

RAJYA SABHA
NOTICE OF AMENDMENTS
THE INSURANCE LAWS (AMENDMENT) BILL, 2008
(As introduced in the Rajya Sabha)
[To be moved at a sitting of the Rajya Sabha]

ENACTING FORMULA

BY SHRI ARUN JAITLEY:

1. That at page 1, line 1, *for* the word "Fifty-ninth", the word "Sixty-fifth" be substituted.

CLAUSE 1

BY SHRI ARUN JAITLEY:

2. That at page 1, line 5, *for* the figure "2008", the figure "2014" be substituted.

CLAUSE 2

BY SHRI ARUN JAITLEY:

3. That at page 2, *for* lines 3 to 6, the following be substituted, namely:-

'2. In the Insurance Act, 1938 (hereinafter in this Chapter referred to as the Insurance Act), throughout the Act -

(a) for the words and figures "the Indian Companies Act, 1913", wherever they occur, the words and figures "the Companies Act, 2013" shall be substituted;

(b) for the words and figures "the Companies Act, 1956", wherever they occur, the words and figures "the Companies Act, 2013" shall be substituted'.

CLAUSE 3

BY SHRI ARUN JAITLEY:

4. That at page 2, line 9, *for* the words "means actuary", the words "means an actuary" be substituted.

5. That at page 2, *for* lines 18 to 20, the following be substituted, namely:-

"whether in-patient or out-patient travel cover and personal accident cover".

6. That at page 2, line 24, *for* the words and figures, "the Companies Act, 1956", the words and figures "the Companies Act, 2013" be substituted.

7. That at page 2, line 26, *for* the figure "2008", the figure "2014" be substituted.

8. That at page 2, *for* lines 27 to 30, the following be substituted, namely:-

"(b) in which the aggregate holdings of equity shares by foreign investors including portfolio investors, do not exceed forty-nine per cent, of the paid up equity capital of such Indian insurance company, which is Indian owned and controlled, in such manner as may be prescribed;"

9. That at page 2, after line 37, the following be inserted, namely:-

“(iva) clause (8) shall be omitted;”

CLAUSE 4

BY SHRI ARUN JAITLEY:

10. That at page 3, lines 28 to 39, be deleted.

CLAUSE 5

BY SHRI ARUN JAITLEY:

11. That at page 3, lines 40 to 46, be deleted.
12. That at page 4, lines 1 and 2, be deleted.

CLAUSE 6

BY SHRI ARUN JAITLEY:

13. That at page 4, lines 6 and 7, the words “except a property situated in any Special Economic Zone as defined in clause (za) of section 2 of the Special Economic Zones Act, 2005,” be deleted.

CLAUSE 3

BY SHRI ARUN JAITLEY:

14. That at page 4, for line 18, the following be substituted, namely:-
“(ii) in sub-section (2A), in clause (d), for the figures, letter and word “5, 31A and 32” the figures, word and letter “5 and 31A” be substituted’.
15. That at page 4, lines 27 and 28, for the words “the Authority shall withhold registration or cancel registration”, the words “the Authority may withhold registration” be substituted.
16. That at page 4, line 40, after the word “insurer”, the words “without the approval of the Authority” be inserted.
17. That at page 5, line 22, for the words, bracket and alphabet “or clause (f)”, the words, brackets and alphabets “,clause (f), clause (g) or clause (i)” be substituted.
18. That at page 5, line 28, the bracket, alphabet and word “(i), clause” be deleted.
19. That at page 5, line 33, for the words, bracket and alphabet “or clause (g)”, the words, brackets and alphabets “clause (g) or clause (i)” be substituted.

CLAUSE 12

BY SHRI ARUN JAITLEY:

20. That at page 6, after line 24, the following proviso be inserted, namely:-
“Provided that the insurer, may enhance the paid-up equity capital, as provided in this section in accordance with the provisions of the Companies Act, 2013, the Securities Exchange Board of India Act, 1992 and the rules, regulations or directions issued thereunder or any other law for the time being in force:

Provided further that in determining the paid-up equity capital, any preliminary expenses incurred in the formation and registration of any insurer as may be specified by regulations made under this Act, shall be excluded.”

