

CONTENTS

	PAGE
◆ <i>Amendments made by Insurance Laws (Amendment) Act, 2015 in Insurance Act, 1938 at a glance</i>	<i>I-5</i>
◆ <i>Amendments made by Insurance Laws (Amendment) Act, 2015 in General Insurance Business (Nationalisation) Act, 1972 at a glance</i>	<i>I-12</i>
◆ <i>Amendments made by Insurance Laws (Amendment) Act, 2015 in Insurance Regulatory and Development Authority Act, 1999 at a glance</i>	<i>I-13</i>
◆ <i>Highlights of Insurance Laws (Amendment) Act</i>	<i>I-14</i>

DIVISION ONE

GUIDE TO INSURANCE LAWS (AMENDMENT) ACT, 2015

1 DEFINITIONS

1.1	Actuary [Section 2(1)]	1.4
1.2	Authority [Section 2(1A)]	1.4
1.3	Health Insurance Business [New definitional clause (6C) inserted in section 2]	1.4
1.4	Indian Insurance Company [Section 2(7A)]	1.5
1.5	Insurance Co-operative Society [Section 2(8A)]	1.9
1.6	Insurer [Section 2(9)]	1.9
1.7	Insurance agent [Section 2(10)]	1.10
1.8	Life Insurance Business [Section 2(11)]	1.11
1.9	Regulations [New clause (16A) of section 12]	1.11

CONTENTS

I-20

	PAGE
1.10 Reinsurance [New clause (16B) of section 2]	1.11
1.11 Securities Appellate Tribunal [New clause (16C) of section 2]	1.12
1.12 "Private company" and "Public company" [Section 2(16)]	1.15

2

PROPERTIES IN INDIA NOT TO BE INSURED WITH FOREIGN INSURERS - NEW SECTION 2CB

2.1 Properties in India not to be insured with foreign insurers except with IRDAI's prior permission	1.16
2.1-1 Penalty for contravention of this provision	1.16
2.2 Insurer whose principal place of business is outside India	1.16

3

REGISTRATION OF INSURERS - SECTION 3

3.1 Documents to be submitted by insurer for registration along with application for registration : Section 3(2)	1.18
3.2 Amendment to section 3(2A) to omit references to section 32	1.19
3.3 Appeal against IRDAI's order refusing registration to SAT and further appeal to Supreme Court	1.19
3.4 Action where insurer is a JV and foreign partner of JV barred in country of domicile	1.20
3.5 Grounds on which IRDA may suspend or cancel registration of an insurer : Section 3(4)	1.22
3.5-1 Grounds for cancellation of registration which have been omitted by the Amendment Act from substituted section 3(4)	1.23
3.5-2 New grounds for cancellation or suspension of license by IRDAI - Introduced by the Amendment Act in section 3(4)	1.24
3.6 Discretion of Authority to revive cancelled or suspended registration	1.25
3.7 Penalty for carrying on insurance business in contravention of section 3	1.25

4**PAYMENT OF ANNUAL FEE BY
INSURER - SECTION 3A**

- | | | |
|-----|---|------|
| 4.1 | Payment of annual fee by insurer | 1.26 |
| 4.2 | Consequences of failure to pay annual fee | 1.26 |

5**MINIMUM LIMITS FOR ANNUITIES SECURED BY
POLICIES OF LIFE INSURANCE - SECTION 4**

- | | | |
|---|--|------|
| ◆ | Minimum limits for annuities secured by policies of life insurance - Section 4 | 1.28 |
|---|--|------|

6**MINIMUM CAPITAL REQUIREMENTS -
SECTION 6**

- | | | |
|-------|---|------|
| 6.1 | Minimum capital requirements - Position prior to the amendment | 1.29 |
| 6.2 | Minimum capital requirements as amended by the Amendment Act | 1.29 |
| 6.2-1 | Minimum equity capital requirements for registration of an insurer other than a foreign re-insurer - Section 6(1) | 1.30 |
| 6.2-2 | Minimum Net Owned Funds for registration of a foreign re-insurer opening a branch in India - Section 6(2) | 1.31 |

