

Instructions No. (5) of 2004
The Instructions of the Insurance Dispute Resolution Committee
and the Amendments Thereof *
Issued by the Board of Directors of the Insurance Commission
pursuant to the provisions of paragraph (B) of Article (83) of the Insurance
Regulatory Act No. (33) of 1999 and the Amendments Thereof

Article (1):

These Instructions shall be known as the (The Instructions of the Insurance Dispute Resolution Committee of 2004 and the Amendments Thereof) and shall come into force after thirty days as of the date of its publication in the Official Gazette.

Article (2):

The words and phrases mentioned in these Instructions shall have the meanings ascribed thereto in Article (2) of the Insurance Regulatory Act No. (33) of 1999 and the Amendments Thereof, unless otherwise indicated by context.

Article (3):

The Director General shall form a Committee of competence and experience to look into insurance disputes, where it becomes evident to the Commission, that the claimant has exhausted all amicable means for resolving his dispute with the Company according to the following:-

- A- Disputes in respect of motor insurance license.
- B- Disputes related to the amount of remuneration relevant to insurance licenses other than the motor insurance license, with a maximum amount of twenty five thousand Dinars for the claim.

Article (4):

- A- The claimant or his legal representative shall submit his claim to the Commission, according to the form designated for this purpose, enclosing all the relevant documents in support of his claim.
- B- The Company shall be notified in writing of the claim submitted against it within two working days as of the date the dispute was filed at the Commission.
- C- Before the Committee looks into the dispute, the Company shall be given a period not exceeding five working days to resolve the dispute with the claimant provided that the Company shall, after the period determined expires, notify the Commission in writing either that a settlement was reached, or identify reasons for not reaching a settlement.
- D- Where the Company and the claimant fail to reach a settlement, or where the Company fails to fulfill its obligations stipulated in paragraph (C) of this Article, the Committee shall set, within five working days, and after collecting

* These Instructions were published in the Official Gazette volume (4666) dated 1/7/2004 page (3301), and have been amended according to Instructions No. (2) of 2005, Instructions Amending the Instructions of the Insurance Dispute Resolution Committee No. (5) of 2004 published in the Official Gazette volume (4709) dated 1/6/ 2005 page (2231).

the service charges stipulated in these Instructions, a date to look into the dispute submitted to the Commission.

- E- Subject to paragraph (B) of Article (3) of these Instructions, in case where the causes for not reaching a settlement were due to denying the Company of its responsibility of the accident, the Committee shall examine the causes stated by the Company for such denial; and reject the complaint if the liability of the Company was not proved or that such liability was not evident for the Committee.

Article (5):

The Committee shall look into the disputes submitted thereto with neutrality and objectivity, taking into consideration the legislation relevant to the subject of the claim, the Insurance Regulatory Act in force and the Regulations, Instructions and Decisions issued by virtue of any of them.

Article (6):

The Committee shall adjudicate the dispute submitted as promptly as possible within a period not exceeding two months as of the date the application that satisfied all the necessary data and documents was filed to adjudicate the dispute. The Director General may upon a justified request from the Committee extend that period to a maximum additional identical period of time.

Article (7):

- A- Subject to paragraph (D) of Article (12) of these Instructions, the Committee shall collect from the claimant in advance service charges of a rate of 3% of the amount claimed, provided that the charges shall not be less than twenty Dinars nor shall it exceed five hundred Dinars.
- B- Claims in which no amount can be identified, service charges shall be collected upon the estimation of the Committee and shall be approved by the Director General, provided that the charges shall not be less than twenty Dinars nor shall it exceed five hundred Dinars.
- C- If the Committee suspects, at any stage, the correctness of the amount of the dispute declared by the claimant, the Committee shall estimate the amount provided that it shall be approved by the Director General. The claimant shall be required to pay the difference between the service charges that the claimant paid in advance and the due charges based on the amount so estimated.
- D- If the claimant does not pay the difference as required by the Committee, the Committee shall dismiss the dispute.
- E- The Committee shall refund the service charges to the claimant if it was evident to the Committee that the claim does not fall within its jurisdiction or that the Committee was unable of taking a decision in the dispute.

