

# ACT No. XI OF 1939.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 28th  
March, 1939.)

## An Act to amend the Insurance Act, 1938.

of 1938.

WHEREAS it is expedient to amend the Insurance Act, 1938, for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Insurance (Amendment) Act, 1939. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

2. In section 2 of the Insurance Act, 1938 (hereinafter referred to as the said Act),— Amendment of section 2, Act IV of 1938.

(a) to sub-clause (a) of clause (9) the following shall be added, namely :—

“ or

(iii) with the object of obtaining insurance business, employs a representative, or maintains a place of business, in British India ; ” ;

(b) in clause (11), after the word “ double ” the words “ or triple ” shall be inserted.

2A. In Part II of the said Act, after the heading “ PROVISIONS APPLICABLE TO INSURERS ” the following sections shall be inserted, namely :— Insertion of new sections 2A and 2B.

“ 2A. Every insurer shall be subject to all the provisions of this Act in relation to any class of insurance business so long as his liabilities in British India in respect of business of that class remain unsatisfied or not otherwise provided for. Insurers to be subject to this Act while liabilities remain unsatisfied.

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This Act not to apply to certain insurers ceasing to enter into new contracts before commencement of Act.

2B. The provisions of this Act shall not apply to an insurer as defined in paragraph (i) or (iii) of sub-clause (a) of clause (9) of section 2 in relation to any class of his insurance business where such insurer has ceased, before the commencement of this Act, to enter into any new contracts of that class of business."

Amendment of section 7.

3. In section 7 of the said Act,—

- (a) in clause (j) of sub-section (1), after the words "or its cargo" the words "and no other type of marine insurance" shall be inserted;
- (b) in sub-section (2), for the word "transacted" the words "carried on" shall be substituted;
- (c) in sub-section (3) and in the proviso thereto, for the words and figures "the 1st day of January, 1939," the words "the expiry of four months from the commencement of this Act" shall be substituted;
- (d) in sub-section (4), after the words "in the case of an insurer" the words "to whom that sub-section applies," shall be inserted.

Amendment of section 8.

4. In sub-section (1) of section 8 of the said Act, after the word and figure "section 7" the words and figure "or section 98" shall be inserted.

Amendment of section 9.

5. In section 9 of the said Act, after the word and figure "section 7" the words and figure "or section 98" shall be inserted.

6.

Amendment of section 10.

7. In sub-section (2) of section 16 of the said Act,—

- (a) for the words "four copies" the words "four certified copies" shall be substituted;
- (b) in clause (a), after the words "a statement" the words "audited by a person duly qualified under the law of the insurer's country" shall be inserted;
- (c) in clause (b), after the words "applicable to that class of business" the words "and similarly audited," shall be inserted.

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Act shall not apply in paragraph (i) or clause (y) of section 2 his insurance business ceased, before the commencement to enter into any new business."

(I), after the words "and no other type" shall be inserted ;

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8. In section 17 of the said Act,—

Amendment of section 17.

- (a) after the words and figure "incorporated under the Indian Companies Act, 1913," the words and figures "or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby," shall be inserted ;
- (b) for the words "his accounts and balance-sheet" the words "his balance-sheet and accounts" shall be substituted ;
- (c) for the words "a copy of such accounts and balance-sheet" the words "copies of such balance-sheet and accounts" shall be substituted ;
- (d) for the words "where such copy is so sent" the words "where such copies are so sent" shall be substituted ;
- (e) for the words "to file a balance-sheet" the words "to file copies of the balance-sheet and accounts" shall be substituted ;
- (f) for the words "the copy of the accounts and balance-sheet so sent" the words "such copies so sent" shall be substituted.

9. After section 17 of the said Act the following section shall be inserted, namely :—

Insertion of new section 17A.

"17A. Nothing in this Act shall apply to the preparation of accounts by an insurer and the audit and submission thereof in respect of any accounting year which has expired prior to the commencement of this Act, and notwithstanding the other provisions of this Act, such accounts shall be prepared, audited and submitted in accordance with the law in force immediately before the commencement of this Act."

This Act not to apply to preparation of accounts, etc., for periods prior to this Act coming into force.

10. In sub-section (1) and sub-section (2) of section 27 of the said Act,—

Amendment of section 27.

- (i) after the word and figure "section 7" the words and figure "or section 98" shall be inserted ;

(ii) after

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(ii) after the words "loans granted by him on policies of life insurance" the words "maturing for payment in India and within their surrender values" shall be inserted.

Amendment of section 28.

11. In sub-section (1) of section 28 of the said Act,—

(a) for the word "fourteen", in both places where it occurs, the word "thirty-one" shall be substituted;

(b) for the words "the principal officer" the words "a principal officer" shall be substituted.

Amendment of section 31.

