

ROYAL MONETARY AUTHORITY OF BHUTAN

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LOSS ADJUSTER REGULATIONS, 2012

1. Short title and commencement

- i. These regulations are issued in pursuant to Section 202 and 278 of the Financial Services Act of Bhutan, 2011 and must be read in conjunction with the additional requirements under the Act.
- ii. These regulations may be cited as the Loss Adjuster Regulations, 2012.
- iii. These regulations shall come into operation on such date as may be specified by the Royal Monetary Authority by notice in the RMA website.
- iv. The requirements which are preconditions for granting a license should be met at all times during the on-going business operations.

2. Definitions

In this regulation, the following terms shall have the meanings indicated unless the content clearly indicates otherwise.

- i. “Applicant” shall mean any person who applies for the grant of a Loss Adjuster’s license or renewal thereof.
- ii. “Authority” shall mean Royal Monetary Authority of Bhutan established under the Royal Monetary Authority Act of Bhutan.
- iii. “Company” shall mean a private limited company registered under the Companies Act of Bhutan 2000.
- iv. “Act” shall mean Financial Services Act of Bhutan, 2011.
- v. “Person” shall mean a natural person or a legal entity.
- vi. “Loss Adjuster” shall mean an independent person hired and paid by the insurer/client to investigate and settle an insurance claim presented by an insured.

3. Application for grant of licence

- i. An application by a person as per annexure I (A) or I (B) for grant of a license as a Loss Adjuster in respect of general insurance business shall be made to the Authority along with the required documents and a non- refundable application fee of Nu. 2,500.00 in cash/draft/cheque in favor of the Authority in case of an individual and Nu. 7,000.00 in case of company.
- ii. Notwithstanding any provisions contained herein, the Authority shall be entitled, in its absolute discretion, to refuse any application for licence.

- iii. Application, not complete in all respects and not conforming to the instructions specified in these regulations shall be rejected. However, the applicant shall be given 30 days to complete the application in all respects and rectify the errors, if any.
- iv. The Authority may require an applicant to furnish any further information or clarification during the assessment of the application, and, thereafter, with regard to any other matter as may be deemed necessary by the Authority. The applicant shall, if so required, appear before the Authority for a personal representation in connection with an application.
- v. The Authority shall take into account for its consideration, before grant of a license, all matters relating to the discharge of the duties, responsibilities and functions of Loss Adjuster and satisfy itself to grant a license.
- vi. A license issued by the Authority to the applicant is non-transferable and shall be valid for a period of one year. The Loss Adjuster from its fourth year of operation shall pay an annual non-refundable renewal license fee of 1 percent of the paid-up capital.

4. Documents to be submitted

- i. A person practicing loss adjusting business individually shall submit the following documents:
 - a. An application form.
 - b. Proof of the qualifications set out in these regulations.
 - c. Proof of Identity.
 - d. A business plan.
- ii. A company applying for loss adjusting business shall submit the following documents:
 - a. An application form.
 - b. Proof that any employed Loss Adjuster meet the qualifications set out in these regulations.
 - c. Proof of the Loss Adjuster's identity (copy of identity card to be attached)
 - d. A business plan.

- e. A list of promoters/shareholders stating each promoter's or shareholder's name, sex, date of birth, domicile, ID number and percentage of shareholding.
- f. Its Article of Incorporation and certificate of incorporation.

5. Qualification Requirement for a Loss Adjuster

- i. Any person conducting loss adjusting work shall meet the following criteria:
 - a. Must be a Bhutanese national in case of an individual applicant.
 - b. Holds a degree in any branch of engineering from a recognized university or professional certification in the subject of insurance.
 - c. Shall have a minimum of two years experience in Insurance/Loss Adjusting business or Undergo training programme for a period not less than twelve months conducted by the FI training institute or by a reputed Institute of Insurance Loss Adjuster or Must be the member of Insurance Loss Adjuster Professional body.
 - d. Does not violate the code of conduct specified under these regulations.
 - e. Shall fulfill all the fit and proper criteria under annexure II.

6. Requirements for a Loss Adjusting Company

- i. The company applying for loss adjusting business shall have minimum paid up capital of Nu. three hundred thousand. The capital contribution shall be in cash and shall be from his/her own source of income and not through borrowings.
- ii. The company shall employ at least one Loss Adjuster, who shall fulfill all the requirements set out in these regulations to get a license from the Authority.