Article (8):

The Committee may:-

- A- Require the parties to the dispute or any other related party, to submit any documents, data, or information relevant to the dispute within the period determined. The Committee may enable any party of the dispute to view the documents, data, or information received from the other parties, if it deemed necessary.

- B- Call upon the parties to the dispute, their representatives or any of their subordinates, whenever necessary, who shall attend at the time and place, determined by the Committee and shall cooperate with the Committee to fulfill its obligations.

Article (9):

- A- The Committee may consult those of competence and experience such as Consultants, experts, Loss Adjusters, Surveyors and assessors, as the case may be, in respect of certain issues mentioned in the claim which shall be previously determined, in order to submit a report enclosed with the file of the claim or a verbal report to be recorded in the minutes of the hearing. The Committee may call upon any of them to discuss the report.
- B- Any of the aforementioned in paragraph (A) of this Article, shall be prohibited from having any benefit or relationship, directly or indirectly, with the dispute presented to the Committee, and shall sign a written declaration accordingly.
- C- Subject to paragraph (D) of Article (12) of these Instructions, fees for any of the aforementioned in paragraph (A) of this Article shall be determined by a decision issued by the Director General upon the recommendation of the Committee. Such fees shall be collected in advance from the claimant.

Article (10):

The parties of the dispute shall provide all the relevant documents, data and information to the persons aforementioned in paragraph (A) of Article (9) of these Instructions through the Committee, and shall cooperate with them and make possible to them to view, survey and examine the documents, data and the assets related to the dispute.

Article (11): *

- A- The Committee shall not look into disputes presented for litigation, arbitration or mediation, nor shall it look into disputes outside the scope of its jurisdiction as stipulated in Article (3) of these Instructions, at the time of submitting the complaint.
- B- The Committee shall be deprived from its authority to look into a dispute, in any of the following cases:-
 - 1- Settling the dispute between the parties of the dispute outside the scope of the Committee, and submitting an evidence in respect thereof.
 - 2- Withdrawing the dispute by a written application submitted by the claimant to the Committee.
 - 3- Referring the conflict, by the claimant, to litigation and submitting evidence in respect thereof.
 - 4- Referring the conflict to arbitration or mediation by the parties of the dispute and submitting evidence of such.
 - 5- Failure by the claimant to submit documents, data or information that are necessary to look into the subject of the claim, proceedings or taking decision, within the period determined by the Committee.

* This Article has been amended according to Article (2) of Instructions Amending the Instructions of the Insurance Dispute Resolution Committee of 2005.

Article (12):

- A- The quorum of the Committee meeting shall be satisfied with the presence of its chairman and the majority of its members. The Committee shall take decisions by the majority of its members. No member shall be permitted to decline from giving his opinion. In case of dissenting opinion, the member so dissented shall register such opinion and reasoning thereof in the decision issued by the Committee.
- B- In case of a tie, the majority shall be considered with the side with which the chairman elected to vote.
- C- The merits of each hearing the Committee holds shall be recorded in the minutes related to the dispute prepared for this purpose and each page of the minutes shall be initialed with the signature of the chairman, members and the secretary of the Committee.
- D- The decision shall consist of the names of the parties to the dispute, the merits of the dispute, the grounds and date of the decision, the names of the members who took part in taking such decision, the party or parties who shall bare the service charges and fees stipulated in Article (7) and paragraph (C) of Article (9) of these Instructions.

Article (13):

- A- Any member of the Committee shall be prohibited from having any benefit, directly or indirectly, in the claim presented before the Committee. The Director General may replace any of the members where such benefit is evident to him.
- B- Fees for the members of the Committee shall be determined by the Director General.

Article (14):

- A- The decision taken by the Committee shall be mandatory to the Company and shall be notified to the parties of the dispute pursuant to the provisions of the Act.
- B- The Company shall enforce the decision issued by the Committee within ten working days as of the date the decision was notified, subject to legal liability.

Article (15):

These Instructions shall not apply to disputes arising from accidents that have occurred before the enforcement of its provisions.

Article (16):

The Director General shall issue the Decisions necessary for implementing the provisions of these Instructions.

Board of Directors of the Insurance Commission