12. In section 31 of the said Act,—

(a) after the word and figure "section 7" the words and figure "or section 98" shall be inserted;

(b) after the words "be kept otherwise than" the words "in the name of a public officer approved by the Central Government, or" shall be inserted.

Amendment of section 35.

13. In sub-section (4) of section 35 of the said Act, for the words and figures "and for the payment of the first instalment of the deposit under sections 3 and 7" the words and figures "under section 3 and for the payment of the instalments of the deposit under section 7 or section 98" shall be substituted.

Amendment of section 38.

14. In section 38 of the said Act,—

(a) in sub-section (2),—

(i) after the words "instrument duly attested but" the words "except where the transfer or assignment is in favour of the insurer" shall be inserted;

(ii) after the words "notice in writing of the transfer or assignment" the words "together with either the said endorsement or instrument itself or a copy thereof certified to be correct by both transferor and transferee or their duly authorised agents" shall be inserted;

(iii) the words "at his principal place of business in British India by or on behalf of the transferor or transferee" shall be omitted;

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" and their duly authorised  
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principal place of business  
" or on behalf of the  
" assignee " shall be omitted ;

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(iv) at the end the following proviso shall be  
added :—

" Provided that where the insurer maintains  
one or more places of business in British  
India, such notice shall be delivered only  
at the place in British India mentioned  
in the policy for the purpose or at his  
principal place of business in British  
India. " ;

(b) in sub-section (5), for the words, figure and  
brackets " From the date of the receipt of the  
notice referred to in sub-section (2), the  
insurer shall " the words, figure and brackets  
" Subject to the terms and conditions of the  
transfer or assignment, the insurer shall,  
from the date of the receipt of the notice  
referred to in sub-section (2), " shall be  
substituted ;

(c) for sub-section (6) the following sub-section  
shall be substituted, namely :—

" (6) Any rights and remedies of an assignee  
or transferee of a policy of life insurance  
under an assignment or transfer effected  
prior to the commencement of this Act  
shall not be affected by the provisions of  
this section. " ;

(d) in sub-section (7), for the words " life of the  
policy-holder " the words " lifetime of the  
person whose life is insured " shall be sub-  
stituted.

15. In section 39 of the said Act,—

(a) in sub-section (1), after the words " The holder  
of a policy of life insurance " the words  
" on his own life, not being an absolute  
assignee of the benefits under the policy, "  
shall be inserted ;

(b) to sub-section (2) the following shall be added,  
namely :—

" but unless notice in writing of any such cancel-  
lation or change has been delivered to the  
insurer, the insurer shall not be liable for  
any payment under the policy made

*bona fide*

*bona fide* by him to a nominee mentioned in the text of the policy or registered in records of the insurer.”;

(c) for sub-section (3) the following sub-section shall be substituted, namely:—

“(3) The insurer shall furnish to the policy-holder a written acknowledgment of having registered a nomination or a cancellation or change thereof, and may charge a fee not exceeding one rupee for registering such cancellation or change.”;

(d) in sub-section (5), for the words “lifetime of the policy-holder” the words “lifetime of the person whose life is insured” shall be substituted;

(e) in sub-section (6), for the word “policy-holder” the words “person whose life is insured” shall be substituted.

Amendment of section 40.

16. In section 40 of the said Act,—

(a) in sub-section (1), the word “licensed”, in both places where it occurs, and the words and figure “under section 42” shall be omitted;

(b) in sub-section (2), the words and figure “licensed under section 42” shall be omitted;

(c) in sub-section (3), for the words “an insurance agent” the words “any person, whether an insurance agent within the meaning of this Act or not,” shall be substituted.

17.

Amendment of section 47.

18. In section 47 of the said Act,—

(a) in sub-section (1), after the words “from the date of the maturing of the policy” the words “or, where the circumstances are such that the insurer cannot be immediately aware of such maturing, from the date on which notice of such maturing is given to the insurer,” shall be inserted;

(b) in sub-section (4), for the words “from the death of the insured, or the maturing of the policy by survival” the words “from the maturing

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maturing of the policy by survival, or from the date of receipt of notice by the insurer of the death of the insured, as the case may be," shall be substituted.

19. In section 48 of the said Act,—

Amendment of section 48.

(a) in sub-section (1), after the words and figure "incorporated under the Indian Companies Act, 1913," the words and figures "or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby," shall be inserted ;

(b) for sub-section (2) the following sub-section shall be substituted, namely :—

" (2) This section shall not take effect, in respect of any company in existence at the commencement of this Act, until the expiry of one year therefrom, and in respect of any company incorporated after the commencement of this Act, until the expiry of two years from the date of registration to carry on life insurance business. "

20. In section 50 of the said Act, for the words "within three months of the lapsing of a policy of life insurance," the words "before the expiry of three months from the date on which the premiums in respect of a policy of life insurance were payable but not paid," shall be substituted.

