

Sundry Insurance Fund Operation Rules, 2060 (2003)

Date of Publication in the Nepal Gazette

2060.6.30 (17 Oct. 2003)

Amendment

Sundry Insurance Fund Operation (First
Amendment) Rules, 2061 (2005)

2061.12.3 (March 16, 2005)

The Government of Nepal, having exercised the power conferred by Section 2 of the Administrative Procedure (Regulation) Act, 2013 (1956) has enacted the following Rules:

1. **Short Title and Commencement:** (1) These Rules may be called as "Sundry Insurance Fund Operation Rules, 2060 (2003)"

(2) These Rules shall come into force from the date prescribed by the Government of Nepal by publishing notice in the Nepal Gazette.¹

2. **Definition:** Unless the subject or content means otherwise in these Rules-

(a) "Fund" means the Sundry Insurance Fund established under Rule 3.

(b) "Risk Group" means the risk to be given security against the loss caused by the activities like riot, strike, civic tort, revolt and terrorism.

(c) "Insurance Committee" means the Insurance Committee established under Sub-section (1) of Section 3 of the Insurance Act, 2049 (1992).

(d) "Board of Directors" means the Board of Directors of the Fund constituted under Rule 9.

¹ Pursuant to the notice published in the Nepal Gazette dated Oct. 17, 2003, the Rules has come into force from Oct. 18, 2003.

- (e) "Member Insurer" means the insurer having obtained membership of the fund under Rule 4.
- (f) "Member" means the Member of the Board of Directors and the term means the chairperson of the Board of Directors and the Fund Manager also.
- (g) "Fund Manager" means the Manager of Fund appointed under Rule 15.
- (h) "Fiscal Year" means the period between 1st *Sharwan* (Mid July) to last day of *Ashad* (Mid July) of every year.

3 Establishment of the Fund: (1) A fund named Sundry Insurance Fund has been established with an objective to make arrangement of reinsurance for bearing the claim of risk group supposed to be fallen within the geographical territory under a non-life insurance policy issued in Nepal and to make payment of other insurance risks relating to the same.

(2) The following amount shall be remained in the fund under Sub-rule (1):-

- (a) Amount obtained from the Government of Nepal.
- (b) Membership fee obtained from the insurer.
- ²(b1) Seed money obtained from the member insurer.
- (c) Amount of risk group reserved in the insurance policy by the insurers.
- (d) Amount of reinsurance commission and profit to be obtained from the reinsurers by the insurers.
- (e) Profit generated by the investment under Rule 8.
- (f) Amount to be obtained from other sources.

² Inserted by First Amendment

³ (2a) A member insurer shall have to deposit the seed money under Clause (b1) of Sub-rule (1) in the Fund on condition of not to be less than the amount under Clause (a) of the same Sub-rule; and the terms and conditions and procedure of payment of such amount shall be as prescribed by the Board of Directors.

(3) The insurance committee may levy an additional premium to the ⁴member insurer in a situation of insufficiency of the amount deposited in the Fund under Sub-rule (2) to pay the risk under Sub-rule (1).

4. Membership of the Fund: (1) The insurer registered for operation of non-life insurance enterprise under the Insurance Act, 1992 may obtain the membership of the Fund.

(2) An insurer interested to be a member of the Fund under Sub-rule (1) shall have to submit application in the format of Schedule-1 to the Board of Directors.

(3) The Board of Directors, in the situation of being found the due maintenance of procedure under these Rules in the application received under Sub-rule (2), shall grant membership of Fund to such applicant insurer in the format of Schedule- 2.

⁵ (4) The membership granted under Sub-rule (3) shall be valid for one fiscal year and such membership may be renewed.

⁶ (5) While renewing under Sub-rule (4), it should be got renewed from the official granting membership within one month of termination of duration of validity of membership by paying the renewal fee prescribed by the Board of Directors.

³ Inserted by First Amendment
⁴ Amended by First Amendment
⁵ Inserted by First Amendment
⁶ Inserted by First Amendment

5. **Dismissal of Membership of Fund:** (1) The Board of Directors may dismiss the membership of Fund granted under Rule 4 in the following circumstances:

- (a) Cancellation of certificate allowed for making business of non life insurance.
- (b) Failure to pay the premium ⁷or amount supposed to be paid to the Fund.
- (c) Failure to accomplish the function supposed to be accomplished under these Rules.

(2) The Board of Directors, prior to dismissing the membership of a member insurer under Sub-rule (1), shall give an appropriate opportunity to submit his explanation in his defense.

