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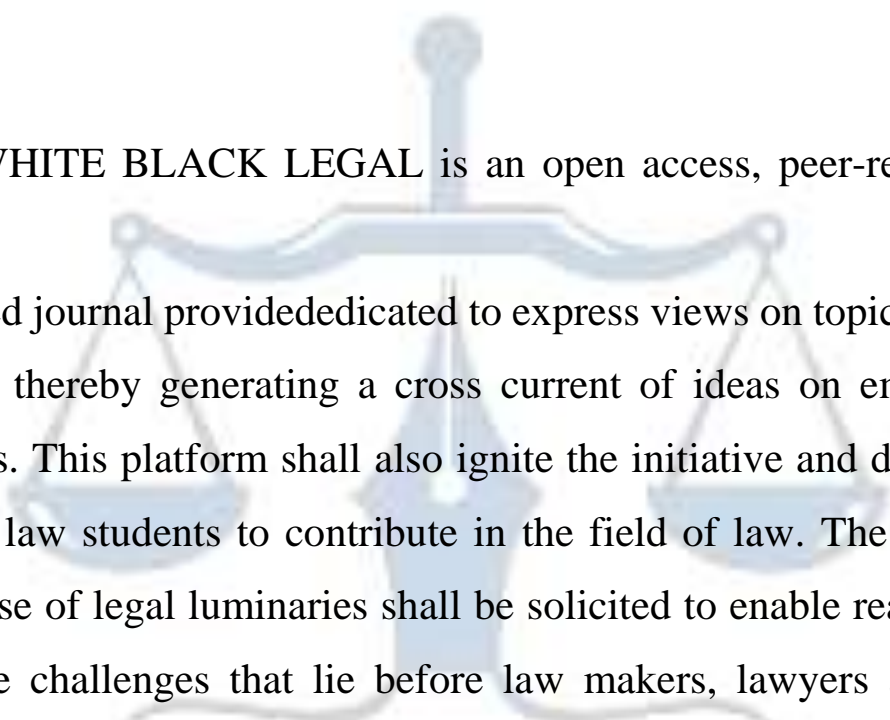


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## ***ABOUT US***



WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **PROPOSED AMMENDMENT IN BANKING AND INSURANCE LAWS AND THE INTENTION OF DEPARTMENT OF FINANCE**

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## **ABSTRACT**

*This article mainly focuses on the proposed amendment by the Department of finance and it examines whether amendment proposed by the department of finance is providing any benefit to the any group of people or any sector in the economy as this amendment is closely related with the tertiary sector of the economy*

*This article also analyses the impact of this amendment on the economy, gross domestic product and other vital elements in the economy and this article critically examines if the amendment is enforced then how it will affect the market*

*This article does not analyze the legality of the section the amendment need to be added or partially removed in the accepted portion*

*This article does not analyze what will be the effect of changing the composition of the tribunal which is the supreme authority to decide the regulation of the subject matter vested to them and this article.*

## **INTRODUCTION**

India is a land of diversity with varied flora and fauna in the territory of India so it becomes more complex to implement the laws in territory of the country. The Indian society being dynamic in nature the society goes under the process of desired change as per the need of the particular span of time, the fashion the modern means of living has been implemented in our lives which everyone of us has witnessed.

So the dynamic nature of the society demands the change in each and every fountain of the human development. Therefore the laws drafted are also not static so If the laws are not upgraded as per the need of society then the implementation of law becomes vague



The constitutional being the magnacarta of every Indian law also satisfies the thirst the need of changes in the form of amendment in the existing laws.

Article 368 of Constitutional law of India stipulates About amendment in the existing laws, today we have witnessed many amendments in the law

The legislature tries to formulate the laws or proposes the amendment in the existing body of law So while the proposed amendment are enforced the intention of the legislature must be critically examined. In this examination the state keeps a check and balance wether the amendment proposed is providing any benefit to the particular group of people or particular sector in the country

The department of financial service has proposed an amendment Bill in the Banking And Insurance laws now in this segment the state has to critically examine whether this bill endorses any benefit to any group or segment of people or any sector

As it the fact that banking and Insurance is the supporting sector i.e. the tertiary sector which helps the business other corporate organisations depends on banking and Insurance for their financial aid

Banking sector to performs the function of an agent , trust , bailor and bailee and deals in varied other functions which is dealt under banking laws and legal sanctions are affected by banking laws

The banking and insurance sector also plays vital role in individual life and international business deals as bank can be an agent for collecting payments for an individual for collecting receivables which is arising out of exports

And insurance plays a vital role in removing the dark shades of loss which will occur in the nearby future such as Fire insurance plays a vital role in minimizing loss to the property , business due to fire here insurance plays a vital role in determining the legal consequences of the insurance contract

So it becomes necessary to critically examine the proposed amendment because if it is not critically examined then the whole economy is at threat and the other related variable may also be affected

Which again plays greater threat to hamper the per capita income of the individual, gross domestic product, gross national product are also affected. So economical threat is also the outcome of this proposed amendment

## **CRITICAL EXAMINATION OF PROPOSED AMENDMENT AND INTENTION OF THE DEPARTMENT OF FINANCE**

### **A. The proposed amendment speaks that the upper age limit of the permanent members of IRDA should be increased to 65 years of age**

