

ACT No. XXVII OF 1947.

[PASSED BY THE INDIAN LEGISLATURE]

(Received the assent of the Governor General on the 18th April 1947.)

An Act further to amend the Motor Vehicles Act, 1939.

WHEREAS it is expedient further to amend the Motor Vehicles Act, 1939 (IV of 1939), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. (1) This Act may be called the Motor Vehicles (Amendment) Act, 1947. 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.

2. (1) In section 93 of the Motor Vehicles Act, 1939 (hereinafter referred to as the said Act),— Amendment of section 93, Act IV of 1939.

(a) for clause (a), the following clause shall be substituted, namely:—

“(a) ‘authorised insurer’ means an insurer in whose case the requirements of the Insurance Act, 1938, or of the corresponding law of a reciprocating territory with respect to the registration of insurers are complied with, and includes, where the business of insuring motor vehicles against third party risks is carried on by the Central Government or a Provincial Government or the Government of an Indian State which is a reciprocating territory, such Government”;

(b) in clause (b), after the word “includes”, the words “a cover note complying with such requirements as may be prescribed, and” shall be inserted.

(2) To the said section 93, the following clause shall be added, namely:—

“(c) ‘reciprocating territory’ means any such Indian State or such area administered by the Crown Representative as may be notified by the Central Government in the official Gazette to be a reciprocating territory for the purposes of this Chapter.”

3. For sub-section (2) of section 94 of the said Act, the following sub-section shall be substituted, namely:— Amendment of section 94, Act IV of 1939.

“(2) Subject to any prescribed conditions, sub-section (1) shall not apply to any vehicle owned by any of the following authorities, namely:—

- (i) the Central Government;
- (ii) the Crown Representative;
- (iii) any Provincial Government;
- (iv) the Government of any Indian State;
- (v) the Government of the French or Portuguese Settlements bounded by India;

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- (vi) any local authority in British India exempted from the operation of sub-section (1) by order of the Central Government or of a Provincial Government ;
- (vii) any local authority established or continued by the authority of the Crown Representative exempted from the operation of sub-section (1) by order of the Central Government ;
- (viii) any local authority in an Indian State wherein policies of insurance are required by provision of law to be taken out in relation to the use of motor vehicles, which has been exempted from the operation of such provision."

Amendment of
section 95, Act IV
of 1939.

4. In section 95 of the said Act,—

(a) in sub-section (1)—

- (i) in clause (a), after the word insurer, the words and figures "or by a co-operative society allowed under section 108 to transact the business of an insurer" shall be inserted ;
- (ii) in clause (b), after the words "in a public place" the words "in British India or in a reciprocating territory" shall be inserted ;
- (iii) in the proviso, the words, brackets and figure "except as may be otherwise provided under sub-section (3)" shall be omitted ;
- (iv) in clause (i) of the proviso, after the word "employment", where it occurs for the second time, the following shall be inserted, namely :—

"other than a liability arising under the Workmen's Compensation Act, 1923, in respect of the death of, or bodily injury to, any such employee—

- (a) engaged in driving the vehicle, or
- (b) if it be a public service vehicle, engaged as a conductor of the vehicle or in examining tickets on the vehicle, or
- (c) if it be a goods vehicle, being carried in the vehicle," ;
- (b) for clause (a) of sub-section (2) the following clause shall be substituted, namely :—

"(a) where the vehicle is a goods vehicle, a limit of twenty thousand rupees in all, the liabilities, if any, arising under the Workmen's Compensation Act, 1923, in respect of the death of, or bodily injury to, employees other than the driver being carried in the vehicle being limited to six such employees ;" ;

- (c) sub-section (3) shall be omitted ;
- (d) in sub-section (4), the words "or a cover note" shall be omitted.

5. In section 96 of the said Act,—

- (a) in sub-section (1), the words "or a cover note" shall be omitted ;

Amendment of
section 96, Act IV
of 1939.