6. **Premium to be Paid to the Fund:** (1) The member insurer shall have to pay the fee prescribed by the Board of Directors to bear the claim of the risk group supposed to be made within the geographical territory under the insurance policy and other insurance risk relating to the same.

(2) Merely the dismissal of membership of fund under Rule 5 shall not be deemed to cause obstruction in the recovery of the premium of amount supposed to be paid to the fund by him prior to dismissal of his membership.

7. **Use of Fund:** The Board of Directors, having obtained approval of the Insurance Committee, may expend from the amount of the Fund to grant security to the insurance policy issued by covering the risk group in Nepal and to bear the necessary administrative cost of the Fund.

8. **Investment may be Made:** The amount remained after payment of risk group and administrative cost of the Fund from the amount of fund ⁸may be deposited in any fixed account opened with a bank or the Board

⁷ Inserted by First Amendment

⁸ Inserted by First Amendment

of Directors, having obtained approval of the Government of Nepal, may invest for the debenture, letter of guarantee or letter of saving issued by the Government of Nepal or the Nepal *Rastra* Bank.

9. Board of Directors of the Fund: (1) The Government of Nepal shall constitute a Board of Directors having the following chairperson and members to operate the Fund.

- (a) Person specified by the Government of Nepal – Chairperson
- (b) Three representatives nominated by the Government of Nepal on condition to be proportionately represented the insurers – Member
- (c) Fund manager - Member Secretary

(2) The Board of Directors, if it deems necessary, may invite any domestic or foreign expert to be present as an observer at the Meeting of the Board of Directors.

(3) The tenure of the members of Board of Directors shall be 3 years.

(4) The Secretariat of the Board of Directors shall be located in the Office of the Insurance Committee.

10. Meeting and Decision of the Board of Directors: (1) The Meeting of Board of Directors shall be held on the date, time and place prescribed by the Chairperson.

(2) The Meeting of Board of Directors shall be held as per necessity.

Provided that, the gap between two meetings shall not be more than two months.

(3) The chairperson shall chair the meeting of Board of Directors, and the person selected by the members among themselves shall chair the meeting in the case of absence of the chairperson.

(4) Presence of fifty percent of total number of members of the Board of Directors shall be deemed as quorum of meeting.

(5) Opinion of majority shall be valid in the Meeting of Board of Directors; and the person presiding over the meeting may give his decisive vote also in the case of a tie.

(6) Minute of the Board of Directors shall be certified by the Chairperson and the Member Secretary.

(7) Other procedure relating to the meetings of Board Directors shall be as determined by the Board of Directors itself.

10. Functions, Duties and Rights of the Board of Directors: The functions, duties and rights of the Board of Directors shall be as follows:

- (a) To manage the fund.
- (b) To make and cause to be made necessary arrangement and implementation of reinsurance of the risk group.
- (c) To overview the reinsurance arrangement of the risk group.
- (d) To make and cause to be made coordination with the insurers to make arrangement of further security of the risk group in the future by giving due consideration to the welfare of fund, to make arrangement of new reinsurance and to renew.
- (e) To make and cause to be made payment of reinsurance premium by collecting the necessary reinsurance statement and insurance premium of the risk group from the member insurers.
- (f) To appoint the surveyors recognized by the Insurance Committee for the procedure of clearance of claims made at the Fund or to

prescribe the criteria regarding the surveyors to be appointed by the member insurers for the same purpose.

- (g) To implement by preparing a Directory relating to the procedure of clearance of claim under these Rules.
- (h) To implement by preparing a Directory of Management of Insurance, Reinsurance relating to the "Risk Group" for the members insurers and to make coordination with the insurers and reinsurers as well as to make a time suited reformation in such directory.
- (i) To provide necessary report, advice and suggestion to the Government of Nepal through the Insurance Committee in regard to the operation of Fund.
- (j) To deduct the amount prescribed by the Board of Directors by obtaining approval of the Insurance Committee from the reinsurance commission to be obtained from the reinsures in regard to the risk group and to pay the remained amount to the concerned insurers.
- (k) To finalize the process of claim under these Rules.
- (l) To make clearance of the claim made by the risk group, to deliver authority to the insurers for clearance of the claim.
- (m) To prepare and implement the Financial and Administrative Directory necessary for the operation of fund.
- (n) To formulate necessary criteria for the membership of the Fund and to make necessary decision in regard to the membership of the insurers who have not obtained membership of the fund in the beginning.
- (o) To dismiss the membership of the member insurers under Rule 5.
- (p) To award the membership certificate to the member insurers.