CLAUSE 13

BY SHRI ARUN JAITLEY:

21. That at page 7, line 32, after the word “sub-sections”, the bracket and figure “(3),” be inserted.

CLAUSE 15

BY SHRI ARUN JAITLEY:

22. That at page 7, after line 44, the following be inserted, namely:-

“(ia) in sub-sections (2) and (3), for the words “High Court”, the words “the Securities Appellate Tribunal” shall respectively be substituted.”

CLAUSE 17

BY SHRI ARUN JAITLEY:

23. That at page 8, after line 4, the following be inserted, namely:-

“(ia) in sub-section (2),-

- (i) the words, bracket and figures, “after the expiry of six months from the commencement of the Insurance (Amendment) Act, 1946”, shall be omitted;
- (ii) the words “under the law of the insurer’s country” occurring at the end, shall be omitted.”

24. That at page 8, line 6, the word “general” be deleted.

CLAUSE 18

BY SHRI ARUN JAITLEY:

25. That at page 8, line 17, for the figure “2008”, the figure “2014” be substituted.

CLAUSE 20

BY SHRI ARUN JAITLEY:

26. That at page 9, line 11, be deleted.

CLAUSE 21

BY SHRI ARUN JAITLEY:

27. That at page 9, line 31, for the figure “14”, the figures and bracket “14.(1)” be substituted.

28. That at page 9, after line 39, the following be inserted, namely:-

“(c) a record of policies and claims in accordance with clauses (a) and (b) may be maintained in any such form including electronic mode, as may be specified by regulations made under this Act and displayed on its website.

(2) Every insurer shall, in respect of all business transacted by him, endeavour to issue policies above a specified threshold in terms of sum assured and premium in electronic form, in the manner and form to be specified by regulations made under this Act.”

CLAUSE 28

BY SHRI ARUN JAITLEY:

29. That at page 11, for lines 31 to 42, the following be substituted, namely:-

“(4) In computing the assets referred to in sub-sections (1) and (2), any investment made with reference to any currency other than the Indian rupee which is in excess of the amount required to meet the liabilities of the insurers in India with reference to that currency, to the extent of such excess, shall not be taken into account:

Provided that nothing contained in this sub-section shall affect the operation of sub-section (2).

Provided further that the Authority may, either generally or in any particular case, direct that any investment.”

30. That at page 13, for lines 22 to 28, the following be substituted, namely:-

“(ii) all the funds in India appertaining to his life insurance business if he carries on some other class of insurance business also.

Explanation.- For the purposes of sub-clauses (i) and (ii), the fund does not include any fund or portion thereof in respect of which the Authority is satisfied that such fund or portion, as the case may be, is regulated by the law in force of any country outside India or it would not be in the interest of the insurer to apply the provisions of this section.”

CLAUSE 30

BY SHRI ARUN JAITLEY:

31. That at page 14, line 40, for the figure “220”, the figure “295” be substituted.

32. That at page 15, line 4, after the words “loans sanctioned”, the words “as part of their salary package” be inserted.

CLAUSE 33

BY SHRI ARUN JAITLEY:

33. That at page 15, for line 35, the following be substituted, namely:-

“(I) for sub-clauses (i) and (ii) to the proviso, the following sub-clause shall be”.

34. That at page 15, for lines 40 to 42, the following be substituted, namely:-

“(b) in sub-section (3), for the words, figures and letter “or in section 7 of 1913. 86B of the Indian Companies Act, 1913”, the words “or in any other law for the time being in force” shall be substituted”.

CLAUSE 36

BY SHRI ARUN JAITLEY:

35. That at page 16, line 8, for the words “words, figures and letter”, the words “words, bracket, letter and figures” be substituted.

CLAUSE 37

BY SHRI ARUN JAITLEY:

36. That at page 16, for lines 11 to 13, the following be substituted, namely:-

“37. In section 32B of the Insurance Act, for the words “rural or social sector” the words “rural and social sector” shall be substituted”.