7**CAPITAL STRUCTURE, VOTING RIGHTS AND REGISTERS
OF BENEFICIAL OWNERS OF SHARES - SECTION 6A**

- | | | |
|-----|---|------|
| 7.1 | Requirements as to capital structure, voting rights and maintenance of registers of beneficial owners of shares | 1.33 |
| 7.2 | Provisions for securing compliance with requirements relating to capital structure | 1.35 |

8**SEPARATION OF ACCOUNTS AND FUNDS -
SECTION 10**

- | | | |
|-----|--|------|
| 8.1 | Separate account of receipts and payments in respect of each sub-class of miscellaneous insurance business - Section 10(1) | 1.37 |
|-----|--|------|

CONTENTS

I-22

PAGE

8.2	Audit of details of assets of life insurance fund of a life insurer - Section 10(2)	1.38
8.3	Obligation to maintain a separate fund in respect of receipts due from each sub-class of insurance business - New sub-section (2AA) of section 10	1.38

9

ACCOUNTS AND BALANCE SHEET

9.1	Omission of redundant sub-sections (1) and (4) of section 11 by the Amendment Act	1.40
9.2	Sub-sections (1A) and (1B) of section 11 renumbered as sub-sections (1) and (2) by the Amendment Act	1.41
9.3	Sub-section (2) renumbered as sub-section (3) and certain changes made by Amendment Act	1.41

10

AUDIT - SECTION 12

◆ Audit - Section 12	1.42
----------------------	------

11

ACTUARIAL REPORT AND ABSTRACT - SECTION 13

◆ Actuarial report and abstract - Section 13	1.44
--	------

12

RECORD OF POLICIES AND CLAIMS - SECTION 14

12.1	Maintenance of records of policies and claims in electronic mode	1.46
12.2	Issuance of policies in electronic or demat mode	1.46

13

SUBMISSION OF RETURNS - SECTION 15

13.1	Omission of provisions allowing extension of time for submission of returns	1.48
13.2	Signing of copies of returns	1.49
13.3	Omission of requirement to file documents filed in country of incorporation or domicile in case of insurer whose principal place of business or domicile is outside India	1.49

14**CUSTODY AND INSPECTION OF DOCUMENTS
AND SUPPLY OF COPIES -
SECTION 20**

14.1	Inspection fee/fee for furnishing copies - Section 20(1)	1.50
14.2	Fee for furnishing by insurer of Memorandum/Articles of Association to policyholder on request - Section 20(3)	1.50
14.3	Obligation of insurer to furnish copies of returns to shareholders or policyholders on request - Section 20(2)	1.51

15**POWERS OF IRDAI AS REGARDS DEFECTIVE
OR INACCURATE RETURNS -
SECTION 21**

15.1	Powers of authority regarding returns - Section 21(1)	1.52
15.2	Amendment to section 21(2) no remedy against orders passed by the IRDAI under clauses (a) to (c) of section 21(1)	1.53

16**INVESTMENTS - SECTIONS 27 TO 27E**

16.1	Investment of Assets - Section 27	1.55
16.1-1	Assets	1.55
16.1-2	Obligation cast on every insurer to invest and keep invested assets in specified manner	1.55
16.1-3	Minimum sum for which assets to be invested	1.56
16.1-4	Manner in which assets to be invested/kept invested	1.56
16.1-5	Specified assets - When deemed to be invested assets	1.57
16.1-6	Investments made with reference to foreign currency	1.57
16.1-7	Reinsurance - Computation of sum to be invested	1.58
16.1-8	Investments to be free from encumbrance	1.58
16.1-9	Insurer incorporated or domiciled outside India	1.58
16.2	Investment of controlled fund of insurer - Section 27A	1.59
16-2-1	'Controlled Fund' - Definition	1.59

CONTENTS

I-24

	PAGE
16.2-2 Controlled fund to be invested only in approved investments	1.60
16.2-3 Conditions subject to which controlled fund may be invested in non approved investments	1.60
16.2-4 Assets forming part of controlled fund to be free of encumbrance	1.61
16.2-5 Powers of IRDAI to direct realization of unsuitable investments	1.61
16.2-6 Section not applicable to investment of PF moneys of employee	1.61
16.3 Provisions regarding investments of assets of insurer carrying on general insurance business	1.62
16.4 Investment by insurer in companies belonging to the promoters	1.62
16.5 Manner and condition of investments	1.63
16.6 Prohibition for investment of funds outside India	1.63
16.7 Submission of statements or returns relating to investments to IRDAI	1.64
16.8 Penalty for contravention of sections 27, 27A, 27B, 27D and 27E	1.64
16.9 Power of IRDAI to make regulations as regards sections 27, 27A, 27B, 27C and 27D	1.65

