

LIFE INSURANCE (EMERGENCY PROVISIONS) ACT, 1956

9 of 1956

[21st March, 1956]

CONTENTS

1. Short title
2. Definitions
3. Management of controlled business to vest in Government on commencement of Act
4. Power of Central Government to appoint Custodians to take over management of controlled business
5. Refund of deposits made under Insurance Act
6. Powers of Custodian to institute proceedings, etc
7. Compensation for management of controlled business vesting in Central Government
8. Compensation, how to be paid and distributed
9. Penalties
10. Insurer not to be wound up by Court
11. Exclusion of time of Act for computing period of limitation
12. Effect of Act on other laws
13. Delegation of powers
14. Protection of action taken under Act
15. Prevention of disqualification for membership of Parliament
16. Exemptions
17. Power to make rules
18. Repeal of Ordinance 1 of 1956 and savings

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Government have during the last few months been studying the problems facing the insurance industry in its role as an effective instrument of mobilising people's savings and putting them to use in a constructive manner. As a result of such study the present management of the industry has been found wanting in several respects. By the amendment of the Insurance Act which was effected in 1950, Government took powers to appoint administrators to manage companies where the interests of the

policy-holders were in grave jeopardy. In the short period that has elapsed since then a number of companies had to be put under administrators as investigation into their affairs revealed gross mismanagement - even embezzlement - very often resulting in insolvency. It has been observed that with a few exceptions, the Indian Life Insurers are virtually controlled by individuals who are prone to utilise the funds of these companies to subsidise or prop up their investments in other ventures to the detriment of the industry and the policy-holder, who is its back-bone. Tightening up the provisions of the Insurance Act is no remedy since it is of a negative character. Government have therefore decided to nationalise the Life Insurance business. A Bill to give effect to this decision will shortly be placed before the Parliament. It was essential, however, to save the interests of the policy-holders from damage, till legislation for this purpose was passed and put into effect. It was, therefore, necessary to issue an Ordinance styled the Life Insurance (Emergency Provisions) Ordinance, 1956, vesting the management of all Life Insurance business in India, including the business now managed by foreign insurers, in the Govt. and for appointment of Custodians to manage the business on behalf of Government. The Ordinance also provided for the payment, on a reasonable basis, of compensation to the persons entitled thereto in respect of the Government taking over the management of the business, The present Bill seeks to convert that Ordinance into an Act - Gaz. of Ind., 1956, Extra, Pt. II, S. 2, page 10.

1. Short title :-

This Act may be called the Life Insurance (Emergency Provisions) Act, 1956.

2. Definitions :-

In this Act, unless the context otherwise requires,-

(1) "appointed day" means the 19th day of January, 1956;

(2) "controlled business" means-

(i) in the case of an insurer specified in sub-clause (a)(ii) or sub-clause (b) of clause (9) of section 2 of the Insurance Act and carrying on life insurance business-

(a) all his business, if he carries on no other class of insurance business;

(b) all the business appertaining to his life insurance business, if he

carries on some other class of insurance business also;

(c) all his business, if his certificate of registration under the Insurance Act in respect of general insurance business stands wholly cancelled for a period of more than six months on the appointed day;

(ii) in the case of any other insurer specified in clause (9) of section 2 of the Insurance Act and carrying on life insurance business-

(a) all his business in India, if he carries on no other class of insurance business in India;

(b) all the business appertaining to his life insurance business in India, if he carries on some other class of insurance business also in India;

(c) all his business in India, if his certificate of registration under the Insurance Act in respect of general insurance business in India stands wholly cancelled for a period of more than six months on the appointed day;

(iii) in the case of a provident society, as defined in section 65 of the Insurance Act, all its business;

(3) "Custodian" means the person appointed under section 4 to take over the management of any controlled business;

(4) "Insurance Act" means the Insurance Act, 1938;

(5) "insurer" means an insurer as defined in the Insurance Act who carries on life insurance business in India, and includes a provident society as defined in section 65 of the Insurance Act;

(6) "notified order" means an order notified in the Official Gazette;

(7) all other words and expressions used herein but not defined, and defined in the Insurance Act, shall have the meanings respectively assigned to them in that Act.

3. Management of controlled business to vest in Government on commencement of Act :-

(1) On and from the appointed day, the management of the controlled business of all insurers shall vest in the Central Government, and, pending the appointment of a Custodian for the controlled business of any insurer, the persons in charge of the management of such business immediately before the appointed

day shall, on and from the appointed day, be in charge of the management of the business for and on behalf of the Central Government; and controlled business of the insurer shall be carried on by them subject to the provisions contained in sub-sections (3) and (5) and to such further directions, if any, as the Central government may give to them by notice addressed and sent to the principal officer of the insurer.

(2) Any contract, whether express or implied, providing for the management of the controlled business of an insurer made before the appointed day between the insurer and any person in charge of the management of such business immediately before the appointed day shall be deemed to have terminated on the appointed day.

