THE INSURANCE ACT, 1938

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*** Subject to verification and confirmation by the administrative ministry.**

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80. [*Omitted.*].

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*THE INSURANCE ACT, 1938

ACT NO. 4 OF 1938[1]

[26*th February*, 1938.]

An Act to consolidate and amend the law relating to the business of insurance.

WHEREAS it is expedient to consolidate and amend the law relating to the business of insurance ; It is hereby enacted as follows: —

PART I

PRELIMINARY

1. Short title, extent and commencement. — (*1*) This Act may be called the Insurance Act, 1938.

[2][(*2*) It extends to the whole of India [3]***.]

(*3*) It shall come into force on such date[4] as the Central Government may, by notification in the Official Gazette, appoint in this behalf.

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

[5][(*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);

(*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);]

[6][(*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 ;]

[7][(*3*) "approved securities" means—

(*i*) Government securities and other securities charged on the revenues of the Central Government or of the Government of a [8]*** State or guaranteed fully as regards principal and interest by the Central Government, or the Government of any [6]*** State ;

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1. The Act has been extended to—
Goa, Daman and Diu with modifications by Reg. 12 of 1962, s. 3 and the Schedule (w.e.f. 15-12-1963); and came into force in Pondicherry on 1-10-1963, *vide* Reg. 7 of 1963, s. 3 and the Schedule I; and brought into force in Dadra and Nagar Haveli (w.e.f. 1-7-1965) by Reg. 6 of 1963, s. 2 and the Schedule I; the whole of the Union territory of Lakshadweep (w.e.f. 1-10-1967) *vide* Reg. 8 of 1965, s. 3 and the Schedule; and brought into force in the State of Sikkim (w.e.f. 1-7-1975) *vide* S.O. 274(*E*), dated 24-6-1975.
2. Subs. by Act 47 of 1950, s. 2, for sub-section (*2*) (w.e.f. 1-6-1950).
3. The words "except the State of Jammu and Kashmir" omitted by Act 62 of 1956, s. 2 and the Schedule (w.e.f. 1-11-1956).
4. 1st July, 1939: *see* notification no. 589-(4)/38, dated the 1st April, 1939, Gazette of India, 1939, Pt. I, p. 631.
5. Subs. by Act 5 of 2015, s. 3, for clauses (*1*) and (*1A*) (w.e.f. 26-12-2014).
6. Subs. by Act 6 of 1946, s. 2, for clause (*2*) (w.e.f. 20-3-1946).
7. Subs. by Act 47 of 1950, s. 3, for clause (*3*) (w.e.f. 1-6-1950).
8. The words "Part A" omitted by the Adaptation of Laws (No. 3) Order, 1956.

*** Subject to verification and confirmation by the administrative ministry.**

(*ii*) debentures or other securities for money issued under the authority of any Central Act or Act of a State Legislature by or on behalf of a port trust or municipal corporation or city improvement trust in any presidency-town ;

(*iii*) shares of a corporation established by law and guaranteed fully by the Central Government or the Government of a [1]*** State as to the repayment of the principal and the payment of dividend ;

(*iv*) securities issued or guaranteed fully as regards principal and interest by the Government of any Part B State and specified as approved securities for the purposes of this Act by the Central Government by notification in the Official Gazette ; and

[2]* * * * *

Provided that securities or debentures specified in item (*v*) shall be recognised as approved securities only for such purposes and for such period and subject to such conditions as may be prescribed ;]

[3][*Explanation.* — In sub-clauses (*i*) and (*iii*), "Government of a State" in relation to any period before the 1st November, 1956, means the Government of a Part A State.]

[4][(*4*) "auditor" means a person qualified under the Chartered Accountants Act, 1949 (38 of 1949), to act as an auditor of companies;]

[5][(*4A*) "banking company" and "company" shall have the meanings respectively assigned to them in clauses (*c*) and (*d*) of sub-section (*1*) of section 5 of the Banking Companies Act, 1949 (10 of 1949) [6]***;]

(*5*) "certified" in relation to any copy or translation of a document required to be furnished by or on behalf of [7][an insurer or a provident society as defined in Part III] means certified by a principal officer of [8][such insurer or provident society] to be a true copy or a correct translation, as the case may be;

[9]* * * * *

[10][(*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);]

1. The word "Part A" omitted by the Adaptation of Laws (No. 3) Order, 1956.
2. Sub-clause (*v*) omitted by Act 42 of 2002, s. 2 (w.e.f. 23-9-2002).
3. Ins. by The Adaptation of Laws (No. 3) order 1956.
4. Subs. by Act 47 of 1950, s. 3 for clause 4 (w.e.f. 1-6-1950).
5. Ins. by s. 3, *ibid*, (w.e.f. 1-6-1950).
6. Now renamed as Banking Regulation Act, 1949 (10 of 1949).
7. Subs. by Act 13 of 1941, s. 2, for "an insurer" (w.e.f. 8-4-1941).
8. Subs. by s. 2, *ibid*, for "the insurer" (w.e.f. 8-4-1941).
9. Clause (*5A*) omitted by Act 5 of 2015, s. 3 (w.e.f. 26-12-2014).
10. Subs. by Act 41 of 1999, s. 30 and the First Schedule (w.e.f. 19-4-2000). Earlier it was inserted by Act 47 of 1950, s. 3 (w.e.f. 1-6-1950).

(*6*) "Court" means the principal Civil Court of original jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction;

[1][(*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;]

[2][(*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;]

[3][(*7*) "Government security" means a Government security as defined in the Public Debt Act, 1944 (18 of 1944);]

[4][(*7A*) "Indian insurance company" means any insurer, being a company which is limited by shares, and, —

(*a*) which is formed and registered under the Companies Act, 2013 (18 of 2013) as a public company or is converted into such a company within one year of the commencement of the Insurance Laws (Amendment) Act, 2015 (5 of 2015);

(*b*) in which the aggregate holdings of equity shares by foreign investors, including portfolio investors, do not exceed forty-nine per cent. of the paid up equity capital of such Indian insurance company, which is Indian owned and controlled, in such manner as may be prescribed.

Explanation. —For the purposes of this sub-clause, the expression "control" shall include the right to appoint a majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements;

(*c*) whose sole purpose is to carry on life insurance business or general insurance business or re-insurance business or health insurance business;]

[5]* * * * *

[6][(*8A*) "insurance co-operative society" means any insurer being a co-operative society, —

(*a*) which is registered on or after the commencement of the Insurance (Amendment) Act, 2002 (42 of 2002), as a co-operative society 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 under the Multi-State Co-operative Societies Act, 1984 (51 of 1984);

1. Ins. by Act 47 of 1950, s. 3 (w.e.f. 1-6-1950).
2. Ins. by Act 5 of 2015, s. 3 (w.e.f. 26-12-2014).
3. Subs. by Act 47 of 1950, s. 3, for clause (*7*) (w.e.f. 1-6-1950).
4. Subs. by Act 5 of 2015, s. 3, for clause (*7A*) (w.e.f. 26-12-2014).
5. Clause (*8*) omitted by s. 3, *ibid.* (w.e.f. 26-12-2014).
6. Ins. by Act 42 of 2002, s. 2 (w.e.f. 9-8-2002).

[1][(*b*) having a minimum paid-up capital of rupees one hundred crore in case of life insurance business, general insurance business and health insurance business;]

(*c*) in which no body corporate, whether incorporated or not, formed or registered outside India, either by itself or through its subsidiaries or nominees, at any time, holds more than twenty-six per cent of the capital of such Co-operative Society;

(*d*) whose sole purpose is to carry on life insurance business or general insurance business [2][or health insurance business] in India;]

[3][(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;]

(*10*) "insurance agent" means an insurance agent [4]*** [5]*** who receives or agrees to receive payment by way of commission or other remuneration in consideration of his soliciting or procuring insurance business [6][including business relating to the continuance, renewal or revival of policies of insurance];

[6][(*10A*) "investment company" means a company whose principal business is the acquisition of shares, stocks, debentures or other securities ;]

[7][(*10B*) "intermediary or insurance intermediary" shall have the meaning assigned to it in clause (*f*) of sub-section (*1*) of section 2 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);]

[8][(*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

1. Subs. by Act 5 of 2015, s. 3, for sub-clause (*b*) (w.e.f. 26-12-2014).
2. Ins. by s. 3, *ibid.* (w.e.f. 26-12-2014).
3. Subs. by s. 3, *ibid.*, for clause (*9*) (w.e.f. 26-12-2014).
4. The words and figures "licensed under section 42" omitted by s. 3, *ibid.* (w.e.f. 26-12-2014).
5. The words "being an individual" omitted by Act 35 of 1957, s. 2 (w.e.f. 1-9-1957).
6. Ins. by Act 47 of 1950, s. 3 (w.e.f. 1-6-1950).
7. Ins. by Act 42 of 2002, s. 2 (w.e.f. 23-9-2002).
8. Subs. by Act 47 of 1950, s. 2, for clause (*11*) (w.e.f. 23-9-2002).

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 [1][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 ;]

[2][*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.]

[3]* * * * *

[4]* * * * *

[5][(*13A*) "marine insurance business" means the business of effecting contracts of insurance upon vessels of any description, including cargoes, freights and other interests which may be legally insured, in or in relation to such vessels, cargoes and freights, goods, wares, merchandise and property of whatever description insured for any transit by land or water, or both, and whether or not including warehouse risks or similar risks in addition, or as incidental to such transit, and includes any other risks customarily included among the risks insured against in marine insurance policies ;

(*13B*) "miscellaneous insurance business" means the business of effecting contracts of insurance which is not principally or wholly of any kind or kinds included in clauses (*6A*), (*11*) and (*13A*);]

[6] [(*13BA*) "National Company Law Tribunal" means the National Company Law Tribunal constituted under section 10FB of the Companies Act, 1956 (1 of 1956);

(*13BB*) "the National Company Law Appellate Tribunal" means the National Company Law Appellate Tribunal constituted under sub-section (*1*) of section 10FR of the Companies Act, 1956 (1 of 1956);]

(*14*) "prescribed" means prescribed by rules made under [7][this Act]; and

[8]* * * * *

[9]* * * * *

1. Subs. by Act, 5 of 2015, s. 3, for "annuities payable out of any fund" (w.e.f. 26-12-2014).
2. Ins. by Act 26 of 2010, s. 3 (w.e.f. 9-4-2010).
3. Clause (*12*) omitted by Act 5 of 2015, s. 3 (w.e.f. 26-12-2014).
4. Clause (*13*) omitted by s. 3, *ibid.* (w.e.f. 26-12-2014).
5. Ins. by Act 47 of 1950, s. 3 (w.e.f. 1-6-1950).
6. Ins. by Act 11 of 2003, s. 133 and the Schedule (w.e.f. 1-4-2003).
7. Subs. by Act 41 of 1999, s. 30 and the First Schedule, for "section 114" (w.e.f. 19-4-2000).
8. Clause 14A) omitted by Act 62 of 1956, s. 2 and the Schedule (w.e.f. 1-11-1956).
9. Clause (*15*) omitted by Act 5 of 2015, s. 3 (w.e.f. 26-12-2014).

(*16*) "private company" and "public company" have the meanings respectively assigned to them in [1][clause (*68*) and clause (*72*) of section 2 of the Companies Act, 2013 (18 of 2013)];

[2] [(*16A*) "regulations" means the regulations framed by the Insurance Regulatory and Development Authority of India established under the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);

(*16B*) "re-insurance" means the insurance of part of one insurer's risk by another insurer who accepts the risk for a mutually acceptable premium;

(*16C*) "Securities Appellate Tribunal" means the Securities Appellate Tribunal established under section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992);]

[3]* * * * *

[4][**2A. Interpretation of certain words and expressions.** — Words and expressions used and not defined in this Act but defined in the Life Insurance Corporation Act, 1956 (31 of 1956), the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972) and the Insurance Regulatory and Development Authority Act, 1999 shall have the meanings respectively assigned to them in those Acts.]

[5]**[2B. Appointment of Controller of Insurance.** — [6][(*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.]

PART II

PROVISIONS APPLICABLE TO INSURERS

[7]**[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 [8][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

1. Subs. by Act 5 of 2015, s. 3 for "clauses (*13*) and (13A) of section 2 of the Indian Companies Act, 1913 (7 of 1913)" (w.e.f. 26-12-2014).
2. Ins. by s. 3, *ibid.* (w.e.f. 26-12-2014).
3. Clause (*17*) omitted by s. 3, *ibid.* (w.e.f. 26-12-2014).
4. Ins. by Act 41 of 1999, s. 30 and the Fifth Schedule (w.e.f. 19-4-2000).
5. Ins. by Act 47 of 1950, s. 5 (w.e.f. 1-6-1950).
6. Subs. by Act 41 of 1999, s. 30 and the Fifth Schedule, for sub-section (*1*) (w.e.f. 19-4-2000).
7. Ins. by Act 47 of 1950, s. 6 (w.e.f. 1-6-1950).
8. Subs. by Act 62 of 1956, s. 2 the Schedule, for "the States" (w.e.f. 1-11-1956).

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

Provided that the Central Government may, by notification in the Official Gazette, exempt from the operation of this section to such extent for such period and subject to such conditions as it may specify, any person or insurer for the purpose of carrying on the business of granting superannuation allowances and annuities of the nature specified in sub-clause (*c*) of clause (*11*) of section 2 or for the purpose of carrying on any general insurance business :

Provided further that in the case of an insurer carrying on any general insurance business no such notification shall be issued having effect for more than three year at any one time.

[2][Provided also that no insurer other than an Indian insurance company shall begin to carry on any class of insurance business in India under this Act on or after the commencement of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999).]

[3][Provided also an insurer, being an Indian Insurance Company, insurance co-operative society or, a body corporate referred to in clause (*c*) of this sub-section carrying on the business of insurance, may carry on any business of insurance in any Special Economic Zone as defined in clause (*za*) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005).]

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

[4][(*3*) Notwithstanding anything contained in sub-section (*1*), an insurance co-operative society may carry on any class of insurance business in India under this Act on or after the commencement of the Insurance (Amendment) Act, 2002 (42 of 2002).]

[5]**[2CA. Power of Central Government to apply provisions of this Act to Special Economic Zones.**—The Central Government may, by notification, direct that any of the provisions of this Act, —

(*a*) shall not apply to insurer, being an Indian Insurance Company, insurance co-operative society or a body corporate referred to in clause (*c*) of sub-section (*1*) of section 2C, carrying on the business of insurance, in any Special Economic Zone as defined in clause (*za*) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005); or

(*b*) shall apply to any insurer, being an Indian Insurance Company, insurance co-operative society or a body corporate referred to in clause (*c*) of sub-section (*1*) of section 2C, carrying on the business of insurance, in any Special Economic Zone as defined in clause (*za*) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005) only with such exceptions, modifications and adaptations as may be specified in the notification.]

1. Subs. by Act 62 of 1956, s. 2 the Schedule, for "the States" (w.e.f. 1-11-1956).
2. The proviso ins. by Act 41 of 1999, s. 30 and the First Schedule (w.e.f. 19-4-2000).
3. The proviso ins. by Act 28 of 2005, s. 57 and the Third Schedule (w.e.f. 10-2-2006).
4. Ins. by Act 42 of 2002, s. 3 (w.e.f. 23-9-2002).
5. Ins. by Act 28 of 2005, s. 57 and the Third Schedule (w.e.f. 10-2-2006).

[1]**[2CB. Properties in India not to be insured with foreign insurers except with the permission of Authority.** —(*1*) No person shall take out or renew any policy of insurance in respect of any property in India or any ship or other vessel or aircraft registered in India with an insurer whose principal place of business is outside India save with the prior permission of the Authority.

(*2*) If any person contravenes the provision of sub-section (*1*), he shall be liable to a penalty which may extend to five crore rupees.]

[2][**2D. Insurers to be subject to this Act while liabilities remain unsatisfied.** — Every insurer shall be subject to all the provisions of this Act in relation to any class of insurance business so long as his liabilities in [3][India] in respect of business of that class remain unsatisfied or not otherwise provided for.

2E. [This Act not to apply to certain insurers, ceasing to enter into new contracts before commencement of Act].—*Omitted by the Insurance Laws (Amendment) Act*, 2015 (5 *of* 2015), *s.* 5 (*w.e.f.* 26-12-2014).

3. Registration. — (*1*) No [4][person] shall, after the commencement of this Act, begin to carry on any class of insurance business in [3][India] and no insurer carrying on any class of insurance business in [3][India] shall, after the expiry of three months from the commencement of this Act, continue to carry on any such business, unless he has obtained from the [5][Authority] a certificate of registration [6][for the particular class of insurance business]:

[7][Provided that in the case of an insurer who was carrying on any class of insurance business in [3][India] at the commencement of this Act, failure to obtain a certificate of registration in accordance with the requirements of this sub-clause shall not operate to invalidate any contract of insurance entered into by him if before [8][such date as may be fixed in this behalf by the Central Government by notification in the Official Gazette], he has obtained that certificate.]

[9][Provided further that a person or insurer, as the case may be, carrying on any class of insurance business in India, on or before the commencement of the Insurance Regulatory and Development Authority Act, 1999, for which no registration certificate was necessary prior to such commencement, may continue to do so for a period of three months from such commencement or, if he had made an application for such registration within the said period of three months, till the disposal of such application:

Provided also that any certificate of registration, obtained immediately before the commencement of the Insurance Regulatory and Development Authority Act, 1999, shall be deemed to have been obtained from the Authority in accordance with the provisions of this Act.]

[10][(*2*) Every application for registration shall be made in such manner and shall be accompanied by such documents as may be specified by the regulations.]

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1. Ins. by Act 5 of 2015, s. 4, (w.e.f. 26-12-2014).
2. Sections (*2A*) and (*2B*) renumbered as sections (*2D*) and (*2E*) thereof by Act 47 of 1950, s. 6 (w.e.f. 1-6-1950).
3. Subs. by Act 62 of 1956, s. 2 the Schedule, for "the States" (w.e.f. 1-11-1956).
4. Subs. by Act 20 of 1940, s. 3, for "insurer" (w.e.f. 10-4-1940).
5. Subs. by Act 41 of 1999, s. 30 and the First Schedule, for "Controller" (w.e.f. 19-4-2000).
6. Ins. by Act 6 of 1946, s. 3 (w.e.f. 20-3-1946).
7. The Proviso Added by Act 20 of 1940, s. 3 (w.e.f. 10-4-1940).
8. Subs. by Act 13 of 1941, s. 3, for "such date as may be fixed in this behalf by the Central Government by notification in the official Gazette" (w.e.f. 8-4-1941).
9. The proviso ins. by Act 41 of 1999, s. 30 and the First Schedule (w.e.f. 19-4-2000).
10. Subs. by Act 5 of 2015, s. 6, for sub-section (*2*) (w.e.f. 26-12-2014).

[1][(*2A*) If, on receipt of an application for registration and after making such inquiry as he deems fit, the [2][Authority] is satisfied that—

(*a*) the financial condition and the general character of management of the applicant are sound;

(*b*) the volume of business likely to be available to, and the capital structure and earning prospects of, the applicant will be adequate;

(*c*) the interests of the general public will be served if the certificate of registration is granted to the applicant in respect of the class or classes of insurance business specified in the application; and

(*d*) the applicant has complied with the provisions of sections 2C, [3][5 and 31A] and has fulfilled all the requirements of this section applicable to him,

the [2][Authority] may register the applicant as an insurer and grant him a certificate of registration.

[4][(*2AA*) The Authority shall give preference to register the applicant and grant him a certificate of registration if such applicant agrees, in the form and manner as may be specified by the regulations made by the Authority, to carry on the life insurance business or general insurance business for providing health cover to individuals or group of individuals.]

(*2B*) Where the [2][Authority] refuses registration, shall record the reasons for such decision and shall furnish a copy thereof to the applicant.

[5][(*2C*) Any person aggrieved by the decision of the Authority refusing registration may, within thirty days from the date on which a copy of the decision is received by him, appeal to the Securities Appellate Tribunal.]

[6]* * * * *

[7][(*3*) In the case of any insurer having joint venture with a person having its principal place of business domiciled outside India or any insurer as defined in sub-clause (*d*) of clause (*9*) of section 2, the Authority may withhold registration already made if it is satisfied that in the country in which such person has been debarred by law or practice of that country to carry on insurance business.

(*4*) The Authority may suspend or cancel the registration of an insurer either wholly or in so far as it relates to a particular class of insurance business, as the case may be, —

(*a*) if the insurer fails, at any time, to comply with the provisions of section 64VA as to the excess of the value of his assets over the amount of his liabilities, or

(*b*) if the insurer is in liquidation or is adjudged as an insolvent, or

(*c*) if the business or a class of the business of the insurer has been transferred to any person or has been transferred to or amalgamated with the business of any other insurer without the approval of the Authority, or

1. Ins. by Act 32 of 1965, s. 2 (w.e.f. 29-9-1965).
2. Subs. by Act 41 of 1999, s. 30 and the First Schedule, for "Controller" (w.e.f. 19-4-2000).
3. Subs. by Act 5 of 2015, s. 6, for "5, 31A and 32" (w.e.f. 26-12-2014).
4. Ins. by Act 41 of 1999, s. 30 and the First Schedule (w.e.f. 19-4-2000).
5. Subs. by Act 5 of 2015, s. 6, for sub-section (*2C*) (w.e.f. 26-12-2014).
6. Sub-section (*2D*) omitted by s. 6, *ibid.* (w.e.f. 26-12-2014).
7. Subs. by s. 6, *ibid*., for sub-sections (*3*), (*4*), (*5*) and (*5A*) (w.e.f. 26-12-2014).

(*d*) if the insurer makes default in complying with, or acts in contravention of, any requirement of this Act or of any rule or any regulation or order made or, any direction issued thereunder, or

(*e*) if the Authority has reason to believe that any claim upon the insurer arising in India under any policy of insurance remains unpaid for three months after final judgment in regular court of law, or

(*f*) if the insurer carries on any business other than insurance business or any prescribed business, or

(*g*) if the insurer makes a default in complying with any direction issued or order made, as the case may be, by the Authority under the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), or

(*h*) if the insurer makes a default in complying with, or acts in contravention of, any requirement of the Companies Act, 2013 (18 of 2013) or the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972) or the Foreign Exchange Management Act, 1999 (42 of 1999) or the Prevention of Money Laundering Act, 2002 (15 of 2002), or

(*i*) if the insurer fails to pay the annual fee required under section 3A, or

(*j*) if the insurer is convicted for an offence under any law for the time being in force, or

(*k*) if the insurer being a co-operative society set up under the relevant State laws or, as the case may be, the Multi-State Co-operative Societies Act, 2002 (39 of 2002), contravenes the provisions of law as may be applicable to the insurer.

(*5*) When the Authority suspends or cancels any registration under clause (*a*), clause (*d*), clause (*e*), clause (*f*), clause (*g*) or clause (*i*) of sub-section (*4*), it shall give notice in writing to the insurer of its decision, and the decision shall take effect on such date as it may specify in that behalf in the notice, such date not being less than one month not more than two months from the date of the receipt of the notice in the ordinary course of transmission.

(*5A*) When the Authority suspends or cancels any registration under clause (*b*), (*c*), (*j*) or (*k*) of sub-section (*4*), the suspension or cancellation, as the case may be, shall take effect on the date on which notice of the order of suspension or cancellation is served on the insurer.]

[1][(*5B*) When a registration is cancelled the insurer shall not, after the cancellation has taken effect, enter into any new contracts of insurance, but all rights and liabilities in respect of contracts of insurance entered into by him before such cancellation takes effect shall, subject to the provisions of sub-section (*5D*), continue as if the cancellation had not taken place.]

[2][(*5C*) Where a registration is suspended or cancelled under clause (*a*), clause (*d*), clause (*e*), clause (*f*), clause (*g*) or clause (*i*) of sub-section (*4*), the Authority may at its discretion revive the registration, if the insurer within six months from the date on which the suspension or cancellation took effect complies with the provisions of section 64VA as to the excess of the value of his assets over the amount of his liabilities or has had an application under sub-section (*4*) of section 3A accepted, or satisfies the Authority that no claim upon him such as is referred to in clause (*e*) of sub-section (*4*) remains unpaid or that he has complied with any requirement of this Act or the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), or of any rule or any regulation, or any order made thereunder or any direction issued under those Acts, or that he has ceased to carry on any business other than insurance business or any prescribed business, as the case may be, and complies with any directions which may be given to him by the Authority.]

1. Ins. by Act 20 of 1940, s. 3.
2. Subs. by Act 5 of 2015, s. 6, for sub-section (*5C*) (w.e.f. 26-12-2014).

[1][(*5D*) Where [2][the registration of an insurance company is cancelled under sub-section (*4*), the [3][Authority] may,] after the expiry of six months from the date on which the cancellation took effect, apply to the Court for an order to wind up the insurance company, or to wind up the affairs of the company in respect of a class of insurance business, unless the registration of the insurance company has been revived under sub-section (*5C*) or an application for winding up the company has been already presented to the Court. The Court may proceed as if an application under this sub-section were an application under sub-section (*2*) of section 53, or sub-section (*1*) of section 58, as the case may be.]

[4][(*5E*) The Authority may, by order, suspend or cancel any registration in such manner as may be determined by the regulations made by it:

Provided that no order under this sub-section shall be made unless the person concerned has been given a reasonable opportunity of being heard.]

[5]* * * * *

[6][(*7*) The Authority may, on payment of such fee, not exceeding five thousand rupees, as may be determined by the regulations, issue a duplicate certificate of registration to replace a certificate lost, destroyed or mutilated, or in any other case where the Authority is of opinion that the issue of duplicate certificate is necessary.]

[7]**[3A. Payment of annual fee by insurer.—** (*1*) An insurer who has been granted a certificate of registration under section 3 shall pay such annual fee to the Authority in such manner as may be specified by the regulations.

(*2*) Any failure to deposit the annual fee shall render the certificate of registration liable to be cancelled.]

[8]**[3B. Certification of soundness of terms of life insurance business.—** If, when considering an application for registration under section 3 or at any other time, it appears to the [3][Authority] that the assured rates, advantages, terms and conditions offered or to be offered in connection with life insurance business are in any respect not workable or sound, it may require that a statement thereof shall be submitted to an actuary appointed by the insurer for the purpose and approved by the [3][Authority], and may by order in writing further require the insurer to make within such time as may be specified in the order such modifications in the said rates, advantages, terms or conditions, as the case may be, as the said actuary may report to be necessary to enable him to certify that the said rates, advantages, terms and conditions are workable and sound.]

[9]**[4. Minimum limits for annuities and other benefits secured by policies of life insurance. —**The insurer shall pay or undertake to pay on any policy of life insurance or a group policy issued, a minimum annuity and other benefits as may be determined by regulations excluding any profit or bonus provided that this shall not prevent an insurer from converting any policy into a paid-up policy of any value or payment of surrender value of any amount.]

5. Restriction on name of insurer. — (*1*) An insurer shall not be registered by a name identical with that by which an insurer in existence is already registered, or so nearly resembling that name as to be

1. Ins. by Act 20 of 1940, s. 3.
2. Subs. by Act 6 of 1946, s. 3, for certain words (w.e.f. 20-3-1946).
3. Subs. by Act 41 of 1999, s. 30 and the First Schedule, for "Controller" (w.e.f. 19-4-2000).
4. Ins. by s. 30 and the First Schedule, *ibid.* (w.e.f. 19-4-2000).
5. Sub-section (*6*) omitted by Act 32 of 1965, s. 2 (w.e.f. 29-9-1965).
6. Subs. by Act 41 of 1999, s. 30 and the First Schedule, for sub-section (*7*) (19-4-2000).
7. Subs. by Act 5 of 2015, s. 7, for section 3A (w.e.f. 26-12-2014).
8. Ins. by Act 6 of 1946, s. 4 (w.e.f. 20-3-1946).
9. Subs. by Act 5 of 2015, s. 8, for section 4 (w.e.f. 26-12-2014).

calculated to deceive except when the insurer in existence is in the course of being dissolved and signifies his consent to the [1][Authority],

(*2*) If an insurer, through inadvertence or otherwise, is without such consent as aforesaid registered by a name identical with that by which an insurer already in existence whether previously registered or not is carrying on business or so nearly resembling it as to be calculated to deceive, the first-mentioned insurer shall, if called upon to do so by the [1][Authority] on the application of the second-mentioned insurer, change his name within a time to be fixed by the [1][Authority]:

[2]* * * * *

[3]* * * * *

[4][**6. Requirement as to capital.—** (*1*) No insurer not being an insurer as defined in sub-clause (*d*) of clause (9) of section 2, carrying on the business of life insurance, general insurance, health insurance or re-insurance in India or after the commencement of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), shall be registered unless he has, —

(*i*) a paid-up equity capital of rupees one hundred crore, in case of a person carrying on the business of life insurance or general insurance; or

(*ii*) a paid-up equity capital of rupees one hundred crore, in case of a person carrying on exclusively the business of health insurance; or

(*iii*) a paid-up equity capital of rupees two hundred crore, in case of a person carrying on exclusively the business as a re-insurer:

Provided that the insurer, may enhance the paid-up equity capital, as provided in this section in accordance with the provisions of the Companies Act, 2013 (18 of 2013), the Securities and Exchange Board of India Act, 1992 (15 of 1992) and the rules, regulations or directions issued thereunder or any other law for the time being in force:

Provided further that in determining the paid-up equity capital, any preliminary expenses incurred in the formation and registration of any insurer as may be specified by the regulations made under this Act, shall be excluded.

(*2*) No insurer, as defined in sub-clause (*d*) of clause (*9*) of section 2, shall be registered unless he has net owned funds of not less than rupees five thousand crore.]

[5][(*3*) No insurer, being a foreign company engaged in re-insurance business through a branch established in an International Financial Services Centre referred to in sub-section (*1*) of section 18 of the Special Economic Zones Act, 2005 (28 of 2005), shall be registered unless it has net owned funds of not less than rupees one thousand crore.]

[6][**6A. Requirements as to capital structure and voting rights and maintenance of registers of beneficial owners of shares.** — [7][(*1*) No public company limited by shares having its registered office in India, shall carry on life insurance business or general insurance business or health insurance business or re-insurance business, unless it satisfies the following conditions, namely: —

(*i*) that the capital of the company shall consist of equity shares each having a single face value and such other form of capital, as may be specified by the regulations;

1. Subs. by Act 41 of 1999, s. 30 and the First Schedule, for "Controller" (w.e.f. 19-4-2000). Earlier it was substituted by Act 47 of 1950, s. 4, for "Superintendent of Insurance" (w.e.f. 1-6-1950).
2. The provisos omitted by Act 5 of 2015, s. 9 (w.e.f. 26-12-2014).
3. Sub-section (*3*) omitted by s. 9, *ibid.* (w.e.f. 26-12-2014).
4. Subs. by s. 10, *ibid*., for section 6 (w.e.f. 26-12-2014).
5. Ins. by Act 23 of 2019, s. 144 (w.e.f. 01-08-2019).
6. Ins. by Act 47 of 1950, s. 9 (w.e.f. 1-6-1950).
7. Subs. by Act 5 of 2015, s. 11, for sub-section (*1*) (w.e.f. 26-12-2014).

(*ii*) that the voting rights of shareholders are restricted to equity shares;

(*iii*) that, except during any period not exceeding one year allowed by the company for payment of calls on shares, the paid-up amount is the same for all shares, whether existing or new:

Provided that the conditions specified in this sub-section shall not apply to a public company which has, before the commencement of the Insurance (Amendment) Act, 1950 (47 of 1950), issued any shares other than ordinary shares each of which has a single face value or any shares, the paid-up amount whereof is not the same for all of them for a period of three years from such commencement.]

(*2*) Notwithstanding anything to the contrary contained in any law for the time being in force or in the memorandum or articles of association but subject to the other provisions contained in this section the voting right of every shareholder of any public company as aforesaid shall in all cases be strictly proportionate to the paid-up amount of the [1][equity] shares held by him.

