

বাংলাদেশ



গেজেট

অতিরিক্ত সংখ্যা

কর্তৃপক্ষ কর্তৃক প্রকাশিত

মঙ্গলবার, অক্টোবর ১, ২০১৩

গণপ্রজাতন্ত্রী বাংলাদেশ সরকার

আইন, বিচার ও সংসদ বিষয়ক মন্ত্রণালয়

লেজিসলেটিভ ও সংসদ বিষয়ক বিভাগ

প্রজ্ঞাপন

তারিখ, ২৯ সেপ্টেম্বর, ২০১৩ ইং

নং ১৮(আঃম)(লেঃস)(মুঃপ্রঃ)-আইন-অনুবাদ-২০১৩—সরকারি কার্যবিধিমালা, ১৯৯৬ এর প্রথম তফসিল (বিভিন্ন মন্ত্রণালয় এবং বিভাগের মধ্যে কার্যবন্টন) এর আইটেম ২৯(খ) এর ক্রমিক ৫ এবং মন্ত্রিপরিষদ বিভাগের বিগত ০৩-০৭-২০০০ইং তারিখের সভায় গৃহীত সিদ্ধান্ত বাস্তবায়নের নিমিত্ত “বীমা উন্নয়ন ও নিয়ন্ত্রণ কর্তৃপক্ষ আইন, ২০১০” এর নিম্নরূপ ইংরেজি অনুবাদ সর্বসাধারণের জ্ঞাতার্থে প্রকাশ করিল।

মোঃ দেলোয়ার হোসেন

সহকারী সচিব (চঃদাঃ)।

(৮৪১৫)

মূল্য : টাকা ২০.০০

Insurance Development and Regulatory Authority Act, 2010**Act No. 12 of 2010****[18th March, 2010]**

An Act to make provisions for the establishment of an Authority for the supervision of the business of insurance industry, protection of the interest of policy-holders and beneficiaries under the policy and systematic development and control of insurance industry.

Whereas it is expedient and necessary to make provisions for the establishment of an Authority for the supervision of the business of insurance industry, protection of the interest of policy-holders and beneficiaries under the policy and systematic development and control of insurance industry;

Therefore, it is hereby enacted as follows :—

1. Short title and commencement.—(1) This Act may be called the Insurance Development and Regulatory Authority Act, 2010.

(2) It shall come into force at once.

2. Definitions.—(1) In this Act, unless there is anything repugnant in the subject or context,—

(a) “Authority” means the Insurance Development and Regulatory Authority established under sub-section (1) of section 3;

(b) “Fund of Authority” means the Fund of the Authority constituted under sub-section (1) of section 16;

(c) “Chairman” means the Chairman of the Authority;

(d) “regulations” means regulations made under this Act;

(e) “rules” means rules made under this Act;

(f) “intermediary or insurance intermediary” means insurance agents, employer of agents, insurance and re-insurance brokers and surveyors;

(g) “Member” means any Member of the Authority; and

(h) the words and expressions not defined in this Act shall have the same meanings as in the Insurance Act, 2010 and the Companies Act, 1994.

3. Establishment of Authority.—(1) As soon as may be, after the commencement of this act, the Government shall, by notification in the official Gazette, establish an Authority to be called the Insurance Development and Regulatory Authority in accordance with the provisions of this Act.

(2) The Authority shall be a body corporate, having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable, and shall by the said name sue and be sued.

4. Head office of the Authority, etc.—(1) The Head office of the Authority shall be at Dhaka.

(2) The Authority may, if necessary, with the prior approval of the Government, establish branch offices at any place in Bangladesh.

5. Composition of Authority, etc.—(1) The Authority shall consist of a Chairman and four other Members.

(2) The Chairman and Members shall be appointed, and the terms and conditions of their services shall be determined, by the Government:

Provided that, subject to the provisions of section 7, at least one person having experience in life insurance and another one person having experience in non-life insurance shall be appointed.

(3) If there occurs any vacancy in the post of the Chairman or he is unable to discharge his duties on account of absence, illness or any other reason, a Member of the Authority nominated by the Government shall act as the Chairman until a newly appointed Chairman takes over the vacant post or the Chairman resumes the functions of his office.

