

IAC 26th Meeting of the IAC on 12th June 2015

Item No. 4

IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015

Consequent upon promulgation of Insurance Laws (Amendment) Act, 2015, insurance surveyors and loss assessors are included in the definition of intermediary and insurance intermediary. As a result of the amendments in the Act the existing Insurance Surveyors and Loss Assessors regulations would undergo a change.

The draft regulations along with schedules uploaded on IRDA website on 6th April, 2015 seeking comments/ suggestions/ views from all stakeholders.

Based on the comments received, the important changes in the Insurance Surveyors and Loss Assessors Regulations are as hereunder in view of Act, Rules, Regulation and M&AOA of IISLA as well as natural justice as under :

S.N	Agenda Ann.	Agenda Point	Our Opinion	Reasons
1.	4(1)	Reduction in license period to 3 years to be consistent with provisions in respect of other intermediaries.	<i>The license granted shall be valid for a period of Life time and COP of IISLA shall be granted for a period of three years. The allotment of department/ area of work at the time of grant of license to act as Surveyor and loss assessor shall be as specified by the Authority and IISLA from time to time.</i>	<i>Clause 82 of Insurance Bill did not contain any thing like licensing by the Authority. It only stipulated that the SLA should (i) possess the qualifications prescribed by the Authority in Regulations; and (ii) be a member of IISLA. Since licensing itself is not stipulated in the Act; there is no point to consider reduction of license period; during the times of present transition. In all other professionals like Advocate, CA, CS, Doctors, it is one time registration/ licensing. The surveyor is required to submit yearly returns of practice, is subject to disciplinary scrutiny of IRDAI & IISLA and is bound by Code of Ethics. He/She should be given ease of doing profession & unnecessary red tape should be removed. There are no investment issues involved in survey profession like those of Insurance companies & brokers.</i>

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2.	4(2)	Qualifications prescribed in the regulations itself	<p><i>Qualifications to be prescribed in the regulations for new one entries only because it is part of Regulation to specify; not by act.</i></p> <p><i>While prescribing any fundamental changes; it is to be ensured that the practice prevailing till then is protected. This is what has happened when the Act was amended during 1968, and again in 1999. The existing SLAs were deemed to have fulfilled the criteria brought into the system.</i></p> <p><i>Similar protection need to be given at the time of Insurance Bill amendment 2015, in the formation of Regulations; that will influence the prescription of Educational qualifications for future , not for the past .</i></p>	<p><i>Every risk in General Insurance involves; technical aspects as well as insurance terminology. Diploma or Degree Engg has similar basics covered in their curriculum. Govt still considers a Diploma with a certain years of more experience as equal to a Degree holder with a certain years of experience.</i></p> <p><i>Industry will be deprived of technically qualified and practically experienced for a few years or few decades professionals; if such people are barred from the SLA profession after a certain period unless they improve their qualification to a degree in Engg.</i></p> <p><i>It may not practicable for a diploma in engg – SLA with decades of experience now to pursue college education to obtain a Degree in Engg.</i></p> <p><i>An SLA needs to be acquainted reasonably with (1) Technical aspects of subject of matter of insurance and (2) Insurance terminology and practices. Loss assessment is more concerned with the subject matter of insurance, its properties and characteristics, and analysis of situation by survey leading to loss; besides insurance practice. To put all these things in writing as a professional so as to make understand by a person sitting on Insurer’s office, needs full time practical training</i></p> <p><i>The existing and working SLAs who were categorized in the year 2001 by the Authority need not to take any qualification prescribed as this is against Natural Justice. They should be serving all departments in which they were categorized.</i></p>

