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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 28th March, 1939, and is hereby promulgated for general information:—

ACT NO. IX OF 1939.

An Act to establish standards of weight throughout British India.

WHEREAS it is expedient to establish standards of weight throughout British India;

It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Standards of Weight Act, 1939.

(*2*) It extends to the whole of British India.

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

Unit for weight.

2. (*1*) The unit for weight shall be the standard grain, that is to say, that weight which when multiplied by 1799·84585 is the weight *in vacuo* of the iridio-platinum cylinder in the custody of the Mint Master, Bombay, certified by the standards Department of the British Board of Trade as having a weight of 1799·84585 grains *in vacuo*.

(*2*) The standard grain shall be the only unit from which all other standard weights shall be ascertained.

Standard weights.

3. (*1*) There shall be the following standard weights, namely:—

(*a*) the standard tola, being a weight of 180 standard grains;

(*b*) the standard seer, being a weight of 80 standard tolas or 14,400 standard grains;

(*c*) the standard maund, being a weight of 40 standard seers;

(*d*) the standard pound, being a weight of 7,000 standard grains;

(*e*) the standard ounce, being one-sixteenth part of the weight of a standard pound;

(f) the standard hundredweight, being a weight of 112 standard pounds;

(g) the standard ton, being a weight of 2,240 standard pounds.

(2) No weight other than the weights set forth in sub-section (1) and integral multiples or sub-multiples of any such weight shall be used as a standard weight.

Sets of standard weights.

4. (1) The Central Government shall cause to be prepared one set of such of the standard weights specified in sub-section (1) of section 3 or multiples or sub-multiples thereof as the Central Government may consider expedient, and shall cause each weight of such set to be authenticated as having been ascertained from the standard grain, and shall deposit to set in such custody as the Central Government may think fit.

(2) The Central Government shall cause similar sets of weights, similarly authenticated, to be prepared, and shall supply one set to each Provincial Government.

(3) The Central Government shall cause similar sets of weights, similarly authenticated, to be prepared and shall supply one set to the Government of any Indian State or foreign settlement situated in India which applies for it and pays the price fixed by the Central Government.

Rules.

5. (1) The Central Government may, by notification in the official Gazette, make rules for carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, rules made under this section may regulate—

(a) the preparation of the sets of standard weights referred to in section 4;

(b) the custody of the set of such weights which is to be maintained by the Central Government and the periodical verfication and adjustment thereof;

(c) the periodical verification and adjustment of the sets of standard weights supplied to Provincial and other Governments.

Repeal.

6. The Indian Weights and Measures of Capacity Act, 1871, in so far as it relates to the establishment of standards of weight, is hereby repealed. XXXI of 1871.

G. H. SPENCE,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 28th March, 1939, and is hereby promulgated for general information:—

ACT No. X OF 1939.

An Act further to amend the Indian Merchant Shipping Act, 1923, for a certain purpose.

WHEREAS it is expedient to implement fully the provisions of Article 100 (relating to accommodation on pilgrim ships) of the International Sanitary Convention signed at Paris on the 21st day of June, 1926, and in furtherance of that purpose further to amend sections 149 and 193 of the Indian Merchant Shipping Act, 1923, in the manner hereinafter appearing; XXI of 1923.

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Indian Merchant Shipping (Second Amendment) Act, 1939.

Amendment of section 149 of Act XXI of 1923.

2. In clause (3) of section 149 of the Indian Merchant Shipping Act, 1923 (hereinafter referred to as the said Act)—

(a) after the words "means a Muhammadan passenger" the words "irrespective of age" shall be inserted, and

(b) the words commencing "but it does not include" and ending "shall be reckoned as one pilgrim" shall be omitted.

Amendment of section 193.

3. In the provisos to sub-sections (2) and (3) of section 193 of the said Act the words "of the age of twelve years or upwards" shall be omitted.

G. H. SPENCE,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 28th March, 1939, and is hereby promulgated for general information:—

ACT NO. XI OF 1939.

An Act to amend the Insurance Act, 1938.

WHEREAS it is expedient to amend the Insurance Act, 1938, for the purposes hereinafter appearing;

IV of 1938.

It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Insurance (Amendment) Act, 1939.

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

Amendment of section 2, Act IV of 1938.

2. In section 2 of the Insurance Act, 1938 (hereinafter referred to as the said Act),—

(*a*) to sub-clause (*a*) of clause (*9*) the following shall be added, namely:—

"or

(*iii*) with the object of obtaining insurance business, employs a representative, or maintains a place of business, in British India;";

(*b*) in clause (*11*) after the word "double" the words "or triple" shall be inserted.

Insertion of new sections 2A and 2B.

2A. In Part II of the said Act, after the heading "PROVISIONS APPLICABLE TO INSURERS" the following sections shall be inserted, namely:—

Insurers to be subject to this Act while liabilities remain unsatisfied.

"2A. Every insurer shall be subject to all the provisions of this Act in relation to any class of insurance business so long as his liabilities in British India in respect of business of that class remain unsatisfied or not otherwise provided for.

This Act not to apply to certain insurers ceasing to enter into new contracts before commencement of Act.

2B. The provisions of this Act shall not apply to an insurer as defined in paragraph (*i*) or (*iii*) of sub-clause (*a*) of clause (*9*) of section 2 in relation to any class of his insurance business where such insurer has ceased, before the commencement of this Act, to enter into any new contracts of that class of business."

Amendment of section 7.