6. Tenure of office of Chairman and other Members etc.—(1) The Chairman and the Members shall, subject to the other provisions of this Act, hold their respective posts for a term of 3 (three) years from the date on which they enter upon their office and shall be eligible for reappointment only for one further term.

(2) The Chairman or any Member may, at any time before expiry of the term specified in sub-section (1), resign his post by writing under his hand addressed to the Government with notice of 3 (three) months:

Provided that the Chairman or any Member, as the case may be, shall hold their respective posts until their resignation letter is accepted by the Government.

7. Qualification and Disqualification etc. of Chairman and Member.—(1) Any person having experience of not less than 20 (twenty) years in insurance, finance, banking, marketing, statistics, accounting, management, administration or law shall be eligible to be appointed as the Chairman or a Member.

(2) If any eligible candidate is not found as mentioned in sub-section (1), the required timeline of experience may be relaxed.

(3) No person shall be eligible to be appointed or remained as the Chairman or a Member of the Authority if he—

(a) is not a citizen of Bangladesh;

(b) is an insurance intermediary or a director, officer or employee of an entity which is subject to the regulation of the Authority or an entity affiliated with such regulated entity or who is a director or holding any other position in a company or entity (government or non- government);

(c) is unable to discharge his duties due to his physical or mental inability;

(d) is declared an insolvent or insane by any competent court;

(e) is declared a defaulter by any bank or financial institution;

(f) is, on conviction for a criminal offence involving moral turpitude, sentenced to imprisonment for a term not less than 6 (six) months and unless a period of 5 (five) years has been elapsed since his release;

(g) completes 67 (sixty seven) years of age.

8. Chief Executive.—The Chairman shall be the Chief Executive of the Authority and shall conduct the administration of the Authority in accordance with this Act and rules and regulations made thereunder.

9. Restrictions on employment in future services.—The Chairman and the Members shall not, except with the prior approval of the Government, take any service under the Government or in any insurance company for a period of two years from the date on which their tenures end.

10. Appointment of officers and employees of Authority.—(1) The Authority may, subject to the organogram approved or instruction given from time to time by the Government, appoint necessary number of officers and employees for discharging its functions properly.

(2) The terms and conditions of appointment and service of the officers and the employees of the Authority shall be determined by regulations.

11. Appointment of advisers and consultants.—For carrying out the purposes of this Act, the Authority may appoint professional persons including accountants, actuaries, lawyers, surveyors, valuers and experts on islamic shariah as consultants or advisers and the terms and conditions of their appointment shall be determined by regulations.

12. Remuneration and allowances etc. of the Chairman and the Members.—The remuneration and allowances of the Chairman and the Members and other terms and conditions shall be determined by the Government.

13. Meeting of the Authority.—(1) Subject to the other provisions of this section, the Authority may determine the procedure of its meeting.

(2) The Authority shall meet at least once in every month, and the date, time and place of such meetings shall be determined by the Chairman.

(3) The Chairman shall preside over all the meetings of the Authority and in his absence any other Member nominated by the Chairman shall preside over the meeting.

(4) To constitute a quorum at a meeting of the Authority not less than 3 (three) Members including the Chairman shall be present.

(5) The decisions of the meeting shall be made by the majority of vote of Members present and in the event of an equality of votes, the Chairman shall have a second or casting vote.

(6) No act or proceeding of the Authority shall be invalid and no question shall be raised merely on the ground of any vacancy in the position of the Chairman or any member, or any irregularity in the constitution of, the Authority.

(7) The minutes of each meeting shall be signed by the Chairperson of the meeting and a copy thereof shall be sent to the Government within next 20 (twenty) days from such meeting.

14. Removal.—(1) Subject to the provisions of sub-section (2), the Government may, remove the Chairman or any Member of the Authority if he—

- (a) is unable to discharge his duties or refuses to discharge the duties due to physical or mental disability;
- (b) fails or refuses to discharge the duties for 3 (three) months without any reasonable ground;
- (c) becomes disqualified to remain the Chairman or a Member under this Act;
- (d) does any act which is detrimental to the Authority; and;
- (e) administers himself in such manner, or abuses his position which impedes the purposes of this Act, or the public interest.

