

**JOINT/SELECT COMMITTEE
REPORTS OF LEGISLATIVE
ASSEMBLY -1947**

**The Motor Vehicles (Second
Amendment) Bill**

I. List of Reports of Select Committees
presented to the Legislative Assembly
of the Indian Legislature in 1947.

S.No.	Short title of the Bill.	Date of presen- tation.	Date of publica- tion.
1.	The Indian Navy (Discipline) (Amendment) Bill.	3.2.1947.	15.2.1947
2.	The Motor Vehicles (Amendment) Bill.	3.2.1947.	15.2.1947
3.	The Motor Vehicles (Second Amendment) Bill.	3.2.1947.	15.2.1947
4.	The Foreign Exchange Regulation Bill.	3.2.1947.	15.2.1947
5.	The Industrial Disputes Bill.	3.2.1947.	15.2.1947
6.	The Railways (Transport of Goods) Bill.	17.2.1947.	1.3.1947
7.	The Banking Companies Bill.	17.2.1947.	1.3.1947
8.	The Indian Trade Unions (Amendment) Bill.	26.2.1947.	5.4.1947
9.	The Insurance (Second Amendment) Bill.	5.3.1947.	15.3.1947
10.	The Delhi and Ajmer-Merwara Rent Control Bill.	12.3.1947.	22.3.1947
11.	The Imports and Exports (Control) Bill.	12.3.1947.	22.3.1947
12.	The Income-tax and Excess Profits Tax (Amendment) Bill.	19.3.1947.	29.3.1947
13.	The Business Profits Tax Bill.	19.3.1947.	29.3.1947
14.	The Rubber (Production and Marketing) Bill.	1.4.1947.	12.4.1947
15.	The Control of Shipping Bill.	1.4.1947.	12.4.1947
16.	The Capital Issues (Continuance of Control) Bill.	7.4.1947.	12.4.1947

S.No.	Short title of the Bill.	Date of presentation.	Date of publication.
17.	The Taxation on Income (Investigation Commission) Bill.	7. 4.1947.	19. 4.19

II. List of Reports of Select Committees Presented to the ~~Legis~~ Constituent Assembly of India (Legislative) in 1947.

1. The Delhi and Ajmer-Merwara Rent Control (Amendment) Bill. 1. 12.1947. 13.12.19
2. The Delhi Premises (Requisition and Eviction) Bill. 1.12.1947. 13.12.19
3. The Extra-Provincial Jurisdiction Bill. 6.12.1947. 13.12.19

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LEGISLATIVE ASSEMBLY

Report of the Select Committee on the Motor Vehicles (Second Amendment) Bill, 1946.

We, the undersigned, members of the Select Committee to which the second Bill further to amend the Motor Vehicles Act, 1939, was referred, have considered the Bill and have now the honour to submit this our Report with the Bill as amended by us annexed thereto.

As mentioned in our report on the first Bill to amend the same Act, we have incorporated in the revised Bill annexed to this Report the amendments proposed in clauses 57 to 64 of the first Bill. This has necessitated a renumbering of clauses in the revised Bill, but references have been given in the margin thereof to the clauses of the first and second Bills as introduced in the Legislative Assembly.

Clause 2.—This combines clause 57 of the first Bill and clause 2 of the second Bill. We consider that provision for reciprocal arrangements should be made in respect of the Crown Representative's Administered Areas like the Civil and Military Station of Bangalore, Baroda Cantonment, Quetta, etc., in the same manner as for Indian States. The law obtaining in these areas is distinct from the State law and from the law of British India. A definition of "reciprocating territory" has accordingly been added to section 93.

The definition of "authorised insurer" has been further expanded to include the Central Government or a Provincial Government or the Government of a reciprocating Indian State, when that Government carries on the business of insuring motor vehicles against third party risks. This is necessary because under section 118 of the Insurance Act, 1938, nothing in that Act applies to any insurance business carried on by the Central or by a Provincial Government, with the result that such a Government, may not be regarded as an insurer in whose case the requirements of the Insurance Act regarding registration are complied with. The position is the same in the major Indian States which have a similar Act.