3. In section 7 of the said Act,—

(*a*) in clause (*j*) of sub-section (*1*), after the words "or its cargo" the words "and no other type of marine insurance" shall be inserted;

(*b*) in sub-section (*2*), for the word "transacted" the words "carried on" shall be substituted;

(*c*) in sub-section (*3*) and in the proviso thereto, for the words and figures "the 1st day of January, 1939," the words "the expiry of four months from the commencement of this Act" shall be substituted;

(*d*) in sub-section (*4*), after the words "in the case of an insurer" the words "to whom that sub-section applies," shall be inserted.

Amendment of section 8.

4. In sub-section (*1*) of section 8 of the said Act, after the word and figure "section 7" the words and figures "or section 98" shall be insertd.

Amendment of section 9.

5. In section 9 of the said Act, after the word and figure "section 7" the words and figure" or section 98" shall be inserted.

6.

Amendment of section 16.

7. In sub-section (*2*) of section 16 of the said Act,—

(*a*) for the words "four copies" the words "four certified copies" shall be substituted;

(*b*) in clause (*a*), after the words "a statement" the words "audited by a person duly qualified under the law of the insurer's country" shall be inserted;

(*c*) in clause (*b*), after the words "applicable to that class of business" the words "and similarly audited," shall be inserted.

Amendment of section 17.

8. In section 17 of the said Act,—

(a) after the words and figure "incorporated under the Indian Companies Act, 1913," the words and figures" or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby," shall be inserted;

(b) for the words "his accounts and balance-sheet" the words "his balance-sheet and accounts" shall be substituted;

(c) for the words "a copy of such accounts and balance-sheet" the words "copies of such balance-sheet and accounts" shall be substituted;

(d) for the words "where such copy is so sent" the words "where such copies are so sent" shall be substituted;

(e) for the words "to file a balance-sheet" the words "to file copies of the balance-sheet and accounts" shall be substituted;

(f) for the words "the copy of the accounts and balance-sheet so sent" the words "such copies so sent shall be substituted.

Insertion of new section 17A.

9. After section 17 of the said Act the following section shall be inserted, namely:—

This Act not to apply to preparation of accounts, etc., for periods prior to this Act coming into force.

"17A. Nothing in this Act shall apply to the preparation of accounts by an insurer and the audit and submission thereof in respect of any accounting year which has expired prior to the commencement of this Act, and notwithstanding the other provisions of this Act, such accounts shall be prepared, audited and submitted in accordance with the law in force immediately before the commencement of this Act."

Amendment of section 27.

10. In sub-section (1) and sub-section (2) of section 27 of the said Act,—

(i) after the word and figure "section 7" the words and figure "or section 98" shall be inserted;

(ii) after the words "loans granted by him on policies of life insurance" the words "maturing for payment in India and within their surrender values" shall be inserted.

Amendment of section 28.

11. In sub-section (1) of section 28 of the said Act,—

(a) for the word "fourteen", in both places where it occurs, the word "thirty-one" shall be substituted;

(b) for the words "the principal officer" the words "a principal officer" shall be substituted.

Amendment of section 31.

12. In section 31 of the said Act,—

(a) after the word and figure "section 7" the words and figure "or section 98" shall be inserted;

(b) after the words "be kept otherwise than" the words "in the name of a public officer approved by the Central Government, or" shall be inserted.

Amendment of section 35.

13. In sub-section (4) of section 35 of the said Act, for the words and figures "and for the payment of the first instalment of the deposit under sections 3 and 7" the words and figures "under section 3 and for the payment of the instalments of the deposit under section 7 or section 98" shall be substituted.

Amendment of section 38.

14. In section 38 of the said Act,—

(a) in sub-section (2),—

(i) after the words "instrument duly attested but" the words "except where the transfer or assignment is in favour of the insurer" shall be inserted;

(ii) after the words "notice in writing of the transfer or assignment" the words "together with either the said endorsement or instrument itself or a copy thereof certified to be correct by both transferor and transferee or their duly authorised agents" shall be inserted;

(iii) the words "at his principal place of business in British India by or on behalf of the transferor or transferee" shall be omitted;

(iv) at the end of the following proviso shall be added:—

"Provided that where the insurer maintains one or more places of business in British India, such notice shall be delivered only at the place in British India mentioned in the policy for the purpose or at his principal place of business in British India.";

(b) in sub-section (5), for the words, figure and brackets "From the date of the receipt of the notice referred to in sub-section (2), the insurer shall" the words, figure and brackets "Subject to the terms and conditions of the transfer or assignment, the insurer shall, from the date of the receipt of the notice referred to in sub-section (2)," shall be substituted;

(c) for sub-section (6) the following sub-section shall be substituted, namely:—

"(6) Any rights and remedies of an assignee or transferee of a policy of life insurance under an assignment or transfer effected prior to the commencement of this Act shall not be affected by the provisions of this section.";

(d) in sub-section (7), for the words "life of the policy-holder" the words "lifetime of the person whose life is insured" shall be substituted.

Amendment of section 39. **15.** In section 39 of the said Act,—

(a) in sub-section (1), after the words "The holder of a policy of life insurance" the words "on his own life, not being an absolute assignee of the benefits under the policy," shall be inserted;

(b) to sub-section (2) the following shall be added, namely:—

"but unless notice in writing of any such cancellation or change has been delivered to the insurer, the insurer shall not be liable for any payment under the policy made *bona fide* by him to a nominee mentioned in the text of the policy or registered in records of the insurer.";

(c) for sub-section (3) the following sub-section shall be substituted, namely:—

"(3) The insurer shall furnish to the policy-holder a written acknowledgment of having registered a nomination or a cancellation or change thereof, and may charge a fee not exceeding one rupee for registering such cancellation or change.";

(d) in sub-section (5), for the words "lifetime of the policy-holder," the words "lifetime of the person whose life is insured" shall be substituted;

(e) in sub-section (6), for the word "policy-holder" the words "person whose life is insured" shall be substituted.