Amendment
of section
32B.

CLAUSE 38

BY SHRI ARUN JAITLEY:

37. That at page 16, line 17, for the figure “2008”, the figure “2014” be substituted.

CLAUSE 39

BY SHRI ARUN JAITLEY:

38. That at page 17, for lines 38 and 39, the following be substituted, namely:-

“(8) Any insurer or intermediary or insurance intermediary aggrieved by any order made under this section may prefer an appeal to the Securities Appellate Tribunal.”

CLAUSE 42

BY SHRI ARUN JAITLEY:

39. That at page 18, lines 13 and 14, be deleted.

CLAUSE 48

BY SHRI ARUN JAITLEY:

40. That at page 19, line 34, after the words “public interest”, the words “or is for the purpose of trading of insurance policy” be inserted.

41. That at page 20, line 7, the words “or attached” be deleted.

42. That at page 20, line 32, for the word “will”, the word “shall” be substituted.

43. That at page 20, line 33, for the word “will”, the word “shall” be substituted.

44. That at page 20, line 37, for the figure “2008”, the figure “2014” be substituted.

45. That at page 20, line 41, for the word “will”, the word “shall” be substituted.

46. That at page 21, line 32, for the word “will”, the word “shall” be substituted.

47. That at page 22, line 15, for the brackets, figures and word “(7), (8) and (9)”, the brackets, figures and word “(7) and (8)” be substituted.

48. That at page 22, line 16, for the word “maturing”, the words “that result into claim on death of the holder of the policy” be substituted.

49. That at page 22, line 17, for the figure “2008”, the figure “2014” be substituted.

50. That at page 22, lines 30 and 31, the words “or representative” be deleted.

51. That at page 22, for lines 32 to 34, the following be substituted, namely:-

“(12) The collector nominee shall make payment of the benefits arising out of policy to the beneficiary nominee or legal heirs of the policy-holder”.

52. That at page 22, line 42, for the figure “2008”, the figure “2014” be substituted.

CLAUSE 50

BY SHRI ARUN JAITLEY:

53. That at page 23, for lines 13 to 18, the following be substituted, namely:-

“40B. No insurer shall, in respect of insurance business transacted by him in India, spend as expenses of management in any financial year any amount exceeding the amount as may be specified by regulations made under this Act.

Limitation of expenses of management in life insurance business.

40C. Every insurer transacting insurance business in India shall furnish to the Authority, the details of expenses of management in such manner and form as may be specified by regulations made under this Act”.

Limitation of expenses of management in general, health insurance and re-insurance business.

NEW CLAUSE 50 A

BY SHRI ARUN JAITLEY:

54. That at page 23, after line 18, the following be inserted, namely,-

“50A. After section 40C as so substituted, the following section shall be inserted, namely:-

Insertion of new section 40D.

40D. No insurer shall receive reimbursement of expenses or commission from Indian insurers in respect of specified percentage of the sum assured to be reinsured with Indian re-insurers on each policy in respect of general insurance business transacted in India in accordance with the provisions of section 101A of this Act.”

Prohibition to receive commission on re-insurance with Indian re-insurers.

CLAUSE 51

BY SHRI ARUN JAITLEY:

55. That at page 23, line 22, for the words “five lakh rupees”, the words “ten lakh rupees” be substituted

CLAUSE 52

BY SHRI ARUN JAITLEY:

56. That at page 23, line 25, for the bracket and figure “(1)”, the figures and bracket “42.(1)” be substituted.
57. That at page 23, lines 29 and 30, for the words “and one general insurer”, the words “and one general or health insurer ” be substituted.
58. That at page 23, line 31, for the words “above referred to”, the words “referred to in the proviso to sub-section (1)” be substituted.
59. That at page 24, after line 23, the following be inserted, namely,-

“(5) The insurer shall be responsible for all the acts and omissions of its agents including violation of code of conduct specified under clause (h) of sub-section (3) and be liable to a penalty which may extend to one crore rupees.”