[2]* * * * *

[3][(*4*) A public company as aforesaid which carries on life insurance business, general and health insurance business and re-insurance business—

(*a*) shall, in addition to the register of members maintained under the Companies Act, 2013 (18 of 2013), maintain a register of shares in which the name, occupation and address of the beneficial owner of each share shall be entered including any change of beneficial owner declared to it within fourteen days from the receipt of such declaration;

(*b*) shall not register any transfer of its shares—

(*i*) unless, in addition to compliance being made with the provisions of section 56 of the Companies Act, 2013 (18 of 2013), the transferee furnishes a declaration in the prescribed form as to whether he proposes to hold the shares for his own benefit or as a nominee, whether jointly or severally, on behalf of others and in the latter case giving the name, occupation and address of the beneficial owner or owners, and the extent of the beneficial interest of each;

(*ii*) where, after the transfer, the total paid-up holding of the transferee in the shares of the company is likely to exceed five per cent. of its paid-up capital unless the previous approval of the Authority has been obtained to the transfer;

(*iii*) where, the nominal value of the shares intended to be transferred by any individual, firm, group, constituents of a group, or body corporate under the same management, jointly or severally exceeds one per cent. of the paid-up equity capital of the insurer, unless the previous approval of the Authority has been obtained for the transfer.

Explanation.—For the purposes of this sub-clause, the expressions "group" and "same management" shall have the meanings respectively assigned to them in the Competition Act, 2002 (12 of 2003).]

1. Ins. by Act 5 of 2015, s. 11 (w.e.f. 26-12-2014).
2. Subs-section (*3*) Omitted by s. 11, *ibid.* (w.e.f. 26-12-2014).
3. Subs. by s. 11, *ibid*., for sub-section (*4*) (w.e.f. 26-12-2014).

(*5*) Every person who has any interest in any share of a company referred to in sub-section (*4*) which stands in the name of another person in the register of members of the company, shall, within thirty days from the commencement of the Insurance (Amendment) Act, 1950, or from the date on which he acquires such interest, whichever is later, make a declaration in the prescribed form (which shall be countersigned by the person in whose name the shares is registered) to the company declaring his interest in such share, and notwithstanding anything contained in any other law or in any contract to the contrary, a person who fails to make a declaration as aforesaid in respect of any share shall be deemed to have no right or title whatsoever in that share:

Provided that nothing in this sub-section shall affect the right of a person who has an interest in any such share to establish in a Court his right thereto, if the person, in whose name the share is registered, refuses to countersign the declaration as required by this sub-section:

Provided further that where any share, belonging to an individual who has made any such declaration as is referred to in this sub-section is held by a company in its name in pursuance of any trust or for the purpose of safe custody or collection or realisation of dividend, such individual shall, notwithstanding anything contained in the Indian Companies Act, 1913 (7 of 1913) or in the memorandum or articles of association of the company which has issued the share, be deemed to be the holder of the said share for the purpose of exercising any voting rights under this section to the exclusion of any other person.

[1]* * * * *

[2]* * * * *

[3]* * * * *

[4]* * * * *

[5]* * * * *

[6][(*11*) The provisions of this section, [7]***, shall, on and from, the commencement of the Insurance (Amendment) Act, 1968, also apply to insurers carrying on general insurance business subject to the following modifications, namely: —

(*i*) that references in sub-sections (*1*), (*3*), (*5*) and (*6*) to the Insurance (Amendment) Act, 1950, shall be construed as references to the Insurance (Amendment) Act, 1968; [8]***

[9]* * * * *

[10][*Explanation*] —For the purpose of this section, the holding of a person in the shares of a company shall be deemed to include—

(*i*) the total paid-up holding in such shares held by such person in the name of others; and

1. Sub-section (*6*) omitted by 5 of 2015, s. 11 (w.e.f. 26-12-2014).
2. Sub-section (*7*) omitted by s. 11, *ibid.* (w.e.f. 26-12-2014).
3. Sub-section (*8*) omitted by s. 11, *ibid.* (w.e.f. 26-12-2014).
4. Sub-section (9) omitted by s. 11, *ibid.* (w.e.f. 26-12-2014).
5. Sub-section (*10*) omitted by s. 11, *ibid.* (w.e.f. 26-12-2014).
6. Ins. by Act 62 of 1968, s. 4 (w.e.f. 1-6-1969).
7. The words, brackets and figures "except those of sub-sections (*7*), (*8*) and (9)" omitted by Act 5 of 2015, s. 11 (w.e.f. 26-12-2014).
8. The word "and" omitted by s. 11, *ibid.* (w.e.f. 26-12-2014).
9. Clause (*ii*) omitted by s. 11, *ibid.* (w.e.f. 26-12-2014).
10. Subs. by Act 41 of 1999, s. 30 and the First Schedule, for "*Explanation 1* " (w.e.f.19-4-2000).

(*ii*) if any shares of the company are held—

(*a*) by a public limited company, of which such person is a member holding more than ten per cent of the paid-up capital, or

(*b*) by a private limited company, of which such person is a member, or

(*c*) by a company, of which such person is a managing director, manager, [1]*** or in which he has a controlling interest, or

(*d*) by a firm in which such person is a partner, or

(*e*) by such person jointly with others,

such part of the total paid-up holding of the company or firm or of the total joint holding in those shares, as is proportionate to the contribution made by such person to the paid-up capital of the company, the paid-up capital of the firm or the joint holding, as the case may be.

[2]* * * * *

6AA . [Manner of divesting excess shareholding by promoter in certain cases].— *Omitted by the Insurance Laws (Amendment) Act*, 2015 (5 *of* 2015), *s.* 12 (*w.e.f.* 26-12-2014).

6B. Provision for securing compliance with requirements relating to capital structure.— (*1*) For the purpose of enabling any public company carrying on [3][life or general or health insurance or re-insurance business] to bring its capital structure into conformity with the requirements of section 6A, an officer appointed on this behalf by the [4][Authority] may, notwithstanding anything contained in the Indian Companies Act, 1913 (7 of 1913): —

(*a*) examine any scheme proposed for the purpose aforesaid by the directors of the company:

Provided that—

(*i*) the scheme has been placed before a meeting of the share holders for their opinion and has been forwarded to the officer together with the opinion of the shareholders thereon, and

(*ii*) the scheme does not involve any diminution of the liability of the shareholders in respect of unpaid-up share capital;

(*b*) invite objections and suggestions in respect of the scheme so proposed; and

(*c*) after considering such objections and suggestions to the scheme so proposed, sanction it with such modifications as he may consider necessary or desirable.

(*2*) Any shareholder or other person aggrieved by the decision of the officer sanctioning a scheme under sub-section (*1*) may, within ninety days of date of the order sanctioning the scheme, prefer an appeal to the [5][Securities Appellate Tribunal] within whose jurisdiction the registered office of the insurer is situate for the purpose of modifying or correcting any such scheme for the purpose specified in sub-section (*1*).

1. The words “managing agent” omitted by Act 5 of 2015, s. 11 (w.e.f. 26-12-2014).
2. *Explanation* 2 omitted by Act 41 of 1999, s. 30 and the First Schedule (w.e.f. 19-4-2000).
3. Subs. by s. 13, *ibid.*, for “life insurance business” (w.e.f. 26-12-2014).
4. Subs. by s. 13, *ibid*., for “Central Government” (w.e.f. 26-12-2014).
5. Subs. by s. 13, *ibid*., for “High Court” (w.e.f. 26-12-2014).

(*3*) The decision of the [1][Securities Appellate Tribunal] where an appeal has been preferred to it under sub-section (*2*), or of the officer aforesaid where no such appeal has been preferred, shall be final and binding on all the shareholders and other persons concerned.

[2]* * * * *

6C. [**Conversion of company limited by shares into company limited by guarantee.]—** *Omitted by the Insurance Laws (Amendment) Act*, 2015 (5 *of* 2015), *s.* 14 (*w.e.f.* 26-12-2014).

7. [**Deposits.**]— *Omitted by s.* 14, *ibid*. (*w.e.f.* 26-12-2014).

8. [**Reservation of deposits.**]— *Omitted by s.* 14, *ibid*. (*w.e.f.* 26-12-2014).

9. [**Refund of deposit.**]— *Omitted by*, *s.* 14, *ibid*. (*w.e.f.* 26-12-2014).

10. Separation of accounts and funds. — (*1*) Where the insurer carries on business of more than one of the [3][following classes, namely, life insurance, fire insurance, marine insurance or miscellaneous insurance], he shall keep a separate account of all receipts and payments in respect of each such class of insurance business [4][and where the insurer carries on business of [5][miscellaneous insurance] whether alone or in conjunction with business of another class, he shall, unless the [6][Authority] waives this requirement in writing, keep a separate account of all receipts and payments in respect of [7][each of such sub-classes of miscellaneous insurance business] as may be [8][specified by the regulations]:

Provided that no sub-class of [9][miscellaneous insurance business] shall be prescribed under this sub-section if the insurance business comprised in the sub-class consist of insurance contracts which are terminable by the insurer at intervals not exceeding twelve months and under which, if a claim arises, the insurer's liability to pay benefit ceases within one year of the date on which the claim arose.]

(*2*) Where the insurer carries on the business of life insurance [10][all receipts due in respect of such business], shall be carried to and shall form a separate fund to be called the life insurance fund [11][the assets of which shall, [12]***, be kept distinct and separate from all other assets of the insurer] and the deposit made by the insurer in respect of life insurance business shall be deemed to be [13][part of the assets of such fund; [14][and every insurer shall, within the time limited in sub-section (*1*) of section 15 in regard to the furnishing of the statements and accounts referred to in section 11, furnish to the Controller a statement showing in detail such assets as at the close of every calendar year duly certified by an auditor or by a person qualified to audit [15]***:]

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1. Subs. by Act 5 of 2015, s. 13, for "High Court" (w.e.f. 26-12-2014).
2. Sub-section (*4*) omitted by Act 5 of 2015, s. 13 (w.e.f. 26-12-2014).
3. Subs. by Act 62 of 1968, s. 8, for "classes specified in clause (*a*), (*b*), (*c*) and (*d*) of sub-section (*1*) of section 7" (w.e.f. 1-6-1969).
4. Sub-section (*1*) Added by Act 13 of 1941, s. 8 (w.e.f. 8-4-1941).
5. Subs. by Act 62 of 1968, s. 8, for "the class specified in clause (*d*) of that sub-section" (w.e.f. 1-6-1969).
6. Subs. by Act 41of 1999, s. 30 and the First Schedule, for "Controller" (w.e.f. 19-4-2000).
7. Subs. by Act 62 of 1968, s. 8, for "each such sub-class of the class specified in clause (*d*)" (w.e.f. 1-6-1969).
8. Subs. by Act 5 of 2015, s. 15, for "prescribed in this behalf" (w.e.f. 26-12-2014).
9. Subs. by Act 62 of 1968, s. 8, for "the class of insurance business specified in clause (*d*) of sub-section (*1*) of section 7" (w.e.f. 1-6-1969).
10. Subs. by Act 13 of 1941, s. 8, for "the excess of receipts over payments in respect of such business" (w.e.f. 8-4-1941).
11. Ins. by Act 6 of 1946, s. 8 (w.e.f. 20-3-1946).
12. The words, brackets and figures, "after the expiry of six months from the commencement of the Insurance (Amendment) Act, 1946 (6 of 1946)" omitted by Act 5 of 2015, s. 15 (w.e.f. 26-12-2014).
13. Subs. by Act 6 of 1946, s. 8, for "part of such fund" (w.e.f. 20-3-1946).
14. Subs. by Act 47 of 1950, s. 11, for certain words (w.e.f. 1-6-1950).
15. The words "under the law of the insurer's country" omitted by Act 5 of 2015, s. 15 (w.e.f. 26-12-2014).

Provided that such statement shall, in the case of an insurer to whom section 11 applies, be set out as a part of the balance-sheet mentioned in clause (*a*) of sub-section (*I*) of that section:

Provided further that an insurer may show in such statement all the assets held in his life department, but at the same time showing any deductions on account of general reserves and other liabilities of that department:

Provided also that the [1][Authority] may call for a statement similarly certified of such assets as at any other date specified by him to be furnished within a period of three months from the date with reference to which the statement is called for]].

[2][(*2A*) No insurer carrying on life insurance business shall be entitled to be registered for any class of insurance business in addition to the class or classes for which he has been already registered unless the [1][Authority] is satisfied that the assets of the life insurance fund of the insurer are adequate to meet all his liabilities on policies of life insurance maturing for payment.]

[3][(*2AA*) Where the insurer carries on the business of insurance, all receipts due in respect of each sub-class of such insurance business shall be carried to and shall form a separate fund, the assets of which shall be kept separate and distinct from other assets of the insurer and every insurer shall submit to the Authority the necessary details of such funds as may be required by the Authority from time to time and such funds shall not be applied directly or indirectly, save as expressly permitted under this Act or regulations made thereunder.]

(*3*) The life insurance fund shall be as absolutely the security of the life policy-holders as though it belonged to an insurer carrying on no other business than life insurance business and shall not be liable for any contracts of the insurer for which it would not have been liable had the business of the insurer been only that of life insurance and shall not be applied directly or indirectly [4] *** for any purposes [5][other than those of the life insurance business of the insurer].

[6][**11. Accounts and balance-sheet. —** (*1*) Every insurer, on or after the date of the commencement of the Insurance Laws (Amendment) Act, 2015 (5 of 2015), in respect of insurance business transacted by him and in respect of his shareholders' funds, shall, at the expiration of each financial year, prepare with reference to that year, balance sheet, a profit and loss account, a separate account of receipts and payments, a revenue account in accordance with the regulations as may be specified.

(*2*) Every insurer shall keep separate accounts relating to funds of shareholders and policyholders.

(*3*) Unless the insurer is a company as defined in clause (*20*) of section 2 of the Companies Act, 2013 (18 of 2013), the accounts and statements referred to in sub-section (*1*) shall be signed by the insurer, or in the case of a company by the chairman, if any, and two directors and the principal officer of the company, or in case of an insurance cooperative society by the person in charge of the society and shall be accompanied by a statement containing the names, descriptions and occupations of, and the directorships held by, the persons in charge of the management of the business during the period to which such accounts and statements refer and by a report on the affairs of the business during that period.]

1. Subs. by Act 41of 1999, s. 30 and The First Schedule, for "Controller" (w.e.f. 19-4-2000).
2. Ins. by Act 6 of 1946, s. 8 (w.e.f. 20-3-1946).
3. Ins. by Act 5 of 2015, s. 15 (w.e.f. 26-12-2014).
4. The words "save as provided in section 49" omitted by Act 13 of 1941, s. 8 (w.e.f. 8-4-1941).
5. Subs. by s. 8, *ibid.*, for "other than those of life insurance" (w.e.f. 8-4-1941).
6. Subs. by Act 5 of 2015, s. 16, for section 11 (w.e.f. 26-12-2014).

[1][**12. Audit.—**The balance sheet, profit and loss account, revenue account and profit and loss appropriation account of every insurer, in respect of all insurance business transacted by him, shall, unless they are subject to audit under the Companies Act, 2013 (18 of 2013), be audited annually by an auditor, and the auditor shall in the audit of all such accounts have the powers of, exercise the functions vested in, and discharge the duties and be subject to the liabilities and penalties imposed on, auditors of companies by section 147 of the Companies Act, 2013.]

13. Actuarial report and abstract. — [2][(*1*) Every insurer carrying on life insurance business shall, once at least every year cause an investigation to be made by an actuary into the financial condition of the life insurance business carried on by him, including a valuation of his liabilities in respect thereto and shall cause an abstract of the report of such actuary to be made in accordance with the regulations:

Provided that the Authority may, having regard to the circumstances of any particular insurer, allow him to have the investigation made as at a date not later than two years from the date as at which the previous investigation was made:

Provided further that every insurer, on or after the commencement of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), shall cause an abstract of the report of the actuary to be made in such manner as may be specified by the regulations.]

(*2*) The provisions of sub-section (*1*) regarding the making of an abstract shall apply whenever at any other time an investigation into the financial condition of the insurer is made with a view to the distribution of profits or an investigation is made of which the results are made public.

(*3*) There shall be appended to every such abstract as is referred to in sub-section (*1*) or sub-section (*2*) a certificate signed by the principal officer of the insurer that full and accurate particulars of every policy under which there is a liability either actual or contingent have been furnished to the actuary for the purpose of the investigation.

[3][(*4*) There shall be appended to every such abstract a statement prepared in such form and in such manner as may be specified by the regulations:

Provided that, if the investigation referred to in sub-sections (*1*) and (*2*) is made annually by any insurer, the statement need not be appended every year but shall be appended at least once in every three years.]

(*5*) Where an investigation into the financial condition of an insurer is made as at a date other than the expiration of the year of account, the accounts for the period since the expiration of the last year of account and the balance-sheet as at the date at which the investigation is made shall be prepared and audited in the manner provided by this Act.

[4][(*6*) The provisions of this section relating to the life insurance business shall apply also to any such sub-class of insurance business included in the class "Miscellaneous Insurance" and the Authority may authorise such modifications and variations of regulations as may be necessary to facilitate their application to any such sub-class of insurance business:

Provided that, if the Authority is satisfied that the number and amount of the transactions carried out by an insurer in any such sub-class of insurance business is so small as to render periodic investigation and valuation unnecessary, it may exempt that insurer from the operation of this sub-section in respect of that sub-class of insurance business.]

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1. Subs. by Act 5 of 2015, s. 17, for section 12 (w.e.f. 26-12-2014).
2. Subs. by s. 18, *ibid*., for sub-section (*1*) (w.e.f. 26-12-2014).
3. Subs. by s. 18, *ibid*., for sub-section (*4*) (w.e.f. 26-12-2014).
4. Subs. by s. 18, *ibid*., for sub-section (*6*) (w.e.f. 26-12-2014).

[1][**14. Record of policies and claims.—** (*1*) Every insurer, in respect of all business transacted by him, shall maintain—

(*a*) a record of policies, in which shall be entered, in respect of every policy issued by the insurer, the name and address of the policyholder, the date when the policy was effected and a record of any transfer, assignment or nomination of which the insurer has notice;

(*b*) a record of claims, every claim made together with the date of the claim, the name and address of the claimant and the date on which the claim was discharged, or, in the case of a claim which is rejected, the date of rejection and the grounds thereof; and

(*c*) a record of policies and claims in accordance with clauses (*a*) and (*b*) may be maintained in any such form, including electronic mode, as may be specified by the regulations made under this Act.

(*2*) Every insurer shall, in respect of all business transacted by him, endeavour to issue policies above a specified threshold in terms of sum assured and premium in electronic form, in the manner and form to be specified by the regulations made under this Act.]

[2][**15. Submission of returns.—** (*1*) The audited accounts and statements referred to in section 11 or sub-section (*5*) of section 13 and the abstract and statement referred to in section 13 shall be printed, and four copies thereof shall be furnished as returns to the Authority within six months from the end of the period to which they refer.

(*2*) Of the four copies so furnished, one shall be signed in the case of a company by the chairman and two directors and by the principal officer of the company and, if the company has a managing director by that managing director and one shall be signed by the auditor who made the audit or the actuary who made the valuation, as the case may be.]

16. [**Returns by insurers established outside India.**]—*Omitted by the Insurance Laws (Amendment) Act*, 2015 (5 *of* 2015), *s.* 21 (*w.e.f.* 26-12-2014).

17. [Exemption from certain provisions of the Indian Companies Act, 1913.]—*Omitted by s.* 21, *ibid*. (*w.e.f.* 26-12-2014).

17A. [This Act not to apply to preparation of accounts, etc., for periods prior to this Act coming into force.]— *Omitted by s.* 21, *ibid*. (*w.e.f.* 26-12-2014).

18. Furnishing reports. — Every insurer shall furnish to the [3][Authority] a certified copy of every report on the affairs of the concern which is submitted to the members or policy-holders of the insurer immediately after its submission to the members or policy-holders, as the case may be.

19. Abstract of proceedings of general meetings.— Every insurer, being a company or body incorporated under any law for the time being in force in [4][India], shall furnish to the [3][Authority] [5][a certified copy of the minutes of the proceedings of every general meeting, as entered in the Minutes Book of the insurer] within thirty days from the holding of the meeting to which it relates.

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1. Subs. by Act 5 of 2015, s. 19 for section 14 (w.e.f. 26-12-2014).
2. Subs. by s. 20, *ibid*., for section 15 (w.e.f. 26-12-2014).
3. Subs. by Act 41 of 1999, s. 30 and The First Schedule, for "Controller" (w.e.f. 19-4-2000).
4. Subs. by Act 62 of 1956, s. 2 and the Schedule, for "the States" (w.e.f. 1-11-1956).
5. Subs by Act 47 of 1950, s. 14, for "an abstract of the proceedings of every general meeting" (w.e.f. 1-6-1950).

20. Custody and inspection of documents and supply of copies. — [1][(*1*) Every return furnished to the Authority or certified copy thereof shall be kept by the Authority and shall be open to inspection; and any person may procure a copy of any such return, or of any part thereof, on payment of such fee as may be specified by the regulations.]

(*2*) A printed or certified copy of the accounts, statements and abstract furnished in accordance with the provisions of section 15 [2]*** shall, on the application of any shareholder or policy-holder made at any time within two years from the date on which the documents was so furnished, be supplied to him by the insurer within fourteen days when the insurer is constituted, incorporated or domiciled in [3][India] and in any other case within one month of such application.

(*3*) A copy of the memorandum and articles of association of the insurer, if a company shall on the application of any policy-holder, be supplied to him by the insurer on payment of [4][such fee as may be specified by the regulations].

21. Powers of [5][Authority] regarding returns. — (*1*) If it appears to the [5][Authority] that any return furnished to him under the provisions of this Act is inaccurate or defective in any respect, he may—

(*a*) require from the insurer such further information, certified if he so directs by an auditor or actuary, as he may consider necessary to correct or supplement such return;

(*b*) call upon the insurer to submit for his examination at the principal place of business of the insurer in [3][India] any book of account, register or other document or to supply any statement which his may specify in a notice served on the insurer for the purpose;

(*c*) examine any office of the insurer on oath in relation to the return;

(*d*) decline to accept any such return unless the inaccuracy has been corrected or the deficiency has been supplied before the expiry of one month from the date on which the requisition asking for correction of (he inaccuracy or supply of the deficiency was delivered to the insurer [6][or of such further time as the [5][Authority] may specify in the requisition] and if him declines to accept any such return, the insurer shall be deemed to have failed to comply with the provisions of section 15 [7]*** [8][or section 28] [9][or section 28A] [10][or section 28B or section 64V] relating to the furnishing of returns.

[11][(*2*) The Securities Appellate Tribunal may, on the application of an insurer and after hearing the Authority, cancel any order made by the Authority under clause (*d*) of sub-section (*1*) or may direct the acceptance of such a return which the Authority has declined to accept, if the insurer satisfies the Tribunal that the action of the Authority was in the circumstances unreasonable:

Provided that no application under this sub-section shall be entertained unless it is made before the expiration of four months from the date when the Authority made the order or declined to accept the return.]

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1. Subs. by Act 5 of 2015, s. 23, for sub-section (*1*) (w.e.f. 26-12-2014).
2. The words and figures "or section 16" omitted by s. 23, *ibid.* (w.e.f. 26-12-2014).
3. Subs. by Act 62 of 1956, s. 2 and the Schedule, for "the States" (w.e.f. 1-11-1956).
4. Subs. by 5 of 2015, s. 23, for "one rupee" (w.e.f. 26-12-2014).
5. Subs. by Act 41 of 1999, s. 30 and the Schedule, for "Controller" (w.e.f. 19-4-2000).
6. Ins. by Act 47 of 1950, s. 15 (w.e.f. 1-6-1950).
7. The words and figures "or section 16" omitted by Act 5 of 2015, s. 24 (w.e.f. 26-12-2014).
8. Ins. by Act 6 of 1946, s. 13 (w.e.f. 20-3-1946).
9. Ins. by Act 47of 1950, s. 15 (w.e.f. 1-6-1950).
10. Ins. by Act 6 of 1968, s. 10 (w.e.f. 1-6-1969).
11. Subs. by Act 5 of 2015, s. 24 (w.e.f. 26-12-2014).

22. Power of [1][**Authority**] **to order revaluation.—**[2][(*1*)] If it appears to the [1][Authority] that an investigation or valuation to which section 13 refers [3]*** does not properly indicate the condition of the affairs of the insurer by reason of the faulty basis adopted in the valuation, he may, after giving notice to the insurer and giving him an opportunity to be heard, cause an investigation and valuation [4][as at such date as the [1][Authority] may specify] to be made at the expense of the insurer by an actuary appointed by the insurer for this purpose and approved by the [1][Authority] and [4][and the insurer shall place at the disposal of the actuary so appointed and approved all the material required by the actuary for the purposes of the investigation and valuation within such period, not being less than three months, as the [1][Authority] may specify],

[5][(*2*) The provisions of sub-sections (*1*) and (*4*) of section 13, and of sub-sections (*I*) and (*2*) of section [6]***, shall apply in relation to an investigation and valuation under this section:

Provided that the abstract and statement prepared as the result of such investigation and valuation shall be furnished by such date as the [1][Authority] may specify.]

23. Evidence of documents.— (*1*) Every return furnished to the [1][Authority] which has been certified by the [1][Authority] to be a return so furnished, shall be deemed to be a return so furnished.

(*2*) Every document, purporting to be certified by the [1][Authority] to be a copy of a return so furnished, shall be deemed to be a copy of that return and shall be received in evidence as if it were the original return, unless some variation between it and the original return is proved.

24. [Summary of returns to be published].—*Omitted by the Insurance* (*Amendment*) *Act, 1941* (*13 of 1941*), *s.* 16 (*w.e.f.* 8-4-1941)].

25. Returns to be published in statutory forms.—No insurer shall publish in [7][India] any return in a form other than that in which it has been furnished to the [1][Authority]:

Provided that nothing contained in this section shall prevent an insurer from publishing a true and accurate abstract from such returns for the purposes of publicity.

26. Alterations in the particulars furnished with application for registration to be reported. — Whenever any alteration occurs or is made which affects any of the matters which are required under the provisions of sub-section (*2*) of section 3 to accompany an application by an insurer for registration, the insurer shall forthwith furnish to the [1][Authority] full particulars of such alteration. [8][All such particulars shall be authenticated in the manner required by that sub-section for the authentication of the matters therein referred to, and, where the alteration affects the assured rates, advantages, terms and conditions offered in connection with life insurance policies the actuarial certificate referred to in clause (*f*) of the said sub-section shall accompany the particulars of the alteration.]

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1. Subs. by Act 41 of 1999, s. 30 and the Schedule, for "Controller" (w.e.f. 19-4-2000).
2. Section 22 renumbered as sub-section (*1*) thereof by Act 6 of 1946, s. 14 (w.e.f. 20-3-1946).
3. The words, brackets, letter and figures "or an abstract of a valuation report furnished under clause (*c*) of sub-section (*2*) of section 16" omitted by Act 5 of 2015 s. 25 (w.e.f. 26-12-2014).
4. Ins. by Act 6 of 1946, s. 14 (w.e.f. 20-3-1946).
5. Added by s. 14, *ibid*., (w.e.f. 20-3-1946).
6. The words, brackets, letter and figures "or, as the case may be, of sub-section (2) of section 16" omitted by Act 5 of 2015, s. 25 (w.e.f. 26-12-2014).
7. Subs. by Act 62 of 1956, s. 2 and the Schedule, for "the States" (w.e.f. 1-11-1956).
8. Added by Act 13 of 1941, s. 17 (w.e.f. 8-4-1941).

[1][**27. Investment of assets.** — (*1*) Every insurer shall invest and at all times keep invested assets equivalent to not less than the sum of—

(*a*) the amount of his liabilities to holders of life insurance policies in India on account of matured claims, and

(*b*) the amount required to meet the liability on policies of life insurance maturing for payment in India,

less—

(*i*) the amount of premiums which have fallen due to the insurer on such policies but have not been paid and the days of grace for payment of which have not expired, and

(*ii*) any amount due to the insurer for loans granted on and within the surrender values of policies of life insurance maturing for payment in India issued by him or by an insurer whose business he has acquired and in respect of which he has assumed liability in the following manner, namely: —

(*a*) twenty-five per cent. of the said sum in Government securities, a further sum equal to not less than twenty-five per cent. of the said sum in Government securities or other approved securities; and

(*b*) the balance in any of the approved investments,

as may be specified by the regulations subject to the limitations, conditions and restrictions specified therein.

(*2*) In the case of an insurer carrying on general insurance business, twenty per cent. of the assets in Government Securities, a further sum equal to not less than ten per cent. of the assets in Government Securities or other approved securities and the balance in any other investment in accordance with the regulations of the Authority and subject to such limitations, conditions and restrictions as may be specified by the Authority in this regard.

Explanation. —In this section, the term "assets" means all the assets of insurer at their carrying value but does not include any assets specifically held against any fund or portion thereof in respect of which the Authority is satisfied that such fund or portion thereof, as the case may be, is regulated by the law of any country outside India or miscellaneous expenditure or in respect of which the Authority is satisfied that it would not be in the interest of the insurer to apply the provisions of this section.

(*3*) For the purposes of sub-sections (*1*) and (*2*), any specified assets shall, subject to such conditions, if any, as may be specified, be deemed to be assets invested or kept invested in approved investments specified by regulations.

(*4*) In computing the assets referred to in sub-sections (*1*) and (*2*), any investment made with reference to any currency other than the Indian rupee which is in excess of the amount required to meet the liabilities of the insurers in India with reference to that currency, to the extent of such excess, shall not be taken into account:

Provided that nothing contained in this sub-section shall affect the operation of sub-section (*2*):

Provided further that the Authority may, either generally or in any particular case, direct that any investment shall, subject to such conditions as may be imposed, be taken into account, in such manner as may be specified in computing the assets referred to in sub-sections (*1*) and (*2*) and where any direction

1. Subs. by Act 5 of 2015, s. 26, for sections 27, 27A, 27B, 27C and 27D (w.e.f. 26-12-2014)

has been issued under this proviso, copies thereof shall be laid before each house of Parliament as soon as may be after it is issued.

(*5*) Where an insurer has accepted re-insurance in respect of any policies of life insurance issued by another insurer and maturing for payment in India or has ceded re-insurance to another insurer in respect of any such policies issued by himself, the sum referred to in sub-section (*1*) shall be increased by the amount of the liability involved in such acceptance and decreased by the amount of the liability involved in such cession.

(*6*) The Government securities and other approved securities in which assets are under sub-section (*1*) or sub-section (*2*) to be invested and kept invested shall be held by the insurer free of any encumbrance, charge, hypothecation or lien.

(*7*) The assets required by this section to be held invested by an insurer incorporated or domiciled outside India shall, except to the extent of any part thereof which consists of foreign assets held outside India, be held in India and all such assets shall be held in trust for the discharge of the liabilities of the nature referred to in sub-section (*1*) and shall be vested in trustees resident in India and approved by the Authority, and the instrument of trust under this sub-section shall be executed by the insurer with the approval of the Authority and shall define the manner in which alone the subject-matter of the trust shall be dealt with.

Explanation. —This sub-section shall apply to an insurer incorporated in India whose share capital to the extent of one-third is owned by, or the members of whose governing body to the extent of one-third consists of members domiciled elsewhere than in India.]

27A. Further provisions regarding investments.—(*1*) No insurer carrying on life insurance business shall invest or keep invested any part of his controlled fund and no insurer carrying on general business shall invest or keep invested any part of his assets otherwise than in any of the approved investments as may be specified by the regulations subject to such limitations, conditions and restrictions therein.

(*2*) Notwithstanding anything contained in sub-section (*1*) or sub-section (*2*) of section 27, an insurer may, subject to the provisions contained in the next succeeding sub-sections, invest or keep invested any part of his controlled fund or assets otherwise than in an approved investment, if—

(*i*) after such investment, the total amounts of all such investments of the insurer do not exceed fifteen per cent. of the sum referred to in sub-section (*1*) of section 27 or fifteen per cent. of the assets referred to in sub-section (*2*) as the case may be;

(*ii*) the investment is made, or, in the case of any investment already made, the continuance of such investment is with the consent of all the directors present at a meeting and eligible to vote, special notice of which has been given to all the directors then in India, and all such investments, including investments in which any director is interested, are reported without delay to the Authority with full details of the investments and the extent of the director's interest in any such investment.

