

## India Insurance Act 1938 - All about the law

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The insurance sector went through a full circle of phases from being unregulated to completely regulated and then currently being partly deregulated. It is governed by a number of acts.

The Insurance Act of 1938 was the first legislation governing all forms of insurance to provide strict state control over insurance business.

Life insurance in India was completely nationalized on January 19, 1956, through the Life Insurance Corporation Act. All 245 insurance companies operating then in the country were merged into one entity, the Life Insurance Corporation of India.

The General Insurance Business Act of 1972 was enacted to nationalise the about 100 general insurance companies then and subsequently merging them into four companies. All the companies were amalgamated into National Insurance, New India Assurance, Oriental Insurance and United India Insurance, which were headquartered in each of the four metropolitan cities. Until 1999, there were no private insurance companies in India. The government then introduced the Insurance Regulatory and Development Authority Act in 1999, thereby de-regulating the insurance sector and allowing private companies. Furthermore, foreign investment was also allowed and capped at 26% holding in the Indian insurance companies.

### Extract

#### The Insurance Act, 1938

THE INSURANCE ACT, 1938 ACT NO. 4 OF 1938

[26th February, 1938.]

An Act to consolidate and amend the law relating to the business of insurance.

WHEREAS it is expedient to consolidate and amend the law relating to the business of

insurance ; It is hereby enacted as follows:--

PART

PRELIMINARY

PART I

PRELIMINARY

1.

Short title, extent and commencement.

1. Short title, extent and commencement. (1) This Act may be called the Insurance Act, 1938.

1\*[(2) It extends to the whole of India 2\*\*\*.]

(3) It shall come into force on such date 3\* as the Central Government may, by notification in the Official Gazette, appoint in this behalf.

2.

Definitions.

2. Definitions. In this Act, unless there is anything repugnant in the subject or context,--

(1) "actuary" means an actuary possessing such qualifications as may be prescribed ;

4\*[(2) "policy-holder" includes a person to whom the whole of the interest of the policy-holder in the policy is assigned once and for all, but does not include an assignee thereof whose interest in the policy is defeasible or is for the time being subject to any condition ;]

5\*[(3) "approved securities" means--

(i) Government securities and other securities charged on the revenues of the Central Government or of the Government of a 6\*\*\* State or guaranteed fully as regards principal and interest by the Central Government, or the Government of any 6\* State ;

Extended to Goa, Daman and Diu with modifications, by Reg. 12 of 1962, s. 3 & Sch.

The Act comes into force in Pondicherry on 1.10.1963 vide Reg. 7 of 1963, s. 3 and Sch. I.

Extended to and brought into force in Dadra and Nagar Haveli (w.e.f.

1.7.65) by Reg. 6 of 1963, s. 2 & Sch. I.

Extended to Laccadive, Minicoy and Amindivi Islands (w.e.f.

1.10.1967): vide Reg. 8 of 1965, s. 3 & Sch.

Extended to and brought into force in the State of Sikkim (w.e.f.

1.7.1975) vide Notifn. No. S.O. 274(E), dated 24.6.1975.

[See footnote 1 for this section]

(ii) debentures or other securities for money issued under the authority of any Central Act or Act of a State Legislature by or on behalf of a port trust or municipal corporation or city improvement trust in any presidency-town ;

(iii) shares of a corporation established by law and guaranteed fully by the Central Government or the Government of a 1\* State as to the repayment of the principal and the payment of dividend ;

(iv) securities issued or guaranteed fully as regards principal and interest by the Government of any Part B State and specified as approved securities for the purposes of this Act by the Central Government by notification in the Official Gazette ; and (v) subject to the limitations contained in the proviso hereto, securities guaranteed fully as regards principal and interest by a Provincial Government in Pakistan or charged on the revenues of any part of that Dominion, and debentures or other securities for money issued by or on behalf of the trustees of the port of Karachi :

Provided that securities or debentures specified in item (v) shall be recognised as approved securities only for such purposes and for such period and subject to such conditions as may be prescribed ;]

2\*[Explanation.-- In sub-clauses (i) and (iii), "Government of a State" in relation to any period before the 1st November, 1956, means the Government of a Part A State.]

3\*[(4) "auditor" means a person qualified under the Chartered Accountants Act, 1949 (38 of 1949), to act as an auditor of companies;]

4\*[(4A) "banking company" and "company" shall have the meanings respectively assigned to them in clauses (c)

and (d) of sub-section (1) of section 5 of the Banking Companies Act, 1949 (10 of 1949)5\*];]

(5) "certified" in relation to any copy or translation of a document required to be furnished by or on behalf of

[See footnote 2 for this section]

1\*[an insurer or a provident society as defined in Part III] means certified by a principal officer of 2\*[such insurer or provident society] to be a true copy or a correct translation, as the case may be;

3\*[(5A) "chief agent" means a person who, not being a salaried employee of an insurer, in consideration of any commission--

(i) performs any administrative and organising functions for the insurer, and (ii) procures life insurance business for the insurer by employing or causing to be employed insurance agents on behalf of the insurer;

(5B) "Controller of Insurance" or "Controller" means the officer appointed by the Central Government to perform the duties of the Controller of Insurance under this Act;]

(6) "Court" means the principal Civil Court of original jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction;

To Be Continued...