(2) The Government, if it finds that the Chairman or any Member is disqualified for retaining his position for any reason referred to in sub-section (1), shall constitute an Investigation Committee for verifying the authenticity of such reason and shall, in the order of constituting the committee, determine the timelimit for submitting the investigation report.

(3) If an Investigation Committee is constituted under sub-section (2) in relation to the Chairman or any Member, the Government may, after considering the relevant circumstances, direct him to restrain from discharging his duties and he shall be bound to comply with such direction, if given.

(4) The committee constituted in accordance with sub-section (2) shall, with specific information and reason, submit its report to the Government on whether the allegation brought against the Chairman or any concerned Member is proved and if it would be expedient to remove him, and the Government shall take appropriate measures by considering such investigation report.

(5) The Government shall not remove the Chairman or any Member under this section unless he is given reasonable opportunity of showing cause.

(6) Any person removed under this section shall not be appointed or reappointed as the Chairman or Member of the Authority or in Government or any Governmental body or any other position in the Authority.

15. Functions and duties of the Authority.—The functions and duties of the Authority shall be the following, namely:—

- (a) to regulate organizations connected with the insurance and re-insurance business;
- (b) to promote the development of insurance industry in Bangladesh and advise Government in all respects for the development of this industry;
- (c) to promote the development of training centers connected with insurance industry to improve the quality of insurance and re-insurance services in Bangladesh.

- (d) to organize seminar, workshop, conference etc. on insurance matters to build up public awareness;
- (e) to register and certify the insurer, re-insurer and intermediary and renew, modify, withdraw, suspend or cancell such registration;
- (f) to lay down code of conduct and guidelines for training and instruction manuals for intermediaries, insurance and re-insurance intermediaries and agents;
- (g) to issue license to surveyors and renew, modify, withdraw, suspend or cancell such license;
- (h) to protect the interest of the policy-holders, beneficiaries of insurance policies, insurers and re-insurers in matters connected with nomination by insurance policy-holders, insurable interest, surrender value of life insurance policies and other terms and conditions of insurance;
- (i) to collect fees and other dues and assess fine, with the prior approval of the Government for carrying out the purposes of this Act;
- (j) to conduct inspection, investigation and enquiry including audit of the insurers, re-insurers, intermediaries, insurance intermediaries and other organizations connected with the insurance and re-insurance business and collect information from them;
- (k) to specify the sample books of accounts to be used and the manner in which accounts are to be maintained and the form in which statement of accounts shall be rendered by insurers and insurance intermediaries;
- (l) to specify the form and manner in which actuarial reports and abstracts shall be prepared;
- (m) to regulate and maintain solvency margin for repayment of debts by insurance and re-insurance companies;

- (n) to establish and regulate funds for the protection of policyholders;
- (o) to regulate funds and investment of insurance and re-insurance companies;
- (p) to adjudicate disputes between insurers, intermediaries and insurance intermediaries;
- (q) to undertake measures for the establishment of a separate branch office to deal with the affairs of disposal of complaints relating to insurance industry;
- (r) to form Central Rating Committee for determination and regulation of the rates, benefits, terms and conditions that may be offered by non-life insurance business and determine the powers, functions and management of such Central Rating Committee;
- (s) to specify the proportion of business to be undertaken by the insurer in the rural and social sector of both life and non-life insurance;
- (t) to prepare annual report on all the activities and submit it to the Government;
- (u) to perform all ancillary functions for carrying out the purposes of this Act, and other functions that are supplementary and relevant to the functions mentioned above; and
- (v) to purchase any property and investment in approved sectors for the Authority, subject to the prior approval of the Government.

16. Fund of Authority.—(1) For carrying out the purposes of this Act, the Authority shall have a fund and the following sums of money shall be deposited to this fund, namely:—

- (a) grants made by the Government;

- (b) grants made by any local authority or any other person or organization;
- (c) loans received by the Authority;
- (d) sums of money received from insurers as fees for registration and renewal thereof;
- (e) sums of money received as fine which is imposed by the Authority on insurers;
- (f) a specified part of premium income of the insurance companies, as determined in a prescribed manner;
- (g) fees received from the appointment of brokers, insurance surveyors and insurance agents;
- (h) grants received from any foreign government, organization or international organization with the prior approval of the Government;
- (i) sums of money received from the sale of properties belonging to the Authority;
- (j) sums of money received from any other sources; and
- (k) income from investment sector.

