

# The Insurance (Amendment) Act, 2002

UNION OF INDIA

India

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### Act 42 of 2002

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An Act further to amend the Insurance Act, 1938. BE it enacted by Parliament in the Fifty- third Year of the Republic of India as follows:-

#### 1. Short title and commencement.-

(1) This Act may be called the Insurance (Amendment) Act, 2002. (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint: Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

#### 2. Amendment of section 2.-

In section 2 of the Insurance Act, 1938 (4 of 1938) (hereinafter referred to as the principal Act),-(a) in clause (1), for the words "qualifications as may be prescribed", the words "qualifications as may be specified by the regulations made by the Authority" shall be substituted; (b) in clause (3), sub- clause (v) shall be omitted; (c) after clause (8), the following clause shall be inserted, namely:- (8A) "insurance co- operative society" means any insurer being a co- operative society, -(a) which is registered on or after the commencement of the Insurance (Amendment) Act, 2002, as a co- operative society under the Co- operative Societies Act, 1912 (2 of 1912) or under any other law societies or under the Multi- State Co- operative Societies Act, 1984 (51 of 1984); for the time being in force in any State relating to co- operative (b) having a minimum paid- up capital (excluding the deposits required to be made under section 7) of rupees one hundred crores; (c) in which no body corporate, whether incorporated or not, formed or registered outside India, either by itself or through its subsidiaries or nominees, at any time, holds more than twenty- six per cent. of the capital of such co- operative society; (d) whose sole purpose is to carry on life insurance business or general insurance business in India;'; (d) after clause (10A), the following clause shall be inserted, namely:- (10B) "intermediary or insurance intermediary" shall have the meaning assigned to it in

clause (f) of sub- section (1) of section 2 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999).

### **3. Amendment of section 2C.-**

In section 2C of the principal Act, after sub- section (2), the following sub- section shall be inserted at the end, namely:-(3)Notwithstanding anything contained in sub- section (1), an insurance co-operative society may carry on any class of insurance business in India under this Act on or after the commencement of the Insurance (Amendment) Act, 2002.

### **4. Amendment of section 15.-**

In section 15 of the principal Act, in sub- section 1, for the portion beginning with the words" to the Authority in the case of the accounts and statements" and ending with the words" from the end of the period to which they refer", the words" to the Authority within six months from the end of the period to which they refer" shall be substituted.

### **5. Amendment of section 28A.-**

In section 28A of the principal Act, for the words" in the prescribed form" at both the places where they occur, the words", in the form specified by the regulations made by the Authority," shall be substituted.

### **6. Amendment of section 28B.-**

In section 28B of the principal Act, for the words" in the prescribed form" at both the places where they occur, the words", in the form specified by the regulations made by the Authority," shall be substituted.

### **7. Amendment of section 31B.-**

In section 31B of the principal Act, in sub- section (2), for the words" the sum of five thousand rupees in that year", the words" such sum as may be specified by the regulations made by the Authority" shall be substituted.

### **8. Amendment of section 40.- In section 40 of the principal Act,-**

(a)in sub- section (1), for the words" except an insurance agent or a principal, chief or special agent", the words" except an insurance agent or an intermediary or insurance intermediary" shall be substituted;(b)in sub- section (2A), for the words" no insurance agent", the words" no insurance agent or intermediary or insurance intermediary" shall be substituted.

## **9. Amendment of section 42.- In section 42 of the principal Act,-**

(a)in sub- section (3), for the brackets and letter" (e)", the brackets and letters" (e), (ea)" shall be substituted;(b)in sub- section (4),-(i) in clause (e), for the words" that he does not possess", the words" that in the case of an individual, he does not possess" shall be substituted;(ii)after clause (e), the following clause shall be inserted, namely:-(ea)that in the case of a company or firm making an application under sub- section (1) or sub- section (3), a director or a partner or one or more of its officers or other employees so designated by it and in the case of any other person, the chief executive, by whatever name called, or one or more of his employees designated by him, do not possess the requisite qualifications and practical training and have not passed such an examination as required under clauses (e) and (f);

## **10. Amendment of section 42A.-**

In section 42A of the principal Act, after sub- section (8), the following sub- section shall be inserted at the end, namely:-**(9)No insurer shall, on or after the commencement of the Insurance (Amendment) Act, 2002 , appoint or transact any insurance business in India through any principal agent, chief agent or special agent."**

## **11. Insertion of new section 42E.-**

After section 42D of the principal Act, the following section shall be inserted, namely:-

