

Private Members Bill

61 of 2016

45. DR. A SAMPATH to move for leave to introduce a Bill to provide for the constitution of a Life Insurance Agents Fund for the welfare of life insurance agents and for matter connected therewith.

ALSO to introduce the Bill.

Life Insurance Agents Welfare Bill, 2016.

The Life Insurance Agents (Condition of Service) Act, 2015

By

Dr. A. SAMPATH, MP

A

Bill

To make a provision for the job security and welfare of the life insurance agents and for matters connected herewith and incidental thereto

An Act to regulate certain conditions of service of Life Insurance Agents in insurance industry

Be it enacted by parliament in the Sixty six Year of the Republic of India as follows:

1. Short title, extent, commencement and application.- (1) This Act may be called the Life Insurance Agents (Condition of Service) Act, 2015.

(2) It extends to the whole of India.

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

(4) It shall apply in the first instance to every establishment engaged in Life Insurance industry.

2. Definition.- In this Act, unless the context otherwise requires,-

(a) "establishment" means a company or corporation engaged in life insurance industry

(b) "prescribed" means prescribed by rules made under this Act;

(c) "fund" means the Life Insurance Agents Welfare Fund constituted under section 3 of this Act.

(d) The expression "Life Insurance Agent" shall have the same meaning as is assigned to it in the Insurance Act- 1938, LIC Act 1956, the Insurance Regulatory and Development Authority Act 1999 and the Insurance Laws (Amendment) Act 2015, and includes Advisor, Sales Promoter, Sales Executives, Intermediaries) employed or engaged in any establishment for hire or reward to do any work relating to promotion of sales or business, or both, but does not include any such person engaged in a supervisory capacity.

3. (1) The Central Government shall set up a fund to be known as the Life Insurance Agents Welfare Fund.

(2) The Fund shall consist of contributions from Central Government, the Life Insurance company/corporation and the Agents

(3) The Fund shall be managed by LIC and administered by a Board, consisting of

(a) the union finance minister, who shall be its *ex-officio* Chairperson;

(b) two members who shall be the representatives of the Insurance Regulatory and Development Authority;

(c) one member from Life Insurance Corporation of India

(d) two members representing the LIC Agents who shall be nominated by LIC from the largest Agents organization registered under Trade Union Act.

(4) The salary and allowances payable to, and other terms and conditions of service of members of the Board shall be such as may be prescribed.

4. The fund shall be utilized for the following purpose:-

(i) payment of compensation to next of kin of Insurance Agents in case of death.

(ii) Payment of old age pension after an Insurance Agent has attained the age of sixty years and a minimum of 10 years of continuous agency.

(iii) payment of family pension to the dependents of the deceased Insurance Agents;

(iv) payment of premium for the medical insurance of the insurance Agents

(v) such other purposes as the Board may deem necessary for the Welfare of Insurance Agents.

5. Issue of appointment letter.- Every employer in relation to a life insurance agent shall

furnish to such Agent a Licence in such form as may be prescribed.

4. Application of certain Acts to Life Insurance Agents.-

(1) The provisions of the Workmen's Compensation Act, 1923, as in force for the time being, shall apply to, or in relation to life insurance agent as they apply to, or in relation to, workmen within the meaning of that Act.

(2) The provisions of the Industrial Disputes Act, 1947 (14 of 1947), as in force for the time being, shall apply to, or in relation to, life insurance agents as they apply to, or in relation to, workmen, within the meaning of that Act and for the purpose of any proceeding under that Act in relation to an industrial dispute, a life insurance agent shall be deemed to include, who has been terminated in connection with, or as a consequence of, that dispute or whose termination had led to that dispute.

(3) The provisions of the Minimum Wages Act, 1948 (11 of 1948), as in force for the time being, shall apply to, or in relation to, life insurance agents as they apply to, or in relation to, employees within the meaning of that Act.

(4) The provisions of the Maternity Benefit Act, 191 (53 of 1961), as in force for the time being, shall apply to, or in relation to, life insurance agents, being women, as they apply to, or in relation to, women employed, within the meaning of that Act.

(5) The provisions of the Payment of Bonus Act, 1965 (21 of 1965), as in force for the time being, shall apply to, or in relation to, life insurance agents as they apply to, or in relation to, employees within the meaning of that Act.

(6) The provisions of the Payment of Gratuity Act, 1972 (39 of 1972), as in force for the time being, shall apply to, or in relation to, life insurance agents as they apply to, or in relation to, employees within the meaning of that Act.

5. Maintenance of portal.-Every insurance company shall make a portal for each Agent and maintain the same as may be prescribed.