CLAUSE 53

BY SHRI ARUN JAITLEY:

60. That at page 24, for line 24, the following be substituted, namely:-

“53. For sections 42A, 42B and 42C of the Insurance Act, the following section shall be substituted, namely:-

Substitution
of new section
for sections
42A, 42B and
42C.

“42A. (1) No insurer shall, on or after the commencement of the Insurance Laws (Amendment) Act, 2014, appoint any principal agent, chief agent, and special agent and transact any insurance business in India through them.

Prohibition of
insurance
business
through
principal
agent, special
agent and
multilevel
marketing.

(2) No person shall allow or offer to allow, either directly or indirectly, as an inducement to any person to take out or renew or continue an insurance policy through multilevel marketing scheme.

(3) The Authority may through an officer authorised in this behalf, make a complaint to the appropriate police authorities relating to the entity or persons involved in the multilevel marketing scheme.

Explanation: For the purpose of this section “multilevel marketing scheme” means any scheme or programme or arrangement or plan (by whatever name called) for the purpose of soliciting and procuring insurance business through persons not authorised for the said purpose with or without consideration of whole or part of commission or remuneration earned through such solicitation and procurement and includes enrolment of persons into a multilevel chain for the said purpose either directly or indirectly.”

CLAUSE 54

BY SHRI ARUN JAITLEY:

61. That at page 24, for lines 31 to 34, the following be substituted, namely:-

“(iii) in sub-section (3),-

(a) after the words “directors or partners” insert “or one or more of its officers or other employees so designated by it and in the case of any other person, the chief executive by whatever name called, or one or more of his employees designated by him”.

(b) for the words, brackets, letters and figures “in clauses (b), (c), (d), (e) and (f) of sub-section (4) of section 42”, the words, brackets, letters and figures “in clauses (b), (c), (d), (e) and (g) of sub-section (3) of section 42” shall be substituted;

(iv) for sub-sections (8) and (9), the following sub-sections, shall be substituted, namely;-

“(8) Any person who acts as an intermediary or an insurance intermediary without being registered under this section to act as such, shall be liable to penalty which may extend to ten lakh rupees and any person who appoints as an intermediary or an insurance intermediary or any person not registered to act as such or transacts any insurance business in India through any such person, shall be liable to a penalty which may extend to one crore rupees.

(9) Where the person contravening sub-section (8) is a company or a firm, then, without prejudice to any other proceedings which may be taken against the company or firm, every director, manager, secretary or other officer of the company, and every partner of the firm who is knowingly a party to such contravention shall be punishable with penalty to the extent of ten lakh rupees.”.

CLAUSE 56

BY SHRI ARUN JAITLEY:

62. That at page 25, for lines 1 and 2, the following be substituted, namely:-

“(2) The record prepared by the insurer under sub-section (1), shall be maintained as long as the insurance agent is in service and for a period of five years after the cessation of appointment”.

CLAUSE 58

BY SHRI ARUN JAITLEY:

63. That at page 25, line 7, for the figures and alphabets “40B, 40C”, the figures, alphabets and word “40B and 40C” be substituted.

64. That at page 25, line 17, for the words “five years”, the words “three years” be substituted.

65. That at page 25, lines 20 and 21, for the words “five years”, the words “three years” be substituted.

66. That at page 25, line 24, for the word “will”, the word “shall” be substituted.

67. That at page 25, after line 45, the following proviso be inserted, namely, -

“Provided that in case of fraud, the onus of disproving lies upon the beneficiaries, in case the policyholder is not alive.”.

68. That at page 26, line 4, for the word “five”, the word “three” be substituted.

69. That at page 26, line 10, for the word “will”, the word “shall” be substituted.

CLAUSE 60

BY SHRI ARUN JAITLEY:

70. That at page 26, line 33, for the figure “2008”, the figure “2014” be substituted.

CLAUSE 61

BY SHRI ARUN JAITLEY:

71. That at page 26, line 41, for the words “the words”, the words “the words, brackets, letters and figures” be substituted.