Clause 3.—Apart from formal changes made in the interests of clarity, the additions of substance are clause (vii) of the proposed sub-section (2), which provides for exemption of local authorities in Administered Areas on the same footing as those in British India, and an addition in clause (vi) conferring a concurrent power of exemption on the Central Government, since certain local authorities like Port Trusts and Cantonment Authorities are subject to the control of the Centre. In regard to both these clauses, we have assumed that, before exempting local authorities under either of them, the Government concerned will take into account their financial position and satisfy itself that they could safely be left to carry the risks without insuring their vehicles with authorised insurers.

Clause 4.—This combines clause 59 of the first Bill and clause 3 of the second. We have, however, found it necessary to provide for certain further amendments of section 95 of the Act. The first is an addition to clause (a) of sub-section (1) of that section in order to make it clear that insurance with a co-operative society allowed under section 108 to transact business of this type is sufficient compliance with the requirements of Chapter VIII.

The second is with reference to clause (i) of the proviso to sub-section (1) and sub-section (3). The effect of the former is to exclude *all* liability arising under the Workmen's Compensation Act from the scope of the compulsory insurance under section 95 of the Motor Vehicles Act. Sub-section (3) however empowers Provincial Governments to bring within their scope a limited class of liability arising under the

• Workmen's Compensation Act, which has led to a lack of uniformity. Moreover, the liability in respect of employees who are being carried in a motor vehicle at the time of the accident is extremely uncertain, since the number of employees so carried may be as few as one or two or as large as 30 or 40, e.g., in a large goods vehicle. With a view, therefore, to re-introducing uniformity all over British India in the operation of this section, and defining with greater precision the liability under the Workmen's Compensation Act to be covered by the authorised insurers, we have proposed that sub-section (3) of section 95 should be omitted and clause (i) of the proviso to sub-section (1) and clause (a) of sub-section (2) should be amended as indicated in the revised clause. The effect of these amendments would be to cover workmen's compensation liabilities in respect of—

- (a) paid drivers, in the case of all vehicles ;
- (b) paid conductors and ticket examiners, in the case of public service vehicles, and
- (c) paid employees, other than drivers, being carried, in the case of goods vehicles,

but, the liability under (c) in respect of any one accident would be limited to six such employees.

Clause 3.—This combines clause 53 of the first Bill and clause 6 of the second. A few more amendments of section 108 of the Act, mainly of a clarificatory or formal character, have been proposed by us in the revised clause.

In sub-section (1), an amendment of clause (c) is proposed in order to enable the Provincial Governments to specify the amount referred to in that clause, instead of it being laid down in rules prescribed by the Central Government, since the Provincial Governments are in a better position to judge the capacity of particular co-operative societies to carry the risks without re-insurance.

An additional clause (cc) has been proposed in the same sub-section in order to enable co-operative societies to accept re-insurances from other societies.

Existing clause (h) relating to the winding up of these societies is somewhat ambiguous and may not be considered sufficient for excluding the provisions of the law under which a society has been constituted. We have, therefore, omitted the clause from sub-section (1) and made a clear and specific provision in sub-section (2) with regard to this matter.

In conclusion we wish to bring to the notice of the Legislative Assembly that under sub-section (2) of section 94 of the Act, as it stands and as proposed to be amended by the Bill, all motor vehicles which are Crown property are exempt from the requirement of being kept insured against third party risks. This is no doubt on the understandable ground that the Governments in British India will always be able and ready to meet all claims which may be sustainable against them at law and which arise out of the use of these vehicles by their servants, and there is accordingly no need to require them to spend public revenues in insuring the vehicles. The legal liability of the Governments in British India for the wrongs or negligences of their servants in the performance of their duties as such servants is, broadly speaking, limited to acts committed in the conduct of a commercial undertaking or business, and does not extend to acts done in the exercise of the sovereign or governmental power. From the point of view, however, of the private individual who suffers damage by the wrongful or negligent act of a Government servant in charge of a Government owned vehicle, the position arising out of this legal distinction is hardly satisfactory, and in our opinion requires to be removed by suitable legislative action at an early date.