17

PROHIBITION OF LOANS BY INSURERS

17.1 Omission of redundant provisions by Amendment Act	1.66
17.2 No loans to director, manager, actuary, auditor or officer of the insurer except loans on life policies issued by the insurer within the surrender value - Section 29(1)	1.66
17.3 No prohibition on loans to banking companies as specified by IRDAI - 1st proviso to section 29(1)	1.67
17.4 Loans or temporary advances to a subsidiary company/ holding company only with previous approval of IRDAI - Second proviso to section 29(1)	1.68
17.5 Non-applicability of section 185 of the Companies Act, 2013 - Section 29(2)	1.68

	PAGE
17.6 Loans to full-time employees of the insurer as part of salary package as per scheme approved by BOD is exempted from prohibition - Section 29(3)	1.69
17.7 Loan or advance to be repaid within 3 months of occurrence of any event bringing the loan/advance within the ambit of section 129(1) - Sub-sections (4) and (5) of section 29	1.70

18

LIABILITY OF DIRECTORS, ETC. FOR LOSS DUE TO CONTRAVENTION OF SECTION 27, 27A, 27B, 27C, 27D OR 29

◆ Liability of directors, etc. for loss due to contravention of section 27, 27A, 27B, 27C, 27D or 29	1.71
--	------

19

ASSETS OF INSURER HOW TO BE KEPT - SECTION 31

◆ Assets of insurer how to be kept - Section 31	1.72
---	------

20

POWER TO RESTRICT PAYMENT OF EXCESSIVE REMUNERATION - SECTION 31B

◆ Power to restrict payment of excessive remuneration - Section 31B	1.73
---	------

21

RURAL/SOCIAL SECTOR OBLIGATIONS OF INSURER - SECTION 32B

◆ Rural/Social sector obligations of insurer - Section 32B	1.74
--	------

22

OBLIGATION OF INSURER IN TO UNDERWRITE THIRD PARTY RISKS OF MOTOR VEHICLES - NEW SECTION 32D

◆ Obligation of insurer in to underwrite third party risks of motor vehicles - New section 32D	1.75
--	------

23**POWER OF INVESTIGATION AND
INSPECTION BY IRDAI**

- ◆ Power of investigation and inspection by IRDAI 1.76

24**POWER OF IRDAI TO APPOINT ADDITIONAL
DIRECTORS - SECTION 34C**

- 24.1 Amendment by Act - Consultation with Central Government for appointment of additional directors by IRDAI 1.80

25**AMALGAMATION AND TRANSFER
OF INSURANCE BUSINESS -
SECTIONS 35, 36 AND 37A**

- 25.1 Amalgamation and transfer of insurance business 1.81
- 25.2 Procedure for sanction of amalgamation and transfer to be adopted by IRDAI - Section 36 1.82
- 25.3 Power of IRDAI to prepare a scheme of amalgamation in public interest or in the interests of the policyholder or insurer or the insurance industry as a whole - Section 37A 1.83

26**ASSIGNMENT AND TRANSFER OF INSURANCE
POLICIES - SECTION 38**

- 26.1 Position as regards assignment and transfer of policies prior to amendment by the Amendment Act 1.85
- 26.2 Transfer or assignment facility extended by the Amendment Act to non-life policies as well 1.88
- 26.3 Partial assignment of insurance policies allowed by New section 38 as substituted by the Amendment Act 1.88
- 26.4 Mode of assignment or transfer of policy - New Section 38(1) 1.89
- 26.5 Power of insurer to refuse to act on transfer or assignment - New sub-sections (2) to (4) of section 38 1.89
- 26.6 Assignment or transfer complete and effectual only on delivery of notice of assignment/transfer to the insurer [Sub-section (5) of section 38] 1.90