Amendment of section 40. **16.** In section 40 of the said Act,—

(a) in sub-section (1), the word "licensed", in both places where it occurs, and the words and figure "under section 42" shall be omitted;

(b) in sub-section (2), the words and figure "licensed under section 42" shall be omitted;

(c) in sub-section (3), for the words "an insurance agent" the words "any person, whether an insurance agent within the meaning of this Act or not," shall be substituted.

17.

Amendment of section 47. **18.** In section 47 of the said Act,—

(a) in sub-section (1), after the words "from the date of the maturing of the policy" the words "or, where the circumstances are such that the insurer cannot be immediately aware of such maturing, from the date on which notice of such maturing is given to the insurer," shall be inserted;

(b) in sub-section (4), for the words "from the death of the insured, or the maturing of the policy by survival" the words "from the maturing of the policy by survival, or from the date of receipt of notice by the insurer of the death of the insured, as the case may be," shall be substituted.

Amendment of section 48. **19.** In section 48 of the said Act,—

(a) in sub-section (1), after the words and figure "incorporated under the Indian Companies Act, 1913," the words and figures "or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby," shall be inserted;

(b) for sub-section (2) the following sub-section shall be substituted, namely:—

"(2) This section shall not take effect, in respect of any company in existence at the commencement of this Act, until the expiry of one year therefrom, and in respect of any company incorporated after the commencement of this Act, until the expiry of two years from the date of registration to carry on life insurance business."

Amendment of section 50.

20. In section 50 of the said Act, for the words "within three months of the lapsing of a policy of life insurance," the words "before the expiry of three months from the date on which the premiums in respect of a policy of life insurance were payable but not paid," shall be substituted.

Amendment of section 53.

21. In sub-clause (*i*) of clause (*b*) of sub-section (*2*) of section 53 of the said Act, after the word and figure "section 7" the words and figure "or section 98" shall be inserted.

Amendment of section 59.

22. In section 59 of the said Act, for the words and figure "deposit made by the company under section 7" the words and figures "deposit made by the company or the insurer, as the case may be, under section 7 or section 98" shall be substituted.

Amendment of section 63.

23. In section 63 of the said Act, for the word "agent" the word "representative" shall be substituted.

Amendment of section 65.

24. In section 65 of the said Act, for the word "incorporate" the word "unincorporate" shall be substituted.

Amendment of section 73.

25. In sub-section (*1*) of section 73 of the said Act,—

(*a*) for the words "make each year" the words "make in each calendar year" shall be substituted;

(*b*) for the words "income for the year" the words "income for the preceding calendar year" shall be substituted.

Amendment of section 80.

26. In sub-section (*3*) of section 80 of the said Act, after the words "this section" the words and figure "and section 73" shall be inserted.

Amendment of section 82.

27. In sub-section (*3*) of section 82 of the said Act, after the words and figure "incorporated under the Indian Companies Act, 1913," the words and figures "or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby," shall be inserted.

Amendment of section 85.

28. To sub-section (*2*) of section 85 of the said Act the words "or in the name of a public officer approved by the Central Government" shall be added.

Amendment of section 95.

29. In clause (*a*) of sub-section (*1*) of section 95 of the said Act, for the words and figure "incorporated under the provisions of the Indian Companies Act, 1913," the words and figures "incorporated under the Indian Companies Act, 1913, or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby," shall be substituted.

Amendment of section 98.

30. In sub-section (*2*) of section 98 of the said Act, for the word "year", in both places where it occurs, the words "calendar year" shall be substituted.

Amendment of section 103.

31. In sub-section (*1*) of section 103 of the said Act, for the words "in relation to any such class of insurance business" the words "in relation to any insurance business transacted in contravention of any of the said sections" shall be substituted.

Amendment of section 114.

32. In clause (*l*) of sub-section (*2*) of section 114 of the said Act, after the figure and brackets "(*5*)," the figure and brackets "(*6*)," shall be inserted.

Amendment of section 116.

33. In section 116 of the said Act, for the word and figure "section 6" the words and figures "section 7 or section 98" shall be substituted.

Repeal of section 122 of Act IV of 1938 and saving of article 86 in First Schedule to Act IX of 1908.

34. Section 122 of the said Act, is hereby repealed, and article 86 in the First Schedule to the Indian Limitation Act, 1908, shall have effect as if the said section had never been enacted.

Amendment of First Schedule to Act IV of 1938.

35. In Part II of the First Schedule to the said Act, in the heading to Form AA, for the words "Indian Assets" the words "Assets in India" shall be substituted.

Amendment of Third Schedule.

36. In Part II of the Third Schedule to the said Act,—

(*a*) in Form D,—

(*i*) for the entry in the first column "Commission (less that on Re-insurances)" the entry "Commission to insurance agents (less that on Re-insurances)" shall be substituted;

(*ii*) for the entry in the first column "1. Commission and allowances" the entry "1. Allowances and Commission (other than commission to insurance agents)" shall be substituted;

(*iii*) in note (*e*) the word "British" shall be omitted;

(*b*) in the fourth column of Form DD, after the word "immediate" the words "or deferred" shall be inserted;

(*c*) to Form DDD the following notes shall be added, namely :—

"A seperate statement must be given in respect of each class of life insurance business for which a separate revenue account is submitted.