Amendment of section 50.

21. In sub-clause (i) of clause (b) of sub-section (2) of section 53 of the said Act, after the word and figure "section 7" the words and figure "or section 98" shall be inserted.

Amendment of section 53.

22. In section 59 of the said Act, for the words and figure "deposit made by the company under section 7" the words and figures "deposit made by the company or the insurer, as the case may be, under section 7 or section 98" shall be substituted.

Amendment of section 59.

23. In section 63 of the said Act, for the word "agent" the word "representative" shall be substituted.

Amendment of section 63.

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Amendment of section 65. 24. In section 65 of the said Act, for the word "incorporate" the word "unincorporate" shall be substituted.

Amendment of section 73. 25. In sub-section (1) of section 73 of the said Act,—  
(a) for the words "make each year" the words "make in each calendar year" shall be substituted;  
(b) for the words "income for the year" the words "income for the preceding calendar year" shall be substituted.

Amendment of section 80. 26. In sub-section (3) of section 80 of the said Act, after the words "this section" the words and figure "and section 73" shall be inserted.

Amendment of section 82. 27. In sub-section (3) of section 82 of the said Act, after the words and figure "incorporated under the Indian Companies Act, 1913," the words and figures "or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby," shall be inserted.

Amendment of section 85. 28. To sub-section (2) of section 85 of the said Act the words "or in the name of a public officer approved by the Central Government" shall be added.

Amendment of section 95. 29. In clause (a) of sub-section (1) of section 95 of the said Act, for the words and figure "incorporated under the provisions of the Indian Companies Act, 1913," the words and figures "incorporated under the Indian Companies Act, 1913, or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby," shall be substituted.

Amendment of section 98. 30. In sub-section (2) of section 98 of the said Act, for the word "year", in both places where it occurs, the words "calendar year" shall be substituted.

Amendment of section 103. 31. In sub-section (1) of section 103 of the said Act, for the words "in relation to any such class of insurance business" the words "in relation to any insurance business transacted in contravention of any of the said sections" shall be substituted.

Amendment of section 114. 32. In clause (b) of sub-section (2) of section 114 of the said Act, after the figure and brackets "(5)," the figure and brackets "(6)," shall be inserted.

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33. In section 116 of the said Act, for the word Amendment of section 116. and figure "section 6" the words and figures "section 7 or section 98" shall be substituted.

34. Section 122 of the said Act is hereby repealed, Repeal of section 122 of Act IV of 1938 and saving of article 86 in First Schedule to Act IX of 1908. and article 86 in the First Schedule to the Indian Limitation Act, 1908, shall have effect as if the said section had never been enacted.

35. In Part II of the First Schedule to the said Act, Amendment of First Schedule to Act IV of 1938. in the heading to Form AA, for the words "Indian Assets" the words "Assets in India" shall be substituted.

36. In Part II of the Third Schedule to the said Act,— Amendment of Third Schedule.

(a) in Form D,—

(i) for the entry in the first column "Commission (less that on Re-insurances)" the entry "Commission to insurance agents (less that on Re-insurances)" shall be substituted;

(ii) for the entry in the first column "1. Commission and allowances" the entry "1. Allowances and Commission (other than commission to insurance agents)" shall be substituted;

(iii) in note (e) the word "British" shall be omitted;

(b) in the fourth column of Form DD, after the word "immediate" the words "or deferred" shall be inserted;

(c) to Form DDD the following notes shall be added, namely:—

"A separate statement must be given in respect of each class of life insurance business for which a separate revenue account is submitted.

Insurers having their principal place of business in British India shall give the information required in the form separately for business transacted in India and business transacted outside India and insurers having their principal place of business outside British India will furnish information regarding business transacted in India only."

(d) in  
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(d) in Form DDDD,—

(i) the word “financial”, in the three places where it occurs, shall be omitted;

(ii) for the word “revised” the word “revived” shall be substituted;

(e) in note (c), note (d) and the note denoted by an asterisk in Form E, the word “British”, wherever it occurs, shall be omitted;

(f) in note (d), note (e) and the note denoted by an asterisk in Form F, the word “British”, wherever it occurs, shall be omitted.

Amendment of  
Fourth Schedule.

37. In Part I of the Fourth Schedule to the said Act,—

(a) in regulation 2, for the word and figure “paragraph 3” the word and figure “paragraph 4” shall be substituted;

(b) in regulation 3, for the word and figure “paragraph 4”, in the three places where they occur, the word and figure “paragraph 5” shall be substituted;

(c) in the proviso to regulation 4,—

(i) for the words “an insurance company” the words “an insurer” shall be substituted;

(ii) for the words “the company”, in both places where they occur, the words “the insurer” shall be substituted.