D.A. has the powers to make regulations and these regulations will be required to be notified in the Official Gazettee. These regulations can pertain to the matters like :-

- (a) Issue of licences and issue of duplicate licences and registration of insurers and renewal suspension or and cancellation of their registration.
- (b) Procedure for divesting promoters share capital in excess of 26%.
- (c) Preparation of reports, returns, statements etc.
- (d) Manner in which abstract of the report of the actual is to be submitted.
- (e) Investment of assets-time, manner and conditions of making such investments.
- (f) Manner in which the insurer will maintain information and offer them for regulation of the authorities representing the I.R.D.A.
- (g) Lincencing of Insurance agents, (intermediaries or insurance intermediaries) their practical training, requisite qualifications, examination and code of conduct.
- (h) Maintainance of margins of solvency.
- (i) Valuation of assets and liabilities.

- (j) Matters relating to redressal of grievance of policy holders.
- (k) Protection of interests of the policy holders and insuring orderly growth of the insurance Industry.

The Second and Third Schedules :

The second schedules and the Third schedule to the Act make amendments to the monopoly clauses in the L.I.C. of India Act, 1956 and the General Insurance Business (Nationalization) Act, 1972 stating that their "exclusive privilege" to do business in their respective field shall cease.

Evaluation of I.R.D.A.:

The I.R.D.A. Act, 1999 is a landmark legislation changing the structure of the insurance industry and the method of regulation of the industry, it fulfils its purpose by stating in detail the structure and power of the regulatory authority and giving the basic provisions which will help the I.R.D.A. in supervising and regulating the insurance business in the changing and liberalised scenario. It has mentioned capital structure, solvency margin and code of conduct for the insurers as well as insurance intermediaries and agents. The I.R.D.A. Act has laid down the foundation upon which a very elaborate and effective regulatory has been built. The I.R.D.A. has given detailed provisions under various sections and under its chapters and schedules and yet has kept the ways upon for further regulations and modifications.

Upon the entry of private sector in the liberalised and competitive eta. G.I.C. has to improve its operations and shall have to gear all its machineries towards customer satisfaction. In marketing its different products door to door canvassing would prove effective and that is the purpose which I.R.D.A. expects from the insurance companies.

References :

- 1) www.irdaindia.org.