(*3*) An insurer shall not out of his controlled fund or assets as referred to in section 27, —

(*a*) invest in the shares of any one banking company; or

(*b*) invest in the shares or debentures of any one company,

more than the percentage specified by the regulations.

(*4*) An insurer shall not out of his controlled fund or assets as referred to in sub-section (*2*) of section 27 invest or keep invested in the shares or debentures of any private limited company.

(*5*) All assets forming the controlled fund or assets as referred to in sub-section (*2*) of section 27, not being Government securities or other approved securities in which assets are to be invested or held

invested in accordance with this section, shall (except for a part thereof not exceeding one-tenth of the controlled fund or assets as referred to in sub-section (*2*) thereof in value which may, subject to such conditions and restrictions as may be prescribed, be offered as security for any loan taken for purposes of any investment), be held free of any encumbrance, charge, hypothecation or lien.

(*6*) If at any time the Authority considers any one or more of the investments of an insurer to be unsuitable or undesirable, the Authority may, after giving the insurer an opportunity of being heard, direct him to realise the investment or investments, and the insurer shall comply with the direction within such time as may be specified in this behalf by the Authority.

(*7*) Nothing contained in this section shall be deemed to affect in any way the manner in which any moneys relating to the provident fund of any employee or to any security taken from any employee or other moneys of a like nature are required to be held by or under any Central Act, or Act of a State legislature.

Explanation. —In this section "controlled fund" means—

(*a*) in the case of any insurer carrying on life insurance business—

(*i*) all his funds, if he carries on no other class of insurance business;

(*ii*) all the funds in India appertaining to his life insurance business if he carries on some other class of insurance business also.

Explanation.—For the purposes of sub-clauses (*i*) and (*ii*), the fund does not include any fund or portion thereof in respect of which the Authority is satisfied that such fund or portion, as the case may be, is regulated by the law in force of any country outside India or it would not be in the interest of the insurer to apply the provisions of this section;

(*b*) in the case of any other insurer carrying on life insurance business—

(*i*) all his funds in India, if he carries on no other class of insurance business;

(*ii*) all the funds in India appertaining to his life insurance business if he carries on some other class of insurance business also; but does not include any fund or portion thereof in respect of which the Authority is satisfied that such fund or portion thereof, as the case may be, is regulated by the law of any country outside India or in respect of which the Authority is satisfied that it would not be in the interest of the insurer to apply the provisions of this section.

27B. Provisions regarding investments of assets of insurer carrying general insurance business.—(*1*) All assets of an insurer carrying on general insurance business shall, subject to such conditions, if any, as may be prescribed, be deemed to be assets invested or kept invested in approved investments specified in section 27.

(*2*) All assets shall (except for a part thereof not exceeding one-tenth of the total assets in value which may subject to such conditions and restrictions as may be prescribed, be offered as security for any loan taken for purposes of any investment or for payment of claims, or which may be kept as security deposit with the banks for acceptance of policies) be held free of any encumbrance, charge, hypothecation or lien.

(*3*) Without prejudice to the powers conferred on the Authority by sub-section (*5*) of section 27A nothing contained in this section shall be deemed to require any insurer to realise any investment made in conformity with the provisions of sub-section (*1*) of section 27 after the commencement of the Insurance (Amendment) Act, 1968 (62 of 1968), which, after the making thereof, has ceased to be an approved investment within the meaning of this section.

27C. Investment by insurer in certain cases. —An insurer may invest not more than five per cent. in aggregate of his controlled fund or assets as referred to in sub-section (*2*) of section 27 in the companies belonging to the promoters, subject to such conditions as may be specified by the regulations.

27D. Manner and condition of investment. —(*1*) Without prejudice to anything contained in this section, the Authority may, in the interests of the policyholders, specify by the regulations, the time, manner and other conditions of investment of assets to be held by an insurer for the purposes of this Act.

(*2*) The Authority may give specific directions for the time, manner and other conditions subject to which the funds of policyholders shall be invested in the infrastructure and social sector as may be specified by the regulations and such regulations shall apply uniformly to all the insurers carrying on the business of life insurance, general insurance, or health insurance or re-insurance in India on or after the commencement of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999).

(*3*) The Authority may, after taking into account the nature of business and to protect the interests of the policyholders, issue to an insurer the directions relating to the time, manner and other conditions of investment of assets to be held by him:

Provided that no direction under this sub-section shall be issued unless the insurer concerned has been given a reasonable opportunity of being heard.

27E. Prohibition for investment of funds outside India.—No insurer shall directly or indirectly invest outside India the funds of the policyholders.]

[1]**[28. Statement and return of investment of assets.—**Every insurer shall submit to the Authority returns giving details of investments made, in such form, time and manner including its authentication as may be specified by the regulations.]

[2]**[29. Prohibition of loans.—** (*1*) No insurer shall grant loans or temporary advances either on hypothecation of property or on personal security or otherwise, except loans on life insurance policies issued by him within their surrender value, to any director, manager, actuary, auditor or officer of the insurer, if a company or to any other company or firm in which any such director, manager, actuary or officer holds the position of a director, manager, actuary, officer or partner:

Provided that nothing contained in this sub-section shall apply to such loans, made by an insurer to a banking company, as may be specified by the Authority:

Provided further that nothing in this section shall prohibit a company from granting such loans or advances to a subsidiary company or to any other company of which the company granting the loan or advance is a subsidiary company if the previous approval of the Authority is obtained for such loan or advance.

(*2*) The provisions of section 185 of the Companies Act, 2013 (18 of 2013) shall not apply to a loan granted to a director of an insurer being a company, if the loan is one granted on the security of a policy on which the insurer bears the risk and the policy was issued to the director on his own life, and the loan is within the surrender value of the policy.

(*3*) Subject to the provisions of sub-section (*1*), no insurer shall grant—

(*a*) any loans or temporary advances either on hypothecation of property or on personal security or otherwise, except such loans as may be specified by the regulations including the loans sanctioned as part of their salary package to the full-time employees of the insurer as per the scheme duly approved by its Board of Directors;

(*b*) temporary advances to any insurance agent to facilitate the carrying out of his functions as such except in cases where such advances do not exceed in the aggregate the renewal commission earned by him during the immediately preceding year.

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1. Subs. by Act 5 of 2015, s. 27, for section 28, section 28A and section 28B (w.e.f. 26-12-2014).
2. Subs. by s. 27, *ibid*., for section 29 (w.e.f. 26-12-2014).

(*4*) Where any event occurs giving rise to circumstances, the existence of which at the time of grant of any subsisting loan or advance would have made such grant a contravention of this section, such loan or advance shall, notwithstanding anything in any contract to the contrary, be repaid within three months from the occurrence of such event.

(*5*) In case of default in complying with the provisions of sub-section (*4*), the director, manager, auditor, actuary, officer or insurance agent concerned shall, without prejudice to any other penalty which he may incur, cease to hold office under, or to act for, the insurer granting the loan on the expiry of three months.]

[1][**30. Liability of directors, etc., for loss due to contravention of section 27, 27A, 27B, 27C, 27D or section 29.—**If by reason of a contravention of any of the provisions of section 27, 27A, 27B, 27C, 27D or section 29, any loss is sustained by the insurer or by the policyholders, every director, manager or officer who is knowingly a party to such contravention shall, without prejudice to any other penalty to which he may be liable under this Act, be jointly and severally liable to make good the amount of such loss.]

31. Assets of insurer how to be kept. — [2][(*1*) None of the assets in India of any insurer shall, except in so far as assets are required to be vested in trustees under sub-section (*7*) of section 27, be kept otherwise than in the name of a public officer approved by the Authority, or in the corporate name of the undertaking, if a company or an insurance co-operative society, as the case may be.]

[3][(*2*) Nothing contained in this section shall be deemed to prohibit the endorsement in favour of a banking company of any security or other document solely for the purpose of collection or for realisation of interest, bonus or dividend.]

[4][**31A. Provisions relating to managers, etc.—**(*1*) Notwithstanding anything to the contrary contained in [5][the Companies Act, 2013 (18 of 2013)], or in the articles of association of the insurer, if a company, or in any contract or agreement, no insurer shall after expiry of one year from the commencement of the Insurance (Amendment) Act, 1950 (47 of 1950), —

(*a*) be directed or managed by, or employ as manager or officer,

(*b*) be directed or managed by, or employ as manager or officer or in any capacity, any person whose remuneration or any part thereof takes the form of commission or bonus or a share in the valuation surplus in respect of the life insurance business of the insurer, or

(*c*) be directed or managed by, or employ as manager or officer or in any capacity, any person whose remuneration or any part thereof takes the form of commission or bonus in respect of the general insurance business of the insurer:

Provided that nothing in this sub-section shall be deemed to prohibit —

[6][(*i*) the payment of commission to an insurance agent, in respect of insurance business procured by or through him;]

[7]* * * * *

1. Subs. by Act 5 of 2015, s. 29, for section 30 (w.e.f. 26-12-2014).
2. Subs. by s. 30, *ibid*., for sub-section (*1*) (w.e.f. 26-12-2014).
3. Subs. by Act 47 of 1950, s. 22, for sub-section (*2*) (w.e.f. 1-6-1950). Earlier ins. by Act 6 of 1946, s. 18 (w.e.f. 20-3-1946).
4. Ins. by Act 47 of 1950, s. 23 (w.e.f. 1-6-1950).
5. Subs. by Act 5 of 2015, s. 2, for "the Indian Companies Act, 1913 (7 of 1913)" (w.e.f. 26-12-2014).
6. Subs. by s. 31, *ibid*., for sub-clause (*i*) and (*ii*) (w.e.f. 26-12-2014).
7. Clause (*iii*) omitted by Act 5 of 2015, s. 31 (w.e.f. 26-12-2014).

(*iv*) the employment of any individual in a clerical or other subordinate capacity who, as an insurance agent, receives commission in respect of insurance business procured by him;

(*v*) the employment as an officer of any individual who receives renewal commission in respect of life insurance business procured by hi m in hi s capacity as an insurance agent or as an employer of agents before such employment, or before the commencement of the Insurance (Amendment) Act, 1950 (47 of 1950), whichever is later;

(*vi*) the payment of a share in the profits of general insurance business;

(*vii*) the payment of bonus in any year on a uniform basis to all salaried employees or any class of them by way of additional remuneration [1]***.

(*2*) Notwithstanding anything to the contrary contained in the Indian Companies Act, 1913 (7 of 1913), or in the articles of association of the insurer, being a company, or in any contract or agreement, no manager, managing director or any other person concerned in the management of an insurer's business shall be entitled to nominate a successor to his office, and no person so nominated, whether before or after the commencement of the Insurance (Amendment) Act, 1950 (47 of 1950), shall be entitled to hold or to continue in such office.

(*3*) If in the case of any insurance company provision is made by the articles of association of the company or by an agreement entered into between any person and the company for empowering a director or manager or other officer of the company to assign his office to any other person, any assignment of office made in pursuance of the said provision, shall, notwithstanding anything to the contrary contained in the said provision [2][or in any other law for the time being in force] be void.

(*4*) No person shall have any right, whether in contract or otherwise, to any compensation for any loss incurred by reason of the operation of any provision of this section.]

[3]**[31B. Power to restrict payment of excessive remuneration. —** No insurer shall in respect of insurance business transacted by him, shall pay to any person by way of remuneration, whether by way of commission or otherwise in excess of such sum as may be specified by the regulations.]

32. [**Limitation on employment of managing agents and on the remuneration payable to them**]. —*Omitted by the Insurance Laws (Amendment) Act*, 2015 (5 *of* 2015), *s.* 33 (*w.e.f.* 26-12-2014).

[4]**[32A. Prohibition of common officers and requirement as to whole-time officers. —** (*1*) A managing director or other officer of an insurer [5]*** carrying on life insurance business shall not be a managing director or other officer of any other insurer carrying on life insurance business or of a banking company or of an investment company:

Provided that the [6][Authority] may permit such managing director or other officer to be a managing director or other officer of any other insurer carrying on life insurance business for the purpose of amalgamating the business of the two insurers or transferring the business of one insurer to the other.

[7]* * * * *

1. Certain words omitted by Act 62 of 1968, s. 14.
2. Subs. by Act 5 of 2015, s. 31 for "or in section 86B of the Indian Companies Act, 1913 (7 of 1913)" (w.e.f. 26-12-2014).
3. Subs. by s. 32, *ibid*., for section 31B (w.e.f. 26-12-2014).
4. Ins. by Act 47 of 1950, s. 24 (w.e.f. 1-6-1950).
5. The words, brackets, letter and figures "specified in sub-clause (*b*) of clause (*9*) of section 2 and," omitted by Act 5 of 2015, s. 34 (w.e.f. 26-12-2014).
6. Subs. by Act 41 of 1999, s. 30 and the First Schedule, for "Central Government" (w.e.f. 19-4-2000).
7. Sub-sections (*2*) and (*3*) omitted by Act 5 of 2015, s. 34 (w.e.f. 26-12-2014).

[1] **[32B. Insurance business in [2] [rural and social sectors].—**Every insurer shall, after the commencement of the Insurance Regulatory and Development Authority Act, 1999 , undertake such percentages of life insurance business and general insurance business in the [2][rural and social sectors], as may by specified, in the Official Gazette by the Authority, in this behalf.]

32C. Obligations of insurer in respect of rural or unorganised sector and backward classes. — Every insurer shall, after the commencement of the Insurance Regulatory and Development Authority Act, 1999, discharge the obligations specified under section 32B to provide life insurance or general insurance policies to the persons residing in the rural sector, workers in the unorganised or informal sector or for economically vulnerable or backward classes of the society and other categories of persons as may specified by regulations made by the Authority and such insurance policies shall include insurance for crops.]

[3][**32D. Obligation of insurer in respect of insurance business in third party risks of motor vehicles. —** Every insurer carrying on general insurance business shall, after the commencement of the Insurance Laws (Amendment) Act, 2015 (5 of 2015), underwrite such minimum percentage of insurance business in third party risks of motor vehicles as may be specified by the regulations:

Provided that the Authority may, by regulations, exempt any insurer who is primarily engaged in the business of health, re-insurance, agriculture, export credit guarantee, from the application of this section.]

[4][INVESTIGATION

[5][**33. Power of investigation and inspection by Authority. —**(*1*) The Authority may, at any time, if it considers expedient to do so by order in writing, direct any person (herein referred to as "Investigating Officer") specified in the order to investigate the affairs of any insurer or intermediary or insurance intermediary, as the case may be, and to report to the Authority on any investigation made by such Investigating Officer:

Provided that the Investigating Officer may, wherever necessary, employ any auditor or actuary or both for the purpose of assisting him in any investigation under this section.

(*2*) Notwithstanding anything to the contrary contained in section 210 of the Companies Act, 2013 (18 of 2013), the Investigating Officer may, at any time, and shall, on being directed so to do by the Authority, cause an inspection to be made by one or more of his officers of the books of account of any insurer or intermediary or insurance intermediary, as the case may be, and the Investigating Officer shall supply to the insurer or intermediary or insurance intermediary, as the case may be, a copy of the report on such inspection.

(*3*) It shall be the duty of every manager, managing director or other officer of the insurer including a service provider, contractor of an insurer where services are outsourced by the insurer, or intermediary or insurance intermediary, as the case may be, to produce before the Investigating Officer directed to make the investigation under sub-section (*1*), or inspection under sub-section (*2*), all such books of account, registers, other documents and the database in his custody or power and to furnish him with any statement and information relating to the affairs of the insurer or intermediary or insurance intermediary, as the case may be, as the Investigating Officer may require of him within such time as the said Investigating Officer may specify.

1. Ins. by Act 41 of 1999, s. 30 and the First Schedule (w.e.f. 19-4-2000).
2. Subs. by Act 5 of 2015, s. 35, for "rural or social sector" (w.e.f. 26-12-2014).
3. Ins. by, s. 36, *ibid.* (w.e.f. 26-12-2014).
4. Subs. by Act 25 of 1942, s. 3 and the Second Schedule, for "Inspection".
5. Subs. by Act 5 of 2015, s. 37, for section 33 (w.e.f. 26-12-2014).

(*4*) Any Investigating Officer, directed to make an investigation under subsection (*1*), or inspection under sub-section (*2*), may examine on oath, any manager, managing director or other officer of the insurer including a service provider or contractor where the services are outsourced by the insurer or intermediary or insurance intermediary, as the case may be, in relation to his business.

(*5*) The Investigating Officer shall, if he has been directed by the Authority to cause an inspection to be made, make a report to the Authority on such inspection.

(*6*) On receipt of any report under sub-section (*1*) or sub-section (*5*), the Authority may, after giving such opportunity to the insurer or intermediary or insurance intermediary, as the case may be, to make a representation in connection with the report as, in the opinion of the Authority, seems reasonable, by order in writing, —

(*a*) require the insurer, to take such action in respect of any matter arising out of the report as the Authority may think fit; or

(*b*) cancel the registration of the insurer or intermediary or insurance intermediary, as the case may be; or

(*c*) direct any person to apply to the court for the winding up of the insurer or intermediary or insurance intermediary, as the case may be, if it is a company, whether the registration of the insurer or intermediary or insurance intermediary, as the case may be, has been cancelled under clause (*b*) or not.

(*7*) The Authority may by the regulations made by it specify the minimum information to be maintained by insurers or intermediary or insurance intermediary, as the case may be, in their books, the manner in which such information shall be maintained, the checks and other verifications to be adopted by insurers or intermediary or insurance intermediary, as the case may be, in that connection and all other matters incidental thereto as are, in its opinion, necessary to enable the Investigating Officer to discharge satisfactorily his functions under this section.

Explanation.— For the purposes of this section, the expression "insurer" shall include in the case of an insurer incorporated in India—

(*a*) all its subsidiaries formed for the purpose of carrying on the business of insurance exclusively outside India; and

(*b*) all its branches whether situated in India or outside India.

(*8*) Any insurer or intermediary or insurance intermediary aggrieved by any order made under this section may prefer an appeal to the Securities Appellate Tribunal.

(*9*) All expenses of, and incidental to, any investigation made under this section shall be defrayed by the insurer or intermediary or insurance intermediary, as the case may be, shall have priority over the debts due from the insurer and shall be recoverable as an arrear of land revenue.]

[1][APPOINTMENT OF STAFF

33A. Power to appoint staff. —The [2]*** [3][Authority] may appoint such staff, and at such places at it or he may consider necessary, for the scrutiny of the returns, statements and information furnished by

1. Ins. by Act 62 of 1968, s. 16 (w.e.f. 1-6-1969).
2. The words "Central Government or the" omitted by Act 41 of 1999, s. 30 and the First Schedule (w.e.f. 19-4-2000).
3. Subs. by Act 41 of 1999, s. 30 and the First Schedule, for "Controller" (w.e.f. 19-4-2000).

insurers under this Act and generally to ensure the efficient performance of the functions of the [1][Authority] under this Act.

POWER TO ISSUE DIRECTIONS

34. Power of the [1][Authority] to issue directions. —(*1*) Where the [1][Authority] is satisfied that—

(*a*) in the public interest; or

(*b*) to prevent the affairs of any insurer being conducted in a manner detrimental to the interests of the policy-holders or in a manner prejudicial to the interests of the insurer; or

(*c*) generally to secure the proper management of any insurer,

it is necessary to issue directions to insurers generally or to any insurer in particular, he may, from time to time, issue such directions as he deems fit, and the insurers or the insurer, as the case may be, shall be bound to comply with such directions:

Provided that no such direction shall be issued to any insurer in particular unless such insurer has been given a reasonable opportunity of being heard.

(*2*) The [1][Authority] may, on representation made to him or on his own motion, modify or cancel any direction issued under sub-section (*1*), and in so modifying or cancelling any direction, may impose such conditions as he thinks fit, subject to which the modification or cancellation shall have effect.]

CONTROL OVER MANAGEMENT

34A. Amendment of provisions relating to appointments of managing directors, etc., to be subject to previous approval of the [1][Authority]. — (*1*) In the case of an insurer, —

(*a*) no amendment made after the commencement of the Insurance (Amendment) Act, 1968, of any provision relating to the appointment, reappointment, termination of appointment or remuneration of a managing or whole-time director, or of a manager or a chief executive officer, by whatever name called, whether that provision be contained in the insurer's memorandum or articles of association, or in an agreement entered into by him, or in any resolution passed by the insurer in general meeting or by his Board of directors shall have effect unless approved by the [1][Authority];

(*b*) no appointment, re-appointment or termination of appointment, made after the commencement of the Insurance (Amendment) Act, 1968 , of a managing or whole-time director, or a manager or a chief executive officer, by whatever name called, shall have effect unless such appointment, reappointment or termination of appointment is made with the previous approval of the [1][Authority].

Explanation— For the purposes of this sub-section, any provision conferring any benefit or providing any amenity or perquisite, in whatever form, whether during or after the termination of the term of office of the manager or the chief executive officer, by whatever name called, or a managing or whole-time director, shall be deemed to be a provision relating to his remuneration.

(*2*) Nothing contained in sections 268 and 269 , the proviso to sub-section (*3*) of section 309, sections 310 and 311 , the proviso to section 387 , and section 388 (in so far as section 388 makes the provisions of sections 310 and 311 apply in relation to the manager of a company) of the Companies Act, 1956

1. Subs. by Act 41 of 1999, s. 30 and the First Schedule, for "Controller" (w.e.f. 19-4-2000).

(1 of 1956), shall apply to any matter in respect of which the approval of the [1][authority] has to be obtained under sub-section (*1*).

(*3*) No act done by a person as a managing or whole-time director or a director not liable to retire by rotation or a manager or a chief executive officer, by whatever name called, shall be deemed to be invalid on the ground that it is subsequently discovered that his appointment or re-appointment had not taken effect by reason of any of the provisions of this Act; but nothing in this sub-section shall be construed as rendering valid any act done by such person after his appointment or re-appointment has been shown to the insurer not to have had effect.

34B. Power of [1][Authority] to remove managerial persons from office. —(*1*) Where the [1][Authority] is satisfied that in the public interest or for preventing the affairs of an insurer being conducted in a manner detrimental to the interests of the policy-holders or for securing the proper management of any insurer it is necessary so to do, he may, for reasons to be recorded in writing, by order, remove from office, with effect from such date as may be specified in the order, any director or the chief executive officer, by whatever name called, of the insurer.

(*2*) No order under sub-section (*1*) shall be made unless the director or chief executive officer concerned has been given a reasonable opportunity of making a representation to the [1][Authority] against the proposed order:

Provided that if, in the opinion of the [1][Authority], any delay would be detrimental to the interests of the insurer or his policy-holders, he may, at the time of giving the opportunity aforesaid or at any time thereafter, by order direct that, pending the consideration of the representation aforesaid, if any, the director or, as the case may be, chief executive officer, shall not, with effect from the date of such order, —

(*a*) act as such director or chief executive officer of the insurer;

(*b*) in any way, whether directly or indirectly, be concerned with, or take part in, the management of the insurer.

(*3*) Where any order is made in respect of a director or chief executive officer of an insurer under sub-section (*1*), he shall cease to be a director or, as the case may be, chief executive officer of the insurer and shall not, in any way, whether directly or indirectly, be concerned with, or take part it, the management of any insurer for such period not exceeding five years as may be specified in the order.

[2] [(*4*) If any person in respect of whom an order is made by the Authority under sub-section (*1*) or under the proviso to sub-section (*2*), contravenes the provisions of this section, he shall be liable to a penalty of one lakh rupees for each day during which such contravention continues or one crore rupees, whichever is less.]

(*5*) Where an order under subsection (*1*) has been made, the [1][Authority] may, by order in writing, appoint a suitable person in place of the director or chief executive officer who has been removed from his office under that sub-section, with effect from such date as may be specified in the order.

(*6*) Any person appointed as director or chief executive officer under this section shall—

(*a*) hold office during the pleasure of the [1][Authority] and subject thereto for a period not exceeding three years or such farther periods not exceeding three years at a time as the [1][Authority] may specify;

1. Subs. by Act 41 of 1999, s. 30 and the First Schedule, for "Controller" (w.e.f. 19-4-2000).
2. Subs. by Act 5 of 2015, s. 38, for sub-section (*4*) (w.e.f. 26-12-2014).

(*b*) not insure any obligation or liability by reason only of his being a director or chief executive officer or for anything done or omitted to be done in good faith in the execution of the duties of his office or in relation thereto.

(*7*) Notwithstanding anything contained in any law or in any contract, memorandum or articles of association, on the removal of a person from office under this section, that person shall not be entitled to claim any compensation for the loss or termination of office.]

34C. Power of [1][Authority] to appoint additional directors. — [2][(*1*) If the Authority is of opinion that in the public interest or in the interest of an insurer, or his policyholders it is necessary so to do, it may, from time to time, by order in writing, appoint, in consultation with the Central Government with effect from such date as may be specified in the order, one or more persons to hold office as additional directors of the insurer:

Provided that the number of additional directors so appointed shall not, at any time, exceed five or one-third of the maximum strength fixed for the Board by the articles of association of the insurer, whichever is less.]

(*2*) Any person appointed as additional director in pursuance of this section, —

(*a*) shall hold office during the pleasure of the [1][Authority], and subject thereto for a period not exceeding three years or such further periods not exceeding three years at a time as the [1][Authority] may specify;

(*b*) shall not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the execution of the duties of his office or in relation thereto; and

(*c*) shall not be required to hold qualification shares of the insurer.

(3) For the purpose of reckoning any proportion of the total number of directors of the insurer, any additional director appointed under this section shall not be taken into account.

34D. Sections 34B and 34C to override other laws. —Any appointment or removal of a director or executive officer in pursuance of section 34B or section 34 C shall have effect notwithstanding anything the contrary contained in the Companies Act, 1956 (1 of 1956), or any other law for the time being in force or any contract or any other instrument.

34E. Further powers. — The [1][Authority] may, — (*a*) caution or prohibit insurers, generally or any insurer in particular against entering into any particular transaction or class of transactions, and generally give advice to any insurer;

(*b*) at any time, if it is satisfied that in the public interest or in the interests of the insurer or for preventing the affairs of the insurer being conducted in a manner detrimental to the interests of the insurer or his policy-holders, it is necessary so to do, by order in writing and on such terms and conditions as may be specified therein, —

(*i*) require the insurer to call a meeting of his directors for the purpose of considering any matter relating to or arising out of the affairs of the insurer;

(*ii*) depute one or more of his officers to watch the proceedings at any meeting of the Board of directors of the insurer or of any committee or of any other body constituted by it; require the insurer to give an opportunity to the officers so deputed to be heard at such meetings and also require such officers to send a report of such proceedings to the [1][Authority];

1. Subs. by Act 41 of 1999, s. 30 and the First Schedule, for "Controller" (w.e.f. 19-4-2000).
2. Subs. by Act 5 of 2015, s. 39, for sub-section (*1*) (w.e.f. 26-12-2014).

(*iii*) require the Board of directors of the insurer or any committee or any other body constituted by it to give in writing to any officer specified by the [1][Authority] in this behalf at his usual address all notices if, and other communications relating to, any meeting of the Board, committee or other body constituted by it;

(*iv*) appoint one or more of his officers to observe the manner in which the affairs of the insurer or of his offices or branches are being conducted and make a report thereon;

(*v*) require the insurer to make, within such time as may be specified in the order, such changes in the management as the [1][Authority] may consider necessary.]

34F. Power of [1][Authority] to issue directions regarding re-insurance treaties, etc. — (*1*) Without prejudice to the generality of the powers conferred by sub-section (*1*) of section 34, the [1][Authority] may, if he is of opinion that the terms or conditions of any re-insurance treaty or other re-insurance contract entered into by an insurer are not favourable to the insurer or are detrimental to the public interest, he may, by order, require the insurer to make, at the time when the renewal of such treaty or contract becomes next due, such modifications in the terms and conditions of such treaty or contract as he may specify in the order or not to renew such treaty or contract, and, if the insurer fails to comply with such order, he shall be deemed to have failed to comply with the provisions of this Act.

(*2*) The [1][Authority] may, if he has reason to believe that an insurer is entering into or is likely to enter into re-insurance treaties or other re-insurance contracts which are not favourable to the insurer or are detrimental to the public interest, he may, by order, direct that the insurer shall not enter into such re-insurance treaty or other re-insurance contract unless a copy of such treaty or contract has been furnished to him in advance and the terms and conditions thereof have been approved by him and if the insurer fails to comply with such order he shall be deemed to have failed to comply with the requirements of this Act.]

34G. [Power of Controller to order closure of foreign branches.] *Omitted by the Insurance Laws* (*Amendment*) *Act,* 2015 (5 *of* 2015), *s.* 40 (*w.e.f.* 26-12-2014)].

34H. Search and seizure. —(*1*) Where the [2][Chairperson of the Authority], in consequence of information in his possession, has reason to believe that —

(*a*) any person who has been required under sub-section (*2*) of section 33 to produce, or cause to be produced, any books, accounts or other documents in his custody or power has omitted or failed to produce, or cause to be produced, such books, accounts or other documents, or

(*b*) Any person to whom a requisition to produce any books, accounts or other documents as aforesaid has been or might be issued will not, or would not, produce or cause to be produced, any books, accounts or other documents which will be useful for, or relevant to, an investigation under sub-section (*1*) of section 33 or an inspection under sub-section (*1A*) of that section, or

(*c*) a contravention of any provision of this Act has been committed or is likely to be committed by an insurer, or

(*d*) any claim which is due to be settled by an insurer, has been or is likely to be rejected or settled at a figure higher than a reasonable amount, or

1. Subs. by Act 41 of 1999, s. 30 and the First Schedule, for "Controller" (w.e.f. 19-4-2000).

2. Subs. by s. 30 and the First Schedule, [Serial no. 22 (*a*)], *ibid*., for "Controller" (w.e.f. 19-4-2000).

(*e*) any claim which is due to be settled by an insurer, has been or is likely to be rejected or settled at a figure lower than a reasonable amount, or

(*f*) any illegal rebate or commission has been paid or is likely to be paid by an insurer, or

(*g*) any books, accounts, receipts, vouchers, survey reports or other documents, belonging to an insurer are likely to be tampered with, falsified or manufactured,

he may authorise any subordinate officer of his, not lower in rank than [1][a Deputy Director or an equivalent officer] (hereafter referred to as the authorised officer) to —

(*i*) enter and search any building or place where he has reason to suspect that such books, accounts or other documents, or any books or papers relating to any claim, rebate or commission or any receipts, vouchers, reports or other documents are kept;

(*ii*) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (*i*) where the keys thereof are not available;

(*iii*) seize all or any such books, accounts or other documents, found as a result of such search;

(*iv*) place marks of identification on such books, accounts or other documents or make or cause to be made extracts or copies therefrom.

(*2*) The authorised officer may requisition the services of any police-officer or of any officer of the Central Government, or of both, to assist hi m for all or any of the purposes specified in sub-section (*1*) and it shall be the duty of every such officer to comply with such requisition.

(*3*) The authorised officer may, where it is not practicable to seize any such book, account or other document, specified in sub-section (*1*), serve an order on the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of such officer and such officer may take such steps as may be necessary for ensuring compliance with this sub-section.

(*4*) The authorised officer may, during the course of the search or seizure, examine on oath any person who is found to be in possession or control of any books, accounts or other documents, and any statement made by such person during such examination may thereafter be used in evidence in any proceeding under this Act.

(*5*) The books, accounts, papers, receipts, vouchers, reports, or other documents seized under sub-section (*1*) shall not be retained by the authorised officer for a period exceeding one hundred and eighty days from the date of the seizure unless the reasons for retaining the same recorded by hi m in writing and the approval of the [2][Chairperson of the Authority] for such retention is obtained:

Provided that the [2][Chairperson of the Authority] shall not authorise the retention of the books, accounts, papers, receipts, vouchers, reports, or other documents for a period exceeding thirty days after all the proceedings under this Act for which the books, accounts, papers, receipts, vouchers, reports, or other documents are relevant are completed.

1. Subs. by Act 5 of 2015, s. 41, for "an officer authorised by the Authority" (w.e.f. 26-12-2014).
2. Subs. by Act 62 of 1968, s. 33 and the First Schedule [Serial no. 22 (*b*)], for "Controller" (w.e.f. 19-4-2000).