Insurers having their principal place of business in British India shall give the information required in the form separately for business transacted in India and business transacted outside India and insurers having their principal place of business outside British India will furnish information regarding business transacted in India only.";

(*d*) in Form DDDD,—

(*i*) the word "financial", in the three places where it occurs, shall be omitted;

(*ii*) for the word "revived" the word "revived" shall be substituted;

(*e*) in note (*c*), note (*d*) and the note denoted by an asterisk in Form E, the word "British", wherever it occurs, shall be omitted;

(*f*) in note (*d*), note (*e*) and the note denoted by an asterisk in Form F, the word "British", wherever it occurs, shall be omitted.

Amendment of Fourth Schedule.

37. In Part I of the Fourth Schedule to the said Act,—

(*a*) in regulation 2, for the word and figure "paragraph 3" the word and figure "paragraph 4" shall be substituted;

(*b*) in regulation 3, for the word and figure "paragraph 4", in the three places where they occur, the word and figure "paragraph 5" shall be substituted;

(*c*) the proviso to regulation 4—

(*i*) for the words "an insurance company" the words "an insurer" shall be substituted;

(*ii*) for the words "the company", in both places where they occur, the words "the insurer" shall be substituted.

G. H. SPENCE,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 28th March, 1939, and is hereby promulgated for general information :—

ACT No. XII OF 1939.

An Act further to amend the law relating to the protection of Inventions and Designs.

WHEREAS it is expedient further to amend the law relating to the protection of Inventions and Designs; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Patents and Designs (Amendment) Act, 1939.

Amendment of section 2, Act II of 1911.

II of 1911.

2. For clause (7) of section 2 of the Indian Patents and Designs Act, 1911 (hereinafter referred to as the said Act), the following clause shall be substituted, namely :—

'(7) "High Court" means a High Court as defined in sub-section (1) of section 219 of the Government of India Act, 1935.'

26 Geo. v, ch. 2.

Amendment of section 5, Act II of 1911.

3. In section 5 of the said Act,—

(a) in sub-section (1),—

(i) for the words "examine every application, and if he considers" the words "refer every application to an Examiner and if satisfied on the report of the Examiner" shall be substituted ;

(ia) in clause (c), after the words "the title" the words "of the specification" shall be inserted ;

(ii) in clause (e), after the words "not a" the words "manner of" shall be inserted ;

(iii) for clause (f) the following clauses shall be substituted, namely :—

"(f) the specification relates to more than one invention, or

(g) in the case of an application claiming priority under section 78A, the specification describes and claims an invention substantially larger than or substantially different from the invention disclosed in the specification filed with the application made outside British India by virtue of which priority is claimed, or

(h) in the case of an application for a patent of addition under section 15 A, the invention described and claimed in the specification is not an improvement or modification of that described and claimed in the original specification," ;

(b) after sub-section (1) the following sub-section shall be inserted, namely :—

"(1A) If the Controller considers, at any time before the acceptance of an application, that the invention claimed therein has been wholly or in part claimed in a specification published on or after the date which the patent applied for would bear if granted, appertaining to an application for a patent which if granted will be of prior date to the patent applied for, he may require that the applicant's specification be amended by the insertion of a reference to such other specification by way of notice to the public." ;

(c) in sub-section (2), after the word "amendment" the words "or the insertion of a reference" shall be inserted ; and

(d) in sub-section (4),—

(i) for the words "become void" the words "be deemed to have been refused" shall be substituted ;

(ii) in the proviso the words "by any period not exceeding three months" shall be omitted ; and for the words "or revived. as the case may be, during, but not beyond the period of extension so requested" the words "for any period so requested not exceeding in all three months" from the expiration of the said period of twelve months" shall be substituted.

Amendment of section 10; Act II of 1911.

4. In clause (b) of the proviso to sub-section (2) of section 10 of the said Act, after the word "patent" where it occurs for the first time, the words "or by any proceedings taken for obtaining a direction of the Controller under the provisions of sub-section (1A)" shall be inserted.

Amendment of section 14, Act II of 1911.

5. In section 14 of the said Act,—

(a) in sub-section (*1B*), for the words "may determine" the words "may, on application made in this behalf, determine" shall be substituted;

(b) in the proviso to sub-section (*2*),—

(i) the words "by any period not exceeding three months" shall be omitted; and

(ii) for the words "during, but not beyond, the period of extension applied for" the words "for any period so applied for not exceeding in all three months from the expiration of the time for payment" shall be substituted.

Amendment of section 15, Act II of 1911.

6. In section 15 of the said Act, for sub-sections (*5*) and (*6*) the following sub-sections shall be substituted, namely:—

"(*5*) The Central Government or the High Court to which a petition is referred shall in considering the petition have regard to the nature and merits of the invention in relation to the public, to the profits made on the patent and to all the circumstances of the case.

(*6*) If it appears to the Central Government or to the High Court when the petition is referred to it, that the patent has not been sufficiently remunerative, the Central Government or the High Court, as the case may be, may by order extend the term of the patent for a further term not exceeding five or in exceptional cases ten years or may order the grant of a new patent for such term not exceeding ten years as may be specified in the order and subject to any restriction, conditions and provisions which the Central Government or the High Court, as the case may be, may think fit."

Amendment of section 26, Act II of 1911.