7. Duties and Responsibilities of a Loss Adjuster

A Loss Adjuster shall, for a major part of the working time, investigate, manage, quantify, validate and deal with losses (whether insured or not) arising from any contingency, and report thereon, and carry out the work with competence, objectivity and professional integrity by strictly adhering to the code of conduct expected of such Loss Adjuster. The following, shall, inter alia, be the duties and responsibilities of a Loss Adjuster:-

- i. declaring whether he has any interest in the subject-matter or whether it pertains to any of his relatives, business partners or through material shareholding;
- ii. a Loss Adjuster/Company shall not provide any services to its related parties;

- iii. maintaining confidentiality of the insurer and claim of the insured;
- iv. conducting pre-inspection, inspection and re-inspection of the property suffering a loss;
- v. examining, inquiring, investigating, verifying and checking upon the causes and the circumstances of the loss including extent of loss, nature of ownership and insurable interest;
- vi. conducting spot and final surveys, as and when necessary and comment upon franchise, excess/under insurance and any other related matter;
- vii. estimating, measuring and determining the quantum and description of the loss;
- viii. advising the insurer and the insured about loss minimization, loss control, security and safety measures, wherever appropriate to avoid further losses;
- ix. commenting on the admissibility of the loss as also observance of warranty conditions under the policy contract;
- x. surveying and assessing the loss on behalf of insurer/client;
- xi. assessing liability under the contract of insurance;
- xii. pointing out discrepancy, if any in the policy wordings;
- xiii. satisfying queries of the insured/insurer and of persons connected thereto in respect of the claim/loss;
- xiv. recommending applicability of depreciation and the percentage and quantum of depreciation;
- xv. giving reasons for repudiation of claim, incase the claim is not covered by policy terms and conditions;
- xvi. taking expert opinion, wherever required;
- xvii. commenting on salvage and its disposal wherever necessary;
- xviii. A Loss Adjuster shall submit report to the insurer as expeditiously as possible, but not later than 30 days of his appointment.

8. Code of Conduct

Every Loss Adjuster shall-

- i. behave ethically and with integrity in the professional pursuits. Integrity implies not merely honesty but fair dealings and truthfulness;
- ii. strive for objectivity in professional and business judgment;
- iii. act impartially, when acting on instructions from an insurer in relation to a policy holder's claim under a policy issued by that insurer;
- iv. conduct himself with courtesy and consideration to all people with whom he comes into contact during the course of his work;
- v. carry out his professional work with due diligence, care and skill and with proper regard to technical and professional standards expected of him;
- vi. keep himself updated with all developments relevant to his professional practice and at all times maintain proper record for work done by him and comply with all relevant laws;
- vii. maintain a register of survey work, containing the relevant information in annexure III under these regulations, supplemented by important records of the survey reports, photographs and other important documents for a period of ten years and furnish the same and such other specified returns, as and when called for by the Authority or by any investigating authority or the insurer;
- viii. not disclose any information, pertaining to a client or employer acquired in the course of his professional work, to any third party, except, where consent has been obtained from the interested party, or where there is a legal right to disclose;
- ix. neither use nor appear to use, any confidential information acquired or received by him in the course of his professional work, to his personal advantage or for the advantage of a third party.

9. Register of Licensed Loss Adjuster

- i. The Authority shall maintain a register of all licensed Loss Adjusters containing the following particulars;
 - a. full name, date of birth, domicile, residential and professional address;
 - b. the date on which name is entered in the register;

- c. licence number and period of validity;
- d. professional and other qualifications;
- e. areas of survey work licensed to be undertaken;
- f. any other particulars as may be prescribed by the Authority from time to time.

Provided that in the case of company, the particulars to be entered in the register, shall be with reference to every director or partner, as the case may be.

- ii. The Authority shall, delete the particulars of Loss Adjuster who are no longer alive, or whose licence has been cancelled or suspended.
- iii. The Authority shall cause the publication of the relevant particulars entered in the register, as may be considered appropriate by it, at such intervals and in such manner as may be deemed fit.

10. Submission of Returns

- i. Submit annually the form specified under annexure III and IV under these regulations; and
- ii. Every Loss Adjuster shall furnish documents, statements, accounts, returns or reports as and when required by the Authority and comply with such directions as may be issued by the Authority.