(*6*) The person from whose custody and books, accounts, papers, receipts, vouchers, reports, or other documents are seized under sub-section (*1*) may make copies thereof, or take extracts therefrom, in the presence of the authorised officer or any other person empowered by hi m in this behalf at such place and time as the authorised officer may appoint in this behalf.

(*7*) If a person legally entitled to the books, accounts, papers, receipts, vouchers, reports or other documents seized under sub-section (*1*) objects for any reason to the approval given by the [1][Chairperson of the Authority] under sub-section (*5*), he may make an application to the [2][Securities Appellate Tribunal] stating therein the reason for such objection and requesting for the return of the books, accounts, papers, receipts, vouchers, reports or other documents.

(*8*) On receipt of the application under sub-section (*7*), the [2][Securities Appellate Tribunal] may, after giving the applicant an opportunity of being heard, pass such orders as it thinks fit.

(*9*) The provisions of the Code of Criminal Procedure, 1898 (5 of 1898) relating to searches and seizures shall apply, so far as may be, to every search and seizure made under sub-section (*1*).

(*10*) The Central Government [3][may, by notification in the Official Gazette; make rules] in relation to any search or seizure under this section; in particular, and without prejudice to the generality of the foregoing power, such rules may provide for the procedure to be followed by the authorised officer, —

(*i*) for obtaining ingress into such building or place to be searched where free ingress thereto is not available;

(*ii*) for ensuring safe custody of any books, accounts, papers, receipts, vouchers, reports, or other documents seized under this section.]

AMALGAMATION AND TRANSFER OF INSURANCE BUSINESS

35. Amalgamation and transfer of insurance business.— [4][(*1*) Notwithstanding anything contained in any other law for the time being in force, no insurance business of an insurer shall be transferred to or amalgamated with the insurance business of any other insurer except in accordance with a scheme prepared under this section and approved by the Authority.]

(*2*) Any scheme prepared under this section shall set out the agreement under which the transfer or amalgamation is proposed to be effected, and shall contain such further provisions as may be necessary for giving effect to the scheme.

(*3*) Before an application is made to the [5][Authority] [6][to approve any such scheme] notices of the intention to make the application together with a statement of the nature of the amalgamation or transfer, as the case may be, and of the reason therefore shall, at least two months before the application is made, be sent to the [5][Authority] [7][and certified copies, four in number, of each of the following documents shall be furnished to the [5][Authority], and other such copies shall] during the two months aforesaid be kept open for the inspection of the members and policy-holders at the principal and branch offices and chief agencies of the insurers concerned, namely: —

(*a*) a draft of the agreement or deed under which it is proposed to effect the amalgamation or transfer;

1. Subs. by Act 41 of 1999, s. 30 and the First Schedule for [Serial no. 22 (*b*)] "Controller" (w.e.f. 19-4-2000).
2. Subs. by Act 5 of 2015, s. 41, for "Central Government" (w.e.f. 26-12-2014).
3. Subs. by Act 20 of 1983, s. 2 and the Schedule, for "may make rules" (w.e.f. 15-3-1984).
4. Subs. by Act 5 of 2015, s. 42, for sub-section (*1*) (w.e.f. 26-12-2014).
5. Subs. by Act 41 of 1999, s. 30 and the First Schedule, for "Controller" (w.e.f. 19-4-2000).
6. Subs. by s. 30 and the First Schedule, *ibid*., for "to sanction any such scheme" (w.e.f. 19-4-2000).
7. Subs. by Act 13 of 1941, s. 22, for "and certified copies of the following documents shall be furnished to the Central Government and shall" (w.e.f. 8-4-1941).

[1][(*b*) balance sheets in respect of the insurance business of each of the insurers concerned in such amalgamation or transfer, prepared in such forms as may be specified by the regulations;

(*c*) actuarial reports and abstracts in respect of the life insurance business of each of the insurers so concerned, prepared in conformity with the regulations specified in this regard.]

(*d*) a report on the proposed amalgamation or transfer, prepared by an independent actuary who has never been professionally connected with any of the parties concerned in the amalgamation or transfer at any time in the five years preceding the date on which he signs his report;

(*e*) any other reports on which the scheme of amalgamation or transfer was founded.

The balance-sheets, reports and abstracts referred to in clauses (*b*), (*c*) and (*d*) shall be prepared as at the date at which [2][the amalgamation or transfer if approved] by the [3][Authority] is to take effect, which date shall not be more than twelve months before the date on which the application to the [3][Authority] is made under this section:

Provided that if the [3][Authority] so directs in the case of any particular insurer there may be substituted respectively for the balance-sheet, report and abstract referred to in clauses (*b*) and (*c*) prepared in accordance with this sub-section certified copies of the last balance-sheet and last report and abstract prepared in accordance with sections 11 and 13 [4][of this Act or sections 7 and 8 of the Indian Life Assurance Companies Act, 1912 (6 of 1912),] if that balance-sheet is prepared as at a date not more than twelve months, and that report and abstract as at a date not more than five years, before the date on which the application to the [3][Authority] is made under this section].

[5] **[36. Sanction of amalgamation and transfer by Authority.—**When any application under sub-section (*3*) of section 35 is made to the Authority, the Authority shall cause, a notice of the application to be given to the holders of any kind of policy of insurer concerned alongwith statement of the nature and terms of the amalgamation or transfer, as the case may be, to be published in such manner and for such period as it may direct, and, after hearing the directors and considering the objections of the policyholders and any other persons whom it considers entitled to be heard, may approve the arrangement, and shall make such consequential orders as are necessary to give effect to the arrangement.]

37. Statements required after amalgamation and transfer.— Where an amalgamation takes place between any two or more insurers, or [6][where any business of an insurer is transferred], whether in accordance with a scheme confirmed by the [3][Authority] or otherwise, the insurer carrying on the amalgamated business or [7][the person to whom the business is transferred], as the case may be, shall, within three months from the date of the completion of the amalgamation or transfer, [8][furnish in duplicate to the [3][Authority]] —

(*a*) a certified copy of the scheme, agreement or deed under which the amalgamation or transfer has been effected, and

1. Subs. by Act 5 of 2015, s. 42, for clauses (*b*) and (*c*) (w.e.f. 26-12-2014).
2. Subs. by Act 41 of 1999, s. 30 and the First Schedule, for "the amalgamation or transfer if sanctioned" (w.e.f. 19-4-2000).
3. Subs. by s. 30 and the First Schedule, *ibid*., for "Controller" (w.e.f. 19-4-2000). Earlier subs. by Act 47 of 1950, s. 26, for "Court" (w.e.f. 1-6-1950).
4. Ins. by Act 13 of 1941, s. 22 (w.e.f. 8-4-1941).
5. Subs. by Act 5 of 2015, s. 43, for section 36 (w.e.f. 26-12-2014).
6. Subs. by Act 13 of 1941, s. 24, for "where any business of one insurer is transferred to another" (w.e.f. 8-4-1941).
7. Subs. by s. 24, *ibid*., for "the insurer to whom the business is transferred" (w.e.f. 8-4-1941).
8. Subs. by s. 24, *ibid*., for "furnish to the Central Government" (w.e.f. 8-4-1941).

(*b*) [1][a declaration signed by every party concerned] or in the case of a company by the chairman and the principal officer that to the best of their belief every payment made or to be made to any person whatsoever on account of the amalgamation or transfer is therein fully set forth and that no other payments beyond those set forth have been made or are to be made either in money, policies, bonds, valuable securities or other property by or with the knowledge of any parties to the amalgamation or transfer, and

[2][(*c*) where the amalgamation or transfer has not been made in accordance with a [3][scheme approved] by the [4][Authority] under section 36—

(*i*) balance-sheets in respect of the insurance business of each of the insurers concerned in such amalgamation or transfer, prepared in the Form set forth in Part II of the First Schedule and in accordance with the regulations contained in Part I of that Schedule, and

(*ii*) certified copies of any other reports on which the scheme of amalgamation or transfer was founded.]

[5][**37A. Power of [4][Authority] to prepare Scheme of Amalgamation.**—(*1*) If the [4][Authority] is satisfied that—

(*i*) in the public interest; or

(*ii*) in the interests of the policy-holders; or

(*iii*) in order to secure the proper management of an insurer; or

(*iv*) in the interest of insurance business of the country as a whole,

it is necessary so to do, he may prepare a scheme for the amalgamation of that insurer with any other insurer (hereinafter referred to in this section as the transferee insurer):

Provided that no such scheme shall be prepared unless the other insurer has given his written consent to the proposal for such amalgamation.

(*2*) The scheme aforesaid may contain provisions for all or any of the following matters, namely: —

(*a*) the constitution, name and registered office, the capital, assets, powers, rights, interests, authorities and privileges, and the liabilities, duties and obligations of the transferee insurer;

(*b*) the transfer to the transferee insurer of the business, properties, assets and liabilities of the insurer on such terms and conditions as may be specified in the scheme;

(*c*) any change in the Board of Directors, or the appointment of a new Board of Directors of the transferee insurer and the authority by whom, the manner in which, and the other terms and conditions on which, such change or appointment shall be made, and, in the case of appointment of a new Board of Directors or of any director, the period for which such appointment shall be made;

1. Subs. by Act 13 of 1941, s. 21, for "a declaration signed by every insurer concerned" (w.e.f. 8-4-1941).
2. Subs. s. 24, *ibid*., for clause (*c*) (w.e.f. 8-4-1941).
3. Subs. by Act 41 of 1999, s. 30 the First Schedule, for "scheme sanctioned" (w.e.f. 19-4-2000).
4. Subs. by s. 30, and the First Schedule, *ibid.*, for "Controller" (w.e.f. 19-4-2000).
5. Ins. by Act 62 of 1968, s. 17 (w.e.f. 1-6-1969).

(*d*) the alteration of the memorandum and articles of association of the transferee insurer for the purpose of altering the capital thereof or for such other purposes as may be necessary to give effect to the amalgamation;

(*e*) subject to the provisions of the scheme, the continuation by or against the transferee insurer, of any actions or proceedings pending against the insurer;

(*f*) the reduction of the interest or rights which the shareholders, policy-holders and other creditors have in or against the insurer before the amalgamation to such extent as the [2][Authority] considers necessary in the public interest or in the interests of the shareholders, policy-holders and other creditors or for the maintenance of the business of the insurer;

(*g*) the payment in cash or otherwise to policy-holders, and other creditors in full satisfaction of their claim, —

(*i*) in respect of their interest or rights in or against the insurer before the amalgamation; or

(*ii*) where their interest or rights aforesaid in or against the insurer has or have been reduced under clause (*f*) in respect of such interest or rights as so reduced;

(*h*) the allotment to the shareholders of the insurer for shares held by them therein before the amalgamation whether their interest in such shares has been reduced under clause (*f*) or not] of shares in the transferee insurer and where any shareholders claim payment in cash and not allotment of shares, or where it is not possible to allot shares to any shareholders, the payment in cash to those shareholders in full satisfaction of their claim—

(*i*) in respect of their interest in shares in the insurer before the amalgamation; or

(*ii*) where such interest has been reduced under clause (*f*) in respect of their interest in shares as so reduced;

(*i*) the continuance of the services of all the employees of the insurer (excepting such of them as not being workmen within the meaning of the Industrial Disputes Act, 1947 (14 of 1947), are specifically mentioned in the scheme) in the transferee insurer at the same remuneration and on the same terms and conditions of service, which they were getting or, as the case may be, by which they were being governed, immediately before the date of the amalgamation:

Provided that the scheme shall contain a provision that the transferee insurer shall pay or grant not later than the expiry of the period of three years, from the date of the amalgamation, to the said employees the same remuneration and the same terms and conditions of service as are applicable to the other employees of corresponding rank or status, of the transferee insurer subject to the qualifications and experience of the said employees being the same as or equivalent to those of such other employees of the transferee insurer:

Provided further that if in any case any doubt or difference arises as to whether the qualification and experience of any of the said employees are the same as or equivalent to the qualifications and experience of the other employees of corresponding rank or status of the transferee insurer, the doubt or difference shall be referred to the Controller whose decision thereon shall be final;

(*j*) notwithstanding anything contained in clause (*i*) where any of the employees of the insurer not being workmen within the meaning of the Industrial Disputes Act, 1947 (14 of 1947), are specifically mentioned in the scheme under clause (*i*) of where any employees of the insurer have by notice in writing given to the insurer or, as the case may be, the transferee insurer at any time before the expiry of one month next following the date on which the scheme is sanctioned by the Central Government, intimated their intention of not becoming employees of the transferee insurer, the

payment to such employees of compensation, if any, to which they are entitled under the Industrial Disputes Act, 1947 (14 of 1947), and such pension, gratuity, provident fund, or other retirement benefits ordinarily admissible to them under the rules or authorisations of the insurer immediately before the date of the amalgamation;

(*k*) any other terms and conditions for the amalgamation of the insurer;

(*l*) such incidental, consequential and supplemental matters as are necessary to secure that the amalgamation shall be fully and effectively carried out.

(*3*)(*a*) A copy of the scheme prepared by the [1][Authority] shall be sent in draft to the insurer and also to the transferee insurer and any other insurer concerned in the amalgamation, for suggestions and objections, if any, within such period as the [1][Authority] may specify for this purpose.

(*b*) The [1][Authority] may make such modifications, if any, in the draft scheme as he may consider necessary in the light of the suggestions and objections received from the insurer and also from the transferee insurer and any other insurer concerned in the amalgamation and from any shareholder, policy-holder or other creditor of each of those insurers and the transferee insurer.

[2][(*4*) The scheme shall thereafter be placed before the Central Government for its sanction and the Central Government may sanction the scheme without any modification or with such modifications as it may consider necessary, and the scheme as sanctioned by the Central Government shall come into force on such date as the Central Government may notify in this behalf in the Official Gazette:

Provided that different dates may be specified for different provisions of the scheme.

(*4A*) Every policyholder or shareholder or member of each of the insurers, before amalgamation, shall have the same interest in, or rights against the insurer resulting from amalgamation as he had in the company of which he was originally a policyholder or shareholder or member:

Provided that where the interests or rights of any shareholder or member are less than his interest in, or rights against, the original insurer, he shall be entitled to compensation, which shall be assessed by the Authority in such manner as may be specified by the regulations.

(*4B*) The compensation so assessed shall be paid to the shareholder or member by the insurance company resulting from such amalgamation.

(*4C*) Any member or shareholder aggrieved by the assessment of compensation made by the Authority under sub-section (*4A*) may within thirty days from the publication of such assessment prefer an appeal to the Securities Appellate Tribunal.]

(*5*) The sanction accorded by the Central Government under sub-section (*4*) shall be conclusive evidence that all the requirements of this section relating to amalgamation have been complied with and a copy of the sanctioned scheme certified in writing by an officer of the Central Government to be a true copy thereof shall, in all legal proceedings (whether in appeal or otherwise) be admitted as evidence to the same extent as the original scheme.

(*6*) The [1][Authority] may, in like manner, add to amend or vary any scheme made under this section.

(*7*) On and from the date of the coming into operation of the scheme or any provision thereof, the scheme or such provision shall be binding on the insurer or, as the case may be, on the transferee insurer and any other insurer concerned in the amalgamation and also on all the shareholders, policy-holders and

1. Subs. by Act 41 of 1999, s. 30 and the First Schedule, for "Controller" (w.e.f. 19-4-2000).
2. Subs. by Act 5 of 2015, s 44, for sub-section (*4*) (w.e.f. 26-12-2014).

other creditors and employees of each of those insurers and of transferee insurer, and on any other person having any right or liability in relation to any of those insurers or the transferee insurer.

(*8*) On and from such date as may be specified by the Central Government in this behalf, the properties and assets of the insurer shall, by virtue of and to the extent provided in the scheme, stand transferred to, and vest in, and the liabilities of the insurer shall, by virtue of and to the extent provided in the scheme, stand transferred to and become the liabilities of the transferee insurer.

(*9*) If any difficulty arises in giving effect to the provisions of the scheme, the Central Government may by order do anything not inconsistent with such provisions which appears to it necessary or expedient for the purpose of removing the difficulty.

(*10*) Copies of every scheme made under this section and of every order made under sub-section (9) shall be laid before each House of Parliament, as soon as may be, after the scheme has been sanctioned by the Central Government, or as the case may be, the order has been made.

(*11*) Nothing in this section shall be deemed to prevent the amalgamation with an insurer by a single scheme of several insurers.

(*12*) The provisions of this section and of any scheme made under it shall have effect notwithstanding anything to the contrary contained in any other provisions of this Act or in any other law or any agreement, award or other instrument for the time being in force.

(*13*) The provisions of section 37 shall not apply to an amalgamation given effect to under the provisions of this section.]

ASSGNMENT OR TRANSFER OF POLICIES AND NOMINATIONS

[1][**38. Assignment and transfer of insurance policies.** —(*1*) A transfer or assignment of a policy of insurance, wholly or in part, whether with or without consideration, may be made only by an endorsement upon the policy itself or by a separate instrument, signed in either case by the transferor or by the assignor or his duly authorised agent and attested by at least one witness, specifically setting forth the fact of transfer or assignment and the reasons thereof, the antecedents of the assignee and the terms on which the assignment is made.

(*2*) An insurer may, accept the transfer or assignment, or decline to act upon any endorsement made under sub-section (*1*), where it has sufficient reason to believe that such transfer or assignment is not *bona fide* or is not in the interest of the policyholder or in public interest or is for the purpose of trading of insurance policy.

(*3*) The insurer shall, before refusing to act upon the endorsement, record in writing the reasons for such refusal and communicate the same to the policyholder not later than thirty days from the date of the policyholder giving notice of such transfer or assignment.

(*4*) Any person aggrieved by the decision of an insurer to decline to act upon such transfer or assignment may within a period of thirty days from the date of receipt of the communication from the insurer containing reasons for such refusal, prefer a claim to the Authority.

(*5*) Subject to the provisions in sub-section (*2*), the transfer or assignment shall be complete and effectual upon the execution of such endorsement or instrument duly attested but except, where the transfer or assignment is in favour of the insurer, shall not be operative as against an insurer, and shall not confer upon the transferee or assignee, or his legal representative, any right to sue for the amount of such policy or the moneys secured thereby until a notice in writing of the transfer or assignment and either the

1. Subs. by Act 5 of 2015, s. 45, for sections 38, 39 and 40 (w.e.f. 26-12-2014).

said endorsement or instrument itself or a copy thereof certified to be correct by both transferor and transferee or their duly authorised agents have been delivered to the insurer:

Provided that where the insurer maintains one or more places of business in India, such notice shall be delivered only at the place where the policy is being serviced.

(*6*) The date on which the notice referred to in sub-section (*5*) is delivered to the insurer shall regulate the priority of all claims under a transfer or assignment as between persons interested in the policy; and where there is more than one instrument of transfer or assignment the priority of the claims under such instruments shall be governed by the order in which the notices referred to in sub-section (*5*) are delivered:

Provided that if any dispute as to priority of payment arises as between assignees, the dispute shall be referred to the Authority.

(*7*) Upon the receipt of the notice referred to in sub-section (*5*), the insurer shall record the fact of such transfer or assignment together with the date thereof and the name of the transferee or the assignee and shall, on the request of the person by whom the notice was given, or of the transferee or assignee, on payment of such fee as may be specified by the regulations, grant a written acknowledgement of the receipt of such notice; and any such acknowledgement shall be conclusive evidence against the insurer that he has duly received the notice to which such acknowledgement relates.

(*8*) Subject to the terms and conditions of the transfer or assignment, the insurer shall, from the date of the receipt of the notice referred to in sub-section (*5*), recognise the transferee or assignee named in the notice as the absolute transferee or assignee entitled to benefit under the policy, and such person shall be subject to all liabilities and equities to which the transferor or assignor was subject at the date of the transfer or assignment and may institute any proceedings in relation to the policy, obtain a loan under the policy or surrender the policy without obtaining the consent of the transferor or assignor or making him a party to such proceedings.

Explanation.— Except where the endorsement referred to in sub-section (*1*) expressly indicates that the assignment or transfer is conditional in terms of sub-section (*10*) hereunder, every assignment or transfer shall be deemed to be an absolute assignment or transfer and the assignee or transferee, as the case may be, shall be deemed to be the absolute assignee or transferee respectively.

(*9*) Any rights and remedies of an assignee or transferee of a policy of life insurance under an assignment or transfer effected prior to the commencement of the Insurance Laws (Amendment) Act, 2015 (5 of 2015) shall not be affected by the provisions of this section.

(*10*) Notwithstanding any law or custom having the force of law to the contrary, an assignment in favour of a person made upon the condition that—

(*a*) the proceeds under the policy shall become payable to the policyholder or the nominee or nominees in the event of either the assignee or transferee predeceasing the insured; or

(*b*) the insured surviving the term of the policy, shall be valid:

Provided that a conditional assignee shall not be entitled to obtain a loan on the policy or surrender a policy.

(*11*) In the case of the partial assignment or transfer of a policy of insurance under sub-section (*1*), the liability of the insurer shall be limited to the amount secured by partial assignment or transfer and such

policyholder shall not be entitled to further assign or transfer the residual amount payable under the same policy.

39. Nomination by policyholder. —(*1*) The holder of a policy of life insurance on his own life may, when effecting the policy or at any time before the policy matures for payment, nominate the person or persons to whom the money secured by the policy shall be paid in the event of his death:

Provided that, where any nominee is a minor, it shall be lawful for the policyholder to appoint any person in the manner laid down by the insurer, to receive the money secured by the policy in the event of his death during the minority of the nominee.

(*2*) Any such nomination in order to be effectual shall, unless it is incorporated in the text of the policy itself, be made by an endorsement on the policy communicated to the insurer and registered by him in the records relating to the policy and any such nomination may at any time before the policy matures for payment be cancelled or changed by an endorsement or a further endorsement or a will, as the case may be, but unless notice in writing of any such cancellation or change has been delivered to the insurer, the insurer shall not be liable for any payment under the policy made *bona fide* by him to a nominee mentioned in the text of the policy or registered in records of the insurer.

(*3*) The insurer shall furnish to the policyholder a written acknowledgement of having registered a nomination or a cancellation or change thereof, and may charge such fee as may be specified by regulations for registering such cancellation or change.

(*4*) A transfer or assignment of a policy made in accordance with section 38 shall automatically cancel a nomination:

Provided that the assignment of a policy to the insurer who bears the risk on the policy at the time of the assignment, in consideration of a loan granted by that insurer on the security of the policy within its surrender value, or its reassignment on repayment of the loan shall not cancel a nomination, but shall affect the rights of the nominee only to the extent of the insurer's interest in the policy:

Provided further that the transfer or assignment of a policy, whether wholly or in part, in consideration of a loan advanced by the transferee or assignee to the policyholder, shall not cancel the nomination but shall affect the rights of the nominee only to the extent of the interest of the transferee or assignee, as the case may be, in the policy:

Provided also that the nomination, which has been automatically cancelled consequent upon the transfer or assignment, the same nomination shall stand automatically revived when the policy is reassigned by the assignee or retransferred by the transferee in favour of the policyholder on repayment of loan other than on a security of policy to the insurer.

(*5*) Where the policy matures for payment during the lifetime of the person whose life is insured or where the nominee or, if there are more nominees than one, all the nominees die before the policy matures for payment, the amount secured by the policy shall be payable to the policyholder or his heirs or legal representatives or the holder of a succession certificate, as the case may be.

(*6*) Where the nominee or if there are more nominees than one, a nominee or nominees survive the person whose life is insured, the amount secured by the policy shall be payable to such survivor or survivors.

(*7*) Subject to the other provisions of this section, where the holder of a policy of insurance on his own life nominates his parents, or his spouse, or his children, or his spouse and children, or any of them, the nominee or nominees shall be beneficially entitled to the amount payable by the insurer to him or them under sub-section (*6*) unless it is proved that the holder of the policy, having regard to the nature of his title to the policy, could not have conferred any such beneficial title on the nominee.

(*8*) Subject as aforesaid, where the nominee, or if there are more nominees than one, a nominee or nominees, to whom sub-section (*7*) applies, die after the person whose life is insured but before the amount secured by the policy is paid, the amount secured by the policy, or so much of the amount secured by the policy as represents the share of the nominee or nominees so dying (as the case may be), shall be payable to the heirs or legal representatives of the nominee or nominees or the holder of a succession certificate, as the case may be, and they shall be beneficially entitled to such amount.

(*9*) Nothing in sub-sections (*7*) and (*8*) shall operate to destroy or impede the right of any creditor to be paid out of the proceeds of any policy of life insurance.

(*10*) The provisions of sub-sections (*7*) and (*8*) shall apply to all policies of life insurance maturing for payment after the commencement of the Insurance Laws (Amendment) Act, 2015 (5 of 2015).

(*11*) Where a policyholder dies after the maturity of the policy but the proceeds and benefit of his policy has not been made to him because of his death, in such a case, his nominee shall be entitled to the proceeds and benefit of his policy.

(*12*) The provisions of this section shall not apply to any policy of life insurance to which section 6 of the Married Women's Property Act, 1874 (3 of 1874), applies or has at any time applied:

Provided that where a nomination made whether before or after the commencement of the Insurance Laws (Amendment) Act, 2015 (5 of 2015), in favour of the wife of the person who has insured his life or of his wife and children or any of them is expressed, whether or not on the face of the policy, as being made under this section, the said section 6 shall be deemed not to apply or not to have applied to the policy.

COMMISSION AND REBATES AND LICENSING OF AGENTS

40. Prohibition of payment by way of commission or otherwise for procuring business. —(*1*) No person shall, pay or contract to pay any remuneration or reward, whether by way of commission or otherwise for soliciting or procuring insurance business in India to any person except an insurance agent or an intermediary or insurance intermediary in such manner as may be specified by the regulations.

(*2*) No insurance agent or intermediary or insurance intermediary shall receive or contract to receive commission or remuneration in any form in respect of policies issued in India, by an insurer in any form in respect of policies issued in India, by an insurer except in accordance with the regulations specified in this regard:

Provided that the Authority, while making regulations under sub-sections (*1*) and (*2*), shall take into consideration the nature and tenure of the policy and in particular the interest of the agents and other intermediaries concerned.

(*3*) Without prejudice to the provisions of section 102 in respect of a contravention of any of the provisions of the preceding sub-sections or the regulations framed in this regard, by an insurer, any insurance agent or intermediary or insurance intermediary who contravenes the said provisions shall be liable to a penalty which may extend to one lakh rupees.]

40A. [*Limitation of expenditure on commission*.] — *Omitted by the Insurance Laws* (*Amendment*) *Act,* 2015 (5 *of 2015*), *s. 46* (*w.e.f.* 26-12-2014)].

[1][**40B. Limitation of expenses of management in life insurance business.** —No insurer shall, in respect of insurance business transacted by him in India, spend as expenses of management in any financial year any amount exceeding the amount as may be specified by the regulations made under this Act;

40C. Limitation of expenses of management in general, health insurance and re-insurance business.—Every insurer transacting insurance business in India shall furnish to the Authority, the details of expenses of management in such manner and form as may be specified by the regulations made under this Act.]

41. Prohibition of rebates.—(*1*) No person shall allow or offer to allow, either directly or indirectly, as an inducement to any person to [2][take out or renew or continue] an insurance in respect of any kind of risk relating to lives or property in India, any rebate of the whole or part of the commission payable or any rebate of the premium shown on the policy, nor shall any person taking out or renewing [3][or continuing] a policy accept any rebate, except such rebate as may be allowed in accordance with the published prospectuses or tables of the insurer:

[2][Provided that acceptance by an insurance agent of commission in connection with a policy of life insurance taken out by himself on his own life shall not be deemed to be acceptance of a rebate of premium within the meaning of this sub-section if at the time of such acceptance the insurance agent satisfies the prescribed conditions establishing that he is a bona fide insurance agent employed by the insurer.]

[4][(*2*) Any person making default in complying with the provisions of this section shall be liable for a penalty which may extend to ten lakh rupees.]

[5][**42. Appointment of insurance agents.—**(*1*) An insurer may appoint any person to act as insurance agent for the purpose of soliciting and procuring insurance business:

Provided that such person does not suffer from any of the disqualifications mentioned in sub-section (*3*).

(*2*) No person shall act as an insurance agent for more than one life insurer, one general insurer, one health insurer and one of each of the other mono-line insurers:

Provided that the Authority shall, while framing regulations, ensure that no conflict of interest is allowed to arise for any agent in representing two or more insurers for whom he may be an agent.

(*3*) The disqualifications referred to in the proviso to sub-section (*1*) shall be the following: —

(*a*) that the person is a minor;

(*b*) that he is found to be of unsound mind by a court of competent jurisdiction;

(*c*) that he has been found guilty of criminal misappropriation or criminal breach of trust or cheating or forgery or an abetment of or attempt to commit any such offence by a court of competent jurisdiction:

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1. Subs. by Act 5 of 2015, s. 47, for sections 40B and 40C (w.e.f. 26-12-2014).
2. Subs. by Act 13 of 1941, s. 27, for "effect or renew" (w.e.f. 8-4-1941).
3. Ins. by s. 27, *ibid*, (w.e.f. 8-4-1941).
4. Subs. by Act 5 of 2015, s. 48, for sub-section (*2*) (w.e.f. 26-12-2014).
5. Subs. by s. 49, *ibid*., for section 42 (w.e.f. 26-12-2014).

Provided that where at least five years have elapsed since the completion of the sentence imposed on any person in respect of any such offence, the Authority shall ordinarily declare in respect of such person that his conviction shall cease to operate as a disqualification under this clause;

(*d*) that in the course of any judicial proceeding relating to any policy of insurance or the winding up of an insurer or in the course of an investigation of the affairs of an insurer it has been found that he has been guilty of or has knowingly participated in or connived at any fraud, dishonesty or misrepresentation against an insurer or insured;

(*e*) that in the case of an individual, who does not possess the requisite qualifications or practical training or passed the examination, as may be specified by the regulations;

(*f*) that in the case of a company or firm making, a director or a partner or one or more of its officers or other employees so designated by it and in the case of any other person the chief executive, by whatever name called, or one or more of his employees designated by him, do not possess the requisite qualifications or practical training and have not passed such an examination as required under clauses (*e*) and (*g*);

(*g*) that he has not passed such examination as may be specified by the regulations;

(*h*) that he has violated the code of conduct as may be specified by the regulations.

(*4*) Any person who acts as an insurance agent in contravention of the provision of this Act, shall be liable to a penalty which may extend to ten thousand rupees and any insurer or any person acting on behalf of an insurer, who appoints any person as an insurance agent not permitted to act as such or transacts any insurance business in India through any such person shall be liable to penalty which may extend to one crore rupees.

(*5*) The insurer shall be responsible for all the acts and omissions of its agents including violation of code of conduct specified under clause (*h*) of sub-section (*3*) and liable to a penalty which may extend to one crore rupees.]

[1][**42A. Prohibition of insurance business through principal agent, special agent and multilevel marketing.** — (*1*) No insurer shall, on or after the commencement of the Insurance Laws (Amendment) Act, 2015 (5 of 2015), appoint any principal agent, chief agent, and special agent and transact any insurance business in India through them.

(*2*) No person shall allow or offer to allow, either directly or indirectly, as an inducement to any person to take out or renew or continue an insurance policy through multilevel marketing scheme.

(*3*) The Authority may, through an officer authorised in this behalf, make a complaint to the appropriate police authorities against the entity or persons involved in the multilevel marketing scheme.

Explanation. —For the purpose of this section "multilevel marketing scheme" means any scheme or programme or arrangement or plan (by whatever name called) for the purpose of soliciting and procuring insurance business through persons not authorised for the said purpose with or without consideration of whole or part of commission or remuneration earned through such solicitation and procurement and includes enrolment of persons into a multilevel chain for the said purpose either directly or indirectly.]