2. The Bill was published in the Gazette of India, Part V, dated the 9th November, 1946.

3. We think that the Bill has not been so altered as to require re-publication and we recommend that it be passed as now amended.

JOHN MATTHAI.

SRI KRISHNA DUTT RALIWAL.

*N. V. GADGIL.

THAKUR DAS BHARGAVA.

*N. NARAYANAMURTHI.

*SATYAPRIYA BANERJEE.

M. A. F. HIRTZEL.

D. N. BHATTACHARYYA.

MOHAMMAD YAMIN KHAN.

SIDDIQ ALI KHAN.

GHULAM BHIK NAIRANG.

MUHAMMAD NAUMAN.

*MOHAN LAL SAKSENA.

*M. ANANTHASAYANAM AYYANGAR.

NEW DELHI:

The 3rd February 1947

MINUTES OF DISSENT

I

Under Sub-section 2 of Section 94 of the Motor Vehicles Act 1939 all Motor Vehicles which are crown property are exempt from the requirement of being kept insured against third party risk. This exemption may have some justification, but it seems that in the near future Government is bound to participate more and more in this sphere of Motor Transport. It is therefore necessary that this exemption should go and some provision must be made so that risks will be covered. I suggest that all motor vehicles belonging to Government whether they are used for plying regular service or used by Government officials for the purpose of discharging official duties must be insured. I suggest that Government may start a sort of Insurance Fund on a statutory basis and in this Fund Government should pay the amounts of premia calculated on the basis of approved tables. The cost of insurance under this proposal will be an element in the fixation of rates, but this is in a line with all commercial undertakings. I therefore desire that Section 94 of this Act may be amended by the House suitably and I do not think if an amendment of that character is approved it would be outside the scope of the Bill.

N. V. GADGIL,

NEW DELHI;

The 3rd February, 1947.

Subject to a minute of dissent.

We are definitely of the view that the Provincial and Central Governments should exclusively take up the work of third-party risk insurance ; but until that is done we suggest that the owners of private motor cars should also be permitted under the law to form Co-operative Societies for insuring their cars like the transport bus owners.

M. ANANTHASAYANAM AYYANGAR.

MOHAN LAL SAKSENA.

SATYAPRIYA BANERJEE.

N. NARAYANAMURTHI.

NEW DELHI ;

The 3rd February, 1947.

(BILL AS AMENDED BY THE SELECT COMMITTEE)

(Words underlined or sidlined indicate the amendments suggested by the Committee)

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BILL

Further to amend the Motor Vehicles Act, 1939

WHEREAS it is expedient further to amend the Motor Vehicles Act, 1939 (IV of 1939), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. (1) This Act may be called the Motor Vehicles (Second Amendment) Act, 1947. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint. Cl. 1 of 2nd Bill.

2. (1) In section 93 of the Motor Vehicles Act, 1939 (hereinafter referred to as the said Act),— Amendment of section 93, Act IV of 1939.

(a) for clause (a), the following clause shall be substituted, namely:— Cl. 57 of 1st Bill and Cl. 2 of 2nd Bill.

“(a) ‘authorised insurer’ means an insurer in whose case the requirements of the Insurance Act, 1938, or of the corresponding law of a reciprocating territory with respect to the registration of insurers are complied with, and includes, where the business of insuring motor vehicles against third party risks is carried on by the Central Government or a Provincial Government or the Government of an Indian State which is a reciprocating territory, such Government”;

(b) in clause (b), after the word “includes”, the words “cover note complying with such requirements as may be prescribed, and” shall be inserted. Cl. 57 of 1st Bill.