	PAGE
26.7 Priority of claims amongst assignees [Section 38(6)]	1.90
26.8 Procedure to be adopted by insurer on receipt of notice of assignment - Section 38(7)	1.91
26.8-1 Absolute assignee and his rights [Section 38(8)]	1.91
26.8-2 When assignment deemed conditional assignment	1.92
26.9 Transitional provisions [Section 38(9)]	1.92
26.10 Conditional assignment [Section 38(10)]	1.92
26.10-1 Conditional assignee not entitled to loan on policies or to surrender the policy	1.92

27

NOMINATION BY POLICYHOLDER - SECTION 39

27.1 Provision of section 39 as to nomination prior to amendment by the Amendment Act	1.93
27.2 Right of a life insurance policyholder to make a nomination [Sub-section (1) of new section 39]	1.95
27.3 Procedure for making nomination [Sub-sections (2) and (3) of section 39]	1.95
27.4 Effect of a transfer or assignment of policy on nomination	1.96
27.4-1 Assignment of policy to the insurer who bears its risk in return for loan granted or does not cancel the nomination [1st proviso to section 39(4)]	1.96
27.4-2 Transfer or assignment in consideration of loan to party other than insurer [2nd proviso to section 39(4)]	1.97
27.4-3 Revival of automatically cancelled nomination [3rd proviso to section 39(4)]	1.97
27.5 Payment of claim when policy matures during insured's life-time or nominee/(s) die before policy matures [Section 39(5)]	1.97
27.6 Payment of policy money where nominee/(s) survive the insured [Section 39(6)]	1.97
27.7 When nominee presumed to be beneficially entitled to moneys payable under the policy [Section 39(7)]	1.98

CONTENTS

I-28

PAGE

27.8	Where policy holder does after the maturity of policy but before payment is made to him [Sub-section (11) of section 39]	1.99
27.9	Section 39 not to apply to any life insurance policy to which section 6 of Married Women's Property Act, 1874 applies	1.99

28

PROHIBITION OF PAYMENT BY WAY OF COMMISSION OR OTHERWISE FOR PROCURING BUSINESS - SECTION 40

◆	Prohibition of payment by way of commission or otherwise for procuring business - Section 40	1.100
---	--	-------

29

LIMITATION ON EXPENSES OF MANAGEMENT - SECTIONS 40B & 40C

◆	Limitation on expenses of management - Sections 40B & 40C	1.103
---	---	-------

30

APPOINTMENT OF INSURANCE AGENTS - SECTION 42

30.1	Who can be appointed as insurance agent by an insurer?	1.105
30.2	Disqualification for appointment as insurance agent [Section 40(3)]	1.105
30.3	For how many companies can a person act as insurance agent?	1.106
30.4	Insurer liable for acts and omissions of insurance agents [Sub-sections (4) and (5) of section 42]	1.108
30.5	Prohibition on appointment of principal agents, chief agents and special agents	1.109
30.6	Record of insurance agent	1.110
30.6-1	Record of insurance agents [New sub-section (1) of new section 43]	1.110
30.6-2	Period for which record of insurance agents needs to be preserved [New sub-section (2) of new section 43]	1.110

	PAGE
<u>31</u>	
‘INTERMEDIARY’/‘INSURANCE INTERMEDIARY’	
31.1 ‘Intermediary’ or ‘Insurance Intermediary’ - Definition	1.111
31.2 Amendment Act replaces licensing of insurance intermediaries with registration of insurance intermediaries	1.111
31.3 Condition for intermediary or insurance intermediary	1.112
<u>32</u>	
PROHIBITION ON MULTI-LEVEL MARKETING SCHEMES - NEW SECTION 42A	
32.1 Multi-level marketing scheme	1.113
32.2 Prohibition on multi-level marketing schemes by insurers [Sub-sections (2) and (3) of section 42A]	1.113
<u>33</u>	
POWER OF IRDA TO CALL FOR INFORMATION - SECTION 44A	
◆ Power of IRDA to call for information - Section 44A	1.114
<u>34</u>	
REPUDIATION OF LIFE INSURANCE POLICY BY INSURER	
34.1 Repudiation of life insurance policy by insurer-position before amendment by the Amendment Act	1.115
34.1-1 The principle of <i>uberrimae fidei</i>	1.116
34.1-2 Material facts	1.117
34.1-3 Approach of Courts towards repudiation of policy by insurer	1.117
34.1-4 Difficulties faced by the policyholders under the old section 45	1.118
34.2 Law Commission’s recommendations for reforms	1.123
34.3 New law on repudiation of life insurance policy by the insurer - New section 45 as substituted by the Amendment Act	1.126
34.3-1 Policy not be called in question on ground of misstatement after three years	1.127

