***MODULE - IV***

***THE INSURANCE ACT, 1938***

**SYNOPSIS -**

* *Definitions*
* *Section (1)*
* *Section (1A)*
* *Section 2B Appointment of Controller of Insurance.*
* *Section 2C Prohibition of transaction of insurance business by certain persons.*

**Definitions — In this Act, unless there is anything repugnant in the subject or context, —**

***Section*** **(1)** “actuary” means an actuary as defined in clause (a) of sub-section (1) of section 2 of the Actuaries Act, 2006 (35 of 2006);

***Section*** **(1A)** “Authority” means the Insurance Regulatory and Development Authority of India established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);

**(2)** “policy-holder” includes a person to whom the whole of the interest of the policy-holder in the policy is assigned once and for all, but does not include an assignee thereof whose interest in the policy is defeasible or is for the time being subject to any condition ;

**(3)** “approved securities” means—

(i) Government securities and other securities charged on the revenues of the Central Government or of the Government of a State or guaranteed fully as regards principal and interest by the Central Government, or the Government of any State ;

(5B) “Controller of Insurance” means the officer appointed by the Central Government under section 2B to exercise all the powers, discharge the functions and perform the duties of the Authority under this Act or the Life Insurance Corporation Act, 1956 (31 of 1956) or the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972) or the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999).

(6A) “fire insurance business” means the business of effecting, otherwise than incidentally to some other class of insurance business, contracts of insurance against loss by or incidental to fire or other occurrence customarily included among the risks insured against in fire insurance policies;

(6B) “general insurance business” means fire, marine or miscellaneous insurance business, whether carried on singly or in combination with one or more of them;

(6C) “health insurance business” means the effecting of contracts which provide for sickness benefits or medical, surgical or hospital expense benefits, whether in-patient or out-patient travel cover and personal accident cover;

(9) “insurer” means—

(a) an Indian Insurance Company, or

(b) a statutory body established by an Act of Parliament to carry on insurance business, or

(c) an insurance co-operative society, or

(d) a foreign company engaged in re-insurance business through a branch established in India.

***Explanation*** — For the purposes of this sub-clause, the expression “foreign company” shall mean a company or body established or incorporated under a law of any country outside India and includes Lloyd’s established under the Lloyd’s Act, 1871 (United Kingdom) or any of its Members;

(11) “life insurance business” means the business of effecting contracts of insurance upon human life, including any contract whereby the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, and any contract which is subject to payment of premiums for a term dependent on human life and shall be deemed to include—

(a) the granting of disability and double or triple indemnity accident benefits, if so provided in the contract of insurance,

(b) the granting of annuities upon human life ; and

(c) the granting of superannuation allowances and [benefit payable out of any fund] applicable solely to the relief and maintenance of persons engaged or who have been engaged in any particular profession, trade or employment or of the dependents of such persons ;]

***Explanation —*** For the removal of doubts, it is hereby declared that “life insurance business” shall include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a component of investment and a component of insurance issued by an insurer referred to in clause (9) of this section.

***Section*** ***2B Appointment of Controller of Insurance. —***

(1) If at any time, the Authority is superseded under sub-section (1) of section 19 of the Insurance Regulatory and Development Authority Act, 1999, the Central Government may, by notification in the Official Gazette, appoint a person to be the Controller of Insurance till such time the Authority is reconstituted under sub-section (3) of section 19 of that Act.

(2) In making any appointment under this section, the Central Government shall have due regard to the following considerations, namely, whether the person to be appointed has had experience in industrial, commercial or insurance matters and whether such person has actuarial qualifications.

***Section*** ***2C Prohibition of transaction of insurance business by certain persons —***

(1) Save as hereinafter provided, no person shall, after the commencement of the Insurance (Amendment) Act, 1950 (47 of 1950), begin to carry on any class of insurance business in 8 [India] and no insurer carrying on any class of insurance business in [India] shall after the expiry of one year from such commencement, continue to carry on any such business unless he is— (a) a public company, or

(b) a society registered under the Co-operative Societies Act, 1912 (2 of 1912), or under any other law for the time being in force in any State relating to co-operative societies, or

(c) a body corporate incorporated under the law of any country outside 1 [India] not being of the nature of a private company.

(2) Every notification issued under sub-section (1) shall be laid before Parliament as soon as may be after it is issued.