(2) The fund of the Authority shall be deposited in the name of the Authority in any scheduled bank and shall be managed in such manner as may be prescribed by regulations.

(3) The remuneration, salary, allowances etc. of the Chairman, member, officers and employees shall be paid and other expenditures of the Authority shall be incurred from the fund:

Provided that rules and procedures of the Government shall be followed in making any expenditure from this fund.

(4) Full or part of any surplus sum that may remain after incurring the expenditure of the Authority for the concerned financial year is to be deposited in the Government Treasury in accordance with the direction of the Government.

(5) The Authority may invest the money of its fund or a part thereof in sectors approved by the Government.

17. Annual Budget Statement.—Each year the Authority shall submit its annual budget statement for the next financial year to the Government for approval within the time specified by the Government.

18. Power to receive loan.—For carrying out the purposes of this Act, the Authority may, with the prior approval of the Government, receive loans from any bank or institution that offers loan or from any other sources.

19. Maintainance of accounts and audit.—(1) The Authority shall maintain proper accounts and prepare annual statement of its accounts.

(2) The accounts of the Authority shall be audited each year by a Chartered Accountant as defined in Article 2(1)(b) of the Chartered Accountants Order, 1973 (P.O.No. 2 of 1973), and for this purpose the Authority may appoint one or more Chartered Accountants.

(3) Apart from the audit as referred to in sub-section (2), The Comptroller and Auditor General of Bangladesh may audit the accounts of the Authority.

(4) The Chartered Accountant, auditor or team of auditors as referred to in sub-sections (2) and (3) may, examine all records, documents, cash or bank balance, security fund and other properties of the Authority and examine the Chairman of the Authority, any Member, officer or employee about the concerned matter.

(5) The Chartered Accountant shall submit the audit report to the Authority within 30(thirty) days from the date of completion of the audit made under this section.

20. Reports, etc.—(1) The Authority shall, within next 3(three) months from the closing of each financial year, submit to the Government an annual report with particulars of its activities made during that financial year and the Government shall take measures to submit it to the National House of Parliament.

(2) The Government may at any time, as it deems necessary, summon for any data, statistics, accounts, ancillary documents and information from the Authority relating to its activities or management and the Authority shall be bound to furnish those to the Government.

(3) The Government may, at any time, direct that an investigation be conducted on the activities of the Authority or in relation to any kind of allegation.

21. **Committee.**—The Authority may, as it deems necessary, constitute one or more committees for the purposes of assisting it in carrying out its functions and specify the number of Members, duties and proceedings of such committee.

22. **Delegation of power.**—The Authority may, by general or special order, subject to the conditions as may be prescribed, except the power to make regulation, delegate any of its powers or duties to the Chairman or a Member and any officer of the Authority.

23. **Confidentiality of information.**—(1) The Chairman, Member, officer, consultant and adviser employed under this Act shall, except for the purposes of discharging his own duties under this Act, preserve secrecy with regard to all matters relating to the affairs of the Authority not published by it, and with regard to all matters relating to the financial or monetary affairs of any institution, person, organization, or any Government or authority whether in Bangladesh or outside that may come to his knowledge during his duties.

(2) If any person communicates any such information, except being required by this Act or in the discharge of his duty, he shall be punished with imprisonment for a term which may extend to 1(one) year or with fine which may extend to taka 5 (five) lakh or with both.

24. **Cognizance of offence and trial.**—(1) No court shall take cognizance of any case under this Act, except upon complaint in writing by the Authority or by such person authorized by the Authority.

(2) The offences under this Act shall be triable by first class Magistrates or Metropolitan Magistrates, as the case may be.

25. Cognizability and bailability of offences.—Offences under this Act shall be non-cognizable, bailable and compoundable.

26. Recovery of Dues.—Any dues from any person to the Authority shall be recoverable as public demand in accordance with the provisions of Public Demands Recovery Act, 1913 (Ben. Act, III of 1913).