1. Subs. by Act 5 of 2015, s. 50, for sections 42A, 42B and 42C (w.e.f. 26-12-2014).

[1][**42D. Issue of** [2][**registration] to intermediary or insurance intermediary. —** (*1*) The Authority or an officer authorised by it in this behalf shall, in the manner determined by the regulations made by the Authority and on payment of the fees determined by the regulations made by the Authority, issue to any person making an application in the manner determined by the regulations, and not suffering from any of the disqualifications herein mentioned, a [2][registration] to act as an intermediary or an insurance intermediary under this Act:

Provided that—

(*a*) in the case of an individual, he does not suffer from any of the disqualifications mentioned in [3][sub-section (*3*)] of section 42, or

(*b*) in the case of a company, or firm, any of its directors of partners does not suffer from any of the said disqualifications.

(*2*) A [4][registration made] under this section shall entitle the holder thereof to act as an intermediary or insurance intermediary .

(*3*) A [4][registration made] under this section shall remain in force for a period of three years only from the date of issue, but shall, if the applicant, being an individual does not, or being a company or firm any of its directors or partners [5][or one or more of its officers or other employees so designated by it and in the case of any other person, the chief executive by whatever name called, or one or more of his employees designated by him] does not suffer from any of the disqualifications mentioned [6][in clauses (*b*), (*c*), (*d*), (*e*) and (*g*) of sub-section (*3*) of section 42] and the application for renewal of [2][registration] reaches the issuing authority at least thirty days before the date on which the [2][registration] ceases to remain in force, be renewed for a period of three years at any one time on payment of the fee, determined by the regulations, made by the Authority and additional fee for an amount determined by the regulations, not exceeding one hundred rupees by way of penalty, if the application for renewal of the [2][registration] does not reach the issuing authority at least thirty days before the date on which the [2][registration] ceases to remain in force.

(*4*) No application for the renewal of a [2][registration] under this section shall be entertained if the application does not reach the issuing authority before the [2][registration] ceases to remain in force:

Provided that the Authority may, if satisfied that undue hardship would be caused otherwise, accept any application in contravention of this sub-section on payment by the application of a penalty of seven hundred and fifty rupees.

(*5*) The disqualifications above referred to shall be the following: —

(*a*) that the person is a minor;

(*b*) that he is found to be of unsound mind by a Court of competent jurisdiction;

1. Ins. by Act 41 of 1999, s. 30 and the First Schedule (w.e.f. 19-4-2000).
2. Subs. by Act 5 of 2015, s. 51, for "licence" (w.e.f. 26-12-2014).
3. Subs. by s. 51, *ibid*., for "sub-section (*4*)" (w.e.f. 26-12-2014).
4. Subs. by s. 51, *ibid*., for "licence issued" (w.e.f. 26-12-2014).
5. Ins. by s. 51, *ibid.* (w.e.f. 26-12-2014).
6. Subs. by s. 51, *ibid*., for "in clauses (*b*), (*c*), (*d*), (*e*) and (*f*) of sub-section (*4*) of section 42" (w.e.f. 26-12-2014).

(*c*) that he has been found guilty of criminal misappropriation or criminal breach of trust or cheating or forgery or an abetment of or attempt to commit any such offence by a Court of competent jurisdiction:

Provided that, Where at least five years have elapsed since the completion of the sentence imposed on any person in respect of any such offence, the Authority shall ordinarily declare in respect of such person that his conviction shall cease to operate as a disqualification under this clause;

(*d*) that in the course of any judicial proceeding relating to any policy of insurance of the winding up of an insurance company or in the course of an investigation of the affairs of an insurer it has been found that he has been guilty of or has knowingly participated in or connived at any fraud dishonestly or misrepresentation against an insurer or an insured;

(*e*) that he does not possess the requisite qualifications and practical training for a period not exceeding twelve months, as may be specified by the regulations made by the Authority in this behalf;

(*f*) that he has not passed such examinations as may be specified by the regulations made by the Authority in this behalf;

(*g*) that he violates the code of conduct as may be specified by the regulations made by the Authority.

(*6*) If it be found that an intermediary or an insurance intermediary suffers from any of the foregoing is qualifications , without prejudice to any other penalty to which he may be liable, the Authority shall, and if the intermediary or an insurance intermediary has knowingly contravened any provision of this Act may cancel the [1][registration made] to the intermediary or insurance intermediary under this section .

(*7*) The Authority may issue a duplicate [2][registration] to replace a [2][registration] lost, destroyed or mutilated, on payment of such fee, as may be determined by the regulations made by the Authority.

[3][(*8*) Any person who acts as an intermediary or an insurance intermediary without being registered under this section to act as such, shall be liable to a penalty which may extend to ten lakh rupees and any person who appoints as an intermediary or an insurance intermediary or any person not registered to act as such or transacts any insurance business in India through any such person, shall be liable to a penalty which may extend to one crore rupees.

(*9*) Where the person contravening sub-section (*8*) is a company or a firm, then, without prejudice to any other proceedings which may be taken against the company or firm, every director, manager, secretary or other officer of the company, and every partner of the firm who is knowingly a party to such contravention shall be liable to a penalty which may extend to ten lakh rupees.]

[4] **[42E. Condition for intermediary or insurance intermediary.** —Without prejudice to the provisions contained in this Act, the Authority may, by regulations made in this behalf, specify the requirements of capital, form of business and other conditions, to act as an intermediary or an insurance intermediary.]

1. Subs. by 5 of 2015, s. 51, for "licence issued" (w.e.f. 26-12-2014).
2. Subs. by s. 51, *ibid*., for "licence" (w.e.f. 26-12-2014).
3. Subs. by s. 51, *ibid*., for sub-sections (*8*) and (*9*) (w.e.f. 26-12-2014).
4. Subs. by s. 51, *ibid*., for section 42E (w.e.f. 26-12-2014).

[1][**43. Record of insurance agents.** —(*1*) Every insurer and every person who, acting on behalf of an insurer employs insurance agents shall maintain a record showing the name and address of every insurance agent appointed by him and the date on which his appointment began and the date, if any, on which his appointment ceased.

(*2*) The record prepared by the insurer under sub-section (*1*), shall be maintained as long as the insurance agent is in service and for a period of five years after the cessation of appointment.]

44. [*Prohibition of cessation of payments of commission*.]—*omitted by the Insurance Laws* (*Amendment*) *Act*, 2015 (5 *of* 2015) *s.* 54 (*w.e.f.* 26-12-2014).

[2][**44A. Power to call for information.**—For the purposes of ensuring compliance with the provisions of sections 40, 40B and 40C, the Authority may, by notice—

(*a*) require from an insurer such information, certified if so required by an auditor or actuary, as it may consider necessary;

(*b*) require an insurer to submit for its examination at the principal place of business of the insurer in India, any books of account, register or other document, or to supply any statement which may be specified in the notice;

(*c*) examine any officer of an insurer on oath, in relation to any such information, book, register, document or statement and the insurer, shall comply with any such requirement within such time as may be specified in the notice.

SPECIAL PROVISIONS OF LAW

45. Policy not be called in question on ground of misstatement after three years. —(*1*) No policy of life insurance shall be called in question on any ground whatsoever after the expiry of three years from the date of the policy, *i.e.*, from the date of issuance of the policy or the date of commencement of risk or the date of revival of the policy or the date of the rider to the policy, whichever is later.

(*2*) A policy of life insurance may be called in question at any time within three years from the date of issuance of the policy or the date of commencement of risk or the date of revival of the policy or the date of the rider to the policy, whichever is later, on the ground of fraud:

Provided that the insurer shall have to communicate in writing to the insured or the legal representatives or nominees or assignees of the insured the grounds and materials on which such decision is based.

Explanation I. —For the purposes of this sub-section, the expression "fraud" means any of the following acts committed by the insured or by his agent, with intent to deceive the insurer or to induce the insurer to issue a life insurance policy: —

(*a*) the suggestion, as a fact of that which is not true and which the insured does not believe to be true;

(*b*) the active concealment of a fact by the insured having knowledge or belief of the fact;

(*c*) any other act fitted to deceive; and

(*d*) any such act or omission as the law specially declares to be fraudulent.

Explanation II. —Mere silence as to facts likely to affect the assessment of the risk by the insurer is not fraud, unless the circumstances of the case are such that regard being had to them, it is the duty of the insured or his agent keeping silence, to speak, or unless his silence is, in itself, equivalent to speak.

1. Subs. by Act 5 of 2015, s. 53, for section 43 (w.e.f. 26-12-2014).
2. Subs. by s. 55, *ibid*., for sections 44A and 45 (w.e.f. 26-12-2014).

(*3*) Notwithstanding anything contained in sub-section (*2*), no insurer shall repudiate a life insurance policy on the ground of fraud if the insured can prove that the misstatement of or suppression of a material fact was true to the best of his knowledge and belief or that there was no deliberate intention to suppress the fact or that such misstatement of or suppression of a material fact are within the knowledge of the insurer:

Provided that in case of fraud, the onus of disproving lies upon the beneficiaries, in case the policyholder is not alive.

Explanation. —A person who solicits and negotiates a contract of insurance shall be deemed for the purpose of the formation of the contract, to be the agent of the insurer.

(*4*) A policy of life insurance may be called in question at any time within three years from the date of issuance of the policy or the date of commencement of risk or the date of revival of the policy or the date of the rider to the policy, whichever is later, on the ground that any statement of or suppression of a fact material to the expectancy of the life of the insured was incorrectly made in the proposal or other document on the basis of which the policy was issued or revived or rider issued:

Provided that the insurer shall have to communicate in writing to the insured or the legal representatives or nominees or assignees of the insured the grounds and materials on which such decision to repudiate the policy of life insurance is based:

Provided further that in case of repudiation of the policy on the ground of misstatement or suppression of a material fact, and not on the ground of fraud, the premiums collected on the policy till the date of repudiation shall be paid to the insured or the legal representatives or nominees or assignees of the insured within a period of ninety days from the date of such repudiation.

Explanation. —For the purposes of this sub-section, the misstatement of or suppression of fact shall not be considered material unless it has a direct bearing on the risk undertaken by the insurer, the onus is on the insurer to show that had the insurer been aware of the said fact no life insurance policy would have been issued to the insured.

(*5*) Nothing in this section shall prevent the insurer from calling for proof of age at any time if he is entitled to do so, and no policy shall be deemed to be called in question merely because the terms of the policy are adjusted on subsequent proof that the age of the life insured was incorrectly stated in the proposal.]

46. Application of the law in force in India to policies issued in India.—The holder of a policy of insurance issued by an insurer in respect of insurance business transacted in [1] [India] after the commencement of this Act shall have the right, notwithstanding anything to the contrary contained in the policy or in any agreement relating thereto, to receive payment in [1][India], of any sum secured thereby and to sue for any relief in respect of the policy in any Court of competent jurisdiction in [1][India]; and if the suit is brought in [1][India]; any question of law arising in connection with any such policy shall be determined according to the law in force in [1][India]:

[2][Provided that nothing in this section shall apply to a policy of marine insurance.]

47. Payment of money into court. — (*1*) Where in respect of any policy of life insurance maturing for payment an insurer is of opinion that by reason of conflicting claims to or insufficiency of proof of title to the amount secured thereby or for any other adequate reason it is impossible otherwise for the insurer to obtain a satisfactory discharge for the payment of such amount, [3][the insurer may], [4][***] apply

1. Subs. by Act 62 of 1956, s. 2 and the First Schedule, for "the States" (w.e.f. 1-11-1956)
2. Ins. by Act 7 of 1944, s. 2 (w.e.f. 7-3-1944).
3. Subs. by Act 13 of 1941, s. 32, for "the insurer shall" (w.e.f. 8-4-1941).
4. Certain words omitted by Act 47 of 1950, s. 36 (w.e.f. 1-6-1950).

to pay the amount into the Court within the jurisdiction of which is situated the place at which such amount is payable under the terms of the policy or otherwise.

(*2*) A receipt granted by the Court for any such payment shall be a satisfactory discharge to the insurer for the payment of such amount.

(*3*) An application for permission to make a payment into Court under this section shall be made by a petition verified by an affidavit signed by a principal officer of the insurer setting forth the following particulars, namely: —

(*a*) the name of the insured person and his address;

(*b*) if the insured person is deceased, the date and place of his death;

(*c*) the nature of the policy and the amount secured by it;

(*d*) the name and address of each claimant so far as is known to the insurer with details of every notice of claim received;

(*e*) the reasons why in the opinion of the insurer a satisfactory discharged cannot be obtained for the payment of the amount; and

(*f*) the address at which the insurer may be served with notice of any proceeding relating to disposal of the amount paid into Court.

(*4*) An application under this section shall not be entertained by the Court if the application is made before the expiry of six months [1][from the maturing of the policy by survival, or from the date of receipt of notice by the insurer of the death of the insured, as the case may be.]

(*5*) If it appears to the Court that a satisfactory discharge for the payment of the amount cannot otherwise be obtained by the insurer it shall allow the amount to be paid into Court and shall invest the amount in Government securities pending its disposal.

(*6*) The Insurer shall transmit to the Court every notice of claim received after the making of the application under sub-section (*3*), and any payment required by the Court as costs of the proceedings or otherwise in connection with the disposal of the amount paid into Court shall as to the cost of the application under sub-section (*3*) be borne by the insurer and as to any other costs be in the discretion of the Court.

(*7*) The Court shall cause notice to be given to every ascertained claimant of the fact that the amount has been paid into Court, and shall cause notice at the cost of any claimant applying to withdraw the amount to be given to every other ascertained claimant.

(*8*) The Court shall decide all questions relating to the disposal of claims to the amount paid into Court.

47A. [Claims on small life insurance policies]. — *Omitted by Insurance Laws (Amendment) Act, 2015* (5 *of* 2015) *s.* 56 (*w.e.f.* 26-12-2014).

48. [Directors of insurers being companies]. — *Omitted by s.* 56, *ibid.* (*w.e.f.* 26-12-2014).

1. Subs. by Act 11 of 1939, s. 18, for "from the death of the insured, or the maturing of the policy by survival".

[1][**48A. Insurance agent or intermediary or insurance intermediary not to be director in insurance company.**—No insurance agent or intermediary or insurance intermediary shall be eligible to be or remain a director in insurance company:

Provided that any director holding office at the commencement of the Insurance Laws (Amendment) Act, 2015 (5 of 2015) shall not become ineligible to remain a director by reason of this section until the expiry of six months from the date of commencement of the said Act:

Provided further that the Authority may permit an agent or intermediary or insurance intermediary to be on the Board of an insurance company subject to such conditions or restrictions as it may impose to protect the interest of policyholders or to avoid conflict of interest.]

[2][**48B. Further provision regarding directors.**—(*1*) An insurer specified in sub-clause (*b*) of clause (*9*) of section 2 and carrying on life insurance business shall not have a common director with another such insurer.

(*2*) The [3][Authority] may, for such period, to such extent and subject to such conditions as it may specify, exempt from the operation of the section—

(*a*) any insurer, who is a subsidiary company of another insurer, or

(*b*) two or more insurers, for the purpose of facilitating their amalgamation or the transfer of business of one insurer to the other.]

48C. [Appointment of additional directors].— [*Omitted by the Insurance* (*Amendment*) *Act*, 1968 (62 *of* 1968), s. 21 (*w.e.f.* 1-6-1969)].]

[4][**49. Restriction on dividends and bonuses.**—[5][(*1*)] No insurer, [6]***, who carries on the business of life insurance or any other class or sub-class of insurance business to which section 13 applies, shall, for the purpose of declaring or paying any dividend to shareholders or any bonus to policy-holders or of making any payment in service of any debentures, utilize directly or indirectly any portion of the life insurance fund or of the fund of such other class or sub-class of insurance business, as the case may be, except a surplus shown in the valuation [7][balance-sheet in such form as may be specified by the regulations made by the Authority] submitted to the [3][Authority] as part of the abstract referred to in section 15 as a result of an actuarial valuation of the assets and liabilities of the insurer; nor shall he increase such surplus by contributions out of any reserve fund or otherwise unless such contributions have been brought in as revenue account applicable to that class or sub-class of insurance business on or before the date of the valuation aforesaid, except when the reserve fund is made up solely of transfers from similar surpluses disclosed by valuations in respect of which returns have been submitted to the [3][Authority] under section 15 of this Act [8]***:

Provided that payments made out of any such surplus in service of any debentures shall not exceed fifty percent, of such surplus including any payment by way of interest on the debentures, and interest paid on the debentures shall not exceed ten per cent, of any such surplus except when the interest paid on the debentures is offset against the interest credited to the fund or funds concerned in deciding the interest basis adopted in the valuation disclosing the aforesaid surplus:]

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1. Subs. by Act 5 of 2015, s. 57 (w.e.f. 26-12-2014).
2. Ins. by Act 47 of 1950, s. 40 (w.e.f. 1-6-1950).
3. Subs. by Act 41 of 1999, s. 30 and the First Schedule, for "Central Government" (w.e.f. 19-4-2000).
4. Subs. by Act 13 of 1941, s. 34, for section 49 (w.e.f. 8-4-1941).
5. Section 49 renumbered as sub-section (*1*) thereof by Act 47 of 1950, s. 41 (w.e.f. 1-6-1950).
6. The words, brackets, letters and figures "being an insurer specified in sub-clause (*a*) (*ii*) or sub-clause (*b*) of clause (*9*) of section 2" omitted by Act 5 of 2015, s. 58 (w.e.f. 26-12-2014).
7. Subs. by Act 42 of 2002, s. 12, for "balance sheet in Form I as set forth in the Fourth Schedule" (w.e.f. 23-9-2002).
8. The words and figures "or to the Central Government under section 11 of the Indian Life Insurance Companies Act, 1912 (7 of 1912)" Omitted by Act 5 of 2015, s. 58 (w.e.f. 26.12.2014).

[1][Provided further that the share of any such surplus allocated to or reserved for the shareholders, (including any amount for the payment of dividends guaranteed to them, whether by way of first charge or otherwise), shall not exceed such sums as may be specified by the Authority and such share shall in no case exceed ten per cent of such surplus in case of participating policies and in other cases the whole thereof.]

[2][(*2*) For the purposes of sub-section (*1*), the actual amount of income-tax deducted at source during the period following the date as at which the last preceding valuation was made and preceding the date as at which the valuation in question is made may be added to such surplus after deducting an estimated amount for income-tax on such surplus, such addition and deduction being shown in [3][an abstract of the report of the actuary referred to in sub-section (*1*) of section 13].]

50. Notice of options available to the assured on the lapsing of a policy. —An insurer shall, [4][before the expiry of three months from the date on which the premiums in respect of a policy of life insurance were payable but not paid,] give notice to the policy-holder informing hi m of the options available to him [5][unless these are set forth in the policy.]

51. Supply of copies of proposals and medical reports. —Every insurer shall, on application by a policy-holder and on payment of a fee not exceeding one rupee, supply to the policy-holder certified copies of the question put to him and his answers thereto contained in his proposal for insurance and in the medical report supplied in connection therewith.

[6][52. Prohibition of business on dividing principle. —No insurer shall commence any business upon the dividing principle, that is to say, on the principle that the benefit secured by a policy is not fixed but depends either wholly or partly on the result of a distribution of certain sums amongst policies becoming claims within certain time-limits, or on the principle that the premiums payable by a policyholder depend wholly or partly on the number of policies becoming claims within certain time-limits:

Provided that nothing in this section shall be deemed to prevent an insurer from allocating bonuses to holders of policies of life insurance as a result of a periodical actuarial valuation either as reversionary additions to the sums insured or as immediate cash bonuses or otherwise.]

[7][MANAGEMENT BY ADMINISTRATOR

52A. When Administrator for management of insurance business may be appointed. — (*1*) If at any time the Authority has reason to believe that an insurer carrying on life insurance business is acting in a manner likely to be prejudicial to the interests of holders of life insurance policies, it may, after giving such opportunity to the insurer to be heard appoint an Administrator to manage the affairs of the insurer under the direction and control of the Authority.

(*2*) The Administrator shall receive such remuneration as the Authority may direct and the Authority may at any time cancel the appointment and appoint some other person as Administrator.]

52B. Powers and duties of the Administrator.—(*1*) The Administrator shall conduct the management of the business of the insurer with the greatest economy compatible with efficiency and shall, as soon as may be possible, file with the [8][Authority] a report stating which of the following courses

1. Subs. by Act 42 of 2002, s. 12, for the second proviso (w.e.f. 23-9-2002).
2. Ins. by Act 47 of 1950, s. 41 (w.e.f. 1-6-1950).
3. Subs. by Act 42 of 2002, s. 12, for "paragraph 8(*1*) of the abstract prepared in accordance with Part II of the Fourth Schedule to this Act" (w.e.f. 23-9-2002).
4. Subs. by Act 11 of 1939, s. 20, for "within three months of the lapsing of policy of life insurance".
5. Added by Act 13 of 1941, s. 35 (w.e.f. 8-4-1941).
6. Subs. by Act 5 of 2015, s. 59, for sections 52 and 52A (w.e.f. 26-12-2014).
7. Ins. by Act 47 of 1950, s. 42 (w.e.f. 1-6-1950).
8. Subs. by Act 41 of 1999, s. 30 and the First Schedule, for "Controller" (w.e.f. 19-4-2000).

is in the circumstances most advantageous to the general interests of the holders of life insurance policies, namely: —

(*a*) the transfer of the business of the insurer to some other insurer;

(*b*) the carrying on of its business by the insurer (whether with the policies of the business continued for the original, sum insured with the addition of bonuses that attach to the policies or for reduced amounts);

(*c*) the winding up of the insurer; and

(*d*) such other course as he deems advisable.

(*2*) On the filing of the report with the [1][Authority], the [1][Authority] may take such action as he thinks fit for promoting the interests of the holders of life insurance policies in general.

(*3*) Any order passed by the [1][Authority] under sub-section (*2*) shall be binding on all persons concerned, and shall have effect notwithstanding anything in the memorandum or articles of association of the insurer, of a company.

[2] **[52BB. Powers of Administrator respecting property liable to attachment under section 106.** — (*1*) If the Administrator is satisfied that any person has rendered himself liable to be proceeded against under section 106, he may, pending the institution of proceedings against such person under that section, by order in writing, prohibit him or any other person from transferring or otherwise disposing of any property which, in the opinion of the Administrator, would be liable to attachment in proceedings under that section.

(*2*) Any person aggrieved by an order made by the Administrator under sub-section (*1*) may, within fourteen days from the date on which the order is served on him, appeal against such order to [3][the Securities Appellate Tribunal and the Securities Appellate Tribunal] may pass such order thereon as it thinks fit.

(*3*) An order made by the Administrator under sub-section (*1*) shall, subject to any other order made by the [4][Securities Appellate Tribunal] on appeal, be in force for a period of three months from the date of the order unless, before the expiry of the said period, an application is made under sub-section (*1*) of section 106 to the Court competent to exercise jurisdiction under that sub-section, and when such an application is made, the order shall, subject to any order made by that Court, continue in force as if it were an order of attachment made by that Court in proceedings under that section.

(*4*) An order made by the Administrator under this section shall, —

(*a*) in the case of an order affecting a corporation or firm, be served in the manner provided for the service of summons in rule 2 of Order XXIX or rule 3 of Order XXX, as the case may be, in the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908), and

(*b*) in the case of an order affecting a person not being a corporation or firm, be served on such person—

(*i*) personally, by delivering or tendering to him the order, or

(*ii*) by post, or

1. Subs. by Act 41 of 1999, s. 30 and the First Schedule, for "Controller" (w.e.f. 19-4-2000).
2. Ins. by Act 54 of 1955, s. 2 (w.e.f. 1-11-1955).
3. Subs. by Act 5 of 2015, s. 60, for "the Central Government and the Central Government" (w.e.f. 26-12-2014).
4. Subs. by s. 60, *ibid*., for "Central Government" (w.e.f. 26-12-2014).

(*iii*) where the person cannot be found, by leaving a copy of the order with some adult male member of his family or by affixing such copy to some conspicuous part of the premises in which he is known to have last resided or carried on business or personally worked for gain,

and every such order shall also be published in the Official Gazette.

(*5*) If any question arises whether a person was duly served with an order under sub-section (*4*), the publication of the order in the Official Gazette shall be conclusive proof that the order was so served, and a failure to comply with the provisions of clause (*a*) or clause (*b*) of sub-section (*4*) shall not affect the validity of the order.

(*6*) Notwithstanding anything contained in this section, any property in respect of which an order has been made by the Administrator may, with the previous permission of the Administrator and subject to such terms and conditions as he may impose, be transferred or otherwise disposed of.

(*7*) Notwithstanding anything contained in any other law for the time being in force, the transfer or other disposition of any property in contravention of any order made by the Administrator under this section or of any terms and conditions imposed by him shall be void.

(*8*) For the purpose of enabling him to form an option as to whether any property would be liable to attachment in proceedings under section 106 or for the purpose of enabling him to institute proceedings under that section, the Administrator may require any person to furnish information on such points or matters as, in the opinion of the Administrator, may be relevant for the purpose, and any person so required shall be deemed to be legally bound to furnish such information within the meaning of section 176 of the Indian Penal Code (45 of 1860).

(*9*) The Administrator shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit in respect of the following matters, namely: —

(*a*) summoning and enforcing attendance of witnesses and examining them on oath;

(*b*) requiring the production of documents; and

(*c*) receiving evidence on affidavits.

and any proceeding before the Administrator under this section shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of Indian Penal Code (45 of 1860).

(*10*) Save as provided in this section or in section 106, and notwithstanding anything contained in any other law for the time being in force, —

(*a*) no suit or other legal proceeding shall lie in any Court to set aside or modify any order of the Administrator [1]*** made under this section, and

(*b*) no Court shall pass any decree, grant any injunction or make any other order which shall have the effect of nullifying or affection in any way any such order.]

52C. Cancellation of contracts and agreements. —The Administrator may, at any time during the continuance of his appointment with respect to an insurer and after giving an opportunity to the persons concerned to be heard, cancel or vary (either unconditionally or subject to such conditions as he thinks fit to impose) any contract or agreement (other than a policy) between the insurer and any other person which the Administrator is satisfied is prejudicial to the interest of holders of life insurance policies.

[2]**[52D. Termination of appointment of Administrator.** —If at any time, it appears to the Authority that the purpose of the order appointing the Administrator has been fulfilled or that, for any reason, it is

1. The words "or the Central Government" omitted by Act 5 of 2015, s. 60 (w.e.f. 26-12-2014)
2. Subs. by s. 61, *ibid*., for section 52D (w.e.f. 26-12-2014).

undesirable that the order of appointment should remain in force, the Authority may cancel the order and thereupon the Administrator shall be divested of the management of the insurance business which shall, unless otherwise directed by the Authority, again vest in the person in whom it was vested immediately prior to the appointment of the Administrator or any other person appointed by the insurer in this behalf.]

52E. Finality of decision appointing Administrator. —Any order or decision of the [1][Authority] made in pursuance of section 52A or section 52D shall be final and shall not be called in question in any Court.

52F. Penalty for withholding documents of property from Administrator. —If any director or officer of the insurer or any other person fails to deliver to the Administrator any books of account, registers or any other documents, in his custody relating to the business of the insurer the management of which has vested in the Administrator, or retains any property of such insurer he shall be [2][liable to penalty of rupees ten thousand each day during which such failure continues or rupees ten lakh, whichever is less].]

52G. Protection of action taken under sections 52A to 52D. —(*1*) No suit, prosecution or other legal proceeding shall lie against an Administrator for anything which is in good faith done or intended to be done in pursuance of [3][section 52A, section 52B, section 52BB or section 52C].

(*2*) No suit or other legal proceeding shall lie against the [4]*** the [5][Authority] for any damage caused or likely to be caused by anything which is in good faith done of intended to be done under section 52A, section 52B, or section 52D.]

[6][ACQUISITION OF THE UNDERTAKINGS OF INSURERS IN CERTAIN CASES

52H. [**Power of Central Government to acquire undertakings of insurers in certain cases].** — *Omitted by the Insurance Laws (Amendment) Act* 5 *of* 2015, *s.* 65 (*w.e.f.* 26-12-2014).

52I. [Power of Central Government to make scheme.] —*Omitted by s.* 65, *ibid.* (*w.e.f.* 26-12-2014).

52J. [Compensation to be given to the acquired insurer.] — *Omitted by s.* 65, *ibid.* (*w.e.f.* 26-12-2014).

52K. [Constitution of the Tribunal.] — *Omitted by s.* 65, *ibid.* (*w.e.f.* 26-12-2014).

52L. [Tribunal to have powers of Civil Court.] — *Omitted by s. 65, ibid.* (*w.e.f.* 26-12-2014).

52M. [**Procedure of the Tribunal.**] — *Omitted by s.* 65 *ibid.* (*w.e.f.* 26-12-2014).

52N. [Special provisions for the dissolution of acquired insurers.] — *Omitted by s.* 65, *ibid.* (*w.e.f.* 26-12-2014).]]

WINDING UP

53. Winding up by the Court. —[7][(*1*) The Tribunal may order the winding up in accordance with the Companies Act, 1956 (1 of 1956) of any insurance company and the provisions of that Act shall, subject to the provisions of this Act, apply accordingly.]

1. Subs. by Act 5 of 2015, s. 62, for "Central Government" (w.e.f. 26-12-2014).
2. Subs. by s. 63, *ibid*., for "punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both" (w.e.f. 26-12-2014).
3. Subs. by Act 54 of 1955, s. 3, for "sections 52A to 52C inclusive" (w.e.f. 1-11-1955).
4. The words "Central Government or" omitted by Act 5 of 2015, s. 64 (w.e.f. 26-12-2014).
5. Subs .by Act 41 of 1999, s. 30 and the First Schedule, for "Controller" (w.e.f. 19-4-2000).
6. Ins. by Act 62 of 1968, s. 22 (w.e.f. 1-6-1969).
7. Subs. by Act 11 of 2003, s. 133 and the Schedule, for sub-section (*1*) (w.e.f. 1-4-2003).

[1][*Explanation*. —For the purpose of sections 53 to 61A, "Tribunal" means the National Company Law Tribunal constituted under sub-section (*1*) of section 408 of the Companies Act, 2013 (18 of 2013).]

(*2*) In addition to the grounds on which such an order may be based, the [2][Tribunal] may order the winding up of an insurance company—

(*a*) if with the sanction of the [2][Tribunal] previously obtained a petition in this behalf is presented by shareholders not less in number than one tenth of the whole body of shareholders and holding not less than one-tenth of the whole share capital or by not less than fifty policy-holders holding policies of life insurance that have been in force for not less than three years and are of the total value of not less than fifty thousand rupees; or

(*b*) if the [3][Authority], who is hereby authorised to do so, applies in this behalf of the [2][Tribunal] on any of the following grounds, namely: —

[4]* * * * *

(*ii*) that the company having failed to comply with any requirement of this Act has continued such failure [5][or having contravened any provision of this Act has continued such contravention] for a period of three months after notice of such failure [5][or contravention] has been conveyed to the company by the [3][Authority],

(*iii*) that it appears from [6][any returns or statements] furnished under the provisions of this Act or from the results of any investigation made thereunder that the [7][company is, or is deemed to be insolvent], or

(*iv*) that the continuance of the company is prejudicial to the interest of the policy-holders [8][or to the public interest generally].

[9] **[53A. Unpaid-up share capital.—**Notwithstanding anything contained in any other law, in ascertaining for any purpose of this Act the solvency or otherwise of an insurer no account shall be taken of any assets of the insurer consisting of unpaid up share capital.]

54. Voluntary winding up.—Notwithstanding anything contained in the [10] [Companies Act, 1956 (1 of 1956)], an insurance company shall not be wound up voluntarily except for the purpose of affecting an amalgamation or a re-construction of the company, or on the ground that by reason of its liabilities it cannot continue its business.

55. Valuation of liabilities.— (*1*) In the winding up of an insurance company or in the insolvency of any other insurer the value of the assets and the liabilities of the insurer shall be ascertained in such manner and upon such basis as the liquidator or receiver in insolvency thinks fit, subject, so far as applicable, to the rule contained in the [11][Seventh Schedule] and to any directions which may be given by the [12][Tribunal].