(2) To the said section 93, the following clause shall be added, namely:—

“(c) ‘reciprocating territory’ means any such Indian State or such area administered by the Crown Representative as may be notified by the Central Government in the official Gazette to be a reciprocating territory for the purposes of this Chapter.”

3. For sub-section (2) of section 94 of the said Act, the following sub-section shall be substituted, namely:— Amendment of section 94, Act IV of 1939.

“(2) Subject to any prescribed conditions, sub-section (1) shall not apply to any vehicle owned by any of the following authorities, namely:— Cl. 58 of 1st Bill.

(i) the Central Government;

(ii) the Crown Representative;

(iii) any Provincial Government;

(iv) the Government of any Indian State;

(v) the Government of the French or Portuguese Settlements bounded by India;

- (vi) any local authority in British India exempted from the operation of sub-section (1) by order of the Central Government or of a Provincial Government;
- (vii) any local authority established or continued by the authority of the Crown Representative exempted from the operation of sub-section (1) by order of the Central Government;
- (viii) any local authority in an Indian State wherein policies of insurance are required by provision of law to be taken out in relation to the use of motor vehicles, which has been exempted from the operation of such provision."

Amendment of
section 95, Act IV
of 1939.

4. In section 95 of the said Act,—

(a) in sub-section (1)—

(i) in clause (a), after the word insurer, the words and figures "or by a co-operative society allowed under section 108 to transact the business of an insurer" shall be inserted;

(ii) in clause (b), after the words "in a public place" the words "in British India or in a reciprocating territory" shall be inserted;

(iii) in the proviso, the words, brackets and figure "except as may be otherwise provided under sub-section (3)" shall be omitted;

(iv) in clause (A) of the proviso, after the word "employment," where it occurs for the second time, the following shall be inserted, namely:—

"other than a liability arising under the Workmen's Compensation Act, 1923, in respect of the death of, or bodily injury to, any such employee—

(a) engaged in driving the vehicle, or

(b) if it be a public service vehicle, engaged as a conductor of the vehicle or in examining tickets on the vehicle, or

(c) if it be a goods vehicle, being carried in the vehicle."

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

"(a) where the vehicle is a goods vehicle, a limit of twenty thousand rupees in all the liabilities, if any, arising under the Workmen's Compensation Act, 1923, in respect of the death of, or bodily injury to, employees other than the driver being carried in the vehicle being limited to six such employees;"

(c) sub-section (3) shall be omitted;

(d) in sub-section (4), the words "on a cover note" shall be omitted.

Cl. 59 of 1st
Bill

Amendment of
section 96, Act IV
of 1939.

5. In section 96 of the said Act,—

Cl. 60 (a) of
1st Bill.

(a) in sub-section (1), the words "on a cover note" shall be omitted;

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

Cl. 4 (a) of 2nd Bill.

(2A) Where any such judgment as is referred to in sub-section (1) is obtained from a Court in a reciprocating territory, the insurer (being an insurer registered under the Insurance Act, 1938 (V of 1938), and whether or not he is registered under the corresponding law of the reciprocating territory) shall be liable to the person entitled to the benefit of the decree in the manner and to the extent specified in sub-section (1) as if the judgment were given by a Court in British India:

Provided that no sum shall be payable by the insurer in respect of any such judgment unless, before or after the commencement of the proceedings in which the judgment is given, the insurer had notice through the Court in the reciprocating territory of the bringing of the proceedings and the insurer to whom notice is so given is entitled under the corresponding law of the reciprocating territory, to be made a party to the proceedings and to defend the action on grounds similar to those specified in sub-section (2).”;

(c) in sub-section (3), the words “or cover note” shall be omitted;

Cl. 69 (b) of 1st Bill.