7. For sub-section (*1*) of section 26 of the said Act, the following sub-section shall be substituted, namely:—

"(*1*) Revocation of a patent in whole or in part may be obtained on petition to or on a counter claim in a suit for infringement before a High Court on all or any of the following grounds, namely:—

(a) that the invention has been the subject of a valid prior grant of a patent in British India;

(b) that the true and first inventor or his legal representative or assign was not the applicant or one of the applicants for the patent;

(c) that the patent was obtained in fraud of the rights of the person applying for the revocation or of any person under or through whom he claims;

(d) that the invention was not, at the date of the patent, a manner of new manufacture or improvement;

(e) that the invention does not involve any inventive step, having regard to what was known or used prior to the date of the patent;

(f) that the invention is of no utility;

(g) that the specification does not sufficiently and fairly describe and ascertain the nature of the invention and the manner in which the invention is to be performed;

(h) that the specification does not sufficiently and clearly ascertain the scope of the invention claimed;

(i) that the patent was obtained on a false suggestion or representation;

(j) that the primary or intended use or exercise of the invention is contrary to law;

(k) that the patentee has contravened, or has not complied with, the conditions contained in the patent;

(l) that the specification does not disclose the best method of performance of the invention known to the applicant for the patent at the time when the specification was left at the Patent Office;

(m) the prior to the date of the patent, the patentee or other persons (not being authorities administering any department of the service of His Majesty, or the agents or contractors of, or any other persons authorised in that behalf by, the Central Government) secretly worked the invention on a commercial scale (and not merely by way of reasonable trial or experiment) in British India, and thereby made direct or indirect profits in excess of such amount as the Court may in consideration of all the circumstances of the case deem reasonable :

Provided that this sub-section shall have effect in relation to the ground of revocation specified—

(*i*) in clause (*b*), subject to the provisions of section 78A, or

(*ii*) in clause (*d*), subject to the provisions of sub-section (*1*) of section 13, sub-section (*2*) of section 21, section 38 and section 40."

Amendment of section 29, Act II of 1911.

8. (*a*) To sub-section (*1*) of section 29 of the said Act, the following proviso shall be added, namely :—

"Provided that where a counter claim for revocation of the patent is made by the defendant, the suit, along with the counter claim, shall be transferred to the High Court for decision."

(*b*) In sub-section (*2*) of section 29 of the said Act, for the words "this Act" the word and figure "section 26" shall be substituted.

Substitution of new section for section 38, Act II of 1911.

9. For section 38 of the said Act the following section shall be substituted, namely :—

Public use or knowledge of invention.

"38. The public use or knowledge of an invention in British India before the date of the application for a patent thereon shall not invalidate the patent granted thereon if the knowledge has been obtained surreptitiously or in fraud of the true and first inventor or his legal representative or assign or has been communicated to the public in fraud of such inventor or his legal representative or assign or in breach of confidence :

Provided that such inventor or his legal representative or assign has not acquiesced in the public use of his invention, and that he applies for a patent within six months after the commencement of such use."

Substitution of new section for section 40, Act II of 1911.

10. For section 40 of the said Act the following section shall be substituted, namely :—

Provisions as to exhibitions and readings before learned societies.

"40. The exhibition of an invention at an industrial or other exhibition to which the provisions of this section have been extended by the Central Government by notification in the official Gazette, or the publication of any description of the invention during the period of the holding of the exhibition, or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention or the publication of any description thereof, during or after the period of the holding of the exhibition, by any person elsewhere without the privity or consent of the inventor or the reading of a paper by an inventor before a learned society, or the publication of that paper in the society's transactions shall not prejudice the right of the inventor to apply for and obtain a patent in respect of the invention, or the validity of any patent granted on the application :

Provided that—

(*a*) the exhibitor exhibiting the invention or the inventor reading the paper or authorising the publication thereof, as the case may be, gives to the Controller previous notice in the prescribed form ; and

(*b*) the application for a patent is made before or within six months from the date of first exhibiting the invention or of the reading of the paper, as the case may be, or when it has not been so read, of the said publication."

Amendment of section 47, Act II of 1911.

11. In sub-sections (*2*) and (*3*) of section 47 of the said Act, the words "within the prescribed time" shall be omitted.

Substitution of new section for section 52, Act II of 1911.

12. For section 52 of the said Act the following section shall be substituted, namely :—

Provisions as to exhibitions.

"52. The exhibition of a design, or of any article to which a design is applied, at an industrial or other exhibition to which the provisions of this section have been extended by the Central Government by notification in the official Gazette, or the publication of a description of the design, during the period of the holding of the exhibition, or the exhibition of the design or the article or the publication of a description of the design by any person elsewhere during or after the period of the holding of the exhibition, without the privity or consent of the proprietor, shall not prevent the design from being registered or invalidate the registration thereof:

Provided that—

(*a*) the exhibitor exhibiting the design or article, or publishing a description of the design, gives to the Controller previous notice in the prescribed form; and

(*b*) the application for registration is made within six months from the date of first exhibiting the design or article or publishing a description of the design."

Amendment of section 53, Act II of 1911.

13. In sub-section (*1*) of section 53 of the said Act,—

(*a*) after clause (*a*) the following clause shall be inserted, namely:—

"(*aa*) to import for the purposes of sale, without the consent of the registered proprietor, any article belonging to the class in which the design has been registered, and having applied to it the design or any fraudulent or obvious imitation thereof; or";

(*b*) in sub-clause (*b*), after the words "applied to any article" the words "in any class of goods in which the design is registered" shall be inserted:

Insertion of new section 59A in Act II of 1911.