6. Offences by life insurance companies/corporation.-

(1) Where an offence under this Act has been committed by a company/corporation, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company/corporation for the conduct of the business of the company/corporation, as well as the company/corporation, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly : Provided that nothing contained in this sub-

section shall render any such person liable to any punishment provided in this section, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by an insurance company/corporation and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect

on the part of any director, manager, secretary or other officer of the company/corporation,

such director, manager, secretary or other officer shall also be deemed to be guilty of such offence and shall be liable to be proceeded against and punished accordingly.

7. Cognizance of offence.- (1) No court inferior to that of a Metropolitan Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

(2) No court shall take cognizance of an offence under this Act, unless the complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

8. Effect of laws and agreements inconsistent with this Act.-

(1) The provisions of this Act or of any rule made thereunder shall have effect, notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement, settlement or contract of service, whether made before or after the coming into force of this Act :

Provided that where under any such law, award, agreement, settlement, or contract or service, a life insurance agent is entitled to benefits in respect of any matter which are more favourable to him than those to which he would be entitled under this Act, the life insurance agent shall continue to be entitled to the more favorable benefits in respect of that matter, notwithstanding that he is entitled to receive benefits in respect of other matters under this Act.

(2) Nothing contained in this Act shall be construed to preclude a life insurance agent from entering into an agreement with his employer for granting him rights or privileges in respect to any matter which are more favourable to him than those to which he would be entitled under this Act.

9. Power to make rules.- (1) The Central Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

The Insurance Laws (Amendment) Act 2015 has made fundamental changes in the functioning of the insurance companies. The Life Insurance Agents play a major role in procuring business

and in the growth of the Insurance Sector. More than two million people are engaged as Life Insurance Agents in the industry. Majority of them have opted this profession as full time job. The work requires a lot of time, energy and dedication. The competition amongst insurance companies for business has tremendously increased after the opening up of this sector to private players both at national and international levels.

Their contribution to insurance sector is immense in creating assets and increasing profit of the companies, at the same time providing benefits of insurance to the general public. In the absence of any welfare scheme by the Government of social security, these Agents live in pathetic conditions. A portion of profit earned by the insurance companies through hard work of such agents needs to be devoted for the welfare of Insurance Agents and their life has to be secured. It is the responsibility of the Government in a welfare state to provide proper medical care, old age pension, family pension, etc to every citizen of the country.

Insurance Agents in general and LIC Agents in particular are a self-employed group and earn their livelihood through the commission paid by LIC. They are responsible for the growth of LIC from inception till today; and there is no doubt that LIC has been playing a pivotal role in the Indian economy. There are at present 11,63,604 LIC Agents all over India and the government is relieved of the burden of providing employment for them. However, the Amendment to Agents' Regulations- 1972 of LIC has resulted in termination of 21,11,265 agents over the last six years and the number will increase if this method continues. The move of LIC to do away with the Agents will certainly affect the business of LIC. LIC agents are a specialized group who are trained in canvassing insurance business and they may not be fit for any other job. Moreover, the government will not be in a position to give them alternate jobs once they are terminated from LIC.

Even today 96.22% of the business of LIC is brought by agents. The rest of the 3.78% of the insurance business is brought by 9 public sector banks 4 private sector banks, 10 regional rural banks 33 co-operative banks one foreign bank, 108 corporate agents and 248 brokers. The present market share of LIC is 84.4% for which the Agents are mainly responsible. The Agents are a good source of publicity as by the time one policy is finalized, an Agent would have met at least ten persons and discussed with them. This way the Agents have reached the message of insurance to every person in the country. The expenditure on publicity is in no way comparable if LIC takes up alternative source for publicity.

In fact there are only 1,44,854 agents with 5 year's service who earn more than Rs.2 lakhs per year. Those with 10 year's service who earn more than Rs.1 lakhs to 2lakhs per year comes to 2,46,740 and those who earn less than Rs.12,000 per year comes to 1,64,227 agents and less than Rs.1 lakhs per year comes to 6,27,783.

From a capital of Rs.5 crores in 1956 LIC has grown to be a Corporation of Rs. 100 crores. The assets have grown to Rs. 20,31,116.08 crores and life fund of Rs.18,24,194.95 crores

in 2015. Thus LIC is the premier global insurance company. The agents are mainly responsible for this enviable achievement of LIC over the years. This agency system has been taken as a global model. Other companies have taken up this system all over the world.

Therefore a suitable legislation is urgently required to provide for general welfare of persons working as agents in the insurance sector

Hence this bill.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for setting up of a Life Insurance Agents Welfare Fund and for constitution of a Board to administer the fund. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees hundred crore per annum.

A non- recurring expenditure of about rupees one hundred crore is also likely to be involved.

MEMORADUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.