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3.	4(3)	Limit of survey introduced – motor – above Rs 50,000 and other than motor – above Rs 1 lakh	<p><i>In the present day scenario of abundant resources of qualified persons country wide; much better logistics, and instant communication / data transfer facilities; such limit of no survey is ill – conceived.</i></p> <p><i>Like in Health Insurance, where every claim is handled by TPA; every claim in casualty and property insurance needs to be handled by an Independent SLA.</i></p> <p><i>Such stipulation will be in the interest of Policy Holders in India; since conflict of interest cannot be gauged with quantum of claim.</i></p> <p style="text-align: center;">agreed</p>	<p><i>It is the small time policy holders like an Auto wallah, Motor Cycle Owner, Single Car owner, small time business man, self employed technicians, garages and the likes; who constitute considerable % of insured clientele; who will be left out of the prospect of getting heir unfortunate occurrence of loss assessed by an independent entity – SLA.</i></p> <p><i>Authority also is required to remember the history and back drop of such stipulation brought into the system by Govt of India way back in 1968; as enunciated by the objects spelt there. In order to avoid unethical practices; and to develop general insurance business in an orderly manner; were the prime objects.</i></p>
4.	4(4)	Cooling off period after suspension/ cancellation reduced from 3 to 1 year.		
5.	4(5)	Appeal against the decision of Authority to SAT	<i>Such provision is appreciable.</i>	<p><i>There should be constitution of GRA (Grievance Redressal Authority) under the Regulator / IIISLA to resolve disputes amongst insured – SLA – insurer.</i></p> <p><i>There should also be constitution of committee headed by an officer of authority with participation of concerned state chapter of IIISLA, and local heads of insurers; to oversee job allocation and empanelment issues; as recommended by 190th Law Commission Report.</i></p>

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6.	4(6)	Foreign investment in corporate survey companies/ firms allowed up to 49% as per the Rules of Central Government	<p><i>This is against the Act itself. SLA is a profession and not a business. The IRDAI Act also contained the entities which require capital; and SLA is not in the list that needed a capital requirement. When capital itself is not required to be SLA; question of foreign investment does not arise hence there is no need of FDI in employment sector.</i></p> <p><i>Only Indian Citizen should be engaged in the job of Surveyor and loss Assessment otherwise it will effect the economy of the country.</i></p>	<p><i>Govt FDI sought to bring in fresh capital for affording insurance coverage through increased penetration into the insurance market.</i></p> <p><i>SLA is not the entity who will be involving in doing business; hence this proposal is ill- conceived & should be dropped.</i></p>
7.	4(7)	Appeal against the decision of IISLA in granting membership to lie with the Authority	<p><i>Granting membership is internal matter of IISLA; and is governed by its AOA. M & AOA of IISLA were brought into effect by IRDA themselves. Member (NL) is an ex - officio Director of IISLA in his capacity as Chairman, GI Council; besides nominee of IRDA, and a Finance Ministry official of Govt of India.</i></p> <p><i>Hence, the proposal will be duplication of Authority, and against the principles of 'Unity of Direction'.</i></p>	<p><i>IRDA can be appellate authority on all SLA matters; related to IISLA; but this specific proposal is ill - conceived.</i></p> <p><i>There should be constitution of GRA (Grievance Redressal Authority) under the Regulator / IISLA to resolve disputes amongst insured - SLA - insurer.</i></p> <p><i>There should also be constitution of committee headed by an officer of authority with participation of concerned state chapter of IISLA, and local heads of insurers; to oversee job allocation and empanelment issues; as recommended by 190th Law Commission Report.</i></p>

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8.	4(8)	<p>In case IIISLA does not grant Membership of the Institute to the applicant, the applicant can appeal to Chairman, IRDAI whose decision shall be binding. In case IIISLA does not still comply, the Authority may grant surveyor & loss assessor license on merits.</p>	<p><i>Issue of Membership of IIISLA to be decided by IIISLA only. There can be Appellate Authority, but not an over ruling authority over another statutory body.</i></p> <p><i>Appellate authority is required to examine the issue whether any discrimination or injustice is done in the issue under examination, and conclude based on record and evidence. I do not think the appellate authority is required to make any new rules in contravention of rules governing such issue, for which an appeal was made.</i></p> <p><i>The Chairman of the Authority shall communicate his decision thereon to the Institute in writing within six weeks of the receipt thereof which shall be binding on both provided the decision is within the frame work of IIISLA constitution</i></p>	<p><i>IIISLA is governed by its M & AOA. It is bound by the law of the land besides its M & AOA.</i></p> <p><i>Membership of IIISLA is defined by its AOA, and it is in true spirit of Act. It is to remind the Authority that IIISLA was promoted by IRDA, and the M & AOA were drafted and contributed by none other than the promoter themselves. The AOA has well laid out procedure for according membership of IIISLA. However, in the initial years of formation and the enrolment of members handled by IRDA themselves; and may be subsequently also; certain errors took place.</i></p> <p><i>IIISLA cannot go beyond the scope of its AOA, and this is understandably right in law and governance. IRDAI, Ministry of Finance, and General Insurance Council have the representative presence in the governance of IIISLA; and it will not be appropriate to formulate a regulation; which seemingly is authoritative and unreasonable.</i></p> <p><i>India is a democratic country; and this is not how the governance of Institutions are expected to be.</i></p>

