THE INSURANCE

CA FINAL LAW

THE INSURANCE ACT, 1938

1. BACKGROUND OF INSURANCE ACT:

- The first act on insurance was enacted in 1912.
- Due to increase volume of insurance business in India, a bill was **prepared** on **1925.**
- Before finalisation of insurance bill, various committees, reforms were introduced, but it is on **26-02-1938** "The Insurance Bill" was passed & **came into effect on 01-07-1938.**

2. IMPORTANT DEFINITIONS OF INSURANCE ACT:

Some important definitions used under this act:

Section	Particulars	Description
2(1)	Actuary	It means: -- **Actuary possessing such qualification,** -- **As specified by regulations made by authority.**
2(1A)	Authority	It means: -- **Insurance Regulatory & Development Authority** -- **established u/s 3(1) of IRDA Act, 1999.**
2(2)	Policy Holder 	Includes: -- **A person to whom whole of the interest of policy holder in the policy,** -- **But doesn't include** an assignee whose **interest in the policy is defeasible** ***(capable of being defeated)*** **which is subject to any conditions.**

2(4A)	Banking Company	-- **Shall have the meaning assigned to them of sections of Banking Companies Act 1949**
2(5B)	Controller Of Insurance	Means: -- **Officer appointed by CENTRAL GOVERNMENT,** -- **To discharge the function & perform the duties of the authority under** ▪ INSURANCE ACT ▪ LIFE INSURANCE CORPORATION ACT, 1956 ▪ GENERAL INSURANCE ACT, 1972
2(6)	Court 	Means: -- **Principal Court of original jurisdiction in a district,** -- And **includes HIGH COURT** in exercise of its ordinary civil jurisdiction.
2(6B)	General Insurance Business	**General Insurance Business means:** ■ Fire, marine or miscellaneous insurance, ■ Business whether carried on singly or in combination with one or more of them.
2(7)	Government Security	Means: -- **A government security as defined in PUBLIC DEBT ACT 1944.**
2(8)	Insurance Company	Means: -- Any insurer **(बीमा करने वाले)** -- Being a **company, association or partnership.**
2(10A)	Investment Company	Means: -- A company whose principal business is the -- Acquisition of **shares**, **stocks**, **debentures** or **other securities.**

THE INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY ACT, 1999

A. BACKGROUND OF IRDA ACT, 1999

Before 1999, it was "Controller of Insurance" who is appointed to perform the functions of **supervising, control and management** of all kinds of Insurance companies.

After various discussions on this issue, finally from **29th December 1999** the IRDA Act becomes operative.

Some important definitions used under this act:

Section	**Particulars**	**Description**
2(a)	Appointed Day	It means: -- **Date on** which **Authority** (IRDA) is established.
2(b)	Authority	It means: -- The Insurance Regulatory & Development Authority.
2(c)	Chairperson	Means **chairperson of the authority.**
2(d)	Fund 	Means: -- The Insurance Regulatory & Development Authority fund constituted u/s 16(1).
2(e)	" Interim insurance Regulatory Authority "	Insurance Regulatory Authority set up by **central government** through resolution No. 17(2) / 94 Ins. – V. Dated, the 23rd January, 1996.
2(f)	" Intermediary or insurance	Includes:

	Intermediary”	-- **Insurance Brokers** -- **Insurance Consultant** -- **Surveyor & loss assessors.**
2(g)	Members 	Means: -- **Whole time Member** -- **Part Time Member** Of the authority & includes Chairperson.

B. INSURANCE REGULATORY & DEVELOPMENT AUTHORITY:

Who will appoint:

Central Government by **notification** appoint such “**Authority**” in nature of body corporate enjoying all **contractual powers:**

Head Office:

Central Government decide the head office of such authority.

Members of IRDA:

Members consist of:

(a) Chairperson
(b) Whole time director – **Maximum 4**
(c) Part time director – **Maximum 5**

One of these members shall possess **knowledge** in **life Insurance, general Insurance** and **actuarial Science.**

Some important discussion on **CHAIRPERSON**:

TERMS	RE-APPOINTMENT	OTHER T&C
5 YEARS OR **65 YEARS OF AGE** (Whichever is earlier) * SG- State Government	He is eligible for re-appointment	All decisions in respect of **administrative matters** are taken by chairperson. Chairman cannot hold office in CG or SG* or insurance sector within **2 years** from date of appointment.