1. Ins. by Act 5 of 2015, s. 66 (w.e.f. 26-12-2014).
2. Subs. by Act 11 of 2003, s. 133 and the Schedule [serial No. 2 (*b*)], for "Court" (w.e.f. 1-4-2003).
3. Subs. by Act 41 of 1999, s. 30 and the First Schedule, for "Controller" (w.e.f. 19-4-2000).
4. Sub-clause (*i*) omitted by Act 5 of 2015, s. 66 (w.e.f. 26-12-2014).
5. Ins. by Act 13 of 1941, s. 37 (w.e.f. 8-4-1941).
6. Subs. by Act 62 or 1968, s. 23, for "the returns" (w.e.f. 1-6-1969).
7. Subs. by s. 23, *ibid.* for "company is insolvent" (w.e.f. 1-6-1969).
8. Ins. by s. 23, *ibid.* (w.e.f. 1-6-1969).
9. Ins. by Act 6 of 1946, s. 25 (w.e.f. 20-3-1946).
10. Subs. by Act 11 of 2003, s. 133 and the Schedule, for "Indian Companies Act, 1913 (7 of 1913)" (w.e.f. 1-4-2003).
11. Subs. by Act 47 of 1950, s. 43, for "Sixth Schedule" (w.e.f. 1-9-1950).
12. Subs. by Act 11 of 2003, s. 133 and the Schedule [Serial no. 4 (*a*)], for "Court" (w.e.f. 1-4-2003).

(*2*) For the purposes of any reduction by the [1][Tribunal] of the amount of the contracts of any insurance company the value of the assets and liabilities of the company and all claims in respect of policies issued by it shall be ascertained in such manner and upon such basis as the [1][Tribunal] thinks proper having regard to the aforesaid.

(3) The rule in the [2][Seventh Schedule] shall be of the same force and may be repealed, altered or amended as if it were a rule made in pursuance of [3][section 643 of the Companies Act, 1956 (1 of 1956)], and rules may be made under that section for the purpose of carrying into effect the provisions of this Act with respect to the winding up of insurance companies.

56. Application of surplus assets of life insurance fund in liquidation or insolvency. —(*1*) In the winding up of an insurance company and in the insolvency of any other insurer the value of the assets and the liabilities of the insurer in respect of life insurance business shall be ascertained separately from the value of any other assets or any other liabilities of the insurer and no such assets shall be applied to the discharge of any liabilities other than those in respect of life insurance business except in so far as those assets exceed the liabilities in respect of life insurance business.

(*2*) In the winding up of an insurance company carrying on the business of life insurance or in the insolvency of any other insurer carrying on such business where any proportion of the profits of the insurer was before the commencement of the winding up or insolvency allocated to policy-holders if, when the assets and liabilities of the insurer have been ascertained, there is found to be a surplus of assets over liabilities (hereinafter referred to as a prima facie surplus) there shall be added to the liabilities of the insurer in respect of the life insurance business an amount equal to such proportion of the prima facie surplus as is equivalent to such proportion of the profits allocated to shareholders and policy-holders as was allocated to policy-holders during the ten years immediately preceding the commencement of the winding up and the assets of the insurer shall be deemed to exceed his liabilities only in so far as those assets exceed those liabilities after such addition:

Provided that—

(*a*) if in any case there has been no such allocation or if it appears to the [4][Tribunal] that by reason of special circumstances it would be inequitable that the amount to be added to the liabilities of the insurer in respect of the life insurance business should be an amount equal to such proportion as aforesaid, the amount to be so added shall be such amount as the [4][Tribunal] may direct, and

(*b*) for the purpose of the application of this sub-section to any case where before the commencement of the winding up or insolvency a proportion of such profits as aforesaid of a branch only of the life insurance business in question has been allocated to policy-holders, the value of the assets and liabilities of the insurer in respect of that branch shall be separately ascertained in like manner as the value of his assets and liabilities in respect of the life insurance business was ascertained, and the surplus so found, if any, of assets over liabilities shall, for the purpose of determining the amount to be added to the liabilities of the insurer in respect of the life insurance business be deemed to be the prima facie surplus.

57. Winding up of secondary companies. — (*1*) Where the insurance business or any part of the insurance business of an insurance company has been transferred to another insurance company under an arrangement in pursuance of which the first mentioned company (in this section referred to as the secondary company) or the creditors thereof has or have claims against the company to which such transfer was made (in this section referred to as the principal company) then, if the principal company is

1. Subs. by Act 11 of 2003, s. 133 and the Schedule [serial no. 4(*a*)], for "Court" (w.e.f. 1-4-2003).
2. Subs. by Act 47 of 1950, s. 43, for "Sixth Schedule" (w.e.f. 1-9-1950)
3. Subs. by Act 11 of 2003, s. 133 and the Schedule, for "Section 246 of the Indian Companies Act, 1913 (7 of 1913)" (w.e.f. 1-4-2003).
4. Subs. by s. 133 and the Schedule (serial no. 5), *ibid*., for "Court" (w.e.f. 1-4-2003).

being wound up by [1]***, the [2][Tribunal] shall (subject as hereinafter mentioned) order the secondary company to be wound up in conjunction with the principal company and may by the same or any subsequent order appoint the same person to be liquidator for the two companies and make provision for such other matters as may seem to the [2][Tribunal] necessary with a view to the companies being wound up as if they were one company.

(*2*) The commencement of the winding up of the principal company shall, save as otherwise ordered by the [2][Tribunal], be the commencement of the winding up of the secondary company.

(*3*) In adjusting the rights and liabilities of the members of the several companies among themselves the [2][Tribunal], shall have regard to the constitution of the companies and to the arrangements entered into between the companies in the same manner as the [2][Tribunal], has regard to the rights and liabilities of different classes of contributories in the case of winding up of a single company or as near thereto as circumstances admit.

(*4*) Where any company alleged to be secondary is not in process of being wound up at the same time as the principal company to which it is alleged to be secondary, the [2][Tribunal] shall not direct the secondary company to be wound up, unless, after hearing all objections (if any) that may be urged by or on behalf of the company against its being wound up, the [2][Tribunal] is of opinion that the company is secondary to the principal company and that the winding up of the company in conjunction with the principal company is just and equitable.

(*5*) An application may be made in relation to the winding up of any secondary company in conjunction with the principal company by any creditor of, or person interested in, the principal or secondary company.

(*6*) Where a company stands in the relation of a principal company to one insurance company and in the relation of a secondary company to some other insurance company or where there are several insurance companies standing in the relation of secondary companies to one principal company, the [2][Tribunal] may deal with any number of such companies together or in separate groups as it thinks most expedient upon the principles laid down in this section.

58. Scheme for partial winding up of insurance companies. — (*1*) If at any time it appears expedient that the affairs of an insurance company in respect of any class of business comprised in the undertaking of the company should be wound up but that any other class of business comprised the undertaking should continue to be carried on by the company or be transferred to another insurer, a scheme for such purposes may be prepared and submitted for confirmation of the [3][Tribunal] in accordance with the provisions of this Act.

(*2*) Any scheme prepared under this section shall provide for the allocation and distribution of the assets and liabilities of the company between any classes of business affected (including the allocation of any surplus assets which may arise on the proposed winding up), for any future rights of every class of policy-holders in respect of their policies and for the manner of winding up any of the affairs of the company which are proposed to be wound up and may contain provisions for altering the memorandum of the company with respect to its objects and such further provisions as may be expedient for giving effect to the scheme.

(*3*) The provisions of this Act relating to the valuation of liabilities of insurers in liquidation and insolvency and to the application of surplus assets of the life insurance fund in liquidation or insolvency shall apply to the winding up of any part of the affairs of a company in accordance with the scheme under this section in like manner as they apply in the winding up of an insurance company, and any scheme

1. The Words “or under the supervision of the Court” omitted by Act 11 of 2003, s. 133 and the Schedule (w.e.f. 1-4-2003).
2. Subs. by s. 133 and the Schedule [serial no. 6(*b*)], *ibid*., for “Court” (w.e.f. 1-4-2003).
3. Subs. by s. 133 and the Schedule (serial no. 7), *ibid*., for “Court” (w.e.f. 1-4-2003).

under this section may apply with the necessary modifications any of the provisions of the Indian Companies Act, 1913 (7 of 1913) relating to the winding up of companies.

[1][(*4*) An order of the Tribunal confirming a scheme under this section whereby the memorandum of a company is altered with respect to its objects shall as respects the alteration have effect as if it were an order confirmed under section 4 of the Companies Act, 2013 (18 of 2013), and the provisions of sections 7 and 17 of that Act shall apply accordingly.]

[2]* * * * *]

59. [**Return of deposits**].— *Omitted by the Insurance Laws (Amendment) Act* 5 *of* 2015, s. 68 (w.e.f. 26-12-2014).

60. Notice of policy values. — In the winding up of an insurance company for the purposes of a cash distribution of the assets and in the insolvency of any other insurer the liquidator or assignee as the case may be in the case of all persons appearing by the books of the company or other insurer to be entitled to or interested in the policies granted by the company or other insurer shall ascertain the value of the liability of the company or other insurer to each such person and shall give notice of such value to those persons in such manner as the [3][Tribunal] may direct and any person to whom notice is so given shall be bound by the value so ascertained unless he gives notice of his intention to dispute such value in such manner and within such time as may be specified by a rule or order of the [3][Tribunal].

61. Power of [3][Tribunal] to reduce contracts of insurance. —(*1*) Where an insurance company is in liquidation or any other insurer is insolvent the [3][Tribunal] may make an order reducing the amount of the insurance contracts of the company or other insurer upon such terms and subject to such conditions as the [3][Tribunal] thinks just.

(*2*) Where a company carrying on the business of life insurance has been proved to be insolvent, the [3][Tribunal] may if it thinks fit in place of making a winding up order reduce the amount of the insurance contracts of the company upon such terms and subject to such conditions as the [3][Tribunal] thinks fit.

(*3*) Application for an order under this section may be made either by the liquidator or by or on behalf of the company or by a policy-holder, or by the [4][Authority] and by any person whom the [3][Tribunal] thinks likely to be affected shall be entitled to be heard on any such application.

[5][**61A. Appeal to National Company Law Appellate Tribunal. —**(*1*) Any person aggrieved by an order or decision of the Tribunal may prefer an appeal to the National Company Law Appellate Tribunal.

(*2*) No appeal shall lie to the National Company Law Appellate Tribunal from an order made by the Tribunal with the consent of parties.

(3) Every appeal under sub-section (*1*) shall be filed within a period of forty-five days from the date on which a copy of the order or decision made by the Tribunal is received by the appellant and it shall be in such from and accompanied by such fee as may be prescribed.

Provided that the National Company Law Appellate Tribunal may entertain an appeal after the expiry of said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(*4*) On receipt of an appeal under sub-section (*1*), the National Company Law Appellate Tribunal shall, after giving parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

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1. Subs. by Act 5 of 2015, s. 67, for sub-section (*4*) (w.e.f. 26-12-2014).
2. Sub-section (*5*) omitted by Act 62 of 1968, s. 24 (w.e.f. 1-6-1969).
3. Subs. by Act 11 of 2003, s. 133 and the Schedule (serial no. 7), for "Court" (w.e.f. 1-4-2003).
4. Subs. by Act 41 of 1999, s. 30 and the First Schedule, for "Controller" (w.e.f. 19-4-2000).
5. Ins. by Act 11 of 2003, s. 133 and the schedule (w.e.f. 1-4-2003).

(*5*) The National Company Law Appellate Tribunal shall send a copy of every order made by it to the Tribunal and parties to the appeal.

(*6*) The appeal filed before the National Company Law Appellate Tribunal under sub-section (*1*) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of the receipt of the appeal.]

SPECIAL PROVISIONS RELATING TO EXTERNAL COMPANIES

62. Power of Central Government to impose reciprocal disabilities on non-Indian companies. — Where, by the law or practice of any country outside India in which an insurer carrying on insurance business in [1][India] is constituted, incorporated or domiciled, insurance companies incorporated in [1][India] are required as a condition of carrying on insurance business in that country to comply with any special requirement whether as to the keeping of deposits or assets in that country or otherwise which is not imposed upon insurers of that country under this Act, the Central Government shall, if satisfied of the existence of such special requirement, by notification in the Official Gazette, direct that the same requirement, or requirements as similar thereto as may be, shall be imposed upon insurers of that country as a condition of carrying on the business of insurance in [1][India].

63. Particulars to be filed by insurers established outside India. — Every insurer, having his principal place of business or domicile outside [1][India] who establishes a place of business within [1][India] or appoints a [2][representative] in [1][India] with the object of obtaining insurance business, shall, within three months from the establishment of such place of business or the appointment of such [2][representative], file with the [3][Authority] —

(*a*) a certified copy of the charter, statutes, deed of settlement or memorandum and articles or other instrument constituting or defining the constitution of the insurer, and, if the instrument is not written in the English language, a certified translation thereof,

(*b*) a list of the directors, if the insurer is a company,

(*c*) the name and address of some or more persons resident in [1][India] authorised to accept on behalf of the insurer service of process and any notice required to be served on the insurer, together with a copy of the power-of-attorney granted to him,

(*d*) the full address of the principal office of the insurer in [1][India].,

(*e*) a statement of the classes of insurance business to be carried on by the insurer, and

(*f*) a statement verified by an affidavit setting forth the special requirements, if any, of the nature specified in section 62 imposed in the country of origin of the insurer on Indian nationals,

and, in the event of any alteration being made in the address of the principal office or in the classes of business to be carried on, or in any instrument here referred to, or in the name of any of the persons here referred to, or in the matters specified in clause (*f*) above, the company shall forthwith furnish to the [3] [Authority] particulars of such alteration.

64. Books to be kept by insurers established outside India. —Every insurer, having his principal place of business or domicile outside [1][India]., Shall keep at his principal office in [1][India]. such books of account, registers and documents as will enable the accounts, statements and abstracts which he is required under this Act to furnish to the [3][Authority] in respect of the insurance business transacted by him, in India to be compiled and, if necessary, checked by the [3][Authority] [4][and shall furnish to the [3][Authority] on or before the last day of January in every calendar year a certificate from an auditor to

1. Subs. by Act 62 of 1956, s. 2 and the Schedule, for "the States" (w.e.f. 1-11-1956).
2. Subs. by Act 11 of 1939, s. 23, for "agent".
3. Subs. by Act 41 of 1999, s. 30 and the First Schedule, for "Controller" (w.e.f. 19-4-2000)
4. Added by Act 47 of 1950, s. 44 (w.e.f. 1-6-1950).

the effect that the said books of account, register and documents are being kept as required at the principal office of the insurer in India].

[1][PART II A

[2][LIFE INSURANCE COUNCIL AND GENERAL INSURANCE COUNCIL AND COMMITTEES THEREOF]

64A. [Incorporation of the Insurance Association of India.]—*Omitted by Insurance Laws (Amendment) Act 2015* (5 *of* 2015) *s. 70* (*w.e.f.* 26-12-2014).

64B. [Entry of names of members in the register.]—*Omitted by s.* 70, *ibid.* (*w.e.f.* 26-12-2014).

[3] [64C. Councils of Life Insurance and General Insurance.—On and from the date of commencement of this Act, **—**

(*a*) the existing Life Insurance Council, a representative body of the insurers, who carry on the life insurance business in India; and

(*b*) the existing General Insurance Council, a representative body of insurers, who carry on general, health insurance business and re-insurance in India,

shall be deemed to have been constituted as the respective Councils under this Act.

64D. Authorisation to represent in Councils.—It shall be lawful for any member of the Life Insurance Council or the General Insurance Council to authorise any of its officer to act as the representative of such member at any meeting of the Council concerned.]

64E. Authorities of the Life Insurance Council and the General Insurance Council. — The authorities of the Life Insurance Council and the General Insurance Council shall be the Executive Committee [4]*** constituted in the manner provided in this Part.

[5] **[64F. Executive Committees of the Life Insurance Council and the General Insurance Council.—**(*1*) The Executive Committee of the Life Insurance Council shall consist of the following persons, namely: **—**

(*a*) four representatives of members of the Life Insurance Council elected in their individual capacity by the members in such manner as may be laid down in the bye-laws of the Council;

(*b*) an eminent person not connected with insurance business, nominated by the Authority;

(*c*) three persons to represent insurance agents, intermediaries and policyholders respectively as may be nominated by the Authority;

(*d*) one representative each from self-help groups and Insurance Co-operative Societies:

Provided that one of the representatives as mentioned in clause (*a*) shall be elected as the Chairperson of the Executive Committee of the Life Insurance Council.

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1. Ins. by Act 47 of 1950, s. 45 (w.e.f. 1-6-1950).
2. Subs. by Act 5 of 2015, s. 69, for "Insurance Association of India, Councils of The Association and Committees Thereof" (w.e.f. 26-12-2014).
3. Subs. by s. 71, *ibid.*, for sections 64C and 64D (w.e.f. 26-12-2014).
4. The words "the Tariff Committee and other Committee thereof" omitted by Act 62 of 1968, s. 25 (w.e.f. 1-6-1969).
5. Subs. by Act 5 of 2015, s. 72, for section 64F (w.e.f. 26-12-2014).

(*2*) The Executive Committee of the General Insurance Council shall consist of the following persons, namely: —

(*a*) four representatives of members of the General Insurance Council elected in their individual capacity by the members in such manner as may be laid down in the bye-laws of the Council;

(*b*) an eminent person not connected with insurance business, nominated by the Authority; and

(c) four persons to represent insurance agents, third party administrators, surveyors and loss assessors and policyholders respectively as may be nominated by the Authority:

Provided that one of the representatives as mentioned in clause (*a*) shall be elected as the Chairperson of the Executive Committee of the General Insurance Council.

(*3*) If anybody of persons specified in sub-sections (*1*) and (*2*) fails to elect any of the members of the Executive Committees of the Life Insurance Council or the General Insurance Council, the Authority may nominate any person to fill the vacancy, and any person so nominated shall be deemed to be a member of the Executive Committee of the Life Insurance Council or the General Insurance Council, as the case may be, as if he had been duly elected thereto.

(*4*) Each of the said Executive Committees may make bye-laws for the transaction of any business at any meeting of the said Committee.

(*5*) The Life Insurance Council or the General Insurance Council may form such other committees consisting of such persons as it may think fit to discharge such functions as may be delegated thereto.

(*6*) The Secretary of the Executive Committee of the Life Insurance Council and of the Executive Committee of the General Insurance Council shall in each case be appointed by the Executive Committee concerned:

Provided that each Secretary appointed by the Executive Committee concerned shall exercise all such powers and do all such acts as may be authorised in this behalf by the Executive Committee concerned.]

64G. Resignation and filling up of casual vacancies.—(*1*) Any member of the Executive Committee of the Life Insurance Council or of the General Insurance Council may resign his membership of the Committee by notice in writing addressed to the chairman of the Committee to that effect.

(*2*) Casual vacancies in the Executive Committee of the Life Insurance Council or of the General Insurance Council, whether caused by resignation, death or otherwise, shall be filled [1][in such manner as may be laid down in the bye-laws of the Council concerned], and any person so nominated to fill the vacancy shall hold office until the dissolution of the Committee to which he has been nominated.

(*3*) No act of the Executive Committee of the Life Insurance Council or of the General Insurance Council shall be called in question on the ground merely of the existence of any vacancy in, or defect in the constitution of the Committee concerned.

64H. Duration and dissolution of Executive Committees. —(*1*) The duration of the Executive Committee of the Life Insurance Council or the General Insurance Council shall be three years from the date of its first meeting on the expiry of which it shall stand dissolved and a new Executive Committee constituted.

(*2*) Notwithstanding the dissolution of the Executive Committee of the Life Insurance Council or the General Insurance Council, the outgoing members thereof shall continue to hold office and discharge

1. Subs. by Act 5 of 2015, s. 73, for "by nomination by the Authority" (w.e.f. 26-12-2014).

such administrative and other duties as may be prescribed until such time as a new Executive Committee of the Life Insurance Council or the General Council, as the case may be, shall have been constituted.

64-I. [Power of Executive Committee of Life Insurance Councile to hold examinations for insurance agents.] — *Omitted by Insurance Laws (Amendment) Act 2015* (5 *of* 2015) *s. 74* (*w.e.f.* 26-12-2014).

64J. Functions of Executive Committee of Life Insurance Council. —(*1*) The functions of the Executive Committee of the Life Insurance Council shall be—(*a*) to aid, advise and assist insurers carrying on life insurance business in the matter of setting up standards of conduct and sound practice and in the matter of rendering efficient service to holders of life insurance policies;

(*b*) to render advice to the [1][Authority] in the matter of controlling the expenses of insurers in respect of their life insurance business in India;

(*c*) to bring to the notice of the [1][Authority] the case of any insurer acting in a manner prejudicial to the interests of holders of life insurance policies;

(*d*) to act in any matter incidental or ancillary to any of the matters specified in clauses (*a*) to (*c*) as, with the approval of the [2][Authority], may be notified by the Life Insurance Council in the Gazette of India.

[3][(*2*) For the purpose of enabling it to effectively discharge its functions, the Executive Committee of the Life Insurance Council may collect such fees as may be laid down in the bye-laws made by the Council from the insurers carrying on life insurance business.]

64K. Executive Committee of Life Insurance Council may advise in controlling expenses. — (*1*) It shall be the duty of the Executive Committee of the Life Insurance Council to meet at least once before the 31st day of March every year to advise the [1][Authority] in fixing under the proviso to sub-section (*2*) of section 40B the limits by which the actual expenses incurred by an insurer carrying on life insurance business in respect of such business in the preceding year may exceed the limits prescribed under that sub-section, and in fixing any such limits the [1][Authority] shall have due regard to the conditions obtaining in life insurance business generally during that year, and he may fix different groups of insurers.

(*2*) Where an insurer is guilty of contravening the provisions of section 40B with respect to the expenses of management, the [1][Authority] may, after giving the insurer an opportunity of being heard, administer a warning to the insurer.

(*3*) Where within a period of seven years two warnings have been given to an insurer under sub-section (*2*) and they have been disregarded by hi m, the [1][Authority] may cause an investigation and valuation, as at such date as the [1][Authority] may . specify, to be made at the expense of the insurer by an actuary appointed by the insurer for this purpose and approved by the [1][Authority], and the insurer shall place at the disposal of the said actuary all the materials required by hi m for the purpose of such investigation and valuation, within such period, not being less than three months, as the [1][Authority] may specify.

1. Subs. by Act 41 of 1999, s. 30 and the First Schedule, for "Controller" (w.e.f. 19-4-2000).
2. Subs. by s. 30 and The First Schedule, *ibid*., for "Central Government" (w.e.f. 19-4-2000).
3. Subs. by Act 5 of 2015, s. 75, for sub-section (*2*) (w.e.f. 26-12-2014).

(*4*) The provisions of sub-sections (*1*) and (*4*) of section 13 and of sub-sections (*1*) and (*2*) of section 15, or, as the case may be, of sub-section (*2*) of section 16 shall apply in relation to an investigation and valuation under this section:

Provided that the abstract and statement prepared as the result of such investigation and valuation shall be furnished by such date as the [1][Authority] may specify.

(*5*) There shall be appended to every such abstract a statement signed by the actuary giving such information as may be prescribed.

(*6*) On receipt of the abstract and statement furnished in accordance with sub-section (*4*), the [1][Authority] may take such action as may be prescribed.

64L. Functions of the Executive Committee of General Insurance Council.—(*1*) The functions of the Executive Committee of the General Insurance Council shall be—

(*a*) to aid and advise insurers, carrying on general insurance business, in the matter of setting up standards of conduct and sound practice and in the matter of rendering efficient service to holders of policies of general insurance;

(*b*) to render advice to the [1][Authority] in the matter of controlling the expenses of such insurers carrying on business in India in the matter of commission and other expenses;

(*c*) to bring to the notice of the [1][Authority] the case of any such insurer acting in a matter prejudicial to the interests of holders of general insurance policies;

(*d*) to act in any matter incidental or ancillary to any of the matters specified in clauses (*a*) to (*c*) as with the approval of the [2][Authority] may be notified by the General Insurance Council in the Gazette of India.

[3][(*2*) For the purpose of enabling it to effectively discharge its functions, the Executive Committee of the General Insurance Council may collect such fees as may be laid down in the bye-laws made by the Council from the insurers carrying on general insurance business.]

[4][Provided that if the General Insurance Council thinks fit, it may by a resolution passed by it, waive the collection of the prescribed fees for any year and where any such resolution has been approved by the [2][Authority], the Executive Committee of the General Insurance Council shall not collect any fees in relation to that year.]

64M. Executive Committee of General Insurance Council may advise in controlling expenses.—(*1*) It shall be the duty of the Executive Committee of the General Insurance Council to meet at least once before the 31st day of March every year to advise the [1][Authority] in fixing under the proviso to sub-section (*1*) of section 40 C the limits by which the actual expenses of management incurred by an insurer carrying on general insurance business in respect of such business in the preceding year may exceed the limits prescribed under that sub-section, and in fixing any such limits the [1][Authority] shall have due regard to the conditions obtaining in general insurance business in the preceding year, and he may fix different limits for different groups of insurers.

1. Subs. by Act 41 of 1999, s. 30 and the First Schedule, for "Controller" (w.e.f. 19-4-2000).
2. Subs. by *ibid*., s. 30 and the First Schedule (serial no. 2), for "Central Government (w.e.f. 19-4-2000).
3. Subs. by Act 5 of 2015, s. 76, for sub-section (*2*) (w.e.f. 26-12-2014).
4. Ins. by Act 62 of 1968, s. 26 (w.e.f. 1-8-1939).

(*2*) Where an insurer is guilty of contravening the provisions of section 40C with respect to the expenses of management the [1][Authority] may, after giving the insurer an opportunity of being heard, administer a warning to the insurer.

(*3*) Where in any case two warnings given to an insurer under sub-section (*2*) have been disregarded by hi m, the [1][Authority] may take such action against the insurer as may be prescribed.

64N. Powers of the Executive Committees to act together in certain cases.—[2][The Authority may specify] the circumstances in which, the manner in which, and the conditions subject to which, the Executive Committee of the Life Insurance Council and the Executive Committee of the General Insurance Council may hold joint meetings for the purpose of dealing with any matter of common interest to both Committees, and it shall be lawful for the two Committees at any such joint meeting to delegate any matter under consideration for the determination of a sub-committee appointed for this purpose from amongst the members of the two Committees.

64-O. [Power of General Insurance Council to regulate rates of insurance, etc.]—*Omitted by the Insurance* (*Amendment*) *Act*, 1968 (62 *of* 1968), *s.* 27 (*w.e.f.* 1-6-1969).

64P. [Regional Councils.] —*Omitted by s.* 27, *ibid*. (*w.e.f.* 1-6-1969).

64Q. [Functions of the Regional Councils.]—*Omitted by s.* 27, *ibid*. (*w.e.f.* 1-6-1969).

64R. General powers of Life Insurance Council and General Insurance Council. —(*1*) For the efficient performance of its duties, the Life Insurance Council or the General Insurance Council as the case may be, may—

(*a*) appoint such officers and servants as may be necessary and fix the conditions of their service;

(*b*) determine the manner in which any prescribed fee may be collected;

[3][(*c*) keep and maintain up-to-date, a copy of list of all insurers who are members of the either Council;]

(*d*) [4][make bye-laws for] —

(*i*) the holding of elections other than the first elections;

(*ii*) the summoning and holding of meetings, the conduct of business thereat and the number of persons necessary to form a quorum;

(*iii*) the submission by insurers to the Executive Committee of the Life Insurance Council, or the General Insurance Council, of such statements or information as may be required of them and the submission of copies thereof by the insurers to the [1][Authority];

(*iv*) the levy and collection of any fees;

(*v*) the regulation of any other matter which may be necessary for the purpose of enabling it to carry out its duties under this Act.

1. Subs. by Act 41 of 1999, s. 30 and the First Schedule, for "Controller" (w.e.f. 19-4-2000).
2. Subs. by Act 5 of 2015, s. 77, for "the Central Government may prescribe" (w.e.f. 26-12-2014).
3. Subs. by s. 78, *ibid*., for clause (*c*) (w.e.f. 26-12-2014).
4. Subs. by s. 78, *ibid*., for "with the previous approval of the Authority make regulations for" (w.e.f. 26-12-2014).

(*2*) The Life Insurance Council or the General Insurance Council may authorise the Executive Committee concerned [1]*** to exercise any of the powers conferred on the Life Insurance Council or the General Insurance Council, as the case may be, under clause (*a*), clause (*b*) , clause (*c*) of sub-section (*1*).

64S. [Power of Central Government to remove difficulties.] — *Omitted by Insurance Laws (Amendment) Act 2015* (5 *of* 2015) *s.* 79 (*w.e.f.* 26-12-2014).

64T. [Power to exempt.] —*Omitted by s.* 79, *ibid.* (*w.e.f.* 26-12-2014).

[2][PART IIB

TARIFF ADVISORY COMMITTEE AND CONTROL OF TARIFF RATES

64U. [Establishment of Tariff Advisory Committee.] — *Omitted by Insurance Laws (Amendment) Act 2015* (5 *of* 2015) *s.* 80 (*w.e.f.* 26-12-2014).

64UA. [Composition of the Advisory Committee.] — *Omitted by s.* 80, *ibid.* (*w.e.f.* 26-12-2014).

64UB. [Power to make rules in respect of matters in this Part]. — *Omitted by s.* 80, *ibid.* (*w.e.f.* 26-12-2014).

64UC. [Power of the Advisory Committee to regulate rates, advantages, etc.] — *Omitted by s.* 80, *ibid.* (*w.e.f.* 26-12-2014).

64UD. [Transitional provisions.]— *Omitted by s.* 80, *ibid.* (*w.e.f.* 26-12-2014).

64UE. [Power of the Advisory Committee to require information, etc.] — *Omitted by s.* 80, *ibid,* (*w.e.f.* 26-12-2014).

64UF. [Assets and liabilities of the General Insurance Council to vest in the Advisory Committee.] — *Omitted by ibid. s.* 80 (*w.e.f.* 26-12-2014).

64UG. [Contracts, etc., to be effective by or against the Advisory Committee.] — *Omitted by s.* 80, *ibid.* (*w.e.f.* 26-12-2014).

64UH. [Employees, etc., to continue.]— *Omitted by s.* 80, *ibid.* (*w.e.f.* 26-12-2014).

64UI. [Duty of person having custody or control of property to deliver such property to the Advisory Committee.] — *Omitted by s.* 80, *ibid,* (*w.e.f.* 26-12-2014).

64UJ. [Power of the Advisory Committee to constitute Regional Committees.] — *Omitted by s.* 80, *ibid.* (*w.e.f.* 26-12-2014).

64UK. [Levy of fees by the Advisory Committee.] — *Omitted by s.* 80, *ibid.* (*w.e.f.* 26-12-2014).

64UL. [Power to remove difficulties.] — *Omitted by s.* 80, *ibid.* (*w.e.f.* 26-12-2014).

[3]**[64ULA. Transitional provisions.** —(*1*) Notwithstanding anything contained in this Part, until the rates, advantage and terms and conditions laid down by the Advisory Committee under section 64UC are de-notified by the Authority with effect from such date as the Authority may by notification in the

1. The words "or the Tariff Committee appointed under section 64-O" omitted by Act 62 of 1968, s. 28 (w.e.f. 1-6-1969).
2. Ins. by s. 29, *ibid,* (w.e.f. 1-6-1969).
3. Ins. by Act 5 of 2015, s. 81 (w.e.f. 26-12-2014).

Official Gazette determine, and the rates, advantages and terms and conditions are decided by the insurer concerned, the rates, advantages and terms and conditions notified by the Advisory Committee shall continue to be in force and shall always be deemed to have been in force and any such rates, advantages and terms and conditions shall be binding on all the insurers.

(*2*) The Authority shall, in consultation with the Central Government, prepare a scheme for the existing employees of the Tariff Advisory Committee on its dissolution, keeping in view the interests of such employees on such terms and conditions as it may, by order, determine.]

[1][**64UM. Surveyors or loss assessors. —**(*1*) Save as otherwise provided in this section, no person shall act as a surveyor or loss assessor in respect of general insurance business after the expiry of a period of one year from the commencement of the Insurance Laws (Amendment) Act, 2015 (5 of 2015), unless he—

(*a*) possesses such academic qualifications as may be specified by the regulations made under this Act; and

(*b*) is a member of a professional body of surveyors and loss assessors, namely, the Indian Institute of Insurance Surveyors and Loss Assessors:

Provided that in the case of a firm or company, all the partners or directors or other persons, who may be called upon to make a survey or assess a loss reported, as the case may be, shall fulfill the requirements of clauses (*a*) and (*b*).