(3) No insurer shall, without the previous approval of the person specified by the Central Government in this behalf in respect of that insurer (hereinafter referred to as the authorized person),-

(a) make any payment or grant any loan in respect of a policy of life insurance otherwise than in accordance with the normal practice observed by him in respect of such matters immediately before the appointed day;

(b) incur any expenditure from the assets appertaining to the controlled business otherwise than for the purpose of making routine payments of salaries or commissions to employees, insurance agents, special agents or chief agents or for the purpose of meeting the routine day to day expenditure;

(c) transfer or otherwise dispose of any such assets or create any charge, hypothecation, lien or other encumbrance thereon;

(d) invest in any manner any moneys forming part of such assets;

(e) acquire any immovable property out of any moneys forming part of such assets;

(f) enter into any contract of service or agency, whether expressly or by implication, for purposes connected wholly or partly with the controlled business or vary the terms and conditions of any such contract subsisting on the appointed day;

(g) enter into any other transaction relating to controlled business other than a contract relating to the issue of a new policy of life insurance or vary the terms and conditions of any agreement

relating to any such transaction subsisting at the commencement of this Act.

(4) The approval of the authorized person may be given either generally in relation to certain classes of transactions of the insurer or specially in relation to any of his transactions.

(5) Every insurer shall deposit all securities and documents of title to any assets appertaining to the controlled business, in any Scheduled Bank in which the insurer had an account immediately before the appointed day or in any branch of the State Bank in the place where the head office or the principal office of the insurer is situated or, where there is no branch of the State Bank in such place, the nearest branch of the State Bank; and no such security or document shall be withdrawn from the Scheduled Bank or the State Bank, as the case may be, except with the permission of the authorized person: Provided that nothing contained in this subsection shall apply to any security or document of title kept with approved trustees by reason of the provisions contained in subsection (6) of section 27 of the Insurance Act, or kept in trust with an Official Trustee in pursuance of the articles of association of an insurer unless the Central Government, by notified order, otherwise directs.

(a) "Scheduled Bank" means a bank included for the time being in the Second Schedule to Reserve Bank of India Act, 1934 ;

(b) "State Bank" means the State Bank of India constituted under the State Bank of India Act, 1955 .

(6) Every insurer shall deliver forthwith at the place and to the person specified in this behalf by the Central Government in respect of that insurer the following documents, namely :-

(i) the minutes book or any other book in India containing all resolutions up to the appointed day of the person in charge of the management of the controlled business before the appointed day;

(ii) the current cheque books relating to the controlled business which are at the head office or the principal office of the insurer;

(iii) all registers or other books containing particulars relating to the investment of any moneys appertaining to the controlled business including investments on mortgaged properties and all loans granted and advances made otherwise than on policies;

(iv) all brokers' notes or certificates in the possession of the insurer in respect of any orders for the investment of any moneys appertaining to the controlled business: Provided that if any document specified in this sub-section is relevant for the purpose of any business other than the controlled business carried on by the insurer, the person specified in the notified order shall be bound to return it to the persons in charge of the management of such other business with the least possible delay, but shall have power to place identification marks on such document or to take extracts or copies therefrom.

(7) Without prejudice to the generality of the powers conferred by sub-section (1) and to the provisions contained in sub-section (3), (5) and (6), any directions issued under sub-section (1) shall require the persons in charge of the management of the controlled business of an insurer under this Act to furnish to the Central Government or to the authorized person such returns, statements and other information relating to the controlled business as may be mentioned in the direction.

(8) The persons in charge of the management of the controlled business of an insurer under this Act shall be entitled to such remuneration, whether by way of allowance or salary as the Central Government may fix; and any such person may by giving a month's notice in writing to the Central Government of his intention so to do, relinquish charge of the management of the controlled business.

4. Power of Central Government to appoint Custodians to take over management of controlled business :-

(1) The Central Government may, as soon as it is convenient administratively so to do, appoint any person as Custodian for the purpose of taking over the management of the controlled business of an insurer.

(2) On the appointment of a Custodian under sub-section (1), all persons in charge of the management of the controlled business of the insurer for and on behalf of the Central Government immediately before such appointment shall cease to be in charge of such management and shall be bound to, deliver to the Custodian all books of account, registers or other documents in their custody relating to the controlled business of the insurer.

(3) Nothing contained in sub-sections (3), (5) and (6) of section 3

shall apply to any insurer the management of whose controlled business has been taken over by the Custodian, but the Central Government may issue such directions to the Custodian as to his powers and duties as it deems desirable in the circumstances of the case, and the Custodian may apply to the Central Government at any time for instructions as to the manner in which he shall conduct, the management of the controlled business of the insurer or in relation to any matter arising in the course of such management.

(4) The Custodian shall receive such remuneration as the Central Government may fix; and the Central Government may at any time cancel the appointment of any person as Custodian and appoint some other person in his stead.

5. Refund of deposits made under Insurance Act :-

The Central Government may, by order, direct that the whole or any part of the deposit appertaining to his controlled business made by an insurer under section 7 , section 73 or section 98 of the Insurance Act, as the case may be, shall be returned to the Custodian who has been appointed to take over the management of the controlled business of the insurer, and every such order shall have effect notwithstanding anything contained in the Insurance Act.