### **42E. Commission, brokerage or fee payable to intermediary or insurance intermediary.-**

**(1)No intermediary or insurance intermediary shall be paid or contract to be paid by way of commission, fee or as remuneration in any form, an amount exceeding thirty per cent. of the premium payable as may be specified by the regulations made by the Authority, in respect of any policy or policies effected through him:Provided that the Authority may specify different amounts payable by way of commission, fee or as remuneration to an intermediary or insurance intermediary or different classes of business of insurance.(2)Without prejudice to the provisions contained in this Act, the Authority may, by the regulations made in this behalf, specify the requirements of capital, form of business and other conditions to act as an intermediary or insurance intermediary."**

## **12. Amendment of section 49.- In section 49 of the principal Act,-**

(a)in sub- section (1),-(i)for the words and figure" balancesheet in Form I as set forth in the Fourth Schedule", the words" balance- sheet in such form as may be specified by the regulations made by the Authority" shall be substituted;(ii)for the second proviso, the following proviso shall be substituted, namely:-**Provided further that the share of any such surplus allocated to or reserved for the shareholders (including any amount for the payment of dividends guaranteed to them, whether by way of first charge or otherwise) shall not exceed such sums as may be specified by the Authority**

and such share shall in no case exceed ten per cent. of such surplus in case of participating policies and in other cases the whole thereof.(b)in sub- section (2), for the words, figures and brackets" paragraph 8 (1) of the abstract prepared in accordance with Part II of the Fourth Schedule to this Act", the words, brackets and figures" an abstract of the report of the actuary referred to in sub- section (1) of section 13" shall be substituted.

### **13. Amendment of section 64VB.-**

In section 64VB of the principal Act, after sub- section (5), the following sub- section shall be inserted at the end, namely:-(6)The Authority may, from time to time, specify, by the regulations made by it, the manner of receipt of premium by the insurer."

### **14. Insertion of new Part IIIA.-**

After Part III of the principal Act, the following Part shall be inserted, namely:-" PART IIIA  
INSURANCE CO- OPERATIVE SOCIETIES

#### **94A. Insurance co- operative society to be an insurer.-**

(1)Every insurance co- operative society shall be deemed to be an insurer for the purposes of this Act.(2)Save as otherwise provided in this Act, all the provisions applicable to an insurer being an Indian insurance company shall, so far as may be, apply to an insurance co- operative society: Provided that the Authority may, by notification, direct that any of the provisions of this Act,-(a) shall not apply to any insurance co- operative society; or(b)shall apply to any insurance co- operative society only with such exceptions, modifications and adaptations as may be specified in the notification.(3)A copy of every notification proposed to be issued under proviso to sub- section (2), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or ore successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in t e notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses."

### **15. Amendment of section 101A.-**

In section 101A of the principal Act, in sub- section (8), for clause (ii), the following clause shall be substituted, namely:-(ii)" Indian re- insurer" means an Indian insurance company which has been granted a certificate of registration under sub- section (2A) of section 3 by the Authority to carry on exclusively the re- insurance business in India.

## **16. Amendment of section 114.-**

In section 114 of the principal Act, in sub- section (2), clause (a) shall be omitted.

## **17. Amendment of section 114A.-**

In section 114A of the principal Act, in sub- section (2),-(i)for clause (a), the following clauses shall be substituted, namely:-(a)the qualifications to be possessed by actuaries;(aa) the matters including fee relating to the registration of insurers under section 3;(ii)in clause (g), for the words" fourth proviso", the words" fifth proviso" shall be substituted;(iii)after clause (i), the following clauses shall be inserted, namely:-(ia)the form in which a return showing the investments made out of the controlled fund shall be submitted by an insurer carrying on life insurance business under sub- section (1) of section 28A;(ib)the form in which a return showing all the changes that occurred in the investments shall be submitted by an insurer carrying on life insurance business under sub- section (2) of section 28A;(ic)the form in which a return showing the investment made out of assets shall be submitted by an insurer carrying on general insurance business under sub- section (1) of section 28B;(id)the form in which a return showing all the changes that occurred in the investments shall be submitted by an insurer carrying on general insurance business under sub- section (2) of section 28B;(ie)the form of the statement and the sum to be specified under sub- section (2) of section 31B;";(iv)after clause (v), the following clauses shall be inserted, namely:-(va)the amount of commission, fee or as remuneration in any form not exceeding thirty per cent. to be paid or contract to be paid under sub- section (1) of section 42E;(vb)the requirements of capital, form of business and other conditions to act as an intermediary or insurance intermediary under sub- section (2) of section 42E;(vc)the form of balance- sheet as may be specified by the Authority under sub- section (1) of section 49;";(v)after clause (za), the following clause shall be inserted, namely:-(zb)the manner of receipt of premium to be specified under sub- section (6) of section 64VB.

## **18. Omission of Schedules.-**

The First Schedule, the Second Schedule, the Third Schedule and the Fourth Schedule to the principal Act shall be omitted.