

## **Tariff Advisory Committee (Election of Members, Meetings, Functions and Miscellaneous) Regulations, 2004**

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## **Tariff Advisory Committee (Election of Members, Meetings, Functions and Miscellaneous) Regulations, 2004**

In exercise of the powers conferred by Section 64-UB read with Section 114-A of the Insurance Act, 1938 (4 of 1938) and Section 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

### **1. Short title and commencement :-**

(1) These regulations may be called the Tariff Advisory Committee (Election of Members, Meetings, Functions and Miscellaneous) Regulations, 2004.

(2) They shall come into force on the date of their publication in the Official Gazette.

### **2. Definitions :-**

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

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- (a) "Act" means the Insurance Act, 1938 (4 of 1938);
- (b) "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);
- (c) "Board" means the Board of Directors or the Governing Body of an insurer, by whatever name called;
- (d) "Chairman" means the Chairman of the Committee referred to in clause (a) of sub-section (1) of S.64UA of the Insurance Act, 1938, and includes the presiding member of any meeting of the Committee, as the case may be;
- (e) "Committee" means the Tariff Advisory Committee established under the Act;
- (f) "Election Officer" means the Secretary of the Committee charged with the responsibility of conduct of election of representatives of insurers on the Committee and matters incidental thereto;
- (g) "Insurer" means an insurer who has obtained a certificate of registration under Section 3 of the Insurance Act, 1938 , or renewal of registration under Section 3A of the Insurance Act, 1938 , as the case may be, to carry on general insurance business and includes:
- (i) an insurance co-operative society, whose sole purpose is to carry on general insurance business;
- (ii) an organization exempted under Section 118 of the Insurance Act, 1938 ; and
- (iii) a provident society under Section 65 of the Insurance Act, 1938 ;
- (h) "Member" means a member of the Committee elected in the manner provided in these regulations, and also includes the Chairman and Vice-Chairman and every person co-opted to fill in casual vacancy pursuant to Regulation 4 of these regulations;
- (i) "Secretary" means an officer of the office of the Authority nominated under sub- section (2) of S.64UA of the Insurance Act, 1938;
- (j) "Vice-Chairman" means the person nominated by the Authority

to be the Vice- Chairman of the Committee.

(2) Words and expressions used in these regulations and not defined but defined in the Act shall have the same meaning respectively assigned to them in the Act.

### **3. Election Procedure :-**

(1) For the election of representatives of insurers, the Election Officer shall invite nominations of candidates from each of the constituencies of insurers pursuant to the provisions of R.41 of the Insurance Rules, 1939, as substituted by the Insurance (Amendment) Rules, 2004.

(2) Every nomination shall be duly signed by the candidate : Provided that no person, other than the Chief Executive Officer (CEO) of an insurer shall be nominated as a candidate for election by the Board and no person other than the Chief Executive Officer (CEO) of an insurer, as may be specified in this behalf by the Board shall cast vote on behalf of an insurer.

(3) Every such nomination shall be sent to the Election Officer before the time and date as may be specified by him while inviting nominations of candidates pursuant to sub- regulation (1).

(4) The Election Officer shall scrutinize the nomination papers on the date specified by him, and every nomination which is received beyond the specified date and time shall be rejected by him, for reasons to be recorded in writing : Provided that the nomination paper shall be in such form as annexed to these Regulations.

(5) Any candidate may withdraw his candidature by notice in writing signed by him, with the approval of his Board, and delivered to the Election Officer by the date and time to be specified by the Election Officer, and withdrawal of candidature once tendered shall be irrevocable, as far as that election is concerned.

(6) The Election Officer shall intimate the withdrawal of every candidate to the other candidates standing for election from the same constituency.

(7) Where the number of candidates nominated by the insurers in any constituency does not exceed the number of members to be elected from that constituency, the candidates so nominated shall be declared elected by the Election Officer and their names shall be

made public by him through the websites of the Authority and Committee.

(8) Where the number of candidates nominated by insurers in any constituency exceeds the number of members to be elected from that constituency, an election shall be conducted in the manner provided in these regulations.

(9) The Election Officer, on the date to be specified by him, shall send by registered post to the registered office of every voter in the constituency, a voting paper together with necessary instructions as to how to fill in the voting paper and specifying the date and hour by which it shall reach him.

(10) Every voting paper shall bear the seal of the Committee and shall contain a list of candidates for election from the constituency.

(11) Every voter shall have one vote only : Provided that where the licence of any insurer is suspended or cancelled by the Authority and so long as such a suspension or cancellation is not revoked by the Authority, such an insurer forfeits his right to nominate any candidate for election or vote at the election.

