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PART V

Acts of the Indian Legislature assented to by the Governor-General

GOVERNMENT OF INDIA
LEGISLATIVE DEPARTMENT

The following Act of the Indian Legislature received the assent of the Governor-General on the 27th February 1944, and is hereby promulgated for general information:—

ACT NO. II OF 1944

An Act further to amend the Coffee Market Expansion Act, 1942

WHEREAS it is expedient further to amend the Coffee Market Expansion Act, 1942 (VII of 1942), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. Short title—This Act may be called the Coffee Market Expansion (Amendment) Act, 1944.

2. Amendment of section 3, Act VII of 1942—In section 3 of the Coffee Market Expansion Act, 1942 (VII of 1942) (hereinafter referred to as the said Act), after clause (e) the following clause shall be inserted, namely:—
“(ee) “dealer” means a person carrying on the business of selling coffee, whether wholesale or by retail;”.

3. Amendment of section 36, Act VII of 1942—In sub-section (1) of section 36 of the said Act, after the words “any licensed curer” the words “or dealer” shall be inserted.

4. Amendment of section 40, Act VII of 1942—In sub-section (2) of section 40 of the said Act, after the words “Provincial Government” the following shall be inserted, namely:—

“or of the offence specified in sub-section (2) of section 16 except on complaint made by an officer authorised in this behalf either by the Provincial Government or by the Board”.

G. H. SPENCE
Secretary

The following Acts of the Indian Legislature received the assent of the Governor-General on the 7th March 1944 and are hereby promulgated for general information:—

ACT NO. III OF 1944

An Act further to amend the Coal Mines Safety (Stowing) Act, 1939

WHEREAS it is expedient further to amend the Coal Mines Safety (Stowing) Act, 1939 (XIX of 1939), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. Short title—This Act may be called the Coal Mines Safety (Stowing) Amendment Act, 1944.

2. Amendment of section 8, Act XIX of 1939—In sub-section (1) of section 8 of the Coal Mines Safety (Stowing) Act, 1939 (XIX of 1939) (hereinafter referred to as the said Act), in clause (iii), for the words “operations other than stowing” the words “stowing and other operations” shall be substituted.

3. Amendment of section 10, Act XIX of 1939—To section 10 of the said Act the following proviso shall be added, namely:—

“Provided that the power conferred by the proviso to sub-section (6) of the said section 10 to suspend the operation of a requisition under sub-section (1) of that section shall include a power similarly to suspend the operation of an order made under sub-section (3) of section 9 of this Act”.

4. Insertion of new section 10A in Act XIX of 1939—After section 10 of the said Act the following section shall be inserted, namely:—

“10A. Powers of Board in executing operations—(1) If in the opinion of the Board it is necessary or desirable that any protective measures, including stowing, required in furtherance of the object of this Act, should be undertaken directly by the Board, the Board may execute or cause to be executed such measures under its own supervision.

(2) For the purposes of this section the Board shall have the right for itself and all persons employed in the execution of any work undertaken under this section to enter upon any property in which the work is to be done and

to do therein all things necessary for the execution of the work.

(3) No person shall obstruct or interfere with the execution of any work undertaken under this section, and no person shall remove or tamper with any plant or machinery or any stowing or other material used in the execution of such work.

(4) Whoever contravenes the provisions of sub-section (3) shall be punishable with imprisonment for a term which may extend to six months or with fine or with both”.

ACT NO. IV OF 1944

An Act further to amend the Indian Companies Act, 1913

WHEREAS it is expedient further to amend the Indian Companies Act, 1913 (VII of 1913), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. Short title and commencement—(1) This Act may be called the Indian Companies (Amendment) Act, 1944.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette appoint.

2. Insertion of new section after section 277H, Act VII of 1913—After section 277H of the Indian Companies Act, 1913 (VII of 1913) (hereinafter referred to as the said Act), the following section shall be inserted, namely:—

“277HH—*Prohibition of employment of managing agents and restrictions on certain forms of employment*—No banking company, whether incorporated in or outside British India, which carries on business in British India shall, after the expiry of two years from the commencement of the Indian Companies (Amendment) Act, 1944, employ or be managed by a managing agent, or any person whose remuneration or part of whose remuneration takes the form of commission or a share in the profits of the company, or any person having a contract with the company for its management for a period exceeding five years at any one time:

Provided that the period of five years shall, for the purposes of this section, be computed from the date on which this section comes into force:

Provided further that any such contract may be renewed or extended for a further period not exceeding five years at a time if and so often as the directors think fit”.