CONTENTS

I-30

	PAGE
34.3-2 Grounds on which a life insurance policy may be called into question any time within three years from the 'date of the policy'	1.127
34.3-3 Where life policy is called into question for fraud	1.127
34.3-3A Definition of 'Fraud'	1.127
34.3-3B No repudiation on ground of fraud if insured proves that the insurer knew the facts or suppression or misstatement was unintentional [New sub-section (3) of section 45]	1.128
34.3-4 Where policy called into question within three years on grounds of unintentional misstatement or suppression of material fact [Section 45(4)]	1.129
34.3-5 When policy is not deemed to be called in question	1.130

35

INSURANCE AGENT OR INTERMEDIARY OR INSURANCE INTERMEDIARY NOT TO BE DIRECTOR INSURANCE COMPANY - SECTION 48A

35.1 Insurance agent/intermediary/Insurance intermediary not to be director of insurance company	1.132
35.1-1 Power of IRDAI to permit an insurance agent to be on Board of insurance company	1.132
35.1-2 Intermediary or Insurance intermediary	1.132
35.2 Transitional provisions	1.133

36

SURVEYORS OR LOSS ASSESSORS

36.1 No licensing of surveyors/loss assessors by IRDAI	1.134
36.2 Only member of the Institute of Surveyors and loss assessors can be surveyor/loss assessor in respect of general insurance business	1.134
36.2-1 Transactional provisions	1.135
36.3 Code of conduct for surveyors and loss assessors [Section 64UM(2)]	1.135

	PAGE
36.4 Claim equal to or exceeding specified amount not to be settled without obtaining a report from approved surveyor/loss assessor	1.135
36.5 Power of IRDAI to call for an independent report from any other approved survey or loss assessee [Sub-sections (5) and (6) of section 64UM]	1.137
36.6 No insurer shall pay remuneration for survey to any person other than approved surveyor or loss assessor	1.138

37

SOLVENCY MARGIN - SECTIONS 64V AND 64VA

37.1 Required Solvency Margin (RSM)	1.139
37.2 Power of IRDAI for inspection verification of assets and liabilities to ensure RSM is maintained	1.141
37.3 Application of RSM provisions to insurer/re-insurer who is member of a group	1.141
37.4 Exemption from RSM requirements	1.142
37.5 Return of solvency margin	1.142
37.6 Valuation of assets and liabilities for calculating solvency margin	1.143

38

RESTRICTIONS ON OPENING NEW PLACE OF BUSINESS - SECTION 64VC

◆ Restrictions on opening new place of business - Section 64VC	1.144
--	-------

39

INTRODUCTION OF SEBI MODEL OF ADJUDICATION OF PENALTIES AND APPEAL - NEW SECTIONS 105C, 105D & 110

39.1 Adjudication of Penalties	1.146
39.2 Factors to be taken into account by the Adjudicating Officer - New section 105D	1.147
39.3 Appeal to Securities Appellate Tribunal [New section 110]	1.147

40**ACQUISITION OF SURRENDER VALUES
BY LIFE INSURANCE POLICIES**

- ◆ Acquisition of surrender values by life insurance policies *1.150*

41**ENHANCEMENT OF EQUITY CAPITAL OF
PUBLIC SECTOR GENERAL INSURANCE
COMPANIES - NEW SECTION 10B OF GINB ACT**

- ◆ Enhancement of equity capital of public sector general
insurance companies - New section 10B of GINB Act *1.152*