(12) Every voter while giving his vote, shall place on his voting paper 'X' mark in the square opposite the name of the candidate for whom he votes.

(13) Every voter after filling his voting paper in the manner as stated in sub-regulation (12) shall send the same in a sealed envelope either in person or by registered post to the Election Officer so as to reach him not later than the time and date specified in this behalf.

(14) A vote shall be deemed to be invalid in the event of any of the following instances or circumstances:

(i) if the voter signs his name or writes any word or makes any mark on the voting paper by which the identity of the voter is disclosed;

(ii) if the vote is recorded on a voting paper which does not bear the seal of the Committee;

(iii) if the 'X' mark is not marked on the voting paper in the manner as stated in sub- regulation (12);

(iv) if the 'X' mark is set opposite the name of more than one

candidate;

(v) if the voting paper is unmarked or if the vote is otherwise void for uncertainty;

(vi) if the voting paper reaches the Election Officer beyond the prescribed time and date, for any reason whatsoever;

(vii) if the voter is otherwise disqualified from voting.

(15) The counting of votes shall take place at the office of the Committee, on the date and time as may be specified by the Election Officer, in the presence of an independent scrutineer appointed by the Election Officer, and at the time of counting, the Election Officer may allow the presence of the candidate or his authorized representative : Provided that the person to be appointed as the independent scrutineer shall not either be a candidate or his authorized representative.

(16) The votes shall be examined by the Election Officer and after rejecting any invalid votes, he shall proceed to count the number of votes secured by each candidate, constituency- wise.

(17) The Election Officer shall prepare a ranking list of the candidates in terms of the number of valid votes secured by each candidate pertaining to his constituency, duly witnessed by the scrutineer, and declare the results through the websites of the Authority and Committee :

Provided that in the event of a tie, the candidate representing an insurer or a reinsurer, as the case may be, with a larger gross domestic general insurance premium or the gross domestic reinsurance premium, as the case may be, in the immediate preceding year shall get precedence in the ranking list.

#### **4. Resignation, automatic cessation and filling of casual vacancies :-**

(1) Any elected member of the Committee may resign his membership of the Committee by notice in writing addressed to the Chairman to that effect and such resignation shall take effect from the date on which it is accepted by the Chairman or on the expiry of thirty days from the date of receipt of resignation by the Chairman, whichever is earlier.

(2) An elected member of the Committee who fails to attend three

consecutive meetings of the Committee, without sufficient cause and without leave of absence, shall ipso facto cease to be a member of the Committee.

(3) Any casual vacancy in the office of the elected member of the Committee, whether caused by resignation, death, failure to attend meetings or otherwise, shall, if it occurs within a period of two years from the last date of election, be filled by a by-election conducted in the same manner as a normal election and in any other case by co-option of a person, by the Chairman, to represent the same interest as the person in whose place he is being co-opted represented, and any person so elected or co-opted to fill the vacancy shall hold office until the expiry of the office of the member in whose place he is nominated :

Provided that where the remainder of the tenure is less than six months, the Chairman may not fill in the resultant vacancy :

Provided further that the provisions of this regulation shall apply mutatis mutandis to the resignation, automatic cessation and filling of casual vacancies in regard to any co-opted member:

Provided further that the Vice-Chairman and Secretary of the Committee shall hold office during the pleasure of the Authority.

## **5. Procedure for the conduct of business of the Committee**

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. (1) The Committee may meet for the dispatch of business as often as may be considered necessary, adjourn and otherwise regulate its meetings as provided in these regulations.

(2) Meetings of the Committee may be held at such places and at such times as may be decided by the Chairman of the Committee.

(3) The notice and agenda for the meeting shall normally be circulated at least seven days in advance by the Secretary. The notice and the agenda may be delivered to the members personally upon acknowledgement or despatched by registered post or courier service or transmitted through any other secure and reliable means of communication, as may be recognized under any law for the time being in force : Provided that the Chairman of the Committee may convene an emergent meeting of the Committee by giving at least forty-eight hours' notice.

(4) An item not included in the agenda of a meeting of the

Committee may be taken up for consideration, if so approved by the Chairman of that meeting.

(5) The Chairman of the Committee or in his absence, the Vice-Chairman shall preside all meetings of the Committee, and in the absence of both, the members present shall elect one of them to be the Chairman (presiding member) of that meeting.

(6) The quorum for a meeting of the Committee shall be five members.

(7) If at any such meeting, the quorum is not present, the Chairman or the presiding member, as the case may be, shall after waiting for thirty minutes from the scheduled commencement time of the meeting, adjourn the meeting to such hour on the same day or some other day, as he may think fit.

(8) Where at the adjourned meeting also the required quorum is not present, the members present shall constitute the quorum and they can proceed to transact the business.