Some important discussion on **MEMBERS**:

TERMS	**RELINQUISHMENT / REMOVAL**	**OTHER T&C**
A whole time director can hold office for up to **62 YEARS OF AGE** * SG- State Government	A member can **relinquish (give up)** his membership by giving **3 month** notice to **central government.** A member can be removed from office if he becomes: -- **Insolvent** -- **Insane or convicted** -- **Offense involving moral turpitude** (conduct that is considered contrary to community standards of justice, honesty or good morals)	-- Remuneration of each of members shall be as prescribed by the law. --Whole time members cannot hold office in CG or SG* or insurance sector within **2 years** from date of appointment.

C. TRANSFER OF ASSETS, LIABILITIES ETC OF INDIAN INSURANCE REGUALTING AUTHORITY(IIRA) TO IRDA:

On any **appointed day,** all **assets and liabilities** shall stand transferred from IIRA to IRDA. Now explaining in diagrammatically way:

WHEN TO TRANSFER	**WHAT TO TRANSFER**	**TRANSFEROR (Who transfer)**	**TRANSFEREE (who get assets)**
On the appointed day 	All assets and liabilities	IIRA **(Indian insurance regulating authority)**	IRDA **(Insurance regulatory & development authority)**

Effect of the transfer:

-- All **contractual obligations** entered by **IIRA** with **third party** till before the **appointed day** shall **automatically** transferred to **IRDA.**

-- All **debts** owed to **IIRA** also stands **transferred** to **IRDA.**

D. DUTIES, POWER AND FUNCTIONS OF AUTHORITY : (SECTION - 14)

CODE TO REMEMBER : S.Q.U.A.D.

1. **S**afeguarding the interests of **policyholder** i.e. **insurable interest, settlement of the claims.**

2. **Q**ualification determination of agents & intermediary.

3. **U**ndertaking, conducting & investigation & enquires relating to issues **concerning insurance business.**

4. **A**djudicating & settling the **disputes** between **intermediaries & agents.**

5. **D**irecting, supervising & functioning of **Tariff Advisory Committee.**

E. FINANCE, ACCOUNTS AND AUDIT : (SECTION – 15 TO 17)

FINANCE:

Central government grants **fund** necessary for such authority.

Such fund is called as **"IRDA Fund"** & it includes:

-- **Government grants, fees & charges.**
-- **Money received by "authority" from other sources specified by the central government.**

Use of such funds:

-- **Meeting salaries, allowances of members, officers & authority**

-- **Other legitimate (lawful) expenses of the authority.**

-- **“**Authority**” has to maintain books of accounts & prepare Annual financial statements,**

-- **As** per norms prescribed in consultation with **CAG.**

-- Accounts of **“**Authority**”** shall be **audited by the CAG.**

-- Person appointed by **CAG** may enjoy the privilege & can access the books, documents & papers.

Such audited accounts of the “authority” whether audited by **CAG or person appointed by CAG,** to be put forward to ***CENTRAL GOVERNMENT,*** *and then before the* ***parliament***

F. OTHER MATTERS: (SECTION – 18 TO 32)

The **“Authority”** is bound by the action of the central government regarding policy matters.

REMOVAL & SUPERSEDE

-- Central government may **supersede (**replace**)** the authority for ***NOT MORE THAN 6 MONTHS,*** through **notification and appointing** a person as **controller of insurance.**

-- From **date of publication of the notification,** the CHAIRMAN & OTHER MEMBERS cease to be ***hold office*** & all ***powers vests on the central government.***

-- Now after the chairman & members are being removed, **CENTRAL GOVERNMENT** then appoints: -- **Fresh Chairman**

-- **Other members**

Before the expiry of terms of supersession (6 months)

-- Members & employees -> **shall be deemed to be public servant u/s 21 of IPC.**

-- The authority may by **prior notification,** can establish **Insurance Advisory Committee.**

-- IRDA may → **a.** Delegate power by way of special / general order.

-- IRDA may → **a.** Authority may after consulting committee, by notification make Regulations for meetings, T&C of services of officers & employees.

I HAVE A REQUEST TO MAKE ALL OF YOU…I WANT TO HAVE MY NOTES REACHABLE TO ALL OF NEEDY STUDENTS….& ALSO MAKE MY CAREER (INCOME) IN THIS…BUT I CANNOT LEAVE MY JOB ALSO…SO ITS' YOU ALL STUDENTS WHO CAN.!!! I AM IN DILEMNA THAT WHAT COULD ME DONE

I AM CURRENTLY RESIDING IN FARIDABAD

Waiting for your response

caakhil24.srcc@gmail.com, 9990763641