3. Substitution of new section for section 277I, Act VII of 1913—For section 277I of the said Act the following section shall be substituted, namely:—

“277I. *Restrictions on commencement of business and conditions for carrying on business by banking company*—(1) Notwithstanding anything contained in section 103, no banking company incorporated under this Act on or after the 15th day of January 1937, shall commence business unless shares have been allotted to an amount sufficient to yield a sum of at least fifty thousand rupees as working capital, and unless a declaration duly verified by an affidavit signed by the directors and the manager that such a sum has been received by way of paid up capital has been filed with the registrar.

(2) No banking company, whether incorporated in or outside British India, if incorporated on or after the 15th day of January 1937, shall, after the expiry of two years from the commencement of the Indian Companies (Amendment) Act, 1944, carry on business in British India unless it satisfies the following conditions, namely:—

(a) that the subscribed capital of the company is not less than half the authorised capital, and the paid up capital is not less than half the subscribed capital, and

(b) that the capital of the company consists of ordinary shares only, or ordinary shares and such preference shares as may have been issued before the commencement of the Indian Companies (Amendment) Act, 1944, only, and

(c) that the voting rights of all shareholders are strictly proportionate to the contribution made by the shareholder, whether a preference shareholder or an ordinary shareholder, to the paid up capital of the company”.

4. Amendment of section 277L, Act VII of 1913—In sub-section (4) of section 277L of the said Act; after the word, figures and letter "section 277H", the words, figures and letters "section 277HH. section 277I" shall be inserted.

ACT NO. V OF 1944

An Act further to amend the Indian Aircraft Act, 1934

WHEREAS it is expedient further to amend the Indian Aircraft Act, 1934 (XXII of 1934), for the purpose hereinafter appearing;

It is hereby enacted as follows:—

1. Short title—This Act may be called the Indian Aircraft (Amendment) Act, 1944.

2. Amendment of section 5, Act XXII of 1934—In sub-section (2) of section 5 of the Indian Aircraft Act, 1934 (XXII of 1934), after clause (a) the following clauses shall be inserted, namely:—

"(aa) the regulation of air transport services, and the prohibition of the use of aircraft in such services except under the authority of and in accordance with a licence authorising the establishment of the service;

(ab) the information to be furnished by an applicant for, or the holder of, a licence authorising the establishment of an air transport service to such authorities as may be specified in the rules;";

3. Further amendment of section 5, Act XXII of 1934—After sub-section (2) of section 5 of the Indian Aircraft Act, 1934 (XXII of 1934), the following sub-section shall be added, namely:—

"(8) *Rules to be laid before both Chambers*—Every rule made under this section shall be laid as soon as may be after it is made before each of the Chambers of the Central Legislature, while it is in session for a total period of one month which may be comprised in one session or in two or more sessions, and if before the expiry of that period, or where the period for which the rule is so laid, before one Chamber does not coincide with that for which it is so laid before the other, before the expiry of the later of these periods, both Chambers agree in making any modification in the rule or both Chambers 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."

ACT NO. VI OF 1944

WHEREAS it is expedient further to amend the Transfer of Property Act, 1882 (IV of 1882), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. Short title—This Act may be called the Transfer of Property (Amendment) Act, 1944.

2. Insertion of new section 130 A in Act IV of 1882—After section 130 of the Transfer of Property Act, 1882 (IV of 1882) (hereinafter referred to as the said Act), the following section shall be inserted, namely:—

"130A. *Transfer of policy of marine insurance*—(1) A policy of marine insurance may be transferred by assignment unless it contains terms expressly prohibiting assignment, and may be assigned either before or after loss.

(2) A policy of marine insurance may be assigned by endorsement thereon or in any other customary manner.

(3) Where the insured person has parted with or lost his interest in the subject-matter insured, and has not, before or at the time of so doing, expressly or impliedly agreed to assign the policy, any subsequent assignment of the policy is inoperative;

Provided that nothing in this sub-section affects the assignment of a policy after loss.