14. After section 59 of the said Act the following section shall be inserted, namely:—

"59A. A person making a request to the Controller in the prescribed manner as respects any patent specified in the request or as respects any application for a patent so specified, for information to be furnished to him by the Controller of any such matters as may be prescribed affecting that patent or application, shall be entitled, subject to the payment of the prescribed fee, to have information supplied to him accordingly."

Information relating to patents.

Amendment of section 65, Act II of 1911.

15. In section 65 of the said Act, the word "and", in the first three places where it occurs, shall be omitted, and for the words "compelling the production of documents and awarding costs" the words "compelling the discovery and production of documents, issuing commissions for the examining of witnesses and awarding costs and such award shall be executable in any court having jurisdiction as if it were a decree of that court" shall be substituted.

Insertion of new section 70A in Act II of 1911.

16. After the heading "*Evidence, etc.*" and before section 71 of the said Act, the following section shall be inserted, namely:—

"70-A. Subject to any rules made under section 77, in any proceeding under this Act before the Controller, the evidence shall be given by affidavit, in the absence of directions by the Controller to the contrary; but in any case in which the Controller thinks it right so to do he may take evidence *viva voce* in lieu of or in addition to evidence by affidavit or may allow any party to be cross-examined on the contents of his affidavit."

Evidence before the Controller.

Insertion of new section 71A in Act II of 1911.

17. After section 71 of the said Act the following section shall be inserted, namely:—

"71A. Printed or written copies or extracts, purporting to be certified by the Controller and sealed with the seal of the Patent Office, of or from patents, specifications and other documents in the Patent Office, and of or from registers and other books kept there, shall be admitted in evidence in all Courts in British India, and in all proceedings, without further proof or production of the originals:

Evidence of documents in Patent Office.

Provided that a Court may, if it has reason to doubt the accuracy or authenticity of the copies tendered in evidence, require the production of the originals or such further proof as it considers necessary."

18. For section 72 of the said Act the following section shall be substituted, namely:—

Substitution of new section for section 72, Act I of 1911.

" 72. Copies of all such specifications, drawings and amendments left at the Patent Office, as become open to public inspection under the provisions of this Act, shall be transmitted, as soon as may be, after the printed copies thereof are available, to such authorities as the Central Government may appoint in this behalf, and shall be open to the inspection of any person at all reasonable times at places to be appointed by those authorities and approved by the Central Government."

Transmission of copies of specifications, etc., and inspection thereof.

19. In sub-section (1) of section 78A of the said Act,—

Amendment of section 78A, Act II of 1911.

(a) for the words and figures " apply such of the provisions of section 91 of the Patents and Designs Act, 1907, as relate to inventions or designs, to British India," the words, letter and figures " declare British India to be a convention country within the meaning of section 91A of the Patents and Designs Act, 1907," shall be substituted;

(b) for the words " shall be entitled to a patent for his invention or to registration of his design under this Act, in priority to other applicants; and the patent or registration shall have" the words " shall, either alone or jointly with any other person, be entitled to claim that the patent that may be granted to him under this Act, for the said invention or the registration of the said design under this Act, shall be in priority to other applicants and shall have" shall be substituted.

20. In the Schedule to the said Act, for the words " Before the expiration of ", where they occur in the penultimate entry, the words " In respect of " shall be substituted.

Amendment of Schedule, Act II of 1911.

21. In section 18 of the Indian Sea Customs Act, 1878, after clause (f) the following clause shall be inserted, namely:—

Amendment of section 18, Act VIII of 1878.

" (ff) goods made or produced beyond the limits of British India and intended for sale, and having applied thereto, a design in which copyright exists under the Indian Patents and Designs Act, 1911, in respect of the class to which the goods belong or any fraudulent or obvious imitation of such design except when the application of such design has been made with the licence or written consent of the registered proprietor of the design;".

G. H. SPENCE,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 28th March, 1939, and is hereby promulgated for general information :—

ACT NO. XIII OF 1939.

An Act further to amend the Workmen's Compensation Act, 1923, for a certain purpose.

WHEREAS doubts have been entertained whether a workman employed on wages payable otherwise than by the month or on a monthly basis may be a workman within the meaning of the Workmen's Compensation Act, 1923; VIII of 1923.

AND WHEREAS it is expedient to remove those doubts, and for that purpose further to amend section 5 of that Act in the manner hereinafter appearing;

It is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Workmen's Compensation (Amendment) Act, 1939.

(*2*) It shall come into force on the 1st day of May, 1939 :

Provided that section 2 shall be deemed to have taken effect from the 30th day of June, 1934.

Amendment of section 5 of Act VIII of 1923.

2. In section 5 of the Workmen's Compensation Act, 1923—

(*a*) for the words "For the purposes of this Act the monthly wages of a workman shall be calculated" the following shall be substituted, namely :—

'In this Act and for the purposes thereof the expression "monthly wages" means the amount of wages deemed to be payable for a month's service (whether the wages are payable by the month or by whatever other period or at piece rates), and calculated';

(*b*) in clause (*b*), the words "deemed to be" shall be omitted.

Restoration of proceedings.

3. Where in any proceedings under the Workmen's Compensation Act, 1923, VIII of 1923. concluded after the 1st day of July, 1934, any person has been found by a Court not to be a workman within the meaning of that Act only by reason of the fact that his wages were payable otherwise than by the month or on a monthly basis, such finding shall be void and of no effect; and the Court shall, notwithstanding anything to the contrary in the Indian Limitation Act, 1908 IX of 1908. or any other law for the time being in force, on application made within six months from the commencement of this Act by any person prejudicially affected by such finding, restore the proceedings at, and continue the proceedings from, the stage reached immediately before the order embodying or based on such finding was made.