(*2*) Every surveyor and loss assessor shall comply with the code of conduct in respect of his duties, responsibilities and other professional requirements, as may be specified by the regulations made under the Act.

(*3*) Notwithstanding anything contained in the foregoing provisions, a class or class of persons acting as a licensed surveyor or loss assessor prior to the commencement of the Insurance Laws (Amendment) Act, 2015 (5 of 2015) shall continue to act as such for such period as may be specified by the regulations made under this Act:

Provided that the surveyor or loss assessor shall, within the period as may be notified by the Authority, satisfy the requirements of clause (*a*) and clause (*b*) of sub-section (*1*), failing which, the surveyor or loss assessor shall be automatically disqualified to act as a surveyor or loss assessor.

(*4*) No claim in respect of a loss which has occurred in India and requiring to be paid or settled in India equal to or exceeding an amount specified in the regulations by the Authority in value on any policy of insurance, arising or intimated to an insurer at any time after the expiry of a period of one year from the commencement of the Insurance Laws (Amendment) Act, 2015 (5 of 2015), shall, unless otherwise directed by the Authority, be admitted for payment or settled by the insurer unless he has obtained a report, on the loss that has occurred, from a person who holds a licence issued under this section to act as a surveyor or loss assessor (hereafter referred to as "approved surveyor or loss assessor"):

Provided that nothing in this sub-section shall be deemed to take away or abridge the right of the insurer to pay or settle any claim at any amount different from the amount assessed by the approved surveyor or loss assessor.

(*5*) The Authority may, at any time, in respect of any claim of the nature referred to in sub-section (*4*), call for an independent report from any other approved surveyor or loss assessor specified by him and such surveyor or loss assessor shall furnish such report to the Authority within such time as may be specified by the Authority or if no time limit has been specified by him within a reasonable time and the cost of, or incidental to, such report shall be borne by the insurer.

1. Subs. by Act 5 of 2015, s. 82, for section 64UM (w.e.f. 26-12-2014).

(*6*) The Authority may, on receipt of a report referred to in sub-section (*5*), issue such directions as it may consider necessary with regard to the settlement of the claim including any direction to settle a claim at a figure less than, or more than, that at which it is proposed to settle it or it was settled and the insurer shall be bound to comply with such directions:

Provided that where the Authority issues a direction for settling a claim at a figure lower than that at which it has already been settled, the insurer shall be deemed to comply with such direction if he satisfies the Authority that all reasonable steps, with due regard to the question whether the expenditure involved is not disproportionate to the amount required to be recovered, have been taken with due dispatch by him:

Provided further that no direction for the payment of a lesser sum shall be made where the amount of the claim has already been paid and the Authority is of opinion that the recovery of the amount paid in excess would cause undue hardship to the insured:

Provided also that nothing in this section shall relieve the insurer from any liability, civil or criminal, to which he would have been subject but for the provisions of this sub-section.

(*7*) No insurer shall, after the expiry of a period of one year from the commencement of the Insurance Laws (Amendment) Act, 2015 (5 of 2015) pay to any person any fee or remuneration for surveying, verifying or reporting on a claim of loss under a policy of insurance unless the person making such survey, verification or report is an approved surveyor or loss assessor.

(*8*) Where, in the case of a claim of less than the amount specified in sub-section (*4*) in value on any policy of insurance it is not practicable for an insurer to employ an approved surveyor or loss assessor without incurring expenses disproportionate to the amount of the claim, the insurer may employ any other person (not being a person disqualified for the time being for being employed as a surveyor or loss assessor) for surveying such loss and may pay such reasonable fee or remuneration to the person so employed as he may think fit.

(*9*) The Authority may in respect of any claim of value of less than the amount specified in sub-section (*4*) on an insurance policy, if the claim has not been or is not proposed to be reported upon by a surveyor or loss assessor, direct that such claim shall be reported upon by an approved surveyor or loss assessor and where the Authority makes such direction, the provisions of sub-sections (*5*) and (*6*) shall apply in respect of such claim.

(*10*) Where, in relation to any class of claims, the Authority is satisfied that it is customary to entrust the work of survey or loss assessment to any person other than a licensed surveyor or loss assessor, or it is not practicable to make any survey or loss assessment, it may, by an order, exempt such class of claims from the operation of this section.]

PART IIC

SOLVENCY MARGIN, ADVANCE PAYMENT OF PREMIUM AND RESTRICTIONS ON THE OPENING OF A NEW PLACE OF BUSINESS

[1][**64V. Assets and liabilities how to be valued. —**(*1*) For the purpose of ascertaining compliance with the provisions of section 64VA, assets shall be valued at value not exceeding their market or realisable value and certain assets may be excluded by the Authority in the manner as may be specified by the regulations made in this behalf.

(*2*) A proper value shall be placed on every item of liability of the insurer in the manner as may be specified by the regulations made in this behalf.

1. Subs. by Act 5 of 2015, s. 83, for sections 64V and 64VA (w.e.f. 26-12-2014).

(*3*) Every insurer shall furnish to the Authority along with the returns required to be filed under this Act, a statement, certified by an Auditor, approved by the Authority, in respect of general insurance business or an actuary approved by the Authority in respect of life insurance business, as the case may be, of his assets and liabilities assessed in the manner required by this section as on the 31st day of March of each year within such time as may be specified by the regulations.

64VA. Sufficiency of assets. —(*1*) Every insurer and re-insurer shall at all times maintain an excess of value of assets over the amount of liabilities of, not less than fifty per cent. of the amount of minimum capital as stated under section 6 and arrived at in the manner specified by the regulations.

(*2*) An insurer or re-insurer, as the case may be, who does not comply with sub-section (*1*), shall be deemed to be insolvent and may be wound-up by the court on an application made by the Authority.

(*3*) The Authority shall by way of regulation made for the purpose, specify a level of solvency margin known as control level of solvency on the breach of which the Authority shall act in accordance with the provisions of sub-section (*4*) without prejudice to taking of any other remedial measures as deemed fit:

Provided that if in respect of any insurer the Authority is satisfied that either by reason of an unfavourable claim experience or because of a sharp increase in the volume of new business, or for any other reason, compliance with the provisions of this sub-section shall cause undue hardship to the insurer, it may direct that for such period and subject to such conditions as it may specify, the provisions of this sub-section shall apply to that insurer with such modifications provided that such modifications shall not result in the control level of solvency being less than what is stipulated under sub-section (*1*).

(*4*) If, at any time, an insurer or re-insurer does not maintain the required control level of solvency margin, he shall, in accordance with the directions issued by the Authority, submit a financial plan to the Authority, indicating a plan of action to correct the deficiency within a specified period not exceeding six months.

(*5*) An insurer who has submitted a plan, as required under sub-section (*4*), the Authority shall propose modifications to the plan, if the Authority considers the same inadequate, and in such an eventuality, the Authority shall give directions, as may be deemed necessary, including direction in regard to transacting any new business, or, appointment of an administrator or both.

(*6*) An insurer or re-insurer, as the case may be, who does not comply with the provisions of sub-section (*4*) shall be deemed to have made default in complying with the requirements of this section.

(*7*) The Authority shall be entitled at any time to take such steps as it may consider necessary for the inspection or verification of the assets and liabilities of any insurer or re-insurer, or for securing the particulars necessary to establish that the requirements of this section have been complied with as on any date, and the insurer or re-insurer, as the case may be, shall comply with any requisition made in this behalf by the Authority, and in the event of any failure to do so within two months from the receipt of the requisition, the insurer or re-insurer, as the case may be, shall be deemed to have made default in complying with the requirements of this section.

(*8*) In applying the provisions of sub-section (*1*) to any insurer or re-insurer, as the case may be, who is a member of a group, the relevant amount for that insurer shall be an amount equal to that proportion of the relevant amount which that group, if considered as a single insurer, would have been required to maintain as the proportion of his share of the risk on each policy issued by the group bears to the total risk on that policy:

Provided that when a group of insurers ceases to be a group, every insurer in that group who continues to carry on any class of insurance business in India shall comply with the requirements of sub-section (*1*) as if he had not been an insurer in a group at any time:

Provided further that it shall be sufficient compliance of the provisions of the foregoing proviso if the insurer brings up the excess of the value of his assets over the amount of his liabilities to the required amount within a period of six months from the date of cessation of the group:

Provided also that the Authority may, on sufficient cause being shown, extend the said period of six months by such further periods as it may think fit, so, however that the total period may not in any case exceed one year.

(9) Every insurer shall furnish to the Authority return giving details of solvency margin in such form, time, manner including its authentication as may be specified by the regulations.]

64VB. No risk to be assumed unless premium is received in advance.—(*1*) No insurer shall assume any risk in India in respect of any insurance business on which premium is not ordinarily payable outside India unless and until the premium payable is received by him or is guaranteed to be paid by such person in such manner and within such time as may be prescribed or unless and until deposit of such amount as may be prescribed, is made in advance in the prescribed manner.

(*2*) For the purposes of this section, in the case of risks for which premium can be ascertained in advance, the risk may be assumed not earlier than the date on which the premium has been paid in cash or by cheque to the insurer.

Explanation. —Where the premium is tendered by postal money order or cheque sent by post, the risk may be assumed on the date on which the money order is booked or the cheque is posted, as the case may be.

(*3*) Any refund of premium which may become due to an insured on account of the cancellation of a policy or alteration in its terms and conditions or otherwise shall be paid by the insurer directly to the insured by a crossed or order cheque or by postal money order and a proper receipt shall be obtained by the insurer from the insured, and such refund shall in no case be credited to the account of the agent.

(*4*) Where an insurance agent collects a premium on a policy of insurance on behalf of an insurer, he shall deposit with, or dispatch by post to, the insurer, the premium so collected in full without deduction of his commission within twenty-four hours of the collection excluding bank and postal holidays.

(*5*) The Central Government may, by rules, relax the requirements of sub-section (*1*) in respect of particular categories in insurance policies.

[1][(*6*) The Authority may, from time to time, specify, by the regulations made by it, the manner of receipt of premium by the insurer.]

[2] **[64VC. Restrictions on opening of new place of business.—**No insurer shall, after the commencement of the Insurance (Amendment) Act, 1968 (62 of 1968), open a new place of business or close a place in India or outside India or change otherwise than within the same city, town or village, the location of an existing place of business situated in India or outside India, except in the manner as may be specified by the regulations.]

[*PART III.— PROVIDENT SOCIETIES*] *Omitted by the Insurance Laws (Amendment) Act*, 2015 (5 *of* 2015) *s.* 85 (*w.e.f.* 26-12-2014).

65. [*Definition of "provident society".*] *Omitted s.* 85, *ibid.* (*w.e.f.* 26-12-2014).

1. Ins. by Act 42 of 2002, s. 13 (w.e.f. 23-9-2002).
2. Subs. by Act 5 of 2015, s. 84, for section 64VC (26-12-2014).

65A. [*Prohibition of transaction of insurance business by provident societies other than public companies or co-operative societies*.] *omitted by the Insurance Laws (Amendment) Act,* 2015 (5 *of* 2015) *s.* 85 (*w.e.f.* 26-12-2014).]

66. [*Restrictions on provident societies*.] *Omitted by s.* 85, *ibid*. (*w.e.f.* 26-12-2014).

67. [*Name*.] *Omitted by s.* 85, *ibid*. (*w.e.f.* 26-12-2014).

68. [*Insurable interest*.] *Omitted by s.* 85, *ibid*. (*w.e.f.* 26-12-2014).

69. [*Dividing Business.*] *Omitted by s.* 85, *ibid*. (w.e.f. 26-12-2014).

70. [*Registration.*] *Omitted by s.* 85, *ibid*. (*w.e.f.* 26-12-2014).

70A. [*Renewal of registration*.] *Omitted by s.* 85, *ibid*. (*w.e.f.* 26-12-2014).

70B. [*Supplementary information and reports of alterations in particulars furnished with application for registration*.] *Omitted by s.* 85, *ibid*. (*w.e.f.* 26-12-2014).

71. [*Prohibition of managing agents*.] *Omitted by s.* 85, *ibid*. (*w.e.f.* 26-12-2014).

72. [*Working capital*.] *Omitted by s.* 85, *ibid*. (*w.e.f.* 26-12-2014).

73. [*Deposits*.] *Omitted by s.* 85, *ibid*. (*w.e.f.* 26-12-2014).

73A. [*Restriction on name of provident society*.] *Omitted by s.* 85, *ibid*. (*w.e.f.* 26-12-2014).

74. [*Rules*.] *Omitted by s.* 85, *ibid*. (*w.e.f.* 26-12-2014).

75. [*Amendment of rules*.] *Omitted by s.* 85, *ibid*. (*w.e.f.* 26-12-2014).

76. [*Supply of copy of rules.*] *Omitted by s.* 85, *ibid*. (*w.e.f.* 26-12-2014).

77. [*Registered office*.] *Omitted by s.* 85, *ibid*. (*w.e.f.* 26-12-2014).

78. [*Publication of authorized capital to contain also subscribed and paid up capital*.] *Omitted by s.* 85, *ibid*. (*w.e.f.* 26-12-2014).

79. [*Registered and books*.] *Omitted by s.* 85, *ibid*. (*w.e.f.* 26-12-2014).

80. [*Revenue account, balance-sheet and annual statements*.] *Omitted by s.* 85, *ibid*. (*w.e.f.* 26-12-2014).

81. [*Actuarial report and abstract*.] *Omitted by s.* 85, *ibid*. (*w.e.f.* 26-12-2014).

82. [*Submission of returns to Authority*.] *Omitted by s.* 85, *ibid*. (*w.e.f.* 26-12-2014).

83. [*Actuarial examination of schemes*.] *Omitted by s.* 85, *ibid*. (*w.e.f.* 26-12-2014).

84. [*Separation of accounts and funds*.] *Omitted by s.* 85, *ibid*. (*w.e.f.* 26-12-2014).

85. [*Investment funds*.] *Omitted by s.* 85, *ibid*. (*w.e.f.* 26-12-2014).

86. [*Inspection of books*.] *Omitted by s.* 85, *ibid*. (*w.e.f.* 26-12-2014).

87. [*Inquiry by or on behalf of Superintendent of Insurance*.] *Omitted by the Insurance Laws (Amendment) Act,* 2015 (5 *of* 2015) *s.* 85 (*w.e.f.* 26-12-2014).

87A. [*Amalgamation and transfer of insurance business*.] *Omitted by s.* 85, *ibid*. (w.e.f. 26-12-2014).

88. [*Winding up by Court and voluntary winding up*.] *Omitted by s.* 85, *ibid*. (w.e.f. 26-12-2014).

89. [*Reduction of Insurance contracts*.] *Omitted by s.* 85, *ibid*. (*w.e.f.* 26-12-2014).

90. [*Appointment of liquidator*.] *Omitted by s.* 85, *ibid*. (*w.e.f.* 26-12-2014).

90A. [*Application of Act to liquidators*.] *Omitted by s.* 85, *ibid*. (*w.e.f.* 26-12-2014).

91. [*Powers of liquidator*.] *Omitted by s.* 85, *ibid*. (*w.e.f.* 26-12-2014).

92. [*Procedure at liquidation*.] *Omitted by s.* 85, *ibid*. (*w.e.f.* 26-12-2014).

93. [*Dissolution of provident society*.] *Omitted by s.* 85, *ibid*. (*w.e.f.* 26-12-2014).

94. [*Nominations and assignments*.] *Omitted by s.* 85, *ibid*. (*w.e.f.* 26-12-2014).

[*PART IIIA.— INSURANCE CO-OPERATIVE SOCIETIES*] *Omitted by the Insurance Laws (Amendment) Act,* 2015 (5 *of* 2015) *s.* 85 (*w.e.f.* 26-12-2014).

94A. [*Insurance co-operative society to be an insurer*.] *Omitted by s.* 85, *ibid*. (*w.e.f.* 26-12-2014).

[*PART IV.— MUTUAL INSURANCE COMPANIES AND CO-OPERATIVE LIFE INSURANCE SOCIETIES.*] *Omitted by the Insurance Laws (Amendment) Act,* 2015 (5 *of* 2015) *s.* 85 (*w.e.f.* 26-12-2014).

95. [*Definitions.*] *omitted by the Insurance Laws (Amendment) Act,* 2015 (5 *of* 2015) *s.* 86, *ibid*. (*w.e.f.* 26-12-2014).]

96. [*Application of Act to Mutual Insurance Companies and Co-operative Life Insurance Societies*.] *Omitted by s.* 86, *ibid*. (*w.e.f.* 26-12-2014).

97. [*Working Capital of Mutual Insurance Companies and Co-operative Life Insurance Societies*.] *Omitted by s.* 86, *ibid*. (*w.e.f.* 26-12-2014).

98. [*Deposits to be made by Mutual Insurance Companies and Co-operative Life insurance Societies*.] *Omitted by s.* 86, *ibid*. (*w.e.f.* 26-12-2014).

98A. [*Prohibition of loans*.] *Omitted by s.* 86, *ibid*. (*w.e.f.* 26-12-2014).

99. [*Transferees and assignees of policies not to become members*.] *Omitted by s.* 86, *ibid*. (*w.e.f.* 26-12-2014).

100. [*Publication of notices and documents of Mutual Insurance Companies and Co-operative Life Insurance Societies.*] *Omitted by s.* 86, *ibid*. (*w.e.f.* 26-12-2014).

101. [*Supply of documents to members.*] *Omitted by s.* 86, *ibid*. (*w.e.f.* 26-12-2014).

[1][PART IVA

RE-INSURANCE

101A. Re-insurance with Indian re-insurers.—(*1*) Every insurer shall re-insure with Indian re-insurers such percentage of the sum assured on each policy as may be specified by the [2][the Authority with the previous approval of the Central Government] under sub-section (*2*).

(*2*) For the purposes of sub-section (*1*), [3][the Authority] may, by notification in the Official Gazette, —

(*a*) specify the percentage of the sum assured on each policy to be re-insured and different percentages may be specified for different classes of insurance:

Provided that no percentage so specified shall exceed thirty per cent. of the sum assured on such policy; and

(*b*) also specify the proportions in which the said percentage shall be allocated among the Indian re-insurers.

(*3*) Notwithstanding anything contained in sub-section (*1*), an insurer carrying on fire insurance business in India may, in lieu of re-insuring the percentage specified under sub-section (*2*) of the sum assured on each policy in respect of such business, re-insure with Indian re-insurers such amount out of the first surplus in respect of that business as he thinks fit, so however that, the aggregate amount of the premiums payable by hi m on such re-insurance in any year is not less than the said percentage of the premium income (without taking into account premiums on re-insurance ceded or accepted) in respect of such business during that year.

Explanation.—For the purposes of this sub-section, the year 1961 shall be deemed to mean the period from 1st April to-the 31st December of that year.

(*4*) A notification under sub-section (*2*) may also specify the terms and conditions in respect of any business of re-insurance required to be transacted under this section and such terms and conditions shall be binding on Indian re-insurers and other insurers.

(*5*) No notification under sub-section (*2*) shall be issued except after consultation with the Advisory Committee constituted under section 101B.

(*6*) Every notification issued under this section shall be laid before each House of Parliament, as soon as may be, after it is made.

(*7*) For the removal of doubts, it is hereby declared that nothing in sub-section (*1*) shall be construed as preventing an insurer from re-insuring with any Indian re-insurer or other insurer the entire sum assured on any policy or any portion thereof in excess of the percentage specified under sub-section (*2*).

(*8*) In this section,

1. Ins. by Act 11 of 1961, s. 2 (w.e.f. 1-4-1961).
2. Subs. by Act 41 of 1999, s. 30 and The First Schedule, for "the Central Government" (w.e.f. 19-4-2000).
3. Subs. by s. 30 and the First Schedule, *ibid*., for "the Central Government" (w.e.f. 19-4-2000).

(*i*) "policy" means a policy issued or renewed on or after the 1st day of April, 1961 , in respect of general insurance business transacted in India and does not include a re-insurance policy; and

[1][(*ii*) "Indian re-insurer" means an Indian insurance company which has been granted a certificate of registration under sub-section (*2A*) of section 3 by the Authority to carry on exclusively the re-insurance business in India.]

101B. Advisory Committee. (*1*) [2] [The Authority with the previous approval of the Central Government] shall, for the purposes of section 101 A, constitute an Advisory Committee consisting of not more than five persons having special knowledge and experience of the business of insurance.

(*2*) The term of office of, and the allowances payable to, members of the Advisory Committee, the procedure to be followed by, and the quorum necessary for the transaction of business of, the Committee and the manner of filling casual vacancies therein shall be such as may be [3][determined by the regulations made by the Authority].

[4][**101C. Examination of re-insurance treaties.**— The [5][Authority] may, at any time, —

(*a*) call upon an insurer to submit for his examination at the principal place of business of the insurer in India all re-insurance treaties and other re-insurance contracts entered into by the insurer;

(*b*) examine any officer of the insurer on oath in relation to any such document as is referred to in clause (*a*) above; or

(*c*) by notice in writing, require any insurer to supply him with copies of any of the documents referred to in clause (*a*), certified by a principal officer of the insurer.]

PART V

MISCELLANEOUS

[6]**[102. Penalty for default in complying with, or act in contravention of, this Act.** —If any person, who is required under this Act, or rules or regulations made thereunder, —

(*a*) to furnish any document, statement, account, return or report to the Authority, fails to furnish the same; or

(*b*) to comply with the directions, fails to comply with such directions;

(*c*) to maintain solvency margin, fails to maintain such solvency margin;

(*d*) to comply with the directions on the insurance treaties, fails to comply with such directions on the insurance treaties,

he shall be liable to a penalty [7][of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

[8]**[103. Penalty for carrying on insurance business in contravention of section 3.—**If a person carries on the business of insurance without obtaining a certificate of registration under section 3, he shall

1. Subs. by Act 42 of 2002, s. 15, for cause (*ii*) (w.e.f. 23-9-2002).
2. Subs. by Act 41 of 1999, s. 30 and the First Schedule, for "The Central Government" (w.e.f. 19-4-2000).
3. Subs. by s. 30 and the First Schedule, *ibid*., for "prescribed" (w.e.f. 19-4-2000).
4. Ins. by Act 62 of 1968, s. 33 (w.e.f. 1-6-1969).
5. Subs. by Act 41 of 1999, s. 30 and the First Schedule, for "Controller" (w.e.f. 19-4-2000).
6. Subs. by s. 30 and the First Schedule, *ibid*., for sections 102 to 105 (w.e.f. 19-4-2000).
7. Subs. by Act 5 of 2015, s. 87, for "not exceeding five lakh rupees for each such failure and punishable with fine" (w.e.f. 26-12-2014).
8. Subs. by s. 88, *ibid*., for sections 103 and 104 (w.e.f. 26-12-2014).

be liable to a penalty not exceeding rupees twenty-five crores and with imprisonment which may extend to ten years.

104. Penalty for contravention of sections 27, 27A, 27B, 27D and 27E. —If a person fails to comply with the provisions of section 27, section 27A, section 27B, section 27D and section 27E, he shall be liable to a penalty not exceeding twenty-five crore rupees.]

105. Wrongfully obtaining or withholding property.—If any director, managing director, manager or other officer or employee of an insurer wrongfully obtains possession of any property or wrongfully applies to any purpose of the Act, he shall be liable to a penalty [1][not exceeding one crore rupees].

105A. Offences by companies. —(*1*) Where any offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company 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, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where any offence under this Act has been committed by a company 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, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section, —

(*a*) "company" means any body corporate, and includes—

(*i*) a firm; and

(*ii*) an association of persons or a body of individuals whether incorporated or not; and

(*b*) "director", in relation to—

(*i*) a firm, means a partner in the firm;

(*ii*) an association of persons or a body of individuals, means any member controlling the affairs thereof.

[2][**105B. Penalty for failure to comply with sections 32B, 32C and 32D.** —If an insurer fails to comply with the provisions of section 32B, section 32C and section 32D, he shall be liable to a penalty not exceeding twenty-five crore rupees.

105C. Power to adjudicate. —(*1*) For the purpose of adjudication under sub-section (*2*) of section 2CB, sub-section (*4*) of section 34B, sub-section (*3*) of section 40, sub-section (*2*) of section 41, sub-sections (*4*) and (*5*) of section 42, sub-sections (*8*) and (*9*) of section 42D, section 52F and section 105B, the Authority, shall appoint any officer not below the rank of a Joint Director or an equivalent

1. Subs. by Act 5 of 2015, s. 89, for "not exceeding two lakh rupees for each such failure" (w.e.f. 26-12-2014).
2. Subs. by s. 90, *ibid*., for sections 105B and 105C (w.e.f. 26-12-2014).

officer to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard.

(*2*) Upon receipt of the inquiry report from the officer so appointed, the Authority, after giving an opportunity of being heard to the person concerned, may impose any penalty provided in sections aforesaid.

(*3*) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject matter of the inquiry and if on such inquiry, is satisfied that the person has failed to comply with the provisions of any of the sections specified in sub-section (*1*), he may recommend such penalty as he thinks fit in accordance with the provisions of any of those sections.

105D. Factors to be taken into account by the adjudicating officer.—While recommending the quantum of penalty under section 105C, the adjudicating officer and while imposing such penalty, the Authority shall have due regard to the following factors, namely: —

(*a*) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(*b*) the amount of loss caused to the policyholders as a result of the default; and

(*c*) the repetitive nature of default.]

[1][**106 . Power of court to order restoration of property of insurer or compensation in certain cases. —**(*1*) If, on the application of the [2][Authority] or an Administrator appointed under section 52 A or an insurer or any policy-holder or any member of an insurance company or the liquidator of an insurance company (in the event of the insurance company being in liquidation), the court is satisfied—

(*a*) that any insurer (including in any case where the insurer is an insurance company any person who has taken part in the promotion or formation of the insurance company or any past or present director, managing agent, manager, secretary or liquidator) or any officer, employee or agent of the insurer, —

(*i*) has misapplied or retained or become liable or become accountable for any money or property of the insurer; or

(*ii*) has been guilty of any misfeasance or breach of trust in relation to the insurer; or

(*b*) that any person, whether he is or has been in any way connected with the affairs of the insurer not, is in wrongful possession of any money or property of the insurer or having any such money or property in hi s possession wrongfully withholds it or has converted it to any use other than that of the insurer; or

(*c*) that by reason of any contravention of the provisions of this Act, the amount of the life insurance fund has been diminished,

the court may examine any such insurer, director, managing agent, manager, secretary or liquidator or any such officer, employee or agent of the insurer or such other person, as the case may be, and may compel hi m to contribute such sums to the assets of the insurer by way of compensation in respect of the misapplication, retainer, misfeasance or breach of trust as the court thinks fit, or to pay such sum as may be found due from hi m in respect of any money or property of the insurer for which he is liable or accountable or to restore any money or property of the insurer or any part thereof, as the case may be; and

1. Subs. by Act 54 of 1955, s. 4, for section 106 (w.e.f. 1-11-1955).
2. Subs. by Act 41 of 1999, s. 30 and the First Schedule, for "Controller" (w.e.f. 19-4-2000).

where the amount of the life insurance fund has been diminished by reason of any contravention of the provisions of this Act, the court shall have power to assess the sum by which the amount of the fund has been diminished and to order the person guilty of such contravention to contribute to the fund the whole or any part of that sum by way of compensation; and in any of the aforesaid cases the court shall have power to order interest to be paid at such rate and from such time as the court may deem fit.

(*2*) Without prejudice to the provisions contained in sub-section (*1*) or subsection (*3*), where it is proved that any money or property of an insurer has disappeared or has been lost, the court shall presume that every person in charge of, or having a disposing power over, such money or property at the relevant time (whether a director, manager, principal officer or any other officer) has become accountable for such money or property within the meaning of sub-clause (*1*) of clause (*a*) of sub-section (*1*), and the provisions of that sub-section shall apply accordingly, unless such person proves that the money or property has been utilised or disposed of in the ordinary course of the business of the insurer and for the purpose of that business or that he took all reasonable steps to prevent the disappearance or loss of such money or all property or otherwise satisfactorily accounts for such disappearance or loss.

(*3*) Where the insurer is an insurance company and any of the acts referred to in clauses (*a*), (*b*) and (*c*) of sub-section (*1*) has been committed by any person, every person who was at the relevant time a director, managing agent, manager, liquidator, secretary or other officer of the insurance company shall, for the purposes of that sub-section, be deemed to be liable for that act in the same manner and to the same extent as the person who has committed the act, unless he proves that the act was committed without hi s consent or connivance and was not facilitated by any neglect or omission on hi s part.

(*4*) Where at any stage of the proceedings against any person under this section (he rein after referred to as the delinquent), the Court is satisfied by affidavit or otherwise—

(*a*) that a prima facie case has been made out against the delinquent; and

(*b*) that it is just and proper so to do in the interests of the policy-holders of an insurer or of the members of an insurance company,

the court may direct the attachment of—

(*i*) any property of the insurer in the possession of the delinquent;

(*ii*) any property of the delinquent which belongs to hi m or is deemed to belong to hi m within the meaning of sub-section (*5*);

(*iii*) any property transferred by the delinquent within two years before the commencement of proceedings under sub-section (*1*) or during the pendency of such proceedings, if the Court is satisfied by affidavit or otherwise that the transfer was otherwise than in good faith and for consideration.

(*5*) For the purposes of sub-section (*4*), the following classes of property shall be deemed to belong to a delinquent: —

(*a*) any property standing in the name of any person which is reason of the person being connected with the delinquent, whether by way of relationship or otherwise, or on account of any other relevant circumstances appears to belong to the delinquent;

(*b*) the property of a private company in respect of the affairs of which the delinquent, by himself or through hi s nominees, relatives, partners or persons interested in any shares of the company is able to exercise or is entitled to acquire control, whether direct or indirect.

Explanation. — For the purposes of this section a person shall be deemed to be a nominee of a delinquent, if, whether directly or indirectly, he possesses on behalf of the delinquent, or may be required to exercise on the direction or on behalf of the delinquent, any right or power which is of such a nature as to enable the delinquent to exercise or to entitle the delinquent to acquire control over the company's affairs.

(*6*) Any claim to any property attached under this section or any objection to such attachment shall be made by an application to the court, and it shall be for the claimant or objector to adduce evidence to show that the property is not liable to attachment under this section, and the court shall proceed to investigate the claim or objection in a summary manner.

(*7*) When disposing of an application under sub-section (*1*), the court shall, after giving all persons who appear to it to be interested in any property attached under this section an opportunity of being heard, make such order as it thinks fit respecting the disposal of any such property for the purpose of effectually enforcing any liability under this section, and all such persons shall be deemed to be parties to the proceedings under this section.

(*8*) In any proceedings under this section the court shall have full power and exclusive jurisdiction to decide all questions of any nature whatsoever arising thereunder and, in particular, with respect to any property attached Under this section, and no other court shall have jurisdiction to decide any such question in any suit or other legal proceeding.

(*9*) In making any order with respect to the disposal of the property of any private company referred to in clause (*b*) of sub-section (*5*), the court shall have due regard to the interests of all persons interested in such property other than the delinquent and persons referred to in that clause.

(*10*) This section shall apply notwithstanding that the act is one for which the person concerned may be criminally liable.

(*11*) In proceedings under this section the court shall have all the powers which a Court has under section 237 of the Indian Companies Act, 1913 (7 of 1913).

(*12*) This section shall apply in respect of a provident society as defined in Part III as it applies in respect of an insurer.

(*13*) On and from and commencement of the Insurance (Second Amendment) Act, 1955, the Court entitled to exercise jurisdiction under this section shall be the High Court within whose jurisdiction the registered office of the insurer is situate (he rein after referred to as the High Court) and any proceedings under this section pending at such commencement in any Court other than the High Court shall, on such commencement, stand transferred to the High Court.

(*14*) The High Court may make rules providing for—

(*a*) the manner in which enquiries and proceedings may be held under this section;

(*b*) any other matter for which provision has to be made for enabling the High Court to effectively exercise its jurisdiction under this section.]