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9.	4(9)	Fit & proper criteria for directors/ partners of corporate surveyors introduced	<p><i>Only for individuals who is either partner or director of the firm or company. There is only one category – who is competent to assess the loss in General Insurance Industry.</i></p> <p><i>SLA or approved surveyor. Corporate surveyor is a misnomer; and do not fulfill the requirement to act Surveyor – as laid in clause 82 of insurance bill – 2015.</i></p>	<p><i>Membership of IISLA is limited to individuals; Firms, Cos are not entitled to be members.</i></p> <p><i>This provision needs to be asserted with full commitment; if we intend to become a force to reckon with in the Industry.</i></p> <p><i>Such eligible SLAs can subsequently come together to form a co., which can be registered separately with IISLA.</i></p>
10.	4(10)	Surveyor and loss assessor not to undertake any advisory or consultancy work or any other job with conflict of interest.	<p><i>Conflict of Interest has to be applied uniformly in the Industry.</i></p> <p><i>Like SLAs are barred from any consultancy or advisory role in insurance business procuring entities like Brokers, Insurance Marketing Firms, Agents, Insurers through their employees; should be barred from taking up any role in loss assessment; claim consultancy and the like activities which give rise to conflict of interest</i></p> <p><i>In order to prevent unethical business practices, and develop insurance business in an orderly manner; it is essential that the major constituent of ‘ conflict of interest’ be avoided in totality.</i></p>	<p><i>What constitutes conflict of interest should be the base for such barring provisions.</i></p> <p><i>Enticing business by promising a claim; or Treating favourably in a claim in return to insurance premium; are the major constituent of Conflict of Interest.</i></p> <p><i>Allowing claim consultancy costs to Brokers; Allowing IMFs to employ SLAs also besides procuring insurance business are not in tune with the basic principle of avoiding ‘conflict of interest’.</i></p> <p><i>SLA may act as consultant on any other matter other than Insurance business because IRDAI or any one does not ensure the guarantee of minimum income.</i></p>

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11.	4(11)	Transitory provision – all those surveyors and loss assessors who are currently holding surveyors license shall comply with the requirements of academic qualifications and obtain IISLA membership within 3 years from date of notification of revised regulations.	<i>3 years duration for obtaining membership of IISLA is too long, for existing SLAs. It can be restricted to 1 year.</i>	<i>The barring provision that no one should act as Surveyor if they fail to fulfill the requirement of becoming members of IISLA within 1 year, should be implemented by notifying a cut ff date.</i>
12.	4(12)	in cases where survey report is pending due to non completion of document or any other reason, the surveyor may issue the final report based on the available documents on record after giving minimum three reminders in writing to the insured	<i>Yes.</i>	<i>Insurer should send offer of settlement to the insured on receipt of such report from Surveyor, and settle the Survey Fee Bill.</i>
13.	4(13)	Corporate surveyor company/ firm shall maintain records in the format specified by the Authority which shall capture claim-wise and licensed surveyor-wise details wherein each claim surveyed by the company/ firm is tagged to the licensed surveyor in the company/ firm.	<i>Corporate surveyor company/ firm shall maintain records in the format specified by the Authority which shall capture claim-wise and licensed surveyor-wise details wherein each claim surveyed independently by the concern surveyor of the company/ firm is tagged to the licensed surveyor in the company/ firm who is member of IISLA.</i>	<i>In the ambit of section 82 (a)&(b) of the Act it must be maintain as per code of ethics and constitution of IISLA.</i>

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14.	4(14)	Corporate surveyor company/ firm to have systems which will allow regular access to such records and details by the Authority.	<i>Such report should be provided to the Authority through IIISLA, every month or quarter s; subject to compulsory integration of information on IIISLA Site.</i>	<i>This information forms the basis of 'claim service & process flow', data with the Authority as well as SLA employment – data base with IIISLA site to follow the TAT..</i>

