

PARLIAMENT OF CEYLON

2nd Session 1966-67



Control of Insurance (Amendment)

Act, No. 9 of 1967

Date of Assent : April 27, 1967

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*Control of Insurance (Amendment)
Act, No. 9 of 1967*

L. D.—O. 31/65.

AN ACT TO AMEND THE CONTROL OF INSURANCE ACT,
No. 25 OF 1962.

[Date of Assent: April 27, 1967]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Control of Insurance (Amendment) Act, No. 9 of 1967.

Short title.

2. The following new section is hereby inserted immediately after section 46 of the Control of Insurance Act, No. 25 of 1962 (hereinafter referred to as the "principal Act"), and shall have effect as section 46A of the principal Act:—

Insertion of
new section 46A
in Act No. 25
of 1962.

" Power of
Controller or
person
authorized by
him to inquire
into the working
and financial
condition of
an insurance
company.

46A. For the purposes of this Act, the Controller or other person authorized in that behalf by him in writing may hold an inquiry into the working and financial condition of any insurer which is a company incorporated under any law for the time being in force, and accordingly every director, manager or other officer or employee of such company, whether past or present shall, whenever required to do so by notice in writing by the Controller or such other person—

(a) furnish such information in regard to the affairs of such company and produce such books, accounts or documents in his custody as the Controller or such other person may require;

(b) attend at such place and on such date and at such time as may be specified in such notice to be examined by the Controller or such other person in regard to any matter relating to the working and financial condition of such company."

Amendment of
section 62 of
the principal
Act.

3. Section 62 of the principal Act is hereby amended by the repeal of sub-section (1) of that section, and the substitution therefor of the following new sub-section:—

“(1) There may be appointed, for the purposes of this Act, one or more Winding-up Tribunals. Each such Tribunal shall consist of three members, of whom one shall be a person who is or has been a Judge of a District Court, and such person shall be the Chairman of the Tribunal.”

Insertion of
new section 72A
in the principal
Act.

4. The following new section is hereby inserted immediately after section 72, and shall have effect as section 72A, of the principal Act:—

“ Failure to
comply with
the provisions
of section 46A.

72A. If any person upon whom a notice is served under section 46A—

(a) refuses or fails, without such cause as is in the opinion of the Controller or other person authorized by the Controller reasonable, to furnish such information or to produce such book, account or document as is required by such notice, or

(b) fails, without such cause as is in the opinion of the Controller or other person authorized by the Controller reasonable, to appear on the date and at the time and place mentioned in such notice, or having appeared refuses or fails, without such cause as is in the opinion of the Controller or other person authorized by the Controller reasonable, to answer any question put to him relating to the matters under inquiry,

he shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.”

5. Section 77 of the principal Act is hereby amended as follows:—

Amendment of
section 77 of
the principal
Act.

(a) by the renumbering of that section as sub-section (1) of section 77; and

(b) by the addition at the end of that section of the following new sub-section:—

“(2) Any notice required to be served on any person under section 46A may be served on such person—

(a) by the delivery thereof to such person, or by the delivery thereof at the last known place of abode of such person to some adult member of his family or to some servant of his;

(b) by the delivery thereof at the usual or last known place of abode or business of such person in a cover addressed to such person; or

(c) by the despatch thereof by registered post in a letter addressed to such person at his usual or last known place of abode or business.”.

6. Section 79 of the principal Act is hereby amended as follows:—

Amendment of
section 79 of
the principal
Act.

(a) by the repeal of sub-section (2) of that section; and

(b) by the renumbering of sub-section (3) as sub-section (2) of that section.

7. (1) The following new section is hereby inserted immediately after section 79, and shall have effect as section 79A, of the principal Act:—

Insertion of
new section
79A in the
principal Act.

“Power of
Controller or
an administrator
appointed under
section 53 or
policy holder
or member of
an insurance
company to
apply in certain
circumstances
to a District
Court for an
order for
payment of
money or
restoration of
property by any
person.

79A. (1) Where the Controller or an administrator appointed under section 53 or any policy holder or member of an insurer which is a company incorporated under any law for the time being in force or the liquidator of any such insurance company in liquidation is of the opinion—

(a) that any person whether he be a person who has taken part in the promotion or formation of such company or is a past or present director, managing

agent or manager, or other officer or employee of such company—

(i) has misapplied or retained or become liable or accountable for any money or other property of such company, or

(ii) has been guilty of any misfeasance or breach of trust in relation to such company, or

(iii) has acted in a manner prejudicial to the interests of the policy holders of such company; or

(b) that any person, whether he is or has been in any way connected with the affairs of such company or not, is in wrongful possession of any money or other property of such company or having any such money or other property in his possession wrongfully withholds it, or has converted it to any use other than that of such company; or

(c) that any person has by contravention of the provisions of this Act diminished the amount of the life assurance fund of such company,

then the Controller, or such administrator, policy holder, member or liquidator may, on application made to the District Court within the jurisdiction of which such company carries on business or such person resides, be entitled to an order—

(a) for the payment by such person, to the life assurance fund of such company, of such sum by way of

compensation as the Court thinks fit in respect of the misapplication, retention, misfeasance or breach of trust or acts prejudicial to the interests of the policy holders of such company, or

(b) for the payment by such person to the life assurance fund of such company of such sum as may be found due from him in respect of any money or other property of such company for which he is accountable, or for the restoration of other property or part thereof, as the case may be, or

(c) where the amount of the life assurance fund of such company has been diminished, for the payment by such person to such fund of such sum as the Court thinks fit.

(2) Every application under sub-section (1) shall be made, and shall be disposed of, by way of summary procedure in accordance with the provisions of Chapter XXIV of the Civil Procedure Code.

(3) The provisions of Chapter XXII of the Civil Procedure Code relating to execution shall be applicable to any order of a District Court for the payment of any money, or for the restoration of property in any application made under sub-section (1), and for the purposes of the application of such provisions the Controller or other person making such application shall be deemed to be the judgment-creditor and the person liable to pay the money or restore the property in accordance with the order of the District Court shall be deemed to be the judgment-debtor.

(4) Where in any proceedings in any District Court arising out of an application under sub-section (1) the Court is satisfied that any money or other property of the insurance company has disappeared or has been lost, the Court shall presume that every person in charge of, or having a disposing power over, such money or other property, whether such person is a director, manager, or other officer or employee of such company, is accountable for such money or other property unless such person proves—

(a) that the money or other property had been utilized or disposed of in the ordinary course of the business of such company and for the purposes of that business, or

(b) that he took all reasonable steps to prevent the disappearance or loss of such money or property or otherwise satisfactorily accounts for such disappearance or loss. ”.

(2) The amendment made to the principal Act by sub-section (1) shall be deemed to have come into operation on the date of commencement of the principal Act.