(d) in sub-section (6),—

(i) after the word, brackets and figure “sub-section (2)” where they first occur, and after the word, brackets and figure “sub-section (1)” the words, brackets, figure and letter “or sub-section (2A)” shall be inserted;

Cl. 4 (b) of 2nd Bill.

(ii) after the word, brackets and figure “sub-section (2)” where they last occur, the words “or in the corresponding law of the reciprocating territory, as the case may be” shall be inserted.

6. In section 102 of the said Act, the words “or cover note” shall be omitted.

Amendment of section 102, Act IV of 1939. Cl. 61 of 1st Bill.

7. In section 106 of the said Act,—

Amendment of section 106, Act IV of 1939.

(a) in sub-section (1), after the words “in uniform”, the words “authorised in this behalf by the Provincial Government” shall be inserted;

Cl. 62 of 1st Bill.

(b) the provisos to sub-section (1) and sub-section (2) shall be omitted;

Cl. 5 of 2nd Bill.

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

Cl. 5 of 2nd Bill.

“(2A) No person shall be liable to conviction under sub-section (1) or sub-section (2) by reason only of the failure to produce the certificate of insurance if, within seven days from the date on which its production was required under sub-section (1) or, as the case may be, from the date of occurrence of the accident, he produces the certificate at such police station as may have been specified by him to the police officer who required its production or, as the case may be, to the police officer at the site of the accident or to the officer in charge of the police station at which he reported the accident:

Provided that, except to such extent and with such modifications as may be prescribed, the provisions of this sub-section shall not apply to the driver of a transport vehicle."

Amendment of section 108, Act IV of 1939.

Cl. 6(a) (i) of 2nd Bill.

8. In section 108 of the said Act,—

(a) in sub-section (1),—

(i) in the opening paragraph for the words "public service vehicle" the words "transport vehicle" shall be substituted; and the words "as if the society were an authorised insurer" shall be omitted;

Cl. 6 (a) (ii) of 2nd Bill.

(ii) in clause (a) after the words "members of" the words, "and insured with," shall be inserted;

Cl. 6 (a) (iii) of 2nd Bill.

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

"(b) the insurance business of the society shall except to the extent permitted under clause (cc) be limited to transport vehicles owned by its members, and its liability shall be limited as specified in sub-section (2) of section 95";

Now.

(iv) in clause (c) for the words "a prescribed amount" the words "such amount as may be specified by the Provincial Government" shall be substituted;

Now.

(v) after clause (c) the following clause shall be inserted, namely:—

"(cc) the society may, if permitted by the Provincial Government and subject to such conditions and limitations as may be imposed by it, accept reinsurances from other societies allowed to transact the business of an insurer under this section; "

Cl. 6 (a) (iv) of 2nd Bill.

(vi) in sub-clause (i) of clause (f) the words, brackets and letter "clause (b) of" shall be omitted;

Cl. 63 of 1st Bill.

(vii) for clause (h), the following clause shall be substituted, namely:—

"(h) the society shall, in respect of any business transacted by it of the nature referred to in clause (i) of the proviso to sub-section (1) of section 95, be deemed to be an insurer within the meaning of sub-section (1) of section 10 and sub-section (6) of section 13 of the Insurance Act (1938) (V of 1938).";

Cl. 6 (b) of 2nd Bill.

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

V of 1938.

"(2) The provisions of the Insurance Act, 1938, relating to the winding up of insurance companies shall, to the exclusion of any other law inconsistent therewith and subject to such modifications as may be prescribed, apply to the winding up of a co-operative society allowed to transact the business of an insurer under this section as if it were an insurance company; but save as herein before provided, the Insurance Act, 1938, shall not apply to any such society."

V of 1938.

Amendment of section 111, Act IV of 1939. Cl. 64 of 1st Bill.

9. In clause (c) of sub-section (2) of section 111 of the said Act after the words "certificates of insurance" the words "mutilated defaced," shall be inserted.