The authors critically analyze that behind increasing the upper age limit of the permanent member of the Insurance regulatory development authority as they deals in crucial part in regulating the insurance sector they belong to the part of government agencies

They are versed with various functions of regulating the sector so the department of financial might have critically examined that the permanent member greater areas to critically examine the consequence inspite of recruiting new members in the IRDA who is not aware of the functioning of regulatory body

This part of the amendment is not under the eclipse of providing any benefit to any sect of people or sector of the economy this part of the proposed amendment deals in increasing the efficiency and reducing the cost of new recruitment, hence there is no threat to the economy and other related variable

Hence the authors would like to state that the intention of the department of finance is clean and clear

### **B. ISSUANCE OF COMPOSITE LISCENCE**

This part of proposed amendment mainly focuses on the business of the Insurance company, As before this proposed amendment the insurance company has to apply for seprate liscence if they want to enter different form of Insurance Business for e.g if an insurance company is dealing in the life insurance business they cannot opt for health insurance they have to avail seprate liscence

This amendment focuses that an composite liscence must be issued and with help of this composite liscence the insurance company can apply single liscence and go for different forms of business

The authors critically examines that composite liscence for insurance business is an threat to the economy as it gives opportunity to the insurance company tomisuse of the liscence as in one sect of insurance business they might have greater paid up capital rather than other

For e.g In Fire insurance the insurance company have greater Control over the market and in health insurance they might be so in determining the credibility in the individual sect of business becomes complex so it increases the chances of fraud with the general as the general

people might not be able to analyze the financial of the banking and the insurance company Composite liscence just reduces the regulatory functions of the authority here neither there is a delegation of the authority to keep an check and balance in the department

This part of the amendment I proposed by department of financial services is under eclipse and has a greater threat to the economy

### **C. DEALING IN DIFFERENT FINANCIAL PRODUCT**

This part of the amendment deals that the insurance company can also be allowed to enter into other form their regular nature of business like they can also enter in providing financial services like providing loans and other forms of financial services such as mutual fund, general insurance can enter into life insurance business and vice versa

The authors critically examines that this part of the proposed amendment by Department of financial services is a greater move to save the economy from the threat of cartels, monopoly and the consumers will greater choice to choose the financial services

As more number of players in the market will develop a healthy competition each player in the race would try to provide better services to the consumers.

This will compel the players involved in this business to bring transparency in the business and lesser chances of monopoly and price fixation and formation of cartels

Therefore this part of the proposed amendment is not under the eclipse and hence there is no threat to the economy and hence this part of the amendment is not providing any benefit to any group of people or any sect of the economy

### **D. INCREASE IN THE AMOUNT OF PAID UP CAPITAL AS PER THE SIZE OF THE BUSINESS FOR NEW INSURANCE COMPANIES**

This part of the amendment mainly deals with the Area concerned with the paid up capital of the insurance company before this amendment was proposed the paid up capital for the existing insurance company was rupees one lakh and for the new player to enter into this sector of business is rupees three lakhs

Now this proposed amendment is focusing that the paid up capital must be as per the size of the business

The author critically examines that this part of the proposed amendment would benefit the economy

As this part of the proposed amendment mainly focuses to restrict the free entry into the market to enter as a player as it would not act as a free opportunity to enter into the market even if

smallest size of the business would have their own size of paid up capital

It reduces the risk of misuse of public funds in the market of banking and insurance. by this move first the comply with regulation of the paid up capital as per the size of the business it will be complied with reference of the Security Exchange Board of India act if the paid up capital criteria is not fulfilled then the player has to quit the idea of business in this sector

The threat of security fraud is also reduced to the share market players and hence this part of amendment brings harmony in the market

This part of the amendment is free from the eclipse and this part of the proposed amendment is not providing providing any benefit to any group of people or any sect of the economy but the insurance company

#### **E. ACQISITION OF EQUITY**

As this part of the amendment mainly focuses on acquisition of equity if an equity has an stake of an insurance company to acquire further 5 percent the permission of Regulatory authority was required

Now through this proposed amendment this approval for equity was made not mendatory till it further acquires other 5 percent

The authors critically examines this part of the proposed will liberalize the insvestment in the insurance company as the approval stake is removed for a certain limit but the regulatory authority will loose the control and there is the chances that the actual acquired stake as they are aware that till this stage the permission of regulatory authority is not required

This part of the amendment is under the eclipse and it further does not provide any benefit to the any sect of people but there is a greater threat to the economy

#### **F. REISSUANCE OF INSURANCE COMPANY**

This part of the proposed amendment speaks about that the insurance can act as a reissuance company in which the insurance can keep the books of Accounts of the under the insurance company

The authors critically examines that the holding company which again the opportunity to control the business operations of the holding company as the books of account is maintained by the Insurance company there is greater in the manipulation of accounts and hence the effective regulation by the regulatory authority.

Hence this part of the amendment is under the eclipse and it is the threat to the economy

## CONCLUSION

The authors would like to conclude that the proposed amendment of the amendment is less under the shadow of eclipse and more beneficial in contributing towards the development of the banking and Insurance industry

The authors also focuses on the economical aspect of the proposed amendment by the financial department some part of this amendment contributes towards economical which should again be taken into consideration so that this amendment works out in an efficient way whenever the bill passes and it is drafted into a law