42**OMISSION OF REDUNDANT PROVISIONS
OF THE INSURANCE ACT, 1938**

- 42.1** Omission of section 2E relating to insurer leasing
to enter into new contracts before commencement
of the Act *1.153*
- 42.2** Omission of section 6AA relating to divesting of excess
shareholding by promoters *1.153*
- 42.3** Omission of sections 6C, 7, 8 and 9 *1.153*
- 42.4** Omission of section 16 relating to returns of
insurers established outside India *1.154*
- 42.5** Omission of sections 17 and 17A of the Act *1.154*
- 42.6** Omission of section 31A relating to management of
insurance companies *1.154*
- 42.7** Omission of section 32 relating to employment of
managing agents *1.154*
- 42.8** Omission of section 34G relating power of IRDAI to
order closure of foreign branches of Indian Insurer *1.154*
- 42.9** Omission of section 40A - Limit on commission
section 46 of the Amendment Act omits *1.154*
- 42.10** Omission of sections 42A to 42C *1.155*
- 42.11** Omission of section 44 of the Act *1.155*
- 42.12** Omission of sections 47A and 48 of the Act *1.155*
- 42.13** Omission of section 59 relating to return of deposits *1.155*
- 42.14** Omission of sections 52H to 52N relating to acquisition
of undertakings of insurers by the Central Government *1.155*

	PAGE
42.15 Omission of transitory provisions of sections 64S and 64T	<i>1.155</i>
42.16 Omission of provisions relating to Tariff Advisory Committees	<i>1.156</i>
42.17 Omission of provisions relating to provider of societies and insurance cooperative societies	<i>1.156</i>
42.18 Omission of Part IV of the Act relating to mutual insurance companies and life insurance societies	<i>1.156</i>
42.19 Omission of sections 107 and 107A	<i>1.157</i>
42.20 Omission of section 110E	<i>1.157</i>
42.21 Omission of the Fifth, Sixth and Eighth Schedules of the Act	<i>1.157</i>

43

AMENDMENTS TO THE IRDA ACT, 1999

43.1 Change of name of Authority from IRDA to IRDAI - Amendments to sections 2(1)(b) and 3 of IRDA Act	<i>1.158</i>
43.2 Definition of intermediary or insurance intermediary in section 2(1)(f) of the IRDA Act, 1999	<i>1.158</i>
43.3 No imposition of levy on insurers by IRDAI - Section 16(1)(c)	<i>1.159</i>

44

MISCELLANEOUS AMENDMENTS TO THE INSURANCE ACT, 1938

44.1 Substitution of references to 'Indian Companies Act, 1913' with reference to the 'Companies Act, 2013'	<i>1.160</i>
44.2 Substitution of references to 'Companies Act, 1956' with references to 'Companies Act, 2013'	<i>1.160</i>
44.3 Appointment of Administrator for management of life insurance business	<i>1.161</i>
44.4 Substitution of section 52 to omit redundant provisions relating to business on dividing principle	<i>1.163</i>
44.5 Insurance Association of India, Councils of the Association and Committees thereof	<i>1.163</i>
44.6 Enhancement of penalty under sections 102 and 105	<i>1.164</i>
44.7 Substitution of section 109 relating to cognizance of offences	<i>1.165</i>
44.8 New section 110HA - Recovery of penalties as arrears of land revenue	<i>1.165</i>

DIVISION TWO**INSURANCE ACT, 1938**

**[AS AMENDED BY INSURANCE LAWS
(AMENDMENT) ACT, 2015]**

- ◆ Insurance Act, 1938, as amended by Insurance Laws (Amendment) Act, 2015 2.3

DIVISION THREE**INSURANCE REGULATORY AND
DEVELOPMENT AUTHORITY ACT, 1999**

**[AS AMENDED BY INSURANCE LAWS
(AMENDMENT) ACT, 2015]**

- ◆ Insurance Regulatory and Development Authority Act, 1999, as amended by Insurance Laws (Amendment) Act, 2015 3.3

DIVISION FOUR**GENERAL INSURANCE BUSINESS
(NATIONALISATION) ACT, 1972**

**[AS AMENDED BY INSURANCE LAWS
(AMENDMENT) ACT, 2015]**

- ◆ General Insurance Business (Nationalisation) Act, 1972, as amended by Insurance Laws (Amendment) Act, 2015 4.3

DIVISION FIVE**INSURANCE LAWS (AMENDMENT)
ACT, 2015**

- ◆ Insurance Laws (Amendment) Act, 2015 5.3