11. Inspection

- i. The Authority may appoint one or more persons as inspecting authority to undertake inspection to see how the survey work is carried on, inspect the books of accounts, records, documents, investigate the complaints received or any other activity or function carried out by the Loss Adjuster. The inspecting authority shall, as soon as possible, submit an inspection report to the Authority.
- ii. The inspecting Authority shall be given all information demanded by it for the purpose of carrying out inspection/investigation work, and shall be extended all possible co-operations to facilitate the conduct of its work.
- iii. The Authority shall, after consideration of the inspection report, communicate the findings to the Loss Adjuster and give him a reasonable opportunity of being heard before any action is taken by the Authority on the findings of the inspecting authority.

- iv. On receipt of the explanation, if any, from the Loss Adjuster, the Authority may ask the Loss Adjuster to take such measures as the Authority may deem fit in the interest of the insurance market and for due compliance with the provisions of the Act, rules and regulations.
- v. All documents has to be retained for minimum period of ten years.

12. Power to clarify

In case of any doubt or ambiguity in regard to any of these regulations, the same shall be clarified by the Authority.

13. General Provisions

- i. The Loss Adjuster shall be independent in practice, shall give consideration to the interest of both the insurer/client and the insured/agency, and shall abide by the code of ethics as specified under these regulations.
- ii. No insurance company/individual/other agencies shall engage the services of the Loss Adjuster who are not licensed by the Authority.
- iii. The Loss Adjusting Company shall have a fixed place of business that shall not be located within the office of the Insurance Company. Any change in the place of the business shall be reported to the Authority for approval.
- iv. Any change of Directors, Managers of the Loss Adjuster Company has to be notified to the Authority.
- v. Any recruitment of new Loss Adjuster by the Loss Adjuster Company has to be approved by the Authority.
- Vi. All insurance & re-insurance companies are required to avail the services of loss adjuster duly licensed by the Authority.

14. Submissions

The completed application form and any correspondence should be addressed to the following:

Hon'ble Governor
Royal Monetary Authority of Bhutan
P.O. Box 154
Chhophel Lam, Kawajangsa
Thimphu, Bhutan
Telephone: +975-2-323111/119
Fax: +975-2-322847
Email- rma.frsd@rma.org.bt

ANNEXURE I (A)

APPLICATION BY AN INDIVIDUAL FOR A LICENCE TO ACT AS LOSS ADJUSTER

To
Hon'ble Governor
Royal Monetary Authority of Bhutan
P.O Box: 154, Chophhel Lam,
Kawajangsa Thimphu, Bhutan

| |
|------------------------|
| Passport Size Photo |
|------------------------|

Sir,

I request that a licence to act as a Loss Adjuster may be granted to me for the following classes.

| Departments | Fire | Marine Cargo | Marine Hull | Engineering | Motors | Miscellaneous |
|--------------------|-------------|-------------------------|------------------------|--------------------|---------------|----------------------|
| Please tick | | | | | | |

I enclose a cheque/draft _____ dated _____ drawn-on
_____ towards payment of application fees.

Communication

| | |
|---------------|--|
| Phone Number | |
| Fax Number | |
| Email Address | |

I hereby declare that:

- i. I have not been found to be of unsound mind by a Court of competent jurisdiction.
- ii. I have not been found guilty of criminal misappropriation or criminal breach of trust or cheating or forgery or of abetment or attempt to commit any such offence by a Court of Competent Jurisdiction.
- iii. I have not been found guilty of or to have knowingly participated in or conceived at any fraud/dishonesty or made any misrepresentation against an insurer or an

insured in the course of any judicial proceeding relating to a policy of insurance or the winding up of any investigation of the affairs of an insurer.

- iv. I shall not violate the code of conduct specified by the regulations made by the Authority.
- v. I possess the requisite qualifications and practical training as specified by the regulations made by the Authority.
- vi. I enclose 4 passport size photographs.

I also declare that the particulars given below are true:

(IN BLOCK

LETTERS) a. Full Name: _____

b. Citizenship Identity Card Number: _____

c. Date of Birth: _____

d. Full Address: _____

Yours faithfully

Signature of the Applicant:

Name of the Applicant:

Place:

Date:

ANNEXURE I (B)

APPLICATION BY A FIRM OR COMPANY FOR A LICENCE TO ACT AS A LOSS ADJUSTER

To
Hon'ble Governor
Royal Monetary Authority of Bhutan
Thimphu, Bhutan

Sir,

It is requested that a licence to act as a Loss Adjuster may be granted to our Firm/Company for the following classes.

| Departments | Fire | Marine Cargo | Marine Hull | Engineering | Motors | Miscellaneous |
|--------------------|-------------|---------------------|--------------------|--------------------|---------------|----------------------|
| Please tick | | | | | | |

Please find enclosed herewith a cheque/draft _____ dated _____ drawn-on _____ towards payment of application fees.

