

**THE INSURANCE REGULATORY AND
DEVELOPMENT AUTHORITY (IRDA)**

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Introduction

- ❖ In the last decade of the last century, there was a wave of liberalisation in all economic sectors of the country including the insurance sector.
- ❖ By that time, insurance was in the public sector and for recommending changes in the insurance sector, the government appointed a committee in April 1993 under the chairmanship of sri RN Malhotra, ex- governor of the reserve bank of india.
- ❖ This committee on reforms of the insurance sector submitted its report on 7th January 1994 to the then union finance minister.

Recommendations of the committee

1. Recommendation of the entry of private entities into the insurance sector to introduce the healthy competition b/w the new private insurers and the existing monopolistic entities.
2. Recommendation that the general insurance corporation would exclusively deal with the re-insurance business.
3. Recommendation to spread the insurance sector to rural areas by taking assistance of institutions like panchayats, selected voluntary organisations, mahila mandals and cooperatives
4. Recommendation to delink the tariff advisory committee from the GIC and the committee should act as an independent statutory authority.

5. In pursuance of the last but most important recommendation of the Malhotra committee the government had taken a decision in 1996 to establish a Provisional Insurance Regulatory and Development Authority to replace the erstwhile authority called the the controller of the Insurance, constituted under the Insurance Act, 1938, which first worked under the ministry of commerce and was later transferred to the ministry of finance.

❖ The decision for establishment of the insurance Regulatory and Development Authority was implemented by the passing of the Insurance Regulatory and Development Authority Act, 1999.

❑ **The Preamble of The IRDA Act, 1999.**

- ❖ An Act to provide for the establishment of an authority to protect the interests of holders of insurance policies.
- ❖ To regulate, promote, and ensure orderly growth of the insurance industry and for matters connected therewith.
- ❖ The regulatory framework in relation to insurance is desired to take care of three major concerns, viz,
 1. The protection of the interest of the consumers.
 2. To ensure the financial soundness of the insurance industry, and
 3. To pave the way to help a healthy growth of the insurance market.

Establishment of IRDA

- ❖ Chapter 2 of the Act provides for the establishment of the insurance Regulatory and Development Authority.
- ❖ It declares the authority to be a body corporate with perpetual succession and common seal.
- ❖ It can hold property, enter into contracts and is entitled to sue and is liable to be sued by its name.
- ❖ A authority shall have its head office at such a place as the central government notifies and may establish its branches at other places in india.

composition

- ❖ The act states that the Authority should consist of a chairperson, not more than five full time and not more than four part-time members to be appointed by central government.
- ❖ The chairperson and other members shall hold office for 5 years and are eligible for reappointment.
- ❖ The chairperson shall not be above 65 years and other persons above 62 years.
- ❖ The members are permitted to relinquish their offices and are also liable to be removed from office in accordance with the provisions of the s 6.
- ❖ The central government may remove a member from the office if he has or at any has been judged as:

1. An insolvent
2. Has become mentally or physically incapable of acting as a member.
3. Has been convicted of any offence involving moral turpitude.
4. Has acquired financial interest as is likely to effect prejudicially his functions as a member, or has abused his position.

Meetings

- ❖ The Authority shall hold its meetings at such times and places and shall observe such rules and procedures including quorum as determined by the regulations made by itself.
- ❖ If the chairperson is absent, a member present may be elected to preside over the meeting and the decision of the authority is by majority and if they are divided equally the president has a second casting vote.
- ❖ Any vacancy or defect of appointment or mere irregularity in proceedings does not invalidate the proceedings.
- ❖ The authority can recruit necessary staff and their terms and conditions of service shall be according to the regulations under the chapter 13.

Duties and functions of the IRDA

- **Under section 14 duties and function of IRDA Shall include the following -**

Subject to the provisions of this Act and any other law for the time being in force, **the Authority shall have the duty to regulate, promote and ensure orderly growth of the insurance business and re-insurance business.**

Without prejudice to the generality of the provisions contained in sub-section (1), the powers and functions of the Authority shall include, -

Powers and functions

- (a) issue to the applicant 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;
- (c) specifying requisite qualifications, code of conduct and practical training for intermediary or insurance intermediaries and agents;
- (d) specifying the code of conduct for surveyors and loss assessors
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- (e) promoting efficiency in the conduct of insurance business;

(f) promoting and regulating professional organizations connected with the insurance and reinsurance business;

(g) levying fees and other charges for carrying out the purposes of this Act;

(h) calling for information from, undertaking inspection of, conducting inquiries and investigations including the audit of the insurers, intermediaries, insurance intermediaries and other organizations 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 (4 of 1938);

(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 the investment of funds by insurance companies
- (l) regulating maintenance of margin of solvency;
- (m) adjudication of 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 organizations 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.

Powers of the central Governments

- Chapter 6, though captioned as miscellaneous, still contains very important provisions.
- Section 18-20 preserves the control of the central government over the Authority.
- By s 18 the central government is secured of the power to give direction to the Authority on the question of policy.
- The decision of the central government is final on questions.

supercession

- The central government is also invested with the power to supercede the Authority by notification in the official gazette when the Authority does not discharge its duties properly or defies the direction of the CG.
- On the notification of the supercession of the chairmen , the members should vacate their office and a new Authority may be constituted.

Parliamentary control

- The ultimate control is vested with parliament by requiring the notification of supercession and the full report of the action is therefore, to be laid before each house of parliament at the earliest.
- A duty is cast under s 20 on the Authority to furnish an annual report of its activities including the activities for promotion of the development of the insurance business during the previous financial years and copies of these reports shall be laid before each house of parliament.

Interim Arrangements

- If at any time the authority is superseded under sub s(1) of s 19 of the IRDA Act . 1999, the central government may , by notification in the official gazette, appoint a person to be controller till as such time the Authority is reconstituted under sub s(3) of s 19. of the act.

Insurance advisory committee

- ❖ The Act in s 25 also provides for establishment of an Insurance Advisory committee.
- ❖ The chairperson and members of the Authority shall be ex-officio members of the advisory committee.
- ❖ The advisory committee shall consist of not more than 20 members to represent the interest of commerce, industry, transport, agriculture, consumer fora, surveyors, agents, intermediaries and research bodies engaged in the study of safety and loss.
- ❖ It shall advice the Authority in making regulations and on such other prescribed matters.