G. H. SPENCE,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 28th March, 1939, and is hereby promulgated for general information :—

Act No. XIV of 1939.

An Act to amend the Cotton Ginning and Pressing Factories Act, 1925, for certain purposes.

Whereas it is expedient to amend the Cotton Ginning and Pressing Factories Act, XII of 1925. 1925, for the purposes hereinafter appearing;

It is hereby enacted as follows :—

Short title.

1. This Act may be called the Cotton Ginning and Pressing Factories (Amendment) Act, 1939.

Amendment of section 9 of Act XII of 1925.

2. In section 9 of the Cotton Ginning and Pressing Factories Act, 1925 (hereinafter referred to as the said Act)—

(*a*) after sub-section (*1*) the following sub-section shall be inserted, namely :—

"(*1A*) In any cotton ginning factory, whether erected before or after the commencement of this Act—

(*a*) no structural alterations or additions, the construction of which commenced after the 27th day of February, 1939, shall be made so as to minimise the degree of compliance of the factory as a whole with the requirements set forth in clauses (*a*) and (*b*) of sub-section (*1*), and

(*b*) every structural addition (whether actually attached to any existing structure in the factory or not), the construction of which commenced after the last-mentioned date, shall be constructed in accordance with plans and specifications approved by the prescribed authority :

Provided that nothing in this sub-section shall apply to any factory in which, after any alteration or addition has been made, only roller gins are used where the number of such gins is not more than four.";

(*b*) in clause (*a*) of sub-section (*4*), after the word, figure and brackets "sub-section (*1*)" the word, letter, figure and brackets "sub-section (*1A*)" shall be inserted.

Amendment of section 14.

3. (*1*) Section 14 of the said Act shall be renumbered as sub-section (*1*) of section 14, and in the said section as so renumbered—

(*a*) for the words and figure "in accordance with section 4" the words and figure "with the mark prescribed under section 4 for the factory in which they were pressed," shall be substituted;

(*b*) the proviso shall be omitted.

(*2*) To the said section as so renumbered the following sub-section shall be added, namely :—

"(*2*) Any bale marked in accordance with the provisions of section 4 shall, within the meaning of the Indian Evidence Act, 1872, be I of 1872. presumed for all purposes as between the parties to a contract for the purchase of baled cotton, to have been so marked before leaving the factory in which it was pressed."

G. H. SPENCE,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act, which has been assented to by the Governor General under the provisions of clause (*b*) of sub-section (1) of section 67B of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, and has been expressed to be made by the Governor General under the provisions of sub-section (2) of the same section, is hereby published for general information :—

An Act to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary the incidence and rate of excise duty on khandsari *sugar leviable under the Sugar (Excise Duty) Act, 1934, to vary certain duties leviable under the Indian Tariff Act, 1934, to fix maximum rates of postage under the Indian Post Office Act, 1898, and to fix rates of income-tax and super-tax.*

WHEREAS it is expedient to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary the incidence and rate of excise duty on *khandsari* sugar leviable under the Sugar (Excise Duty) Act, 1934, to vary the duty on raw cotton leviable under the Indian Tariff Act, 1934, to fix maximum rates of postage under the Indian Post Office Act, 1898 and to fix rates of income-tax and super-tax ;

XIV of 1934. XXXII of 1934. VI of 1898.

It is hereby enacted as follows :—

Short title and extent.

1. (*1*) This Act may be called the Indian Finance Act, 1939.

(*2*) It extends to the whole of British India.

Fixation of salt duty. XII of 1882.

2. The provisions of section 7 of the Indian Salt Act, 1882, shall, in so far as they enable the Central Government to impose by rule made under that section a duty on salt manufactured in, or imported into, any part of British India be construed as if, for the year beginning on the 1st day of April, 1939, they imposed such duty at the rate of one rupee and four annas per maund of eighty-two and two-sevenths pounds avoirdupois of salt manufactured in, or imported by land into, any such part, and such duty shall, for all the purposes of the said Act, be deemed to have been imposed by rule under that section.

Excise duty on *khandsari* sugar. XIV of 1934.

3. In the Sugar (Excise Duty) Act, 1934,—

(*a*) in clause (*a*) of section 2, the words "wherein, or within the precincts of which, twenty or more workers are working or were working on any day of the preceding twelve months, and" shall be omitted.

(*b*) in clause (*i*) of sub-section (*2*) of section 3, for the words "one rupee and five annas" the words "eight annas" shall be substituted.

Import duty on raw cotton. XXXII of 1934.

4. In the First Schedule to the Indian Tariff Act, 1934, in Item No. 46(3), for the words "six pies per lb." in the fourth column, the words "one anna per lb." shall be substituted.

Inland postage rates. VI of 1898.

5. For the year beginning on the 1st day of April, 1939, the Schedule contained in Schedule I to this Act shall be inserted in the Indian Post Office Act, 1898, as the First Schedule to that Act.

Income-tax and super-tax.

6. (*1*) Subject to the provisions of sub-section (*2*)—

(*a*) income-tax for the year beginning on the 1st day of April, 1939, shall be charged at the rates specified in Part I of Schedule II, and

(*b*) rates of super-tax for the year beginning on the 1st day of April, 1939, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be those specified in Part II of Schedule II. XI of 1922.

(*2*) In cases to which section 17 of the Indian Income-tax Act, 1922, applies, the tax chargeable shall be determined in accordance with the provisions of that section with reference to the rates specified in Schedule II. XI of 1922.