[1][106A. Notice to and hearing of [2][Authority].—(*1*) When application is made to the court for the making of any order to which this section applies, the court shall, unless the [2][Authority] has himself made the application or has been made a party thereto, send a copy of the application together with

1. Ins. by Act 20 of 1940, s. 14 (w.e.f. 10-4-1940).
2. Subs. by Act 41 of 1999, s. 30 and the First Schedule, for "Controller" (w.e.f. 19-4-2000).

intimation of the date fixed for the hearing thereof to the [2][Authority], and shall give him an opportunity of being heard.

(*2*) The orders to which this section applies are the following, namely: —

[1]* * * * *

[2]* * * * *

(*c*) an order under section 36 sanctioning any arrangement for the transfer or amalgamation of life insurance business or any order consequential thereon;

(*d*) an order for the winding up of an insurance company [3]***;

(*e*) an order under section 58 confirming a scheme for the partial winding up of an insurance company;

[4]* * * * *

107. [Previous section of Advocate General for institution of proceedings.] —*omitted by the Insurance Laws* (*Amendment*) *Act,* 2015 (5 *of* 2015) *s.* 92 (*w.e.f.* 26-12-2014).

107A. [Chairman, etc. to be public servant.] — *omitted by s. 92, ibid. (w.e.f. 26-12-2014)*

108. Power of court to grant relief. — If any proceedings, civil or criminal, it appears to the court hearing the case that a person is or may be liable in respect of negligence, default, breach of duty or breach of trust but that he has acted honestly and reasonably and that having regard to all the circumstances of the case he ought fairly to be excused for the negligence, default, breach of duty or breach of trust, the court may relievehim either wholly or partly from his liability on such terms as it may think fit.

[5]**[109. Cognizance of offence. —** No court shall take cognizance of any offence punishable under this Act or any rules or any regulations made thereunder, save on a complaint made by an officer of the Authority or by any person authorised by it.]

[6] **[110. Appeal to Securities Appellate Tribunal. —** (*1*) Any person aggrieved—

(*a*) by an order of the Authority made on and after the commencement of the Insurance Laws (Amendment) Act, 2015 (5 of 2015), or under this Act, the rules or regulations made thereunder; or

(*b*) by an order made by the Authority by way of adjudication under this Act,

may prefer an appeal to the Securities Appellate Tribunal having jurisdiction in the matter.

(*2*) Every appeal made under sub-section (*1*) shall be filed within a period of forty-five days from the date on which a copy of the order made by the Authority is received by him and it shall be in such a form and be accompanied by such fees as may be prescribed:

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

1. Clause (*a*) omitted by Act 5 of 2015, s. 91 (w.e.f. 26-12-2014).
2. Clause (*b*) omitted by s. 91, *ibid.* (w.e.f. 26-12-2014).
3. The words "or a provident society" omitted by s. 91, *ibid*. (w.e.f. 26-12-2014).
4. Clause (*f*) omitted by s. 91, *ibid.* (w.e.f. 26-12-2014).
5. Subs. by s. 93, *ibid*., for section 109 (w.e.f. 26-12-2014).
6. Subs. by s. 94, *ibid*., for section 110 (w.e.f. 26-12-2014).

(*3*) On receipt of an appeal under sub-section (*1*), the Securities Appellate Tribunal may, after giving parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, conforming, modifying or setting aside the order appealed against.

(*4*) The Securities Appellate Tribunal shall make available copy of order made by it to the Authority and parties.

(*5*) The appeal filed before the Securities Appellate Tribunal under sub-section (*1*) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of appeal.

(*6*) The procedure for filing and disposing of an appeal shall be such as may be prescribed.

(*7*) The provision contained in section 15U, section 15V, section 15W, section 15Y and section 15Z of the Securities and Exchange Board of India Act, 1992 (15 of 1992) shall apply to the appeals arising out of the provisions of this Act, as they apply to the appeals under the Securities and Exchange Board of India Act, 1992 (15 of 1992).]

[1][**110A. Delegation of powers and duties of** [2][**Chairperson of the Authority].** —The [2][Chairperson of the Authority] may by general or special order delegate any of his powers or duties under this Act to any person subordinate to him. The exercise or discharge of any of the powers or duties so delegated shall be subject to such restrictions, limitations and conditions, if any, as the [2][Chairperson of the Authority] may impose, and shall be subject to his control and revision.

110B. Signature of documents. —Every document which is required by this Act or by any rule made thereunder to be signed by the [2][Chairperson of the Authority] or by any person subordinate to him or by any officer authorised by him under sub-section (*1*) of section 42 shall be deemed to be properly signed, if it bears a facsimile of the signature of such [2][Chairperson of the Authority], person or officer printed, engraved, lithographed or impressed by any other mechanical process approved by the Central Government.]

[3][**110C. Power to call for information.** —(*1*) The [2][Chairperson of the Authority] may, by notice in writing, require any insurer to supply him with any information relating to his insurance business, and the insurer shall comply with such requirement within such period after receipt of the notice as may be specified therein.

(*2*) Any information supplied under this section shall be certified by a principal officer of the insurer and if the notice so requires also by an auditor.]

[4][**110D. Certain claims for compensation barred.** —No person shall have any right, whether in contract or otherwise, to any compensation for any loss incurred by reason of the operation of any of the provisions contained in section 34 or section 34A or section 34E or section 37A or by reason of the compliance by an insurer with any order or direction given to hi m under this Act.

110E. [Sections 3A, 27B, 28B, 33, etc., to apply to general insurance business of the Life Insurance Corporation of India.]— *Omitted by the Insurance Laws* (*Amendment*) *Act,* 2015 (5 *of* 2015) *s.* 95 (*w.e.f.* 26-12-2014).

1. Ins. by Act 20 of 1940, s. 14 (w.e.f. 10-4-1940).
2. Subs. by Act 41 of 1999, s. 30 and the First Schedule (serial no. 43), for "Controller" (w.e.f. 19-4-2000).
3. Ins. by Act 47 of 1950, s. 59 (w.e.f. 1-6-1950).
4. Ins. by Act 62 of 1968, s. 37 (w.e.f. 1-6-1969).

110F. Provisions applicable to State Governments, etc.—The provisions of sections 3, 3A, 27B, 28B, 33, 34 clause (*a*) of sections 34E, 34F, 40C, 44A, 64U to 64UM (both inclusive), 64V, 64VA, 64VB, 64VC, and 101A, 101C, 110D, 110G and 110H shall notwithstanding any exemption granted under section 118, also apply, so far as may be, to and in relation to the general insurance business carried on by a State Government or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956).

110G. [Provisions applicable to State Governments. etc.] — *Omitted by the Insurance Laws* (*Amendment*) *Act,* 2015 (5 *of* 2015) *s.* 96 (*w.e.f.* 26-12-2014).

110H. [Appeals.] — *Omitted by the Insurance Laws* (*Amendment*) *Act,* 2015 (5 *of* 2015) *s.* 95 (*w.e.f.* 26-12-2014).

[1]**[110HA. Penalty to be recoverable as arrear of land revenue. —** Any penalty imposed by the Authority under this Act shall be recoverable as an arrear of land revenue.]

111. Service of notices. —(*1*) Any process or notice required to be served on an insurer [2]*** shall be sufficiently served if addressed to any person registered with the [3][Authority] as a person authorised to accept notices on behalf of the insurer [2]*** and left at, or sent by registered post to the address of such person as registered with the [3][Authority].

(*2*) Any notice or other document which is by this Act required to be sent to any policy-holder may be addressed and sent to the person to whom notices respecting such policy are usually sent and any notice so addressed and sent shall be deemed to be notice to the holder of such policy:

Provided, that, where any person claiming to be interested in a policy as transferee, assignee or nominee has given to an insurer [4]*** notice in writing of his interest, any notice which is by this Act required to be sent to policy-holders shall also be sent to such person at the address specified by him in his notice.

112. Declaration of interim bonuses. —Notwithstanding anything to the contrary contained in this Act, an insurer carrying on the business of life insurance shall be at liberty to declare an interim bonus or bonuses to policy-holders whose policies mature for payment by reason of death or otherwise during the intervaluation period on the recommendation of the investigating of actuary made at the last preceding valuation.

[5]**[113. Acquisition of surrender value by policy. —**(*1*) A policy of life insurance shall acquire surrender value as per the norms specified by the regulations.

(*2*) Every policy of life insurance shall contain the formula as approved by the Authority for calculation of guaranteed surrender value of the policy.

(*3*) Notwithstanding any contract to the contrary, a policy of life insurance under a non-linked plan which has acquired a surrender value shall not lapse by reason of non-payment of further premiums but shall be kept in force to the extent of paid-up sum insured, calculated by means of a formula as approved by the Authority and contained in the policy and the reversionary bonuses that have already been attached to the policy:

Provided that a policy of life insurance under a linked plan shall be kept in force in the manner as may be specified by the regulations.

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1. Ins. by Act 5 of 2015, s. 97 (w.e.f. 26-12-2014).
2. The words "or provident society" omitted by s. 98, *ibid*. (w.e.f. 26.12.2014).
3. Subs. by Act 41 of 1999, s. 30 and the First Schedule, for "Controller" (w.e.f. 19-4-2000).
4. The words "or to a provident society" omitted by Act 5 of 2015, s. 98 (w.e.f. 26-12-2014).
5. Subs. by s. 99, *ibid*., for section 113 (w.e.f. 26-12-2014).

(*4*) The provisions of sub-section (*3*) shall not apply—

(*i*) where the paid-up sum insured by a policy, inclusive of attached bonuses, is less than the amount specified by the Authority or takes the form of annuity of amount less than the amount specified by the Authority; or

(*ii*) when the parties, after the default has occurred in payment of the premium, agree in writing to other arrangement.]

114. Power of Central Government to make rules. —(*1*) The Central Government may, subject to the condition of previous publication by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

[1]* * * * *

[2]* * * * *

[3][(*aaa*) the manner of ownership and control of Indian insurance company under sub-clause (*b*) of clause (*7A*) of section 2;]

[4][(*b*) the manner in which it shall be determined which of the transactions of an insurer are to be deemed for the purposes of this Act to be insurance business transacted [5]*** in [6] [India] [7]***;]

[8]* * * * *

(*d*) the form referred to in clause (*d*) of sub-section (*2*) of section 16;

(*e*) the manner in which the prospectuses and tables referred to in sub-section (*1*) of section 41 shall be published and the form in which they shall be drawn up;

[9]* * * * *

[10]* * * * *

(*h*) the contingencies other than those specified in clauses (*a*) to (*f*) of [11][sub-section (*2*) of] section 65 on the happening of which money may be paid by provident societies;

(*i*) the matters other than those specified in clauses (*a*) to (*o*) of sub-section (*1*) of section 74 on which a provident society shall make rules;

1. Clause (*a*) omitted by Act 42 of 2002, s. 16 (w.e.f. 23-9-2002).
2. Clause (*aa*) omitted by Act 5 of 2015, s. 100 (w.e.f. 26-12-2014).
3. Ins. by s. 100, *ibid.* (w.e.f. 26-12-2014).
4. Subs. by Act 13 of 1941, s. 62, for clause (*b*) (w.e.f. 8-4-1941).
5. The words "in India or" omitted by Act 62 of 1956, s. 2 and the Schedule (w.e.f. 1-11-1956).
6. Subs. by s. 2 and the Schedule, *ibid*., for "the States" (w.e.f. 1-11-1956)
7. The words "as the case may be" omitted by Act s. 2 and the Schedule, *ibid*., (w.e.f. 1-11-1956).
8. Clause (*c*) omitted by Act 5 of 2015, s. 100 (w.e.f. 26-12-2014).
9. Clause (*f*) omitted by s. 100, *ibid.* (w.e.f. 26-12-2014).
10. Clause (*g*) omitted by Act 41 of 1999, s. 30 and the First Schedule (w.e.f. 19-4-2000).
11. Ins. by Act 20 of 1940, s. 16 (w.e.f. 10-4-1940).

(*j*) the form of any account, return or registered required by the Part III and the manner in which such account, return or register shall be verified;

(*k*) subject to the provisions of this Act, the fees payable thereunder and the manner in which they are to be collected; [1]***.

(*l*) the conditions and the matters which may be prescribed under sub-sections (*5*), [2][(*6*)], (*10*) and (*12*) of section 92;

[3][(*la*) the manner of inquiry under sub-section (*l*) of section 105C;

(*lb*) the form in which an appeal may be preferred under sub-section (*2*) and the fee payable in respect of such appeal and the procedure for filing and disposing of an appeal under sub-section (*6*) of section 110;]

[4]* * * * *

[5][(*m*) any other matter which is to be or may be prescribed.]

[6]* * * * *

[7][(*3*) Every rule made under this section or under sub-section (*10*) of section 34H [8]*** and every regulation made under this Part shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.]

[9][(*4*)] All rules made by a Local Government under the provisions of section 24 of the Provident Insurance Societies Act, 1912 (5 of 1912) and in force at the commencement of this Act shall so far as not inconsistent with the provisions of Part III continue in force and have effect as if duly made under this section until they are replaced by rules made under this section.

[10]**[114A. Power of Authority to make regulations.—**(*1*) The Authority may, by notification in the Official Gazette, make regulations consistent with this Act and the rules made thereunder, to carry out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely: —

[11][(*a*) manner of making application for registration and documents to be accompanied under sub-section (2) of section 3;]

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1. The word "and" omitted by Act 20 of 1940, s. 16 (w.e.f. 10-4-1940).
2. Ins. by Act 11 of 1939, s. 32.
3. Ins. by Act 5 of 2015, s. 100 (w.e.f. 26-12-2014).
4. Clause (*ll*) omitted by Act 41 of 1999, s. 30 and the First Schedule (w.e.f. 19-4-2000).
5. Ins. by Act 20 of 1940, s. 16 (w.e.f. 10-4-1940).
6. The proviso omitted by *ibid*, s. 16 (w.e.f. 10-4-1940).
7. Subs. by Act 20 of 1983, s. 2 and the Schedule, for sub-section (*3*) (w.e.f. 15-3-1984).
8. The words, brackets, figures and letters "or under sub-section (*1*) of section 64UB and every regulation made under sub-section (*3*) of section 64UB" omitted by Act 5 of 2015, s. 100 (w.e.f. 26-12-2014).
9. Sub-section (*3*) re-numbered as sub-section (*4*) thereof by Act 20 of 1940, s. 16 (w.e.f. 10-4-1940).
10. Ins. by Act 41 of 1999, s. 30 and the First Schedule (w.e.f. 19-4-2000).
11. Subs. by Act 5 of 2015, s. 101, for clauses (*a*) and (*aa*) (w.e.f. 26-12-2014).

(*b*) the manner of suspension or cancellation of registration under sub-section (*5E*) of section 3;

(*c*) such fee, not exceeding five thousand rupees, as may be determined by the regulations for issue of a duplicate certificate of registration under subsection (*7*) of section 3;

[1][(*d*) such annual fee to the Authority and manner of payment under sub-section (*1*) of section 3A;]

[2][(*da*) such minimum annuity and other benefits to be secured by the insurer under section 4;

(*daa*) determination of preliminary expenses that may be excluded for calculation of the stipulated paid-up equity capital for the insurers under sub-section (*1*) of section 6;

(*db*) such equity capital and such forms of capital including hybrid capital required under sub-section (*I*) of section 6A;]

[3]* * * * *

[2][(*ea*) separation of account of all receipts and payments in respect of each classes and sub-classes of insurance business as required under sub-section (*1*) and sub-section (*2AA*) of section 10; and its waiver under the said section;]

(*f*) the preparation of balance-sheet, profit and loss account and a separate account of receipts and payments and revenue account [4][under sub-section (*1*) of section 11];

[5][(*g*) the manner in which an abstract of the report of the actuary to be specified and the form and manner in which the statement referred to in section 13 shall be appended;]

[2][(*ga*) maintenance of records of policies and claims under clause (*c*) of sub-section (*1*) of section 14;

(*gb*) manner and form of issuance of policies in electronic form under sub-section (*2*) of section 14;]

[6][(*h*) the fee for procuring a copy of return or any part thereof under sub-section (*I*) of section 20;]

[7][(*i*) investment of assets and further provisions regarding investments by an insurer and investment by insurers in certain cases under sections 27, 27A, 27B, 27C and time, manner and other conditions of investment of assets under section 27D;]

[8][(*ia*) the form in which a return giving details of investments made, time and manner including its authentication under section 28;

(*ib*) the loans including the loans sanctioned to the full-time employees of the insurer under clause (*a*) of sub-section (*3*) of section 29;

(*ic*) the sum to be paid by the insurer to any person under section 31B;

1. Subs. by Act 5 of 2015, s. 101, for clause (*d*) (w.e.f. 26-12-2014).
2. Ins. by s. 101, *ibid*. (w.e.f. 26-12-2014).
3. Clause (*e*) omitted by s. 101, *ibid*. (w.e.f. 26-12-2014).
4. Subs. by s. 101, *ibid*., for "under sub-section (*1A*) of section 11" (w.e.f. 26-12-2014).
5. Subs. by s. 101, *ibid*., for clause (*g*) (w.e.f. 26-12-2014).
6. Subs. by s. 101, *ibid*., for clause (*h*) (w.e.f. 26-12-2014).
7. Subs. by s. 101, *ibid*., clause (*i*) (w.e.f. 26-12-2014).
8. Subs. by s. 101, *ibid*., for clauses (*ia*), (*ib*), (*ic*), (*id*) and (*ie*) (w.e.f. 26-12-2014).

(*id*) the obligation of insurer in respect of rural or social or unorganised sector and backward classes under sections 32B and 32C;

(*ie*) the minimum percentage of insurance business in third party risks of motor vehicles under section 32D;]

[1][(*j*) the minimum information to be maintained by insurers or intermediary or insurance intermediary, as the case may be, in their books, the manner in which such information shall be maintained, the checks and other verifications in that connection and all other matters incidental thereto under sub-section (*7*) of section 33;]

[2][(*ja*) the form in which balance-sheets in respect of the insurance business of each of the insurers concerned and the manner in which actuarial reports and abstracts in respect of the life insurance business are to be prepared under clauses (*b*) and (*c*) of sub-section (*3*) of section 35;

(*jb*) the manner of assessment of compensation under the proviso to sub-section (*4A*) of section 37A;

(*jc*) the fee to be charged by the insurer under sub-section (*3*) of section 39;

(*jd*) the manner and amount of remuneration or reward to be paid or received by way of commission or otherwise to an insurance agent or an intermediary or insurance intermediary under section 40;

(*je*) the manner and form of expenses of management under sections 40B and 40C;]

[3]* * * * *

[4]* * * * *

[5][(*m*) the requisite qualifications or practical training or examination to be passed for appointment as an insurance agent under clause (*e*) of sub-section (*3*) of section 42;]

[6]* * * * *

[7][(*o*) the code of conduct under clause (*h*) of sub-section (*3*) of section 42;]

[8]* * * * *]

(*q*) the manner and the fees for issue of a licence to an intermediary or an insurance intermediary under sub-section (*1*) of section 42D;

(*r*) the fee and the additional fee to be determined for renewal of licence of intermediaries or insurance intermediaries under sub-section (*3*) of section 42D;

(*s*) the requisite qualifications and practical training of intermediaries or insurance intermediaries under clause (*e*) of sub-section (*5*) of section 42D;

(*t*) the examination to be passed to act as an intermediary or insurance intermediary under clause (*f*) of sub-section (*5*) of section 42D;

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1. Subs. by Act 5 of 2015, s. 101, for clause (*j*) (w.e.f. 26-12-2014).
2. Ins. by s. 101, *ibid.* (w.e.f. 26-12-2014).
3. Clause (*k*) omitted by s. 101, *ibid.* (w.e.f. 26-12-2014).
4. Clause (*l*) omitted by s. 101, *ibid*. (w.e.f. 26-12-2014).
5. Subs. by s. 101, *ibid*., for clause (*m*) (w.e.f. 26-12-2014).
6. Clause (*n*) omitted by s. 101, *ibid*. (w.e.f. 26-12-2014).
7. Subs. by s. 101, *ibid*., for clause (*o*) (w.e.f. 26-12-2014).
8. Clause (*p*) omitted by s. 101, *ibid*. (w.e.f. 26-12-2014).

(*u*) the code of conduct under clause (*g*) of sub-section (*5*) of section 42D;

(*v*) the fee for issue of duplicate licence under sub-section (*7*) of section 42D;

[1][2]* * * * *

(*vb*) the requirements of capital, form of business and other conditions to act as an intermediary or insurance intermediary under [3]*** section 42E;

(*vc*) the form of balance-sheet, as may be specified by the Authority under sub-section (*1*) of section 49;]

[4]* * * * *

[5][(*x*) academic qualifications and code of conduct for surveyors and loss assessors under sub-sections (*1*) and (*2*) of section 64UM;

(*xa*) the period for which a person may act as a surveyor or loss assessor under sub-section (*3*) of section 64UM;]

[6][(*y*) the manner of exclusion of certain assets under sub-section (*1*), the manner of valuation of liabilities under sub-section (*2*) and time for furnishing statement under sub-section (*3*) of section 64V;]

(*z*) the valuation of assets and liabilities under sub-section (*3*) of section 64V;

[7][(*za*) the matters specified under sub-section (*1*) of section 64VA relating to sufficiency of assets;]

(*zaa*) the manner of receipt of premium to be specified under sub-section (*6*) of section 64VB;]

[8][(*zab*) the form, time, manner including authentication of the return giving details of solvency margin under sub-section (9) of section 64VA;

(*zac*) the manner of opening and closing places of business under section 64VC;]

(*zb*) the matters relating to re-insurance under sections 101A and 101B;

[9][(*zba*) the norms for surrender value of life insurance policy under sub-section (*1*) of section 113;]

(*zc*) the matters relating to redressal of grievances of policy-holders to protect their interest and to regulate, promote and ensure orderly growth of insurance industry; and

(*zd*) any other matter which is to be, or may be, specified by the regulations made by the Authority or in respect of which provision is to be made or may be made by the regulations.

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1. Ins. by Act 42 of 2002, s. 17 (w.e.f. 23-9-2002).
2. Clause (*va*) omitted by Act 5 of 2015, s. 101 (w.e.f. 26-12-2014).
3. The words, brackets and figure "sub-section (*2*) of" omitted by s. 101, *ibid.* (w.e.f. 26-12-2014).
4. Clause (*w*) omitted by s. 101, *ibid*. (w.e.f. 26-12-2014).
5. Subs. by s. 101, *ibid*., for clause (*x*) (w.e.f. 26-12-2014).
6. Subs. by s. 101, *ibid*., for clause (y) (w.e.f. 26-12-2014).
7. Subs. by s. 101, *ibid*., for clause (*za*) (w.e.f. 26-12-2014).
8. Ins. by s. 101, *ibid*. (w.e.f. 26-12-2014).
9. Ins. by s. 101, *ibid*. (w.e.f. 26-12-2014).

(*3*) Every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.]

115. Alteration of forms.—The [1][Authority] may, on the application or with the consent of an insurer, not being a company, alter the forms contained in the Schedules as respect that insurer, for the purpose of adapting them to the circumstances of that insurer:

Provided that nothing done under this section shall exempt the insurer from supplying all information required under this Act so far as it is possible for the insurer to do so.

116. Power to exempt from certain requirements—[2][(*1*)] The Central Government may, by notification in the Official Gazette, exempt any insurer constituted, incorporated or domiciled in [3][any country or State outside [4][India]] [5][from any of the provisions of this Act which may be specified in the notification] either absolutely or subject to such conditions or modification as may be specified in the notification.

[6]* * * * *

[7][(*2*) This section shall apply in respect of provident societies as defined in Part III as it applies in respect of insurers.]

[8][116A. Summary of returns to be published—The [9][Central Government, before the date of commencement of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999)] shall every year cause to be published, in such manner as it may direct, a summary of the accounts, balance-sheet, statements, abstracts and other returns under this Act or purporting to be under this Act which have been furnished in pursuance of the provisions of this Act to the [1][Authority] during the year preceding the year of publication, and may append to such summary any note of the [1][Authority] or of the [9][Central Government, before the date of commencement of the Insurance Regulatory and Development Authority Act, 1999,] and any correspondence:

Provided that nothing in this section shall require the publication of the [10][statement referred to in sub-section (*2*) of section 10 of the returns] referred to in sub-section (*1*) of section 28 [11][or [12][section 28A or section 28B] or the statements referred to in sub-section (*2*) of section 31B or section 40B.]]

117. Saving of provisions of Indian Companies Act, 1913—Nothing in this Act shall affect the liability of an insurer being a company [13][or a provident society as defined in Part III being a company] to

1. Subs. by Act 41 of 1999, s. 30 and the First Schedule, "Central Government" (w.e.f. 19-4-2000).
2. Section 116 renumbered as sub-section (*1*) thereof by Act 13 of 1941, s. 63 (w.e.f. 8-4-1941).
3. Subs. by Act 47 of 1950, s. 60, for "a Part B State" (w.e.f. 1-6-1950).
4. Subs. by Act 62 of 1956, s. 2 and the Schedule, for "the States" (w.e.f. 1-11-1956).
5. Subs. by Act 20 of 1940, s. 17, for certain words (w.e.f. 10-4-1940).
6. The proviso omitted by Act 47 of 1950, s. 60 (w.e.f. 1-6-1950)
7. Added by Act 13 of 1941, s. 63 (w.e.f. 8-4-1941).
8. Ins. by s. 64, *ibid.* (w.e.f. 8-4-1941).
9. Subs. by Act 41 of 1999, s. 30 and the First Schedule, for "Central Government" (w.e.f. 19-4-2000).
10. Subs. by Act 6 of 1946, s. 47, for "statements" (w.e.f. 20-3-1946).
11. Ins. by Act 47 of 1950, s. 61 (w.e.f. 1-9-1950).
12. Subs. by Act 62 of 1968, s. 38, for "section 28A" (w.e.f. 1-6-1969).
13. Ins. by Act 13 of 1941, s. 65 (w.e.f. 8-4-1941).

comply with the provisions of the Indian Companies Act, 1913 (7 of 1913), in matters not otherwise specifically provided for by this Act.

[1][**118. Exemptions—**Nothing in this Act shall apply—

(*a*) to any trade union registered under the Indian Trade Unions Act, 1926 (16 of 1926); or

(*b*) to any provident fund to which the provisions of the Provident Funds Act, 1925 (19 of 1925), apply; or

(*c*) if the Central Government so orders in any case, and to such extent or subject to such conditions or modifications as may be specified in the order, to any insurance business carried on by the Central Government or a State Government or a Government company as defined in Section 617 of the Companies Act, 1956 (1 of 1956); or

(*d*) if the [2][Authority] so orders in any case, and to such extent or subject to such conditions or modifications as may be specified in the order, to—

(*i*) any approved superannuation fund as defined in clause (*a*) of section 58N of the Indian Income Tax Act, 1922 (11 of 1922); or

(*ii*) any fund in existence and officially recognised by the Central Government before the 27th day of January, 1937, maintained by or on behalf of Government Servants or Government pensioners for the mutual benefit of contributors to the fund and of their dependants; or

(*iii*) any mutual or provident insurance society composed wholly of Government servants or of railway servants which has been exempted from any or all of the provisions of the Provident Insurance Societies Act, 1912 (5 of 1912).]

[3][**118A. Powers of Authority not to apply to International Financial Services Centre.—** Notwithstanding anything contained in any other law for the time being in force, the powers exercisable by the Authority under this Act,—

(*a*) shall not extend to an International Financial Services Centre set up under sub-section (*1*) of section 18 of the Special Economic Zones Act, 2005 (28 of 2005);

(*b*) shall be exercisable by the International Financial Services Centres Authority established under sub-section (*1*) of section 4 of the International Financial Services Centres Authority Act, 2019,

in so far as regulation of financial products, financial services and financial institutions that are permitted in the International Financial Services Centres are concerned.]

[4][**119. Inspection and supply of copies of published prospectus, etc.—**Any person may on payment of a fee of five rupees inspect the documents filed by an insurer with the [1][Authority] under clause (*f*) of sub-section (*2*) of section 3, and may obtain a copy of any such document or part thereof on payment in advance at the prescribed rate for the making of the copy.]

120. Determination of market value of securities deposited under this Act.—The market value on the day of deposit of securities deposited in pursuance of any of the provisions of this Act with the Reserve Bank of India shall be determined by the Reserve Bank of India whose decision shall be final.

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1. Subs. by Act 35 of 1957, s. 5, for section 118 (w.e.f. 1-9-1957).
2. Subs. by Act 41 of 1999, s. 30 and the First Schedule, for "Controller" (w.e.f. 19-4-2000).
3. Ins. by Act 50 of 2019, s. 33 and the Second Schedule (w.e.f. 1-10-2020).
4. Subs. by Act 13 of 1941, s. 67, for section 119 (w.e.f. 8-4-1941).

121. [Amendment of section 130, Act IV of 1882**.]** —*Rep. by the Repealing and Amending Act,* 1957 (36 *of* 1957), *s.* 2 *and the First Schedule (w.e.f.* 17-9-1957*).*

122. [Amendment of Schedule I. Act 9 of 1908.] —*Rep. by s.* 2 *and the First Schedule ibid,* (*w.e.f.* 17-9-1957).

123. [*Repeals*.] — *Rep. by s.* 2 *and the First Schedule ibid,* (*w.e.f.* 17-9-1957).

THE FIRST SCHEDULE—REGULATIONS AND FORMS FOR THE PREPARATION OF BALANCE-SHEET- *Omitted by the Insurance* (*Amendment*) *Act,* 2002 (42 *of* 2002), *s.* 18 (*w.e.f.* 23-9-2002).

THE SECOND SCHEDULE—REGULATIONS AND FORMS FOR THE PREPARATION OF PROFIT AND LOSS ACCONTS- *Omitted by s.* 18, *ibid.* (*w.e.f.* 23-9-2002).

THE THIRD SCHEDULE—REGULATIONS AND FORMS FOR THE PREPARATION OF REVENUE ACCOUNTS - *Omitted by s*. 18, *ibid.* (w.e.f. 23-9-2002).

THE FORTH SCHEDULE—REGULATIONS FOR THE PREPARATION OF ABSTRACTS OF ACTUARIES - REPORTS AND REQUIREMENTS APPLIACABLE TO SUCH ABSTRACTS**—***Omitted by s.* 18, *ibid.* (w.e.f. 23-9-2002).

THE FIFTH SCHEDULE—REGULATIONS FOR PREPARING STATEMENTS OF BUSINESS IN FORCE AND REQUIRMENTS APPLICABLE TO SUCH STATEMENTS - *Omitted by the Insurance Laws (Amendment) Act,* 2015 (5 *of* 2015), *s.* 102 (*w.e.f.* 26-12-2014).

THE SIXTH SCHEDULE-TERMS DEEMED TO BE INCLUDED IN EVERY CONTRACT BETWEEN AN INSURER CARRYING ON GENERAL INSURANCE BUSINESS AND A PRINCIPAL AGENT-*Omitted by s.* 102, *ibid.* (*w.e.f.* 26-12-2014).

[1][THE SEVENTH SCHEDULE]

(*See* section 55)

RULE AS TO THE VALUATION OF THE LIABILITIES OF AN INSURER IN INSOLVENCY OR LIQUIDATION

The liabilities of an insurer in respect of current contracts effected in the course of life insurance business including annuity business, shall be calculated by the method and upon the basis to be determined by an actuary approved by the Court, and the actuary so approved shall, in determining as aforesaid, take into account—

(*a*) the purpose for which such valuation is to be made,

(*b*) the rate of interest and the rates of mortality and sickness to be used in valuation, and

(*c*) any special directions which may be given by the Court.

The liabilities of an insurer in respect of current policies other than life policies shall be such portion of the last premium paid as is proportionate to the unexpired portion of the policy in respect of which the premium was paid.

1. The Sixth Schedule renumbered as Seventh Schedule thereof by Act 47 of 1950, s. 65 (w.e.f. 1-9-1950).

THE EIGHTH SCHEDULE—PRINCIPLES OF COMPENSATION-*Omitted by the Insurance Laws (Amendment) Act,* 2015 (5 *of* 2015), *s.* 102 (*w.e.f.* 26-12-2014).