It is hereby declared that-

- i. no director/partner of our Company/Firm has been found to be of unsound mind by a Court of competent jurisdiction;
- ii. no director/partner of our Company/Firm has been found guilty of criminal misappropriation or criminal breach of trust, or cheating or forgery, or an abetment of or attempt to commit any such offence by a Court of competent jurisdiction;
- iii. no director/partner of our Company/Firm has been found guilty of or to have knowingly participated in any fraud, dishonesty or misrepresentation against an insurer or an insured in the course of any judicial proceedings relating to any policy of insurance or the winding up of an insurance company or in the course of an investigation of the affairs of an insurers;
- iv. no director/partner of our Company/Firm is a minor;
- v. no director/partner of our Company/Firm shall violate the code of conduct specified by the regulations made by the Authority;

vi. all director(s)/partner(s) persons of our Company/Firm have qualifications as specified by the regulations made by the Authority.

It is also declared that the particulars given below are true.

1. Full name of the applicant: _____
2. Company/Firm: _____
3. Full Address: _____
4. The names of all the directors/partners: _____

Yours faithfully

Signature of applicant:

(Designation)

Name of Firm/company:

Seal of the Company/Firm

Place:

Date:

BIOGRAPHICAL REPORT

To be filled by an Individual, partner, Director and Officer of the loss adjusting company/Loss Adjuster.

1. Personal Details

| | |
|-----------------------|--|
| a. Name | |
| b. Date of Birth | |
| c. Nationality | |
| d. Citizenship ID No. | |

2. Contact Information

| | |
|------------------|--|
| a. Telephone No. | |
| b. Mobile No. | |
| c. Fax No. | |
| d. E-mail | |

3. Present Position

| | |
|---------------------------------|--|
| a. Name and Address of the Firm | |
| b. Nature of Business | |
| c. Telephone No. | |

4. Family History/Dependents

| Relationship | Name | CID No. | Date of Birth | Occupation | Email Address | Mobile No. |
|--------------|------|---------|---------------|------------|---------------|------------|
| Father | | | | | | |
| Mother | | | | | | |
| Spouse | | | | | | |
| Dependents | | | | | | |

5. Academic Qualification

| Name & address of University | Years of Attendance | Major Area of Studies | Degree Awarded | Date Awarded |
|------------------------------|---------------------|-----------------------|----------------|--------------|
| | | | | |
| | | | | |
| | | | | |

6. Employment Record (Pertaining to previous 5 years). Use additional sheets, if necessary, and account for all gaps in employment.

| Position/Department | Main responsibilities | Organization | Country | Duration |
|---------------------|-----------------------|--------------|---------|----------|
| | | | | |
| | | | | |
| | | | | |

7. Practical Training Details (Please enclose the certificate of training obtained from the surveyor/survey firm).

| Name of Loss Adjuster Firm | Department allocated to the Surveyor/Survey Firm | Category awarded to the Surveyor/Survey Firm | Period of training undergone (Please mention dates) | Name of person(s) under whom training undertaken | Areas covered | Result |
|----------------------------|--|--|---|--|---------------|--------|
| | | | | | | |

8. Are you employed? Give details and attach No Objection Certificate of your present employer.

9. Have you ever held a licence to act as a Loss Adjuster? If so, state number and date and attach a photocopy of the Licence. If the Licence is required in the name of the Sole Proprietorship Firm, full name and address of the firm under which the individual proposes to carry on the work should also be mentioned.

10. Do you have a license to practice any other profession? Yes No

If yes, please give details.

| | |
|---------------------------------|--|
| a. Nature of License | |
| b. Date of Issue | |
| c. License/Registration No. | |
| d. Licensing Agency and Address | |

11. (a) If self-employed, describe each enterprise, including the name, address, license number, your percentage of ownership and the type of business which you own or control. (Control means ownership of 10% or more of the stock or ability to effectively control the management of the corporation or other entity).