72. That at page 26, line 43, for the words “the words”, the words “the words and figures” be substituted.

CLAUSE 63

BY SHRI ARUN JAITLEY:

73. That at page 27, line 21, *for* the word "Securities", the words "the Securities" be *substituted*.

CLAUSE 65

BY SHRI ARUN JAITLEY:

74. That at page 27, *for* lines 36 and 37, the following be *substituted*, namely:-
"65. In section 52E of the Insurance Act, for the words "Central Government", the word "Authority" shall be substituted".

CLAUSE 68

BY SHRI ARUN JAITLEY:

75. That at page 27, *for* line 44, the following be *substituted*, namely:-
"68. Sections 52H, 52I, 52J, 52K, 52L, 52M and 52N of the Insurance Act, 1938 shall be omitted".

CLAUSE 69

BY SHRI ARUN JAITLEY:

76. That at page 28, line 3, *for* the words and figure "the Companies Act, 1956", the words and figure "the Companies Act, 2013" be *substituted*. 18 of 2013.

CLAUSE 70

BY SHRI ARUN JAITLEY:

77. That at page 28, line 10, *for* the words and figure "the Companies Act, 1956", the words and figure "the Companies Act, 2013" be *substituted*. 18 of 2013.

CLAUSE 72

BY SHRI ARUN JAITLEY:

78. That at page 28, line 13, be *deleted*.

CLAUSE 75

BY SHRI ARUN JAITLEY:

79. That at page 28, line 23, *for* the figure "2008", the figure "2014" be *substituted*.

CLAUSE 84

BY SHRI ARUN JAITLEY:

80. That at page 30, *for* line 16, the following be *substituted*, namely:-
"84. Sections 64U, 64UA, 64UB, 64UC, 64UD, 64UE, 64UF, 64UG, 64UH, 64UI, 64UJ, 64UK and 64UL of the Insurance Act, 1938 shall be omitted."

CLAUSE 86

BY SHRI ARUN JAITLEY:

81. That at page 30, for lines 33 to 35, the following be substituted, namely:-

“64UM. (1) Save as otherwise provided in this section, no person shall act as a surveyor or loss assessor in respect of general insurance business from the commencement of the Insurance Laws (Amendment) Act, 2014, unless he -

Surveyors and
loss assessors.

(a) possesses such academic qualifications as may be specified by regulations made under this Act; and

(b) is a member of a professional body of surveyors and loss assessors, namely, the Indian Insurance Institute of Loss Assessors and Surveyors:

Provided that in the case of a firm or company, all the partners or directors or other persons, who may be called upon to make a survey or assess a loss reported, as the case may be, shall fulfil the requirements of clauses (a) and (b).

(2) Every surveyor and loss assessor shall comply with the code of conduct in respect of his duties, responsibilities and other professional requirements, as may be specified by the regulations made under the Act.

(3) Notwithstanding anything contained in the foregoing provisions, a class or class of persons acting as a licensed surveyor or loss assessor prior to the commencement of the Insurance Laws (Amendment) Act, 2014 shall continue to act as such for such period as may be specified by regulations made under this Act:

Provided that the surveyor or loss assessor shall, within the period as may be notified by the Authority, satisfy the requirements of clause (a) and clause (b) of sub-section (1), failing which, the surveyor or loss assessor shall be automatically disqualified to act as a surveyor or loss assessor.”

CLAUSE 94

BY SHRI ARUN JAITLEY:

82. That at page 33, lines 2 and 3, for the brackets, words, figures and alphabet “(2) of section 40A, sub-section (2) of section 41, sub-section (4) of section 42”, the brackets, words, figures and alphabets “(3) of section 40, sub-section (2) of section 41, sub-sections (4) and (5) of section 42, sub-sections (8) and (9) of section 42D, section 52F” be substituted.