(4) Nothing in clause (e) of section 6 shall affect the provisions of this section."

3. Substitution of new section for section 135, Act IV of 1882—For section 135 of the said Act the following section shall be substituted, namely:—

"*Assignment of rights under policy of insurance against fire*—Every assignee, by endorsement or other writing, of a policy of insurance against fire, in which the property in the subject insured shall be absolutely vested at the date of the assignment, shall have transferred and vested in him all rights of suit as if the contract contained in the policy had been made with himself."

4. Insertion of new section 135A in Act IV of 1882—After section 135 of the said Act, as substituted by this Act, the following section shall be inserted, namely:—

"135A. *Assignment of rights under policy of marine insurance*—(1) Where a policy of marine insurance has been assigned so as to pass the beneficial interest therein, the assignee of the policy is entitled to sue thereon in his own name; and the defendant is entitled to make any

defence arising out of the contract which he would have been entitled to make if the action had been brought in the name of the person by or on behalf of whom the policy was effected.

(2) Where the insurer pays for a total loss, either of the whole, or, in the case of goods, of any apportionable part, of the subject-matter insured, he thereupon becomes entitled to take over the interest of the insured person in whatever may remain of the subject-matter so paid for, and he is thereby subrogated to all the rights and remedies of the insured person in and in respect of that subject-matter as from the time of the casualty causing the loss.

(3) Where the insurer pays for a partial loss, he acquires no title to the subject-matter insured, or such part of it as may remain, but he is thereupon subrogated to all rights and remedies of the insured person as from the time of the casualty causing the loss, in so far as the insured person has been indemnified by such payment for the loss.

(1) Nothing in clause (e) of section 6 shall affect the provisions of this section."

ACT NO. VII OF 1944

An Act further to amend the Insurance Act, 1938

WHEREAS it is expedient further to amend the Insurance Act, 1938 (IV of 1938), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. Short title—This Act may be called the Insurance (Amendment) Act, 1944.

2. Amendment of section 46, Act IV of 1938—To section 46 of the Insurance Act, 1938 (IV of 1938) (hereinafter referred to as the said Act), the following proviso shall be added, namely:—

"Provided that nothing in this section shall apply to a policy of marine insurance."

3. Amendment of section 43, Act IV of 1938—In section 43 of the said Act—

(a) in sub-section (2) before the words "be eligible for election as directors" the following shall be inserted, namely:—

"unless disqualified under sub-section (2A)";

(b) after sub-section (2) the following sub-section shall be inserted, namely:—

(2A) A person shall be ineligible for election as a director under sub-section (1) of any company, if he is a director, officer, employee, or legal or technical adviser of that company, or of any other insurer, or is an insurance agent or employer of insurance agents, and shall cease to be a director under sub-section (1) if after election he acquires any disqualification specified in this sub-section or no longer holds the qualifications required by sub-section (2):

Provided that nothing in this sub-section shall disqualify a person who is an elected director under sub-section (1) and is not otherwise disqualified under this sub-section, from being re-elected:

Provided further that any director holding office at the commencement of the Insurance (Amendment) Act, 1944, shall not become ineligible to remain a director by virtue of this sub-section until the expiry of six months from the commencement of that Act."

4. Amendment of Third Schedule, Act IV of 1938—In the Third Schedule to the said Act—

(a) in Part I, in Regulation 2, after the words "appropriate for fire insurance" the words "and for marine insurance" shall be inserted, and the sentence "Form E is, as set out in Part II of this Schedule, appropriate for marine insurance business" shall be omitted;

(b) in Part II, Form E shall be omitted, and in Form F, for the words "and to" in the heading the words "Marine Insurance Business and" shall be substituted, and for the entry "United Kingdom, Foreign and Dominion Taxes" in the first column the entry "United Kingdom, British Indian, Dominion and Foreign Taxes" shall be substituted.

5. Transitory provision—An insurer preparing in compliance with section 11 or section 16 of the Insurance Act, 1938 (IV of 1938), a revenue account in respect of marine insurance with reference to any year ending on any date before the 1st day of January 1945, may prepare it in accordance with the Third Schedule to that Act either as it stood before or as it stands after its amendment by this Act.

G. H. SPENCE
Secretary to the Govt. of India