6. Powers of Custodian to institute proceedings, etc :-

The Custodian may, in relation to the controlled business of any insurer the management of which has been taken over by him, exercise all or any of the powers which the Controller of Insurance or an Administrator appointed under section 52A of the Insurance Act may exercise under section 52BB, section 106 or section 107 of that Act.

7. Compensation for management of controlled business vesting in Central Government :-

The amount of compensation payable in respect of the vesting in the Central Government of the management of the controlled business of an insurer shall, for every month during which the management thereof remains vested in the Central Government, be a sum which is equivalent to one-twelfth of the annual average of the share of the surplus allocated to shareholders as disclosed in the abstracts prepared in accordance with Part II of the Fourth Schedule to the Insurance Act in respect of the last two actuarial investigations relating to the controlled business as at dates earlier

than the first day of January, 1956: Provided that, if in respect of the controlled business of an insurer no such surplus as is referred to in this sub-section has been allocated to shareholders either because there are no shareholders or for any other reason, the compensation shall be payable at the rate of one rupee per month for every two thousand rupees or part thereof of the premium income of the insurer relating to his controlled business during the year 1954.

8. Compensation, how to be paid and distributed :-

(1) The amount of compensation payable under section 7 shall in the first instance be payable out of the seven and a half per cent. of the surplus referred to in sub-section (1) of section 49 of the Insurance Act earned by the insurer during the period the management of the controlled business of the insurer vests in the Central Government and where such compensation or any part thereof can not be so paid out the Central Government shall make due provision for the payment of such compensation or part thereof as the case may be.

(2) The compensation payable under section 7 shall be distributed among the persons entitled thereto by the Central Government in such manner as may be prescribed by rules made in this behalf: Provided that in the case of an insurer who is a company the Central Government shall have due regard to the wishes of the members expressed by them at any general meeting convened for the purpose.

9. Penalties :-

If any person-

(a) fails to deliver to the Custodian any books of account, registers or any other documents in his custody relating to the controlled business of an insurer in respect of the management of which the Custodian has been appointed; or

(b) retains any property of such insurer appertaining to the controlled business of the insurer; or

(c) fails to comply with the provisions contained in sub-section (3) or sub-section (5) or sub-section (6) of section 3 ; or

(d) fails to comply with any directions issued under sub-section (1) or sub-section (7) of section 3 ; he shall be punishable with

imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

10. Insurer not to be wound up by Court :-

No proceeding for the winding up of an insurer the management of whose controlled business has vested in the Central Government under this Act or for the appointment of a Receiver in respect of such business shall lie in any Court.

11. Exclusion of time of Act for computing period of limitation :-

In computing the period of limitation prescribed by any law for the time being in force for any suit or application against any person by an insurer in respect of any matter arising out of his controlled business, the time during which the Life Insurance (Emergency Provisions) Ordinance, 1956, and this Act have been in force shall be excluded.

12. Effect of Act on other laws :-

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith in any other law or in any instrument having effect by virtue of any other law.

13. Delegation of powers :-

The Central Government may, by notified order, direct that all or any of the powers exercisable by it under this Act may also be exercised by any such person as may be specified in the order.

14. Protection of action taken under Act :-

(1) No suit, prosecution or other legal proceeding shall lie against any Custodian or authorised person in respect of anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or any Custodian or authorized person for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

15. Prevention of disqualification for membership of Parliament :-

It is hereby declared that no person who holds any office of profit under an insurer the management of whose controlled business has vested in the Central Government under this Act shall be disqualified, or ever to have been disqualified, for being chosen as,

or for being, a member of either House of Parliament.

16. Exemptions :-

Nothing contained in this Act shall apply to-

- (a) any insurer in respect of the management of whose affairs an Administrator has been appointed under section 52A of the Insurance Act;
- (b) any insurer whose business is being voluntarily wound up or is being wound up under the orders of a court;
- (c) any insurer to whom the Insurance Act does not apply by reason of the provisions contained in section 2E thereof;
- (d) any approved superannuation fund as defined in clause (a) of S.58N of the Income tax Act, 1922, or
- (e) any insurance business carried on by the Government.

17. Power to make rules :-

(1) The Central Government may, by notified order, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, rules made under sub-section (1) may provide for-

- (a) the form and manner in which books of accounts appertaining to controlled business shall be maintained by insurers;
- (b) the manner in which any compensation payable under this Act may be paid to the person entitled thereto;
- (c) the circumstances in which the remuneration payable to persons in charge of the management of the controlled business of an insurer under this Act or to Custodians shall be met by the Central Government, whether wholly, or in part.

1 [(3) Even rule made under this Act shall be laid, as soon as may be after it is made, 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 more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such

modified form or be of no effect. as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

1. Inserted by Delegated Legislation Provisions (Amendment) Act (4 of 1986), S. 2, Sch., (15-5-1986).

18. Repeal of Ordinance 1 of 1956 and savings :-

Repealed by the Repealing and Amending Act, 1960 (58 of 1960), S. 2 and First Sch.]