

(AMENDMENT)

ACT, 2015

LAW CAPSULE

(OFFICIAL NEWSLETTER OF
TRANS-INDIA LAW ASSOCIATES ,
ADVOCATES & LEGAL
CONSULTANTS)

VOLUME XV, PART-XIV

5TH FEB' 2015

THE INSURANCE

LAWS

Summary on the Insurance Laws (Amendment) Act, 2015:

The Insurance Laws (Amendment) Act, 2015 received the assent of the President on 20th March, 2015 and finally came into the statute book. It seeks to amend the Insurance Act of 1938, the General Insurance Business (Nationalisation) Act of 1972 and to amend the Insurance Regulatory and Development Authority (IRDA) Act of 1999.

The amendment Act tends to remove archaic and redundant provisions in the legislations and incorporates certain provisions to provide Insurance Regulatory and Development Authority of India (IRDAI) with the flexibility to discharge its functions more effectively and efficiently. It also provides for enhancement of the foreign investment cap in an Indian Insurance Company from 26% to an explicitly composite limit of 49% with the safeguard of Indian ownership and control. Some of the key provisions of the Act are:

- Capital Availability: In addition to the provisions for enhanced foreign equity, the amended law enables capital raising

Trans-India Law Associates, Advocates & Legal Consultants

Office: TLA SUITE, JA-120, DLF Tower - A, Jasola, New Delhi-110025

Court Chamber: Chamber No. 555, New Delhi Court Complex, New Delhi-110001

Tel. :91-11-26943664, Fax.: 91-11-26970075

info@tlaindia.org www.tlaindia.org

through new and innovative instruments under the regulatory supervision of IRDAI. Greater availability of capital for the capital intensive insurance sector leads to greater distribution reach to the under-served or unserved areas, more innovative product formulations to meet diverse insurance needs of citizens, efficient service delivery through improved distribution technology and enhanced customer service standards.

- Consumer Welfare: Further, the amendments to the laws enables the interests of consumers to be better served through provisions like those enabling penalties on intermediaries/insurance companies for misconduct and disallowing multilevel marketing of insurance products in order to curtail the practice of mis-selling. The amended Law has several provisions for levying higher penalties ranging from up to Rs.1 Crore to Rs. 25 Crore for various violations including mis-selling and misrepresentation by agents/insurance companies. With a view to serve the interest of the policy holders better, the period during which a policy can be repudiated on any ground, including mis-statement of facts etc., which will be confined to three years from the commencement of the policy and no policy would be called in question on any ground after three years. The amendments

provide for an easier process for payment to the nominee of the policy holder, as the insurer would be discharged of its legal liabilities once the payment is made to the nominee.

- Empowerment of IRDAI: The Act entrusts responsibility of appointing insurance agents to insurers and directs IRDAI to regulate their eligibility, qualifications and other aspects. It enables agents to work more broadly across companies in various business categories; with the safeguard that conflict of interest would not be allowed by IRDAI through suitable regulations.
- Health Insurance: The amendment Act defines `health insurance business` inclusive of travel and personal accident cover and discourages non-serious players by retaining capital requirements for health insurers at the level of Rs. 100 Crore, thereby paving the way for promotion of health insurance as a separate vertical.
- Promoting Reinsurance Business in India: The amended law enables foreign reinsurers to set up branches in India and defines `re-insurance` to mean “the insurance of part of one insurer’s risk by another insurer who accepts the risk for a mutually acceptable premium”, and thereby excludes the possibility of 100% ceding of risk to a re-insurer, which could

lead to companies acting as front companies for other insurers.

- *Strengthening of Industry Councils:* The Life Insurance Council and General Insurance Council have now been made self-regulating bodies by empowering them to frame bye-laws for elections, meetings and levy and collect fees etc. from its members. Inclusion of representatives of self-help groups and insurance cooperative societies in insurance councils has also been enabled to broad base the representation on these Councils.
- *Robust Appellate Process:* Appeals against the orders of IRDAI are to be preferred to SAT as the amended Law provides for any insurer or insurance intermediary aggrieved by any order made by IRDAI to prefer an appeal to the Securities Appellate Tribunal (SAT).

Thus, the amendments incorporate enhancements in the field of Insurance Laws in India and in keeping up with the evolving insurance sector scenario and regulatory practices across the globe. The amendments enables the Regulator to create an operational framework for greater innovation, competition and transparency, to meet the insurance needs of citizens in a more complete and subscriber friendly manner. The amendments are expected to enable the sector to achieve its full

growth potential and contribute towards the overall growth of the economy and job creation.

For any further details, please contact:

**Mr. Raj Singh Niranjana, Advocate & Counsel
for Govt. of India, Supreme Court (9810070075)**

Email- raj.singh.niranjana@tlaindia.org

Dr. Rajni Patel, Partner (9818043057)

Email- rajni.patel@tlaindia.org

**Ms. Sneha Mukherjee, Junior Partner
(08860635075)**

Email- sneha.mukherjee@tlaindia.org

**Ms. Sonia Bharaj, Joint Partner
(08860635071)**

E-mail: sonia.bharaj@tlaindia.org

DISCLAIMER: This document is being furnished to you for your information. You may choose to reproduce or distribute this report for non-commercial purposes in part or in full to any other person with due acknowledgement of Trans India Law Associates ("TLA"). The opinions expressed herein are entirely those of the author(s). TLA makes every effort to use reliable and comprehensive information, but TLA does not represent that the contents of the report are accurate or complete. TLA is an independent, Law Firms. This document has been prepared without regard to the objectives or opinions of those who may receive it.

Trans-India Law Associates, Advocates & Legal Consultants

Office: TLA SUITE, JA-120, DLF Tower - A, Jasola, New Delhi-110025

Court Chamber: Chamber No. 555, New Delhi Court Complex, New Delhi-110001

Tel. :91-11-26943664, Fax.: 91-11-26970075

info@tlaindia.org www.tlaindia.org