CLAUSE 95

BY SHRI ARUN JAITLEY:

83. That at page 33, for lines 24 and 25, the following be substituted, namely:-

“95. In section 106A of the Insurance Act, in sub-section (2)-

(a) clauses (a), (b) and (f) shall be omitted;

(b) in clause (d), the words ‘or a provident society’ shall be omitted”.

CLAUSE 98

BY SHRI ARUN JAITLEY:

84. That at page 33, line 36, *for* the figure "2008", the figure "2014" be *substituted*.
85. That at page 34, line 1, *for* the word "Appeal", the words "appeal made" be *substituted*.

CLAUSE 101

BY SHRI ARUN JAITLEY:

86. That at page 34, line 28, *for* the figure and alphabets "110AA", the figure and alphabets "110HA" be *substituted*.

CLAUSE 104

BY SHRI ARUN JAITLEY:

87. That at page 35, *for* lines 9 to 15, the following be *substituted*, namely:-

"104. In section 114 of the Insurance Act,-

(a) in sub-section (2)-

(i) clause (aa), shall be omitted;

(ii) after clause (aa) as so omitted, the following clause shall be inserted, namely:-

"(aaa) the manner of ownership and control of Indian insurance company under sub-clause (b) of clause (7A) of section 2";

(iii) clause (c) and clause (f) shall be omitted;

(iv) after clause (1), the following clauses shall be inserted, namely:-

"(la) the manner of inquiry under sub-section (1) of section 105C;

(lb) the form in which an appeal may be preferred under sub-section (2) and the fee payable in respect of such appeal and the procedure for filing and disposing on an appeal under sub-section (6) of section 110;

(v) clause (w) shall be omitted;

(b) in sub-section (3), the words, brackets, figures and letters "or under sub-section (1) of section 64UB and every regulation made under sub-section (3) of section 64UB" shall be omitted."

CLAUSE 105

BY SHRI ARUN JAITLEY:

88. That at page 35, *after* line 25, the following be *inserted*, namely,-

"(daa) determination of preliminary expenses that may be excluded for calculation of the stipulated paid-up equity capital for the insurers under sub-section (1) of section 6."

89. That at page 35, *after* line 27, the following be *inserted*, namely:-

"(iiia) clause (e) shall be omitted".

90. That at page 35, for lines 32 and 33, the following be substituted, namely:-
“(v) in clause (f), for the words, brackets, figures and letters “under sub-section (1A) of section 11”, the words, brackets and figures “under sub-section (1) of section 11” shall be substituted;”.
91. That at page 35, after line 37, the following be inserted, namely,-
“(via) after clause (g), the following clause shall be inserted, namely:-
(ga) maintenance of records of policies and claims under clause (c) of sub-section (1) of section 14;
(gb) manner and form of issuance of policies in electronic form under sub-section (2) of section 14.”.
92. That at page 36, lines 28 and 29, be deleted.
93. That at page 36, lines 33 and 34, for the words, figures and alphabets “section 40B and 40C”, the words, figures and alphabets “sections 40B, 40C and 40D” be substituted.
94. That at page 36, line 39, after the word and figure “section 42”, the words, bracket and figures “and code of conduct for agents under sub-section (5) of section 42” be inserted.
95. That at page 37, after line 2, the following be inserted, namely,-
“(xviiiia) for clause (x), the following clauses shall be substituted, namely:-
(x) academic qualifications and code of conduct for surveyors and loss assessors under sub-sections (1) and (2) of section 64UM;
(xa) the period for which a person may act as a surveyor or loss assessor under sub-section (3) of section 64UM;

CLAUSE 107

BY SHRI ARUN JAITLEY:

96. That at page 37, after line 29, the following proviso be inserted, namely,-
“Provided that the shareholding of the Central Government shall not be less than fifty one per cent. at any time.”.

CLAUSE 109

BY SHRI ARUN JAITLEY:

97. That at page 37, lines 38 and 39, for the words “insurance agents”, the words “corporate agents” be substituted.

New Delhi;
July 30, 2014.

SHUMSHER K. SHERIFF,
SECRETARY-GENERAL.