(9) All matters required to be decided by the Committee shall be decided by a majority of the votes of the members present, and the Chairman or the presiding member as the case may be shall have a casting vote.

#### **6. Decision by circulation :-**

Any matter for consideration of the Committee may at the discretion of the Chairman of the Committee be decided by circulation among the members as an alternative to convening a meeting for the purpose :

Provided that the decision arrived at shall not be valid, unless at least five members of the Committee signify their consent to the proposal.

#### **7. Formation of Technical Committees :-**

(1) The Chairman or the Committee may, if it is considered necessary and expedient, for examining various technical matters and issues and to make available to the Committee technical advice, constitute various technical sub-committees, consisting of technical persons in the relevant fields, such as, engineering, marketing, underwriting, commercial, surveying, legal and regulatory framework or such other areas in regard to general insurance industry, as may be deemed necessary, and such

technical committees may meet at such intervals, follow such procedure and the members thereof are entitled to such allowances and reimbursements, as may be specified in writing by the Chairman from time to time :

Provided that the technical committees may also contain a few members of the Committee, if so desired, by the Chairman of the Committee.

(2) When a matter or issue is referred to a technical committee, it shall consider the same and submit its recommendations to the Chairman or the Committee, as the case may be.

#### **8. Minutes of meetings :-**

(1) The Secretary shall record and keep the minutes of the proceedings at the meetings of the Committee.

(2) The minutes shall also contain the names of members and invitees, if any, present at the meeting.

(3) The minutes of each meeting shall contain a fair and correct summary of the decisions arrived at the meeting.

(4) The Secretary shall send a copy of the minutes as approved by the Chairman or the presiding member, as the case may be, to each of the members for information and that the same may also be placed at the next meeting of the Committee for taking note of the same.

#### **9. Travelling and daily allowance :-**

Every non-official member and invitee shall be entitled for attending meetings of the Committee reimbursement of travel and other expenses, sitting fees, incidentals, etc., from the Committee, as may be decided, from time to time, by the Chairperson.

#### **10. Information to the press :-**

No member, other than the Chairman or a person specifically authorized by him shall give information to the press or to any other public media on matters relating to the decisions taken at the meetings of the Committee or technical committees.

#### **11. Functions of the Committee :-**

Subject to the provisions of the Act, the functions of the Committee shall be the following, namely:

(i) to control and regulate from time to time and to the extent it



deems expedient the rates, advantages, terms and conditions that may be offered by insurers in respect of any risk or of any class or category of risks, the rates, advantages, terms and conditions of which in its opinion, it is proper to control and regulate;

(ii) to collect from any insurers such information or statements, periodical or ad hoc, as it may consider necessary to enable it to discharge the functions under Part II-B of the Act;

(iii) to make, with the previous approval of the Authority, regulations for all or any of the matters specified in sub-section (3) of Section 64UB of the Insurance Act, 1938 ;

(iv) to fix the amount of fees payable by insurer and to fix fees and charges to cover the cost of any specific services rendered by it;

(v) to invest, deal with or otherwise dispose of any of the monies or property or assets of the Committee and from time to time vary and realize such investments;

(vi) to make and give receipts, releases and other discharges for monies payable for goods or property belonging to the Committee and for the claims and the demands of the Committee;

(vii) to sanction all expenditure for the purposes of carrying out its functions and duties;

(viii) to appoint such officers and servants as may be necessary and fix the conditions of their service;

(ix) to sign, seal, execute and deliver all instruments, deeds, documents or writings necessary or expedient for the purpose of carrying out its (sic its) duties and functions;

(x) to invite to its meetings any person(s) whose presence is necessary or desirable for transaction of the business of the meetings;

(xi) to make arrangements, at any time, on the application of an insurer, for the inspection of an organization which is concerned with the inspection of risks, adjustment of losses or fire-fighting appliances and, whenever necessary, to advise insurers about the adequacy of the arrangements for the inspection of risks and adjustment of losses or the suitability of such appliances;

(xii) to undertake any other function or task as may be assigned by the Authority from time to time;

(xiii) to do all such acts and conduct all such matters as may be necessary, incidental or ancillary to any of the matters specified in the foregoing clauses or in order to effectively discharge the functions vested in the Committee by the Act.

**12. Disputes :-**

If any dispute arises regarding the interpretation of the provisions of these regulations or regarding the validity of any election held under these regulations, it shall be referred to the Central Government, whose decision thereon shall be final and binding.

**13. Savings :-**

No election shall be deemed to be invalid merely because of any accidental omission to send, or delay in sending a voting paper to a voter or the accidental non-receipt of, or delay in receiving a voting paper by a voter, or any other accidental irregularity or informality in the conduct of the election.