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

†“(2A) Where any such judgment as is referred to in sub-section (1) is obtained from a Court in a reciprocating territory and in the case of a foreign judgment is, by virtue of the provisions of section 13 of the Code of Civil Procedure, 1908, conclusive as to any matter V of 1908. adjudicated upon by it, the insurer (being an insurer registered under the Insurance Act, 1938 (V of 1938), and whether or not he is registered under the corresponding law of the reciprocating territory) shall be liable to the person entitled to the benefit of the decree in the manner and to the extent specified in sub-section (1) as if the judgment were given by a Court in British India :

Provided that no sum shall be payable by the insurer in respect of any such judgment unless, before or after the commencement of the proceedings in which the judgment is given, the insurer had notice through the Court in the reciprocating territory of the bringing of the proceedings and the insurer to whom notice is so given is entitled under the corresponding law of the reciprocating territory, to be made a party to the proceedings and to defend the action on grounds similar to those specified in sub-section (2).”;

(c) in sub-section (3), the words “or cover note” shall be omitted;

(d) in sub-section (6),—

(i) after the word, brackets and figure “sub-section (2)” where they first occur, and after the word, brackets and figure “sub-section (1)” the words, brackets, figure and letter “or sub-section (2A)” shall be inserted;

(ii) after the word, brackets and figure “sub-section (2)” where they last occur, the words “or in the corresponding law of the reciprocating territory, as the case may be” shall be inserted.

6. In section 102 of the said Act, the words “or cover note” shall be omitted. Amendment of section 102, Act IV of 1938.

7. In section 106 of the said Act,—

(a) in sub-section (1), after the words “in uniform”, the words “authorised in this behalf by the Provincial Government” shall be inserted. Amendment of section 106, Act IV of 1938.

(b) the provisos to sub-section (1) and sub-section (2) shall be omitted;

(c) after sub-section (2), the following sub-section shall be inserted, namely:—

×“(2A) No person shall be liable to conviction under sub-section (1) or sub-section (2) by reason only of the failure to produce the certificate of insurance if, within seven days from the date on which its production was required under sub-section (1) or, as the case may be, from the date of occurrence of the accident, he produces the certificate at such police station as may have been specified by him to the police officer who required its production or, as the case may be, to

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the police officer at the site of the accident or to the officer in charge of the police station at which he reported the accident :

Provided that, except to such extent and with such modifications as may be prescribed, the provisions of this sub-section shall not apply to the driver of a transport vehicle."

Amendment of
section 108, Act
IV of 1939.

8. In section 108 of the said Act,—

(a) in sub-section (1),—

(i) in the opening paragraph for the words "public service vehicle" the words "transport vehicle" shall be substituted; and the words "as if the society were an authorised insurer" shall be omitted;

(ii) in clause (a) after the words "members of" the words "and insured with," shall be inserted;

(iii) for clause (b) the following clause shall be substituted, namely:—

"(b) the insurance business of the society shall except to the extent permitted under clause (cc) be limited to transport vehicles owned by its members, and its liability shall be limited as specified in sub-section (2) of section 95";

(iv) in clause (c) for the words "a prescribed amount" the words "such amount as may be specified by the Provincial Government" shall be substituted;

(v) after clause (c) the following clause shall be inserted, namely:—

"(cc) the society may, if permitted by the Provincial Government and subject to such conditions and limitations as may be imposed by it, accept reinsurances from other societies allowed to transact the business of an insurer under this section;"

(vi) in sub-clause (i) of clause (f) the words, brackets and letter "clause (b) of" shall be omitted;

(vii) for clause (h), the following clause shall be substituted, namely:—

"(h) the society shall, in respect of any business transacted by it of the nature referred to in clause (i) of the proviso to sub-section (1) of section 95, be deemed to be an insurer within the meaning of sub-section (1) of section 10 and sub-section (6) of section 13 of the Insurance Act, 1938 (V of 1938).";

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

"(2) The provisions of the Insurance Act, 1938, relating to the winding up of insurance companies shall, to the exclusion of any other law inconsistent therewith and subject to such modifications as may be prescribed, apply to the winding up of a co-operative society allowed to transact the business of an insurer under this section as if it were an insurance company; but save as hereinbefore provided, the Insurance Act, 1938, shall not apply to any such society."

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Amendment of
section 111, Act
IV of 1939.

9. In clause (c) of sub-section (2) of section 111 of the said Act, after the words "certificates of insurance" the words "mutilated, defaced," shall be inserted.