(b) List names, addresses and percentage of control and/or ownership of other incorporators, partners, directors, or officers of the entity or corporation referred to above.

| | |
|---|--|
| <p>12. Are you employed in any professional capacity, or do you perform any services for or have any business connections with any institution which is subject to the supervision of the Royal Monetary Authority of Bhutan, or any other authority of the Royal Government of Bhutan? If “Yes”, indicate the name of the institution, address and nature of your work.</p> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|---|--|

| | |
|---|--|
| <p>13. Have you had, or do you now have, any financial interest, direct or indirect, in any financial institution in Bhutan. If “Yes”, give the name of the institution, address and nature of the financial interest.</p> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|---|--|

14. Please tick whichever is relevant for the following questions below.

| | |
|--|---|
| <p>Holds a degree of a recognized University in any branch of Engineering.</p> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <p>Is a fellow or associate member of the institute of Chartered Accountants</p> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <p>Holds a diploma in Insurance granted or recognized by the Government.</p> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <p>Actuarial qualification or holds a degree or diploma of any recognized university or institute in relation to insurance.</p> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <p>Were you or company you worked/owned declared insolvent and adjudicated bankrupt.</p> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <p>Were you or company you worked/owned convicted by a court in any criminal offense or has been involved in any fraud/forgery, financial crime or other illegal activities.</p> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <p>Are any of your loan accounts with financial institutions classified as non-performing at any point of time (loan default by 90 days).</p> | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A |

15. Answer “Yes” or “No” to any of the questions below if they apply to you as an individual, or a partner, director or officer of a corporation.

| | |
|---|--|
| Are any arrests, indictments, criminal information or other criminal proceedings now pending against you? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Were you ever convicted for any violations of the law? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Have you or has any partnership of which you were a CEO or a major owner (more than or equal to 10% of the capital of the company) ever been liquidated or declared bankrupt? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Has any business of which you were a director, officer, partner or major shareholder (10% or more of the voting shares) defaulted on his/her loan repayment? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Has any enterprise in which you were a partner, director or officer been the subject of criminal indictment or other criminal proceedings? | <input type="checkbox"/> Yes <input type="checkbox"/> No |

16. Income tax clearance: Fiscal Year (Attach tax clearance certificate)

DECLARATION

I hereby declare that I am aware that it is an offence under Section 138 of the Financial Services Act of Bhutan 2011 to provide the Authority any information which is false or misleading in a material particular. I hereby declare that the information given in the form above and accompanying documents is complete and accurate to the best of my knowledge, information and belief and that there are no other facts relevant to this application of which the Authority should be aware.

I undertake that as long as I continue to be a Loss Adjuster, I will notify the Director of the Financial Regulation and Supervision Department of the Authority of any material changes to, or affecting the completeness or accuracy of, the information given above as soon as possible, but in any event no later than 10 days from the day the changes come to my attention. Further, I would like to pledge that as long as I continue to be a Loss Adjuster/partner/director/officer will not violate any laws and regulations of the Authority.

Signature (Affix Legal Stamp):

Name:

Position:

Citizenship ID No:
(Please attest copy)

Date:

Witness:

Signature:

Name:

Citizenship ID No:
(Please attest copy)

Date:

ANNEXURE III

FORMAT FOR KEEPING RECORDS ON A YEARLY BASIS

| 1. Sl. No. | 2. Name & Address of Insured/ Client | 3. Name & Address of Insured/ Other agency | 4. Related party to 2 & 3 Policy No. | 5. Dept. in which the claim falls | 6. Dt of allocation of survey work | 7. Dt of survey /inspection | 8. Dt of submission of survey report | 9. Amount of claim assessed | 10. Survey fee details (Amt./date of payment) |
|-------------------|---|---|---|--|---|------------------------------------|---|------------------------------------|--|
| | | | | | | | | | |
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FORMAT FOR ANNUAL SUBMISSION OF RETURN TO THE AUTHORITY

- 1. Name : _____
- 2. Current Licence No. & Date of Expiry : _____
- 3. Qualifications acquired in the past one year:
 - a) Academic/Professional : _____
 - b) Insurance : _____
 - c) Training Attended (Nature and duration) : _____
- 4. No. of surveys carried out in last financial year and the name of insurers:

| Insurer | Fire | Marine | Engineering | Motors | Miscellaneous | Total |
|----------------|-------------|---------------|--------------------|---------------|----------------------|--------------|
| A | | | | | | |
| B | | | | | | |
| C | | | | | | |
| D | | | | | | |

- 5. a) Income derived from survey work during the year. Nu. _____
- b) Profit after deducting for management expenses. Nu. _____

I solemnly declare and confirm that the particulars given above are true to the best of my knowledge and belief.

Signature: _____