27. Conflict of Interest.—(1) Any Member or any officer or any member of a committee of the Authority having any interest pecuniary or otherwise, in any matter, to be discussed or decided in a meeting by the Authority or the committee, which is likely to affect his duties under this Act shall, prior to exercise his power or any discussion held by the Authority or any of its committee, disclose the fact of the involvenment of his interest and the nature thereof in writing to the Authority or the committee of the Authority.

(2) Failure on the part of any Member or any officer or any member of a committee to disclose his interest as required by this section shall be considered as an offence and he shall be liable to imprisonment for a term not exceeding 1 (one) year, or a fine not exceeding taka 5 (five) lakh, or both.

28. Power of the Government in removing difficulties.—If there arises any difficulty in giving effect to the provisions of this Act, the Government may, in order to remove that difficulty, take any necessary measures by an order published in the official Gazette:

Provided that no such order shall be given, without any satisfactory ground, after expiry of 3 (three) years from the date of constitution of the Authority in accordance with the provisions of this Act.

29. Power to make rules.—The Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.

30. Power to make regulations.—The Authority may, with the prior approval of the Government, by notification in the official Gazette, make regulations to carry out the purposes of this Act, subject to not inconsistent with this Act and any rules made thereunder.

31. Power of the Government to issue directions.—For carrying out the purposes of this Act, the Government may issue special directions to the Authority and the Authority shall be bound to carry out those directions:

Provided that before issuing such directions the Government shall provide the Authority with an opportunity to opine on that.

32. Review.—(1) Any person or organization aggrieved by an order passed by the Chairman or any Member or any officer under this Act may apply for review of that order within the time perscribed by regulation in prescribed form and subject to payment of prescribed fee, and the order of the Authority upon this review application shall be final.

(2) No application for review filed after expiry of the prescribed time shall be acceptable. But if the applicant can satisfy the Authority to the effect that there was reasonable ground for not filing application for review within prescribed time, the Authority may accept the review application even after the expiration of time.

(3) Each review application shall be filed to the Chairman.

(4) The Authority may issue order upon the review application as it deems reasonable.

33. Publication of English translation of this Act.—(1) After the commencement of this Act, the Government shall, within not more than 2 (two) years, by notification in the official Gazette, publish an Authentic English Text translated from the Bangla Text of this Act.

(2) If there arises any conflict between the Bangla Text and the English Text, the Bangla Text shall prevail.

34. Abolition of Department of Insurance, etc.—(1) As soon as the Authority is constituted under this Act,—

- (a) the Department of Insurance under the Ministry of Finance, hereinafter referred to as the “abolished Department”, shall stand abolished;
- (b) all assets, movable and immovable, cash and bank balance and all other claims and rights in relation to such properties of the abolished Department shall be transferred to the Authority and the Authority shall be entitled to all those;
- (c) all debts, obligations and liabilities incurred and all contracts entered into with or for the abolished Department shall be respectively deemed to have been the debts, obligations and liabilities and contracts entered into with or for the Authority;
- (d) any suits and other legal proceedings instituted by or against the abolished Department shall be deemed to be suits and proceedings by or against the Authority; and
- (e) any license, certificate or registration issued or granted by the abolished Department, subject to not inconsistent with any provision of this Act and until the expiry of its term or modified or cancelled under this Act, shall be deemed to be effective and remain valid in such a way as if such license, certificate or registration were issued or granted under this Act.

(2) Of the abolished Department—

- (a) all officers and employees, subject to the provision of clause (b), shall be deemed to have been vested in the Authority as its officers and employees and their service shall be regulated by the terms and conditions of service applicable to the officers and employees of the Authority:

Provided that until the Authority determines the terms and conditions applicable to its officers and employee, the service of the officers and employees vested in the Authority shall be regulated in such a manner as it was regulated before the abolition of the Department of Insurance;

- (b) if any officer or employee does not want to remain in the service of the Authority, he may, within 6 (six) months from the date of constitution of the Authority, intimate to the Authority in writing his intention to the effect, and if such intention is intimated, he shall be deemed to have been transferred to the Authority on deputation as a government employee and in that case the continuation, seniority, terms and conditions and privileges of his government service shall remain unchanged; and
- (c) if any officer or employee does not want to remain in the service of the Authority on deputation under clause (b), the provisions of the Surplus Public Servants Absorption Ordinance, 1985 shall be applicable to him.