(*3*) For the purpose of this section and of Schedule II, the expression "total income" means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922. XI of 1922.

(*4*) Notwithstanding anything contained in sub-section (*1*) or sub-section (*2*), where more than half of the total income of any individual or Hindu undivided family consists of income from salaries, interest on securities or dividends in respect of which the individual or Hindu undivided family is deemed, under the provisions of section 49B of the Indian Income-tax Act, 1922, to have paid income-tax imposed in British India, or consists of income falling under more than one of those heads— XI of 1922.

(*a*) income-tax for the year beginning on the 1st day of April, 1939, shall be charged in respect of such total incomes at the rates of income-tax which were imposed for the year beginning on the 1st day of April, 1938, in respect of incomes of individuals or Hindu undivided families, and

(*b*) in cases in which super-tax has been deducted under the provisions of section 18 of the said Act or would have been so deductible had the Indian Income-tax (Amendment) Act, 1939, come into force on the 1st day of April, 1938, the rates of super-tax for the year beginning on the 1st day of April, 1939, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be the rates of super-tax which were imposed for the year beginning on the 1st day of April, 1938, in respect of incomes of individuals or Hindu undivided families, as the case may be.

VII of 1939. XI of 1922.

(5) In respect of income to which sub-section (*4*) applies, the provisions of section 17 of the Indian Income-tax Act, 1922, shall apply to the assessment to be made for the year beginning on the 1st day of April, 1939, as though the Indian Income-tax (Amendment) Act, 1939, had not been passed.

XI of 1922. VII of 1939.

SCHEDULE I.

Schedule to be inserted in the Indian Post Office Act, 1898.

[*See* section 5.]

"THE FIRST SCHEDULE.

INLAND POSTAGE RATES.

[*See* section 7.]

Letters.

For a weight not exceeding one tola	One anna.
For every tola, or fraction thereof, exceeding one tola	Half an anna.

Postcards.

Single	Nine pies.
Reply	One and a half annas.

Book, Pattern and Sample Packets.

For the first two and a half tolas or fraction thereof ...	Six pies,
For every additional two and a half tolas, or fraction thereof, in excess of two and a half tolas.	Three pies.

Registered Newspapers.

For a weight not exceeding ten tolas	Quarter of an anna.
For a weight exceeding ten tolas and not exceeding twenty tolas.	Half an anna.
For every twenty tolas, or fraction thereof, exceeding twenty tolas.	Half an anna.
In the case of more than one copy of the same issue of a registered newspaper being carried in the same packet—	
For a weight not exceeding ten tolas ...	Half an anna.
For every additional five tolas, or fraction thereof, in excess of ten tolas.	Quarter of an anna.

Provided that such packet shall not be delivered at any addressee's residence but shall be given to a recognised agent at the post office.

Parcels.

For a weight not exceeding forty tolas	Four annas.
For every forty tolas, or fraction thereof, exceeding forty tolas.	Four annas."

SCHEDULE II.

[*See* section 6.]

PART I.

RATES OF INCOME-TAX.

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons not being a case to which paragraph B of this Part applies—

	Rate.
1. On the first Rs. 1,500 of total income	*Nil.*
2. On the next Rs. 3,500 of total income	Nine pies in the rupee.
3. On the next Rs. 5,000 of total income	One anna and three pies in the rupee.
4. On the next Rs. 5,000 of total income	Two annas in the rupee.
5. On the balance of total income	Two annas and six pies in the rupee.

Provided that—

(*i*) no income-tax shall be payable on a total income which does not exceed Rs. 2,000;

(*ii*) the income-tax payable shall in no case exceed half the amount by which the total income exceeds Rs. 2,000.

B. In the case of every company and local authority, and in every case in which, under the provisions of the Indian Income-tax Act, 1922, income-tax is to be charged at the maximum rate—

	Rate.
On the whole of total income	Two annas and six pies in the rupee.

PART II.

RATES OF SUPER-TAX.

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which paragraph B of this Part applies—

	Rate.
1. On the first Rs. 25,000 of total income ...	Nil
2. On the next Rs. 10,000 of total income ...	One anna in the rupee.
3. On the next Rs. 20,000 of total income ...	Two annas in the rupee.
4. On the next Rs. 70,000 of total income ...	Three annas in the rupee.
5. On the next Rs. 75,000 of total income ...	Four annas in the rupee.
6. On the next Rs. 1,50,000 of total income ...	Five annas in the rupee.
7. On the next Rs. 1,50,000 of total income ...	Six annas in the rupee.
8. On the balance of total income	Seven annas in the rupee.

B. In the case of every company and local authority—

	Rate.
On the whole of total income	One anna in the rupee.

This Bill has been consented to by the Council of State.

M. B. DADABHOY,

President, Council of State.

The 28th March 1939.

I assent to this Bill.

LINLITHGOW,

Viceroy and Governor General.

The 30th March 1939.

This Act has been made by me as Governor General under the provisions of section 67B of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935.

LINLITHGOW,

Viceroy and Governor General.

The 30th March 1939.

WHEREAS I, Victor Alexander John, Marquess of Linlithgow, am of opinion that a state of emergency exists which justifies the direction by me that the Indian Finance Act, 1939, being an Act made by me under the provisions of section 67B of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, shall come into operation forthwith :

NOW, THEREFORE, in exercise of the power conferred by the proviso to sub-section (2) of that section, I do hereby direct accordingly.

LINLITHGOW,

Viceroy and Governor General.

The 30th March 1939.

G. H. SPENCE,

Secy. to the Govt. of India.

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