(q) To accomplish other functions necessary for achievement of the objective of these Rules.

11. Operation of the Fund and Arrangement: (1) The amount to be deposited in the fund under these Rules shall be deposited in a bank account opened with a commercial bank prescribed by the Board of Directors.

(2) The operation of account opened under Sub-rule (1) shall be as prescribed by the Board of Directors.

13. Accounts and Audit: (1) The account of income and expenditure of the Fund shall be maintained under the prevailing law.

(2) The Office of the Auditor General shall audit the Fund.

(3) The Government of Nepal, if it deems necessary, may check and get checked the account of income and expenditure of the fund, the relevant documents and other cash and goods also in any time.

12. Subcommittee may be Constituted: The Board of Directors, as per necessity, may constitute the technical subcommittees for achieving the objective of these Rules.

13. Appointment of the Fund Manager: (1) The Government of Nepal may appoint or specify a person having the following qualification to the post of Fund Manager:-

(a) Having the experience of at least ten years in the sector of insurance, reinsurance and claim after obtaining the degree of bachelor level in the minimum from a recognized educational organization.

(b) Completion of the age of Thirty Five years and not exceeding the age of Sixty years.

Provided that, the person among the existing officer staff of the Insurance Committee prescribed by the Chairperson shall act as the Fund Manager until the appointment of Fund Manager.

(2) The Fund Manager shall be the main administrative officer of the Secretariat. The Fund Manager shall have full authority and duty to execute the decisions of the Board of Directors and to supervise and control the activities of the Fund.

(3) The tenure of the Fund Manager shall be three years and he may be reappointed and specified.

(4) The terms and conditions of service and facility of the Fund Manager shall be as prescribed by the Government of Nepal in the recommendation of the Insurance Committee.

(5) Notwithstanding anything written elsewhere in these Rules, the Board of Directors, having maintained the due process prescribed by the Insurance Committee, may dismiss the Fund Manager from his post in the case of his committing any act against the objective of these Rules and welfare of the Fund by causing loss to the Fund or his failure to accomplish function in consonance with the policy and direction of the Board of Direction.

Provided that, the Fund Manger shall not be deprived of the opportunity to submit his explanation for defense before such dismissal from his post.

14. **Arrangement of Staff:** The Insurance Committee shall make available the staff necessary for the operation of Fund.
15. **Dissolution:** (1) The Government of Nepal, if it deems necessary, may dissolve the Fund.

⁹(2) The Government of Nepal and the member insurer shall have equal right in the cash, goods and other property of the Fund in the situation of dissolution of the Fund under Sub-rule (1). All of the member insurers, under such right, shall be entitled to obtain the property by dividing in equal measure in proportion with the seed money invested by the insurers in the property of the member insurers.

16. **Direction may be Given:** The Government of Nepal may give necessary direction to the Board of Directors in regard to the operation of Fund and the Board of Directors shall have the duty to abide by such direction.
17. **Monitoring and Supervision:** The Insurance Committee shall monitor and supervise the function relating to the operation of Fund.
18. **Contact with the Government of Nepal:** The Board of Directors in case of necessary to contact the Government of Nepal, shall have to contact through the Ministry of Finance.

⁹ Amended by First Amendment

Schedule-1

(Relating to Sub-rule (2) of Rule 4)

Application form for Membership of the Fund

The Chairperson

Fund Board of Directors

Subject:- Requested for Membership

I/we would like to submit this application by mentioning the following details requesting for membership of the Fund in accordance with Rule 4 of the Sundry Insurance Fund Operation Rules, 2060 (2003).

1. Date of registration at the Insurance Committee to operate the non-life insurance business under the Insurance Act, 2049 (1992).
2. Details of insurance business held by the applicant:
3. Memorandum and Articles of the corporate organization of the applicant:
4. Certificate of eligibility to hold the business of non-life insurance:
5. Other necessary details:

Applicant insurer:

Certificate No.:

Signature:

Date:

Schedule-2

(Relating to Sub-rule (3) of Rule 4)

Certificate of Membership of the Fund

Certificate No.:

Mr./Ms.

.....

Subject:- Regarding the Membership of Fund

While taking action upon your application submitted on to the Board of Directors, you are granted membership as decided by the Board of Directors on to grant membership of the Fund to you. Please, abide by the following terms and conditions.

Terms and Conditions

- 1.
- 2.
- 3.

Fund Member

Date: