

# THE INSURANCE ACT, 1938

## ACT NO. IV OF 1938

[26th 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.-(1) This Act may be called the Insurance Act, 1938.

(2) It extends to the whole of Pakistan.

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

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

(1) "actuary" means an **actuary** possessing such qualifications as may be prescribed

(3) "approved securities" means Government securities, and any other security charged on the revenues of the Central Government or of a Provincial Government, or guaranteed fully as regards principal and interest by the Central Government or a Provincial Government ; and any debenture or other security for money issued under the authority of any Act of the Central Legislature or any Provincial Legislature by or on behalf of the trustees of the port of Karachi and any security issued by the Government of an Acceding State or a non-Acceding State and specified as an approved security for the purposes of this Act by the Central Government by notification in the official Gazette ;

(3A) "approved investments" means such investments as the Central Government may, by notification in the official Gazette, specify as approved investments for the purposes of this Act ;

(4) "auditor" means a person qualified under the provisions of section 144 of the Companies Act, 1913, to act as an auditor of companies ;

(5) "certified" in relation to any copy or translation of a document required to be furnished by or on behalf of 9[an insurer or a provident society as defined in Part III

means certified by a principal officer of to such insurer or provident society to be a true copy or a correct translation, as the case may be ;

(5A) "company" has the meaning assigned to it in clause (2) of section 2 of the Companies Act, 1913 ;

(5B) "Controller of Insurance" or "Controller" means the officer appointed by the Central Government to perform the duties of the Controller of Insurance under this Act;

(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 ;

(6A) "employer of agents" means a person certified under section 42A who procures insurance business for an insurer whether wholly or in part by employing or causing to be employed insurance agents on behalf of the insurer ;

(6B) "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 ;

(6C) "general insurance business" means fire, marine or miscellaneous insurance business, whether carried on singly or in combination with one or more of them;.

(7) "Government securities" means Government securities as defined in the Securities Act, 1920 ;

(8) "insurance company" means any insurer being a company, association or partnership which may be wound up under the Companies Act, 1913, or to which the Partnership Act, 1932, applies ;

(8A) "insurance surveyor" means a person (certified under section 44A) who examines the goods, property or any interests insured under a policy of general insurance to ascertain the cause, extent and location of any loss and to determine the amount of such loss and the amount which is payable to the insured by the insurer or insurers or any person liable in respect of such loss ;

(9) "insurer" means-----

(a) any individual or unincorporated body of individuals or body corporate incorporated under the law of any country or State outside Pakistan, carrying on insurance business not being a person specified in sub-clause (c) of this clause which-

(i) carries on that business in Pakistan ; or

(ii) has his or its principal place of business or is domiciled in Pakistan ; or

(iii) with the object of obtaining insurance business, employs a representative, or maintains a place of business, in Pakistan ;

(b) any body corporate not being a person specified in sub-clause (c) of this clause carrying on the business of insurance, which is a body corporate incorporated under any law for the time being in force in Pakistan ; or stands to any such body corporate in the relation of a subsidiary company within the meaning of the Companies Act, 1913, as defined by sub-section (2) of section 2 of that Act, and

(c) any person who in Pakistan has a standing contract with underwriters who are members of the Society of Lloyd's whereby such person is authorized within the terms of such contract to issue protection notes, cover notes, or other documents granting insurance cover to others on behalf of the underwriters,

but does not include an insurance agent licensed under section 42 or a provident society as defined in Part III ;

(10) "insurance agent" means an insurance agent licensed under section 42 being an individual who receives or agrees to receive payment by way of commission or other remuneration in consideration of his soliciting or procuring insurance business ;

(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 policies for death by accident only) or the happening of any contingency dependent on human life or 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 annuities 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 person;

(12) "manager" and "officer" have the meanings assigned to those expressions in clauses (9) and (11) respectively of section 2 of the Companies Act, 1913 ;

(13) "managing agent" means a person, firm or company entitled to the management of the whole affairs of a company by virtue of an agreement with the company, and under the control and direction of the directors except to the extent, if any, otherwise provided for in the agreement, and includes any person, firm or company occupying such position by whatever name called.

*Explanation.*-If a person occupying the position of managing agent calls himself manager or managing director, he shall nevertheless be regarded as managing agent for the purposes of section **32 of this Act** ;

**(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, water or air, or by any combination thereof 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 of any kind included in clauses (613), (11) and (13A) ;

(13C) "Pakistan Insurance Corporation" means the Corporation established under the Pakistan Insurance Corporation Act, 1952 ;

(13D) "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;

(14) "prescribed" means prescribed by rules made under section 114 ; and

(14A) "private company" has the meaning assigned to it in clause (13) of section 2 of the Companies Act, 1913 ;

(14B) "public company" means a company incorporated under the Companies Act, 1913 or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby, which is not a private company or a subsidiary of a private company; and

(15) "scheduled bank" has the meaning assigned to it in clause (m) of section 2 of the State Bank of Pakistan Act, 1956.

## **PART II PROVISIONS APPLICABLE TO INSURERS**

3.-(1) No person shall, after the commencement of this Act, begin to carry on any class of insurance business in Pakistan], and no insurer carrying on any class of insurance business in Pakistan 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

Controller of Insurance a certificate of registration for the particular class of insurance business;

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

(2) Every application for registration shall be accompanied by-----

(a) a certified copy of the memorandum and articles of association, where the applicant is a company and incorporated under the Companies Act, 1913 or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby, or, in the case of any other insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2, a certified copy of the deed of partnership or of the deed of constitution of the company, as the case may be, or, in the case of an insurer having his principal place of business or domicile outside Pakistan, the document specified in clause (a) of section 63 ;

(b) the name, address and the occupation, if any, of the directors where the insurer is a Company incorporated under the Companies Act, 1913, or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby, and in the case of an insurer specified in sub-clause (a) (ii) of clause (9) of section 2 the names and addresses of the proprietors and of the manager in Pakistan, and in any other case the full address of the principal office of the insurer in Pakistan, and the names of the directors and the manager at such office and the name and address of some one or more persons resident in Pakistan authorized to accept any notice required to be served on the insurer ;

(c) a statement of the class or classes of insurance business done or to be done, and a statement that the amount required to be deposited by section 7 or section 98 before application for registration is made has been deposited together with a certificate from the State Bank of Pakistan showing the amount deposited ;

(d) where the provisions of section 6 or 97 apply, a statement duly certified by an auditor showing the total paid up capital or the total working capital of the insurer and a declaration verified by an affidavit made by the principal officer of the insurer authorized in that behalf that the provisions of those sections as to paid up capital or working capital, as the case may be, have been complied with;

(e) in the case of an insurer having his principal place of business or domicile outside Pakistan, a statement verified by an *affidavit made* by the principal officer of the insurer setting forth the requirements (if any) not applicable to nationals of the country in which such insurer is constituted, incorporated or domiciled which are imposed by the laws or

practice of that country upon Pakistan nationals as a condition of carrying on insurance business in that country ;

(f) a certified copy of the published prospectus, if any, and of the standard policy forms of the insurer and statements of the assured rates, advantages, terms and conditions to be offered in connection with insurance policies together with a certificate in connection with life insurance business by an actuary that such rates, advantages, terms and conditions are workable and sound;

Provided that in the case of marine, accident and miscellaneous insurance business other than workmen's compensation and motor car insurance the Controller of Insurance may exempt any insurer from the above requirements regarding prospectus, forms and statements to such extent and for such period as he may deem fit ; and

(g) the receipt showing payment in the prescribed manner of the prescribed fee which shall not be more than five hundred rupees for each class of business.

(3) In the case of any insurer having his principal place of business or domicile outside Pakistan, the Controller of Insurance shall withhold registration or shall cancel a registration already made, if he is satisfied that in the country in which such insurer has his principal place of business or domicile Pakistan nationals are debarred by the law or practice of the country relating to, or applied to insurance from carrying on the business of insurance , or that any requirement imposed on such insurer the provisions of section 62 is not satisfied.

(4) The Controller of Insurance shall 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 to comply with the provisions of section 7 or section 98 as to deposits, or

(b) if the insurer is in liquidation or is adjudged 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, or

(d) if the whole of the deposit made in respect of a class of insurance business has been returned to the insurer under section 9; or

(e) if, in the case of an insurer specified in sub-clause (c) of clause (9) of section 2, the standing contract referred to in that sub-clause is cancelled or is suspended and continues to be suspended for a period of six months,

and the Controller of Insurance may cancel the registration of an insurer-----

(f) if the insurer makes default in complying with, or acts in contravention of, any requirement of this Act or any rule or order made thereunder, and

(g) if the Controller of Insurance has reason to believe that any claim upon the insurer arising in Pakistan under any policy of insurance remains unpaid for three months after final judgment in regular course of law.

(5) When the Controller of Insurance withholds or cancels any registration under sub-section (3) or clause (a), clause (e), clause (f) or clause (g) of sub-section (4), he shall give notice in writing to the insurer of his decision, and the decision shall take effect on such date as he may specify in that behalf in the notice, such date not being less than one month nor more than two months from the date of the receipt of the notice in the ordinary course of transmission.

(5A) When the Controller of Insurance cancels any registration under clause (b), clause (c) or clause (d) of sub-section (4) the cancellation shall take effect on the date on which notice of the order of cancellation is served on the insurer.

(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.

(5C) Where a registration is cancelled under clause (a), clause (e), clause (f), or clause (g) of sub-section (4),] the Controller of Insurance may at his discretion revive the registration, if the insurer makes the deposits required by section 7 or section 98, or has his standing contract restored or has had an application under sub-section (4) of section 3A accepted, or satisfies the Controller of Insurance that no claim upon him such as is referred to in clause (g) of sub-section (4) remains unpaid or that he has complied with the requirement for the non-compliance or contravention of which the registration was cancelled under clause (f) of subsection (4) as the case may be, and complies with any directions which may be given to him by the Controller of Insurance.

(5D) Where the registration of an insurance company is cancelled under sub-section (4), the Controller of Insurance 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.

(6) 5[Subject to compliance with the provisions of sections 2C, 5, sub-section (2A) of section 10 and section 32 and of any order made under section 3B, the Controller of

Insurance shall, on being satisfied that the applicant has fulfilled all the requirements of this section applicable to him, register the insurer and grant him] a certificate of registration.

(7) The Controller of Insurance may, on payment of the prescribed fee which shall not exceed twenty-five rupees, issue a duplicate certificate of registration to replace a certificate lost, destroyed or mutilated, or in any other case where he is of opinion that the issue of a duplicate certificate is necessary.

## **PART II PROVISIONS APPLICABLE TO INSURERS**

4. Minimum limits for annuities and other benefits secured by policies of life insurance. Omitted by the Insurance (Amdt.) Act, 1958 (XXVII of 1958), s. 8.

5.-(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 calculated to deceive except when the insurer in existence is in the course of being dissolved and signifies his consent to the Controller of Insurance.

(2) If any 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 Controller of Insurance on the application of the second-mentioned insurer, change his name within a time to be fixed by the Controller of Insurance;

Provided that nothing in this section shall apply to any insurer carrying on business before the 27th day of January, 1937, under the Indian Life Assurance Companies Act, 1912 Provided further that in the application of this section to any insurer who begins to carry on insurance business after the commencement of the Insurance (Amendment) Act, **1946**, the references to an insurer in existence in sub-section (1) and this sub-section shall be construed as including references to a provident society (as defined in Part III) in existence, whether or not the society is in the course of being dissolved.

(3) No insurer other than a provident society as defined in Part III, who begins to carry on insurance business after the commencement of this Act, shall adopt as its name and no such insurer carrying on business before the commencement of this Act shall continue after the expiry of six months from the commencement thereof to use as its name any combination of words which includes the word "provident".

6. No insurer other than an insurer who was registered or any class of insurance business immediately before the commencement of the Insurance (Amendment) ordinance, 1961, shall be registered unless he has a paid up capital of not less than ten lakhs of rupees.



7.-(1) Every insurer not being an insurer specified in sub-clause (c) of clause (9) of section 2 shall, in respect of the insurance business carried on by him in Pakistan, deposit and keep deposited with the State Bank of Pakistan, in one of the *offices* in Pakistan of the Bank for and on behalf of the Central Government the amount hereafter specified, either in cash or in approved securities estimated at the market value of the securities on the day of deposit, or partly in cash and part in approved securities so estimated

(a) where the business done or to be done is life insurance only, two hundred thousand rupees ;

(b) where the business done or to be done is fire insurance only, one hundred and fifty thousand rupees;

(c) where the business done or to be done is marine insurance only, one hundred and fifty thousand rupees ;

(d) where the business done or to be done is miscellaneous insurance only one hundred and fifty thousand rupees ;

(e) where the business done or to be done is life insurance and any one of the three classes specified in clauses (b), (c), and (d), three hundred thousand rupees of which two hundred thousand rupees shall be the deposit for life insurance business ;

(f) where the business done or to be done is life insurance and any two of the three classes specified in clauses (b), (c) and (d), four hundred thousand rupees of which two hundred thousand rupees shall be the deposit for life insurance business ;

(g) where the business done or to be done is life insurance and all three classes specified in clauses (b), (c) and (d), four hundred and fifty thousand rupees of which two hundred thousand rupees shall be the deposit for life insurance business ;

(h) where the business done or to be done does not include life insurance but falls under any two of the classes specified in clauses (b), (c) and (d), two hundred and fifty thousand rupees ;

(i) where the business done or to be done does not include life insurance but falls under all three classes specified in clauses (b), (c) and (d), three hundred and fifty thousand rupees ;

Provided that, where the business done or to be done is marine insurance only and relates exclusively to country craft or its cargo or both, the amount to be deposited under this sub- section shall be ten thousand rupees only.

(2) Where the insurer is an insurer specified in sub-clause (c) of clause (9) of section 2, he shall be deemed to have complied with the provisions of this section as to deposits, if in respect of any class of insurance business carried on by him in Pakistan under a standing contract of the nature referred to in sub-clause (c) of clause (9) of section 2, a deposit of an amount one-and-a-half times that specified in sub-section (1) as the deposit for that class of insurance business has been made in the State Bank of Pakistan in one of the offices in Pakistan of the Bank for and on behalf of the Central Government in cash

or approved securities estimated at the market value of the securities on the day of deposit by or on behalf of the underwriters who are members of the Society of Lloyd's with whom he has his standing contract.

(5) The deposit may be made in instalments of not less than one-fourth the total amount before the application for registration is made, not less than one-third the balance before the expiry of one year from the commencement of business in Pakistan and not less than one-half the residue before the expiry of two years from the commencement of business in Pakistan, and the balance before the expiry of three years from the commencement of business in Pakistan.

Provided that in the case of any insurer not being an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section and incorporated before the commencement of the Insurance (Amendment) Ordinance, 1961, the deposit shall be made in full before the application for registration is made.

(6) No class of insurance business in addition to the class or classes in respect of which an insurer is already liable to make a deposit under sub-section (1) or sub-section (2) shall be undertaken by the insurer until the deposit to which he is already liable has been made in full, and the additional deposit required in respect of the additional class of business or so much thereof as under the provisions of sub-section (5) is to be made before the application for registration, has also been made in full.

(8) A deposit made in cash shall be held by the State Bank of Pakistan to the credit of the insurer and shall except to the extent, if any, to which the cash has been invested in securities under sub-section (9A), be returnable to the insurer in cash in any case in which under the provisions of this Act a deposit is to be returned ; and any interest accruing due and collected on securities deposited under sub-section (1) or sub-section (2) shall be paid to the insurer, subject only to deduction of the normal commission chargeable for the realization of interest.

(9) The insurer may at any time replace any securities deposited by him under this section with the State Bank of Pakistan either by cash or by other approved securities or partly by cash and partly by other approved securities, provided that such cash, or the value of such other approved securities estimated at the market rates prevailing at the time of replacement, or such cash together with such value, as the case may be, is not less than the value of the securities replaced estimated at the market rates prevailing when they were deposited.

(9A) The State Bank of Pakistan shall, if so **requested by insurer,-**

(a) sell any securities deposited by him with the Bank under this section and hold the cash realised by such sale as deposit, or

(b) invest in approved securities specified by the insurer the whole or any part of a deposit held by it in cash or the whole or any part of cash received by it on the sale of or

on the maturing of securities deposited by the insurer, and hold the securities in which investment is so made as deposit, and may charge the normal commission on such sale or on such investment.

(9B) Where sub-section (9A) applies,----

(a) If the cash realised by the sale of or on the maturing of the securities (excluding in the former case the interest accrued) falls short of the market value of the securities at the date on which they were deposited with the Bank, the insurer shall make good the deficiency by a further deposit either in cash or in approved securities estimated at the market value of the securities on the day on which they are deposited, or partly in cash and partly in approved securities so estimated, within a period of two months from the date on which the securities matured or were sold and unless he does so the insurer shall be deemed to have failed to comply with the requirements of this section as to deposits ; and

(b) if the cash realised by the sale of or on the maturing of the securities (excluding in the former case the interest accrued) exceeds the market value of the securities at the date on which they were deposited with the Bank, the Central Government may, if satisfied that the full amount required to be deposited under sub-section (1) is in deposit, direct the State Bank to return the excess.

(10) If any part of a deposit made under this section is used in the discharge of any liability of the insurer, the insurer shall deposit such additional sum in cash or approved securities estimated at the market value of the securities on the day of deposit, or partly in cash and partly in such securities,) as will make up the amount so used. The insurer shall be deemed to have failed to comply with the requirements of sub-section (1), unless the deficiency is supplied within a period of two months from the date when the deposit or any part thereof is so used for discharge of liabilities.

8. (1) Any deposit made under section 7 or section 98 shall be deemed to be part of the assets of the insurer but shall not be susceptible of any assignment or charge ; nor shall it be available for the discharge of any liability of the insurer other than liabilities arising out of policies of insurance issued by the insurer so long as any such liabilities remain un-discharged ; nor shall it be liable to attachment in execution of any decree except a decree obtained by a policy-holder of the insurer in respect of a debt due upon a policy which debt the policy-holder has failed to realise in any other way.

(2) Where a deposit is made in respect of life insurance business the deposit made in respect thereof shall not be available for the discharge of any liability of the insurer other than liabilities arising out of policies of life insurance issued by the insurer.

9.(1) Where an insurer has ceased to carry on in Pakistan any class of insurance business in respect of which a deposit has been made under section 7 or section 98 and his liabilities in Pakistan in respect of business of that class have been satisfied or are

otherwise provided for, the Court may, on the application of the insurer, order the return to the insurer of so much of the deposit as does not relate to the classes of insurance, if any, which he continues to carry on.

(2) An application under this section shall, if the applicant is carrying on any insurance business in any Acceding State or a non-Acceding State notified in this behalf by the Central Government in the official Gazette, be accompanied by a statement to that effect, and in such a case the Court shall not order the return of any deposit under this section unless it is satisfied, after giving notice to the chief insurance authority of that State, that the liabilities of the applicant to that State in respect of the class of business concerned have been satisfied or are otherwise provided for.

10.-(1) Where the insurer carries on business of more than a~ one of the classes specified in clauses (a), (b), (c) and (d) of sub- a, section (1) of section 7, he shall keep a separate account of all receipts and payments in respect of each such class of insurance business and where the insurer carries on business of the class specified in clause (d) of that sub-section whether alone or in conjunction with business of another class, he shall, unless the Controller of Insurance waives this requirement in writing, keep a separate account of all receipts and payments in respect of each such sub-class of the class specified in clause (d) as may be prescribed in this behalf;

(2) Where the insurer carries on the business of life insurance, 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 the assets of which shall be kept free from all encumbrances and 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 a part of the assets of such fund ; and every insurer shall furnish to the Controller of Insurance along with the returns referred to in section 11, a statement showing in detail such assets as at the close of ever calendar year duly certified by an auditor;  
Provided that an insurer may show in such statement all the assets held in his life department and any deductions on account of general reserves and other liabilities of that department;

Provided further that the Controller 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.

(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 Controller of Insurance 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) 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 for any purposes other than those of the life insurance business of the insurer.

11.-(1) Every insurer, in the case of an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2 in respect of all insurance business transacted by him, and in the case of any other insurer in respect of the insurance business transacted by him in Pakistan, shall at the expiration of each calendar year prepare with reference to that year-----

(a) in accordance with the regulations contained in Part I of the First Schedule, a balance-sheet in the form set forth in Part II of that Schedule ;

(b) in accordance with the regulations contained in Part I of the Second Schedule, a profit and loss account in the forms set forth in Part II of that Schedule, except where the insurer carries on business of one class only of the classes specified in clauses (a), (b) and (c) of sub-section (1) of section 7 and no other business ;

(c) in respect of each class or sub-class of insurance business for which he is required under sub-section (1) of section 10 to keep a separate account of receipts and payments, a revenue account in accordance with the regulations, and in the form or forms, set forth in the Third Schedule applicable to that class or subclass of insurance business.

(2) Unless the insurer is a company as defined in clause (2) of sub-section (1) of section 2 of the Companies Act, 1913, 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 the case of a firm by two partners of the firm, and shall be accompanied by a statement containing the names and descriptions of the persons in charge of the management of the business during the period to which such accounts and statements refer and by a report by such persons on the affairs of the business during that period.

12. The balance-sheet, profit and loss account, revenue At account and profit and loss appropriation account of every insurer, in the case of an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2 in respect of all insurance business transacted by him, and in the case of any other insurer in respect of the insurance business transacted by him in Pakistan, shall, unless they are subject to audit under the Companies Act, 1913, 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 145 of the Companies Act, 1913.

13.-(1) Every insurer carrying on life insurance business shall, in respect of the life insurance business transacted by him in Pakistan, and also in the case of an insurer specified in sub clause (a) (ii) or sub-clause (b) of clause (9) of section 2 in respect of all life insurance business transacted by him, once at least in every three years

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 contained in Part I of the Fourth Schedule and in conformity with the requirements of Part II of that Schedule.

(1A) In the case of an insurer who was registered under this Act on the date of commencement of the Insurance (Amendment) Act, 1958, the date with reference to which such investigation and valuation shall be made shall be;----

(i) the 31st December, 1957, in the case of insurers who on the 31st December, 1957, had completed three years from the last valuation or who have completed two calendar years from the date of commencement of business in Pakistan ;

(ii) the 31st December, 1958, in the case of insurers who on the 31st December, 1957, had completed two years from the last valuation or who have completed one calendar year from the date of commencement of business in Pakistan ;

(iii) the 31st December, 1959, in the case of insurers who on the 31st December, 1957 had completed one year from the last valuation or who have not completed one full calendar year from the date of commencement of business in Pakistan ;

(iv) the 31st December, 1960, in all other cases.

(1B) An insurer who undergoes a valuation with reference to the 31st December, 1957, shall undergo its next valuation with reference to the 31st December, 1960.

(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.

(4) There shall be appended to every such abstract a statement, in conformity with the requirements of Part II of the Fifth Schedule and prepared in accordance with the regulations contained in Part I of that Schedule, of the life insurance business in force at the date to which the accounts of the insurer are made up for the purposes of such abstract;

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.

(6) The provisions of this section relating to life insurance business shall apply also to any such sub-class of miscellaneous insurance business as may be prescribed in this behalf;

Provided that no sub-class of miscellaneous insurance business shall be prescribed under this sub-section if the insurance business comprised in the sub-class consists 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;

Provided further that the Controller of Insurance may authorise such modifications and variations of the regulations contained in Part I of the Fourth and Fifth Schedules and of the requirements of Part II of those Schedules as may be necessary to facilitate their application to any such sub-class of miscellaneous insurance business;

Provided also that if the Controller of Insurance is satisfied that the number and amount of the transactions carried out by an insurer in any such sub-class of miscellaneous insurance business is so small as to render periodical valuation unnecessary, he may exempt that insurer from the operation of this sub-section in respect of that sub-class.

14. Every insurer, in the case of an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2 in respect of all business transacted by him, and in the case of any other insurer in respect of the insurance business transacted by him in Pakistan, shall maintain-----

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

(b) a register or record of claims, in which shall be entered 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 therefor.

15.-(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 Controller of Insurance in the case of the accounts and statements referred to in section 11 or sub-section (5) of section 13

within six months and in the case of the abstract and statement referred to in section 13 within nine months from the end of the period to which they refer.

Provided that the said period of six months shall in the case of insurers having their principal place of business or domicile outside Pakistan and in the case of insurers constituted, incorporated or domiciled in Pakistan but also carrying on business outside Pakistan be extended by three months, and provided further that the Controller may in any case extend the time allowed by this sub-section for the furnishing of such returns by a further period not exceeding one month.

(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 director in the case of a firm, by two partners of the firm, and, in the case of an insurer being an individual, by the insurer himself and one shall be signed by the auditor who made the audit or the actuary who made the valuation, as the case may be.

(3) Where the insurer's principal place of business or domicile is outside Pakistan, he shall forward to the Controller of Insurance, along with the documents referred to in section 11, the balance-sheet, profit and loss account and revenue account and the valuation reports and valuation statements, if any, which the insurer is required to file with the public authority of the country in which the insurer is constituted, incorporated or domiciled, or, where such documents are not required to be filed, a certified statement showing the total assets and liabilities of the insurer at the close of the period covered by the said documents and his total income and expenditure during that period.

*16. [Returns by insurers established outside the Provinces, etc.]. Omitted by the Insurance (Amdt.) Act, 1958 (XXVII of 1958), s. 16.*

17. Where an insurer, being a company incorporated under the Companies Act, 1913 or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under VI any Act repealed thereby, in any year furnishes his balance sheet and accounts in accordance with the provisions of section 15, he may at the same time send to the Registrar of Companies copies of such balance-sheet and accounts ; and where such copies are so sent it shall not be necessary for the company to file copies of the balance-sheet and accounts with the Registrar as required by sub-section (1) of section 134 of the first mentioned Act and such copies so sent shall be chargeable with the same fees and shall be dealt with in all respects as if they were filed in accordance with that section.

18. Every insurer shall furnish to the Controller of Insurance 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. Every insurer, being a company or body incorporated under any law for the time being in force in Pakistan, shall furnish to the Controller of Insurance 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.

20.-(1) Every return furnished to the Controller of Insurance or a certified copy thereof shall be kept by the Controller 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 a fee of six annas for every hundred words or fractional part thereof required to be copied, any five figures being deemed equivalent to one word.

(2) A printed or certified copy of the accounts, statements and abstract furnished in accordance with the provisions of section shall, on the application of any shareholder or policy-holder made at any time within two years from the date on which the document was so furnished, be supplied to him by the insurer within fourteen days when the insurer is constituted, incorporated or domiciled in Pakistan 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 policyholder, be supplied to him by the insurer on payment of one rupee.

21.-(1) If it appears to the Controller of Insurance 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 Pakistan any book of account, register or other document or to supply any statement which he may specify in a notice served on the insurer for the purpose ;

(c) examine any officer 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 the inaccuracy or supply of the deficiency was delivered to the insurer and if he declines to accept any such return, the insurer shall be deemed to have failed to comply with the provisions of section 15, or section 28 relating to the furnishing of returns.

(2) The Court may on the application of an insurer and after hearing the Controller cancel any order made by the Controller under clause (a), (b) or (c) of sub-section (1) or may direct the acceptance of any return which the Controller has declined to accept, if the insurer satisfies the Court that the action of the Controller 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 time when the Controller of Insurance made the order or declined to accept the return.

22.-(1) If it appears to the Controller of Insurance that an investigation or valuation to which section 13 refers 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 as at such date as the Controller of Insurance 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 Controller of Insurance 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 Controller of Insurance may specify.

(2) The provisions of sub-sections (1) and (4) of section 13, and of sub-sections (1) and (2) of section 15 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 Controller of Insurance may specify.

23.-(1) Every return furnished to the Controller of Insurance, which has been certified by the Controller to be a return so furnished, shall be deemed to be a return so furnished.

(2) Every document, purporting to be certified by the Controller of Insurance 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 (Amdt.) Act, 1941 (XIII of 1941), s. 16.*

25.-(1) No insurer shall,-----

(a) make, issue, circulate or cause to be made, issued or circulated, any estimate, illustration, circular or statement misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the bonuses, shareholders' dividends or share of the surplus to be received thereon, or make any false or misleading statement as to the bonuses, shareholders' dividends or share of surplus previously paid on similar policies or make any misleading representation or any misrepresentation as to the financial condition of any insurer or use any name or title of any policy or class of policies misrepresenting the true nature thereof or make any misrepresentation to any policy-holder insured in any company for the purpose of inducing or tending to induce such policy-holder to lapse, forfeit or surrender his insurance; and

(b) make, publish, disseminate, circulate or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated or placed before the public in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster or in any other manner an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance, or the financial position of any insurer or with respect to any person in the conduct of his insurance business, which is false, untrue, deceptive, misleading or calculated to injure any person engaged in the business of insurance;'

Provided that nothing contained in this section shall prevent an insurer from publishing any return in a form in which it has been furnished to the Controller of Insurance or a true and accurate abstract from such returns or any other factual statement for the purposes of publicity.

26. 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 Controller of Insurance full particulars of such alteration.

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.

## **PART II**

### **INVESTMENT, LOANS AND MANAGEMENT**

27.-(1) Every insurer shall invest and at all times keep **Invest** invested in the manner provided in sub-section (2) assets equivalent to not less than the sum of----

(a) the amount of his liabilities to holders of life insurance policies in Pakistan on account of matured claims ; and

(b) the amount required to meet the liability on policies of life insurance maturing for payment in Pakistan 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 Pakistan issued by him or by an insurer whose business he has acquired and in respect of which he has assumed liability;

Provided that where an insurer has accepted reinsurance in respect of any policies of life insurance issued by another insurer and maturing for payment in Pakistan or has ceded reinsurance to another insurer in respect of any such policies issued by himself, the said sum shall be increased by the amount of the liability involved in such acceptance and decreased by the amount of liability involved in such cession;

Provided further that the said sum shall not be decreased by the amount of any liability in respect of any reinsurances ceded to an insurer not registered in Pakistan for life insurance business except to the extent of the amount of the liability incurred up to the 31st December, 1957.

(2) The investment required under sub-section (1) shall be made in the following manner, namely :-

(i) thirty per cent. of **the sum referred to** in the said sub- section shall be invested in Government securities ;

(ii) a further ten per cent of the said sum shall be invested in Government or other approved securities ; and

(iii) the balance shall be invested in approved securities or, subject to such restrictions as may, by notification in the official Gazette, be imposed by the Central Government in approved investment.

*Explanation.-For the purpose of this sub-section the amount of any deposits made under section 7 or section 98 by the insurer in respect of his life insurance business shall be deemed to be invested or kept invested in Government securities.*

(3) In computing the assets required by this section to be kept invested by an insurer, a sum equal to the amount of his liabilities to persons who are not citizens of Pakistan in respect of life insurance policies issued in Pakistan in favour of such persons but expressed in a currency other than the Pakistan rupee may, if such sum is invested in securities of, and guaranteed as to principal and interest by, the Government of the country in whose currency such policies are expressed, be taken into account.

(4) The assets required by this section to be kept invested by an insurer shall be deposited by the insurer in Pakistan for safe custody in the prescribed manner with a scheduled bank approved by the Central Government and the assets so deposited shall not be released or dealt with in any manner except in such circumstances and in such manner as may be prescribed

Provided that the Central Government may, by notification in the official Gazette, exclude from the requirements of this subsection any approved investments which cannot be deposited for safe custody with a scheduled bank on account of the nature of such investments.

28.- (1) Every insurer registered under this Act carrying on the business of life insurance shall every year, within thirty-one days from the beginning of the year, submit to the Controller of Insurance a return showing as at the 31st day of December of the preceding year the assets held invested in accordance with section 27, and all other particulars necessary to establish that the requirements of that section have been complied with, and such return shall be certified by a principal officer of the insurer.

(2) Every such insurer shall also furnish, within **fifteen days from the last day of March, June and September, a return certified** as aforesaid showing as at the end of each of the said months the assets held invested in accordance with section 27.

(3) The Controller of Insurance may at his discretion require any insurer to whom sub-section (1) applies to submit before the 1st day of August in each or any year a return of the nature referred to in sub-section (1), certified as required by that sub-section and prepared as at the 30th day of June.

(4) In the case of an insurer having his principal place of business or domicile outside Pakistan, the Controller of Insurance may, on application made by the insurer, extend the periods of fifteen and thirty-one days mentioned in the foregoing sub-sections to thirty days and sixty days, respectively.

(5) The Controller of Insurance shall be entitled at any time to take such steps as he may consider necessary for the inspection or verification of the assets invested in compliance with section 27 or for the purpose of securing the particulars necessary to establish that the requirements of that section have been complied with the insurer shall comply with any requisition made in this behalf by the Controller of Insurance, and if he fails to do so within two months from the receipt of the requisition he shall be deemed to have made default in complying with the requirements of this section.

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

Provided that nothing herein contained shall apply to loans made by an insurer to a banking company ;

Provided further that where any event occurs giving rise to circumstances, the existence of which at the time of the grant of any subsisting loan would have made such grant a contravention of this section, such loan shall, notwithstanding any contract to the contrary, be repaid within three months from the occurrence of such event and in case of default, the director, manager, auditor, actuary, officer or partner concerned shall, without

prejudice to any other penalty which he may incur, cease to hold office with the insurer granting the loan on the expiry of the said three months:

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.

(2) The provisions of section 86D of the Companies Act, 1913, 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 to any employee, insurance agent or employer of agents any loans or temporary advances, either on hypothecation of property or on personal security or otherwise except-----

(a) loans on life policies issued by him to an employee, agent or employer of agents within their surrender value ; and

(b) temporary advances to an employee, insurance agent or employer of agents not exceeding,-

(i) in the case of an employee, two months' salary ;

(ii) in the case of an insurance agent the renewal commission earned by him during two years immediately preceding the date of application for the advance, or a sum not exceeding two hundred and fifty rupees if he has not earned any renewal commission or has earned a renewal commission of less than two hundred and fifty rupees ; and

(iii) in the case of an employer of agents the renewal commission and the over-riding renewal commission earned by him during the year immediately preceding the date of application for the advance, or a sum not exceeding one thousand rupees if he has not earned any renewal commission and over-riding renewal commission or has earned a renewal and over-riding renewal commission of less than one thousand rupees;

Provided that in respect of the life insurance business of an insurer, the total temporary advances referred to in this clause shall not exceed at any time ten thousand rupees in the case of insurers having a life insurance fund of less than ten lakhs of rupees and in any other case one per cent. of the life insurance fund subject to a maximum of one hundred thousand rupees.

(4) Every insurer shall before the 30th day of June, 1958, and thereafter before the 1st day of February of every subsequent year, furnish to the Controller of Insurance in the prescribed form a statement showing the particulars of the various advances paid by him and outstanding against an employee, insurance agent or an employer of agents as on the 31st day of December, 1957, and on the 31st day of December of every subsequent year.

(5) Every loan or advance existing as at the 31st day of December, 1957, which is contrary to the provisions of subsection (3), or is in excess of the limits specified therein shall, notwithstanding any contract to the contrary, be repaid within one year of the date of commencement of the Insurance (Amendment) Ordinance, 1958, or within such further period as may be allowed by the Controller of Insurance.

(6) Where any event occurs giving rise to circumstances, the existence of which at the time of the grant of any subsisting loan or advance would have made such grant a contravention this section, such loan or advance shall, notwithstanding any contract to the contrary, be repaid within three months from the occurrence of such event, or within such further period as may be allowed by the Controller of Insurance.

30. If by reason of a contravention of any of the provisions of section 27 or section 29, any loss is sustained by the insurer or by the policy-holders, every director, manager, officer or partner 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.-(1) None of the assets in Pakistan of any insurer shall, except in the case of deposits made with the State Bank of Pakistan under section 7 or section 98 or in so far as assets are required to be deposited for safe custody with a scheduled bank under sub-section (4) of section 27, be kept otherwise than S[in the name of a public officer approved by the Central Government, or in the corporate name of the undertaking, if a company, or in the name of the partners, if a firm, or in the name of the proprietor, if an individual.

(2) No insurer incorporated or domiciled in Pakistan shall hold any of his assets kept in an Acceding State or a non-Acceding State otherwise than in the name of an authority approved by the Government of the State, or in the corporate name of the undertaking, if a company, or in the name of the partners, if a firm, or in the name of the proprietor, if an individual, except in the case of deposits made under any law of the State relating to insurance or in so far as assets are required by the law of the State to be vested in trustees.

32. No insurer shall appoint a managing agent for the conduct of his business.

## **INVESTIGATION**

33.-(1) The Controller may, at any time, investigate the affairs of an insurer and, wherever necessary, employ an auditor or actuary or both for assisting him in any such investigation.

(2) It shall be the duty of every manager, managing director or other officer of the insurer to produce before the Controller, auditor or actuary all such books of account, registers and other documents in his custody or power and to furnish him with any such statement or information relating to the affairs of the insurer within such time as the Controller, auditor or actuary may require.

(3) When an investigation is made under this section, the Controller may, after giving an opportunity to the insurer to make a representation in writing or be heard in person, by order in writing,-----

(a) require the insurer to take such action in respect of any matter arising out of the investigation as he may think fit to secure compliance with the provisions of this Act, or

(b) cancel the registration of the insurer under clause (f ) of sub-section (4) of section 3, or

(c) apply to the Court for the winding up of the insurer, if a company, whether the registration of the insurer has been cancelled under clause (b) or not.

(4) No order made under this section other than an order made under clause (b) of sub-section (3) shall be called in question in any Court.

(5) All expenses of, and incidental to, any investigation made under this section shall be defrayed by the insurer, and shall have priority as debts due from the insurer and be recoverable as an arrear of land revenue.

34. All the books and records of every insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2 in respect of all insurance business transacted by him and in the case of any other insurer in respect of the insurance business transacted by him in Pakistan shall at all reasonable times be open to inspection by the Controller of Insurance or any other person appointed by him in this behalf.

## **AMALGAMATION AND TRANSFER OF INSURANCE BUSINESS**

**35.-(1) No life** insurance business of an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2 shall be transferred to any person or transferred to or amalgamated with the life insurance business of any other insurer except in accordance with a scheme prepared under this section and sanctioned by the Court having jurisdiction over one or other of the parties concerned.

(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 Court to sanction any such scheme, notice 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 therefor shall, at least two months before the application is made, be sent to the Central Government, and certified copies, four in number, of each of the following documents shall be furnished to the Central Government, 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 ;

(b) 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 ;

(c) actuarial reports and abstracts in respect of the life insurance business of each of the insurers so concerned, prepared in conformity with the requirements of Part II of the Fourth and Fifth Schedules and in accordance with the regulations contained in Part I of the Schedule concerned ;

(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 all be prepared as at the date at which the amalgamation or transfer if sanctioned by the Court is to take effect, which date shall not be more than twelve months before the date on which the application to the Court is made under this section;

Provided that if the Central Government 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 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 Court is made under this section.

36. When any application such as is referred to in sub section (3) of section 35 is made to the Court, the Court shall cause, if for special reasons it so directs, notice of the application to be sent to every person resident in 3[Pakistan, in an Acceding State or in a non-Acceding State who is the holder of a life policy of any insurer concerned and shall cause a 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 such policy holders as apply to be heard and any other persons whom considers entitled to be heard, may sanction the arrangement if it is satisfied that no sufficient objection to the arrangement has been established and shall make such consequential order as are necessary to give effect to the arrangement, including orders as to the disposal of any deposit made under section 7 section 98;

Provided that-----

(a) no part of the deposit made by any party to the amalgamation or transfer shall be returned except where, after effect is given to the arrangement, the whole of the deposit to be made by the insurer carrying on the amalgamated business or the person to whom the business is transferred is completed,

(b) only so much shall be returned as is no longer required to complete the deposit last mentioned in clause (a), and

(c) while the deposit last mentioned in clause (a) remains uncompleted, no accession, resulting from the arrangement, to the amount already deposited by the insurer carrying on the amalgamated business or the person to whom the business is transferred shall be appropriated as payment or part payment of any instalment of deposit subsequently due from him under section 7 or section 98.

37. Where an amalgamation takes place between any two or more insurers, or where any business of an insurer is transferred whether in accordance with a scheme confirmed by the Court or otherwise, the insurer carrying on the amalgamated business or 3[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, furnish in duplicate to the Central Government;----

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

(b) 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

(c) where the amalgamation or transfer has not been made in accordance with a scheme sanctioned by the Court 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.

## **ASSIGNMENT OR TRANSFER OF POLICIES AND NOMINATIONS**

38.-(1) A transfer or assignment of a policy of life insurance, 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 authorized agent and attested by at least one witness, specifically setting forth the fact of transfer or assignment.

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

Provided that **where the insurer maintains one or more** places of business in Pakistan, such notice shall be delivered only at the place in Pakistan mentioned in the policy for the purpose or at his principal place of business in Pakistan.

(3) The date on which the notice referred to in sub-section (2) 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 (2) are delivered.

(4) Upon the receipt of the notice referred to in sub-section (2), 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 a fee not exceeding one rupee, grant a written acknowledgment of the receipt of such notice, and any such acknowledgment shall be conclusive evidence against the insurer that he has duly received the notice to which such acknowledgment relates.

(5) 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 (2), recognise the transferee or assignee named in the notice as the only person 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 without obtaining the consent of the transferor or assignor or making him a party to such proceedings.

39.-(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 policy-holder to appoint in the prescribed manner any person 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 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 the insurer.

(3) The insurer shall furnish to the policy-holder a written acknowledgment of having registered a nomination or a cancellation or change thereof, and may charge a fee not exceeding one rupee 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 re-assignment 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.

(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 policy-holder 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 2[person whose life is insured] the amount secured by the policy shall be payable to such survivor or survivors.

(7) 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, applies 3[or has at any time applied :

Provided that where a nomination made whether before or after the commencement of the Insurance (Amendment) Act, VI 1946, in favour of the wife of the person who has

insured his life 19, 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.

(6) 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 this Act shall not be affected by the provisions of this section.

(7) Notwithstanding any law or custom having the force of law to the contrary, an assignment in favour of a person made with the condition that it shall be inoperative or that the **interest shall pass to some other person on the happening of a specified** event during the lifetime of the person whose life is insured, and an assignment in favour of the survivor or survivors of a number of persons, shall be valid.

## **COMMISSION AND REBATES AND LICENSING OF AGENTS**

40.-(1) No person shall, after the expiry of six months from the commencement of this Act, pay or contract to pay any remuneration or reward whether by way of commission or otherwise for soliciting or procuring insurance business in Pakistan to any person except an insurance agent or an employer of agents.

(1A) In this section and sections 40A, 41 and 43, references to an insurance agent shall be construed as including references to an individual soliciting or procuring insurance business exclusively in an Acceding State or a non-Acceding State notified in this behalf by the Central Government in the official Gazette and holding a valid licence as an insurance agent under the law of that State.

(1B) No person shall pay and no insurance agent shall receive any renewal commission in respect of a life insurance business after the expiry of licence during the validity of which such business was procured by the insurance agent unless such licence has been renewed under sub-section (3) of section 42.

*Explanation.*-For the purposes of this sub-section all the life insurance business to the credit of an insurance agent as at the date of the expiry of his licence, shall be deemed to have been procured by the insurance agent while holding the licence valid on the said date.

(2) No insurance agent shall be paid or contract to be paid by way of commission or as remuneration in any form an amount exceeding, in the case of life insurance business, forty per cent. of the first year's premium payable on any policy or policies effected

through him and five per cent. of a renewal premium payable on such a policy, or, in the case of business of any other class, fifteen per cent. of the premium;

Provided that insurers, in respect of life insurance business only, may pay, during the first ten years of their business, to their insurance agents fifty-five per cent. of the first year's premium payable on any policy or policies effected through them and six per cent. of the renewal premiums payable on such policies :

Provided further that nothing in this sub-section shall apply to any policy of life insurance issued after the 31st day of March, 1958, or to any policy of general insurance issued after the commencement of the Insurance (Amendment) Ordinance, 1958.

(2A) Save as hereinafter provided, no insurance agent shall be paid or contract to be paid by way of commission or as **remuneration in any form any amount in respect of any policy** not effected through him;

Provided that where a policy of life insurance has lapsed, and it cannot, under the terms and conditions applicable to it be revived without further medical examination of the person whose life was insured thereby, an insurer, after giving by notice in writing to the insurance agent through whom the policy was effected if such agent continues to be an agent of the insurer an opportunity to effect the revival of the policy within a time specified in the notice, being not less than one month from the date of the receipt by him of the notice, may pay to another insurance agent who effects the revival of the policy an amount calculated at a rate not exceeding the rate of commission at which the agent through whom the policy was effected would have been paid had the policy not lapsed, on the sum payable on revival of the policy on account of arrear premiums (excluding any interest on such arrear premiums) and also on the subsequent renewal premiums payable on the policy.

(3) Nothing in this section shall prevent the payment under any contract existing prior to the 27th day of January, 1937, of gratuities or renewal commission to any person, whether an insurance agent within the meaning of this Act or not, or to his representatives after his decease in respect of insurance business effected through him before the said date.

41.-(1) 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 in respect of any kind of risk relating to lives or property in Pakistan, 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 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;

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.

(2) Any person making default in complying with the provisions of this section shall be punishable with fine which may extend to five hundred rupees.

42.-(1) The Controller of Insurance or an officer authorized by him in this behalf shall, in the prescribed manner and on payment of the prescribed fee which shall not be more than ten rupees, issue to any individual making an application in the prescribed manner and not suffering from any of the disqualifications hereinafter mentioned a licence to act as an insurance agent for the purpose of soliciting or procuring life insurance business or general insurance business, as the case may be.

(1A) A separate application shall be made and a separate licence obtained for life insurance business and general insurance business.

(1B) For the purposes of sections 40 and 40A of this Act no insurance agent who is licensed to act as an insurance agent for life insurance business shall be deemed to be an insurance agent for general insurance business and no insurance agent who is licensed to act as an insurance agent for general insurance business shall be deemed to be an insurance agent for life insurance business;

Provided that nothing contained in this sub-section shall apply to the licences which are in force on the date of commencement of the Insurance (Amendment) Act, 1958, until after the date of expiry of such licences.

(2) A licence issued under this section shall entitle the holder to act as an insurance agent for any insurer.

(3) A licence issued under this section shall remain in force for a period of one year only from the date of issue, but shall be renewed for a period of three years at any one time if,-----

(i) an application in the prescribed form for renewal of the licence reaches the issuing authority at least one month before the date on which the licence ceases to remain in force ;

(ii) the applicant has paid the prescribed renewal fee which shall not be more than thirty rupees ;

(iii) the applicant does not suffer from any of the disqualifications mentioned in clauses (b), (c) and (d) of sub-section (4) ; and

(iv) except in such circumstances as may be prescribed, the applicant in the case of the second or subsequent renewals has earned during the previous three years an average amount of at least two hundred rupees per year as first year commission on life insurance

business, if the licence to be renewed is a licence for life insurance business, or has procured during the previous three years' general insurance business yielding at an average a premium income of not less than one thousand rupees per year, if the licence to be renewed is a licence for general insurance business.

*Explanation.*-The second renewal referred to in this clause shall be deemed to be the one following the first renewal for three years granted after the commencement of the Insurance (Amendment) Act, 1958.

(3A) Notwithstanding the provisions of clause (i) of the preceding sub-section, an application for renewal of the licence which does not reach the issuing authority at least one **month before the date an which the licence ceases to remain in force** shall be entertained if the applicant has paid an additional fee of a prescribed amount not exceeding five rupees by way of penalty but no application for the renewal of a licence under this section shall be entertained if it reaches the issuing authority after the licence ceases to remain in force;

Provided that the Controller may, if satisfied that undue hardship would be caused otherwise, entertain an application received after the licence ceases to remain in force on payment by the applicant of a penalty of a prescribed amount not exceeding thirty rupees.

(4) 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 ;

(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 Controller of Insurance 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 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, dishonesty or misrepresentation against an insurer or an insured.

(5) If it be found that an insurance agent suffers from any of the foregoing disqualifications, without prejudice to any other penalty to which he may be liable, the Controller of Insurance shall, and if the agent has knowingly contravened any provision of this Act [or any rule or order made thereunder may, cancel the licence or licences issued to the agent under this section.



(5A) In the event of cancellation of a licence or licences under sub-section (5) the Controller of Insurance may refuse to grant a fresh licence or licences to the insurance agent for such period as he deems fit.

(6) The authority which issued any licence under this section may issue a duplicate licence to replace a licence lost, destroyed or mutilated on payment of the prescribed fee which shall not be more than one rupee.

(7) No insurance agent whose licence for general insurance business has not been renewed under sub-section (3) shall be granted a fresh licence for such business until after one year from the date of expiry of his last licence.

43.-(1) Every insurer and every person who acting on behalf of an insurer employs insurance agents shall maintain a register 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) Any individual not holding a licence issued under section 42 who acts as an insurance agent shall be punishable with fine which may extend to fifty rupees, and any insurer who, or any person acting on behalf of an insurer who, appoints as an insurance agent any individual not so licensed, or transacts any insurance business in Pakistan through any such individual, shall be punishable with fine which may extend to one hundred rupees.

(3) The provisions of sub-section (2) shall not take effect until the expiry of six months from the commencement of this Act.

44.-(1) Notwithstanding anything to the contrary contained in any contract between any person and any insurance agent providing for the forfeiture or stoppage of payment of renewal commission to such insurance agent, no such person shall, in respect of life insurance business transacted in Pakistan, refuse payment to an insurance agent of commission due to him on renewal premium under the agreement by reason only of the termination of his agreement, except for fraud;

Provided that-----

(a) such agent ceases to act for the insurer concerned after the Controller of Insurance is satisfied and has conveyed the fact to the insurer and the agent that the circumstances in which the said insurer is placed are such as to justify the agent's ceasing to act for him; or

(b) such agent has served the insurer continually and exclusively in respect of life insurance business for at least five years and has earned a minimum renewal commission of three hundred rupees during the twelve months preceding the date of his ceasing to act as such agent for the insurer and that in such case the commission on renewal premium payable to him shall not exceed four per cent. in any case ; or

(c) such agent has served the insurer continually and exclusively in respect of life insurance business for at least ten years.

(2) Any commission payable to an insurance agent whether under the provisions of sub-section (1) or otherwise shall, notwithstanding the death of the agent and notwithstanding the provisions in this Act regarding the holding of an insurance agent's licence continue to be payable to his heirs for so long as such commission would have been payable had such insurance agent been alive or in one or more lump sums commuted under subsection (4);

Provided that no commission on renewal premiums shall be paid under this sub-section if the total amount of commission on renewal premiums earned by the insurance agent during the twelve months preceding the date of his death was less than three hundred rupees.

(3) For the purposes of sub-section (2) an insurance agent may nominate the person or persons to whom the commission due to him shall be paid in the event of his death;

Provided that any such nomination to be effectual shall be communicated to the insurer and registered by him in writing and any such nomination may at any time before the death of the insurance agent, be cancelled or changed by him, but unless a notice in writing of any such cancellation or change has been delivered to the insurer, the insurer shall not be liable for any payment of the commission made bona fide by him to a nominee registered with the insurer;

Provided further that the insurer shall furnish to the insurance agent a written acknowledgment of having registered a nomination or cancellation or change thereof :

Provided also that where the nominee is a minor, it shall be lawful for the insurance agent to appoint any person to receive the commission in the event of his death during the minority of the nominee.

(4) If the commission payable to any heir or nominee of a deceased insurance agent under the provisions of sub-section (2) is less than three hundred rupees ;a year, the insurer shall and in any other case the insurer may, with the consent of the heir or the nominee of the deceased insurance agent, commute such renewal commission and pay the amount or amounts mutually agreed **to in lump sum or** sums.

(5) An insurer may recover out of the commission payable under sub-section (2) any sums owing to the insurer by the insurance **agent at the date of his death.**

## **SPECIAL PROVISIONS OF LAW**

45. No policy of life insurance effected before the commencement of this Act shall after the expiry of two years from the date of commencement of this Act and no policy of life insurance effected after the coming into force of this Act shall, after the expiry of two

years from the date on which it was effected, be called in question by an insurer on the ground that a statement made in the proposal for insurance or in any report of a medical officer, or referee, or friend of the insured, or in any other document leading to the issue of the policy, was inaccurate or false, unless the insurer shows that such statement was 'on a material matter or suppressed facts which it was material to disclose and that it was fraudulently made by the policy-holder and that the policy-holder knew at the time of making it that the statement was false or that it suppressed facts which it was material to disclose.

Provided that 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. The holder of a policy of insurance issued by an insurer in respect of insurance business transacted in Pakistan 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 Pakistan of any sum secured thereby and to sue for any relief in respect of the policy in any Court of competent jurisdiction in Pakistan ; and if the suit is brought in Pakistan any question of law arising in connection with any such policy shall be determined according to the law in force in Pakistan;

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

47.-(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, the insurer may before the expiry of nine months from the date of the maturing of the policy or, where the circumstances are such that the insurer cannot be immediately aware of such maturing, from the date on which notice of such maturing is given to the insurer, apply 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 discharge 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 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 subsection (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 costs 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.

48.-(1) Where the insurer is a company incorporated under the Companies Act, 1913, or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby, and carries on the business of life insurance, not less than one-fourth of the whole number of the directors of the company shall notwithstanding any thing to the contrary in the Articles of Association of the company be elected in the prescribed manner by the holders of policies of life insurance issued by the company.

(2) Only and all persons holding otherwise than as assignees policies of life insurance issued by the company of such minimum amount and having been in force for such minimum period as may be prescribed shall unless disqualified under sub-section (2A) be eligible for election as directors under subsection (1), and only and all persons holding policies of life insurance issued by the company and having been in force at the time of the election for not less than six months shall be eligible to vote at such elections;

Provided that the assignment of a policy to the person who **took out the policy shall not disqualify that person for being eligible for election as a director under sub-section (1).**

(2A) A person shall be ineligible for election as a director under sub-section (1) of any company if he is a director, officer, employee, or legal or technical adviser of that company, or of any other insurer, and shall cease to be a director under sub-section (1) if after election he acquires any disqualification specified in this sub-section or no longer holds the qualifications required by sub-section (2);

Provided that nothing in this sub-section shall disqualify a person who is an elected director under sub-section (1) and is not otherwise disqualified under this sub-section, from being re-elected;

(3) The Central Government may, for such period, or to such extent and subject to such conditions as may be specified by it in this behalf, exempt from the operation of this section-

(a) any Mutual Insurance Company as defined in clause (a) of sub-section (1) of section 95, in respect of which the Controller of Insurance certifies that in his opinion owing to the conditions governing membership of the company or to the nature of the insurance contracts undertaken by it the application of the provisions of this sub-section to the company is impracticable, or

(6) any company in respect of which the Controller of Insurance certifies that in his opinion the company, having taken all reasonable steps to achieve compliance with the provisions of this section, has been unable to obtain the required number of directors with the required qualifications.

(4) This section shall not take effect, in respect of any company in existence at the commencement of this Act, until the expiry of one year therefrom, and in respect of any company incorporated after the commencement of this Act, until the expiry of two years from the date of registration to carry on life insurance business.

49.-(1) No insurer, being an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2, who carries on the business of life insurance or any other class or subclass 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 balance-sheet in Form I as set forth in the Fourth Schedule submitted to the Controller of Insurance 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 through the 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 Controller of Insurance under section 15 of this Act or to the Central Government under section 11 of the Indian Life Assurance Companies Act, 1912;

**Provided** that payments made out of any such surplus in service of any debentures shall not exceed fifty per cent. 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 off-set against the interest credited to the fund or funds concerned in deciding the interest basis adopted in the valuation disclosing the aforesaid surplus.

(2) No insurer other than an insurer specified in subclause (a) (ii) or sub-clause (b) of clause (9) of section 2 who carries on the business of life insurance in Pakistan shall for the purpose of declaring or paying any bonus to policy-holders in Pakistan utilize directly or indirectly any portion of the life insurance fund except a surplus shown in the valuation balance sheet in Form I as set forth in the Fourth Schedule submitted to the Controller of Insurance 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 in Pakistan ; nor shall he increase such surplus by contributions out of any reserve fund or otherwise unless such contributions have been brought in as revenue through the revenue account applicable to life 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 Controller of Insurance under section 15 of this Act or to the Central Government under section 11 of the Indian Life Assurance Companies Act, 1912.

50. An insurer shall, 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 him of the options available to him unless these are set forth in the policy.

51. 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 questions put to him and his answers thereto contained in his proposal for insurance and in the medical report supplied in connection therewith.

52.-(1) No insurer shall after the commencement of this Act begin, or after three years from that date continue to carry on, 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 results of a distribution of certain sums amongst policies becoming claims within certain time-limits, or on the principle that the premiums payable

by a policy-holder 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;

Provided further that an insurer who continues to carry on, insurance business on the dividing principle after the commencement of this Act shall withhold from distribution a sum of not less than forty per cent. of the premiums received during each year after the commencement of this Act, in which such business is continued so as to make up the amount required for investment under section 27.

53.-(1) The Court may order the winding up in accordance with the Companies Act, 1913, of any insurance company and the provisions of that Act shall, subject to the provisions of this Act apply accordingly.

(2) In addition to the grounds on which such an order may be based, the Court may order the winding up of an insurance company----

(a) if with the sanction of the Court 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 Controller of Insurance, who is hereby authorized to do so, applies in this behalf to the Court on any of the following grounds, namely :----

(i) that the company has failed to deposit or to keep deposited with the State Bank of Pakistan the amounts required by section 7 or section 98,

(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 or contravention has been conveyed to the company by the Controller of Insurance,

(iii) that it appears from the returns furnished under the provisions of this Act or from the results of any investigation made thereunder that the company is insolvent, or

## **MANAGEMENT BY ADMINISTRATOR**

54. Notwithstanding anything contained in the Companies Act, 1913, an insurance company shall not be wound up voluntarily except for the purpose of effecting 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.-(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 Sixth Schedule and to any directions which may be given by the Court.

(2) For the purposes of any reduction by the Court 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 Court thinks proper having regard to the rule aforesaid.

(3) The rule in the Sixth Schedule shall be of the same force and may be repealed, altered or amended as if it were a rule made in pursuance of section 246 of the Companies Act, 1913, 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.-(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 Court 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 Court 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.-(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 being wound up by or under the supervision of the Court, the Court 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 Court 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 Court, 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 Court shall have regard to the constitution of the companies and to the arrangements entered into between the companies in the same manner as the Court has regard to the rights and liabilities of different classes of contributories in the case of the 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 Court 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 Court 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 Court 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.-(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 in 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 Court 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 under this section may apply with the necessary modifications any of the provisions of the Companies Act, 1913, relating to the winding up of companies.

(4) An order of the Court confirming a scheme under this section whereby the memorandum of a company is altered with respect to its object shall as respects the alteration have effect as if it were an order confirmed under section 12 of the Companies Act, 1913, and the provisions of sections 15 and 16 of that Act shall apply accordingly.

(5) When making an order confirming a scheme under this section, the Court may make such orders as it considers necessary for the disposal of so much of the deposit made by the company under section 7 or section 98 as does not relate to the classes of insurance business, if any, which the company continues to carry on.

59. In the winding up of an insurance company (otherwise than in a case to which section

58 applies) and in the insolvency of any other insurer the liquidator or assignee as the case may be shall apply **to the Court for an order for the** return of the deposit made by the company or the insurer, as the case may be, under section 7 or section 98 and the

Court shall on such application order a return of the deposit subject to such terms and conditions as it shall direct.

60. 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 Court 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 Court.

61.-(1) Where an insurance company is in liquidation or any other insurer is insolvent the Court 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 Court thinks just.

(2) Where a company carrying on the business of life insurance has been proved to be insolvent, the Court 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 Court 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 Controller of Insurance and the Controller of Insurance and any person whom the Court thinks likely to be affected shall be entitled to be heard on any such application.

## **SPECIAL PROVISIONS RELATING TO EXTERNAL COMPANIES**

62. Where, by the law or practice of any country outside Pakistan in which an insurer carrying on insurance business in Pakistan is constituted, incorporated or domiciled, insurance companies incorporated in Pakistan are required as a condition of carrying on insurance business in that country to comply with any special requirements whether as to the keeping of deposits of 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 Pakistan.

63. Every insurer, having his principal place of business or domicile outside Pakistan, who establishes a place of business within Pakistan, or appoints a representative in Pakistan with the object of obtaining insurance business, shall within three months from the establishment of such place of business or the appointment of such representative, file with the Controller of Insurance-----

(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 one or more persons resident in Pakistan authorized 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 Pakistan,

(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 Pakistan 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 Controller of Insurance particulars of such alteration.

64. Every insurer having his principal place of business or domicile outside Pakistan shall manage its affairs in Pakistan at his principal office in Pakistan and shall keep thereat all the records relating to the business of the insurer in Pakistan including such books of account, registers and documents as will enable him to furnish the accounts, statements and abstracts which he is required under this Act to furnish to the Controller of Insurance in respect of the insurance business transacted by him in Pakistan.

## **PROVIDENT SOCIETIES**

65.-(1) In this Part "provident society" means, a person who, or a body of persons (whether corporate or unincorporate) which, not being an insurer registered for the time being under Part II of this Act, carries on the business of insuring the payment, on the happening of any of the contingencies mentioned in sub-section (2), of-----

(a) an annuity of or equivalent to one hundred rupees or less, payable for an uncertain period, or

(b) a gross sum of nine hundred rupees or less, whether paid or payable in a lump sum or in two or more instalments over a certain period, exclusively in both cases (a) and (b) of any profit or bonus not being a guaranteed profit or bonus.

*Explanation.*-For the purposes of this sub-section a period is "certain" if its duration is ascertainable in advance and "uncertain" if its **duration is not so ascertainable.**

(2) The contingencies referred to in sub-section (1) are the following, namely :----

(a) the birth, marriage or death of any person or the survival by a person of a stated or implied age or contingency ;

(b) failure of issue ;

(c) the occurrence of a social, religious or other ceremonial occasion ;

(d) loss of or retirement from employment ;

(e) disablement in consequence of sickness or accident ;

(f) the necessity of providing for the education of a dependent;

(g) any other contingency which may be prescribed or which may be authorized by the Provincial Government with the approval of the Central Government.

(3) For the purposes of sub-sections (1) and (2)-

(a) contracts entered into before the commencement of this Act shall not be taken into account ;

(b) two or more policies issued to one person shall, for the purposes of determining whether the limits fixed by sub-section (1) have or have not been exceeded, be deemed to be one policy if the contingencies on the happening of which the sums are payable under the policies (whether the contingencies be the same or different) relate to one person only, whether he be the policy-holder or some other person.

(4) Every person or body of persons for the time being registered as a provident society under the Provident Insurance of Societies Act, 1912, and every person or body of persons for the time being registered as a provident society under this Act, shall be deemed to be a provident society for all the purposes of this Act.

(5) If any question arises whether any person or body of persons is or is not a provident society within the meaning of this section, the Controller of Insurance shall decide the question and his decision shall be final.

66. No provident society shall undertake any form of insurance not falling within the limits fixed by sub-section (1) of section 65, nor shall any provident society be eligible to be registered under section 3.

67. No provident society established after the commencement of this Act, shall adopt as its name, and no provident society established before the commencement of this Act shall continue after the expiry of six months from the commencement thereof to use as its name, any combination of words which fails to include the word " provident " or which includes the word " life ".

68. No provident society shall receive any premium or contribution for insuring money to be paid to any person other than the person paying such premium or contribution or the wife, husband, child, grand-child, parent, brother or sister, nephew or niece of such a person.

69.-(1) No provident society shall carry on 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 results 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.

(2) The Controller of Insurance shall, as soon as possible, take steps to have any provident society which carries on business on the dividing principle wound up;

Provided that, where any such provident society in existence at the commencement of this Act applies within three months of such commencement to the Controller of Insurance for permission to continue carrying on its business with a view meanwhile to reorganize its business in accordance with the provisions of this Act, the Controller of Insurance may at his discretion, with due regard to the past history of the society, permit the society to continue business for a period not exceeding two years from the date of receipt of such permission, so however that no new business on the dividing principle is undertaken by the society.

(3) Where after the commencement of the Insurance (Amendment) Act, 1941, a provident society is to be wound up in pursuance of this section, or where, whether before or after the commencement of that Act, a provident society ceases to carry on business on the dividing principle, the provisions of subsection (2) and sub-section (3) of section 52 shall, so far as may be, apply in like manner as they apply to an insurer ceasing to carry on business on the dividing principle.

70.-(1) No provident society except a provident society R registered under the provisions of the Provident Insurance Societies Act, 1912, shall receive any premium or contribution until it has obtained from the Controller of Insurance a certificate of registration.

(2) Every application for registration shall be accompanied by-----

(a) a certified copy of the rules of the society, and when the society is a company incorporated under the Companies Act, 1913, or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby, a certified copy of the Memorandum and Articles of Association or where the society is not such a company a certified copy of the deed of constitution of the society ;

(b) the names and addresses of the proprietors or directors, and the managers of the society the full address of the registered office of the society, the full address of the principal office of the society in Pakistan, the name of the manager at such office, and the

name and address of some one or more persons resident in Pakistan authorized to accept any notice required to be served on the society ;

(c) a certificate from the State Bank of Pakistan that the initial deposit referred to in section 73 has been made;

(d) a declaration verified by an affidavit made by the principal officer of the society authorized in that behalf that the minimum working capital required by section 72, is available ; and

(e) the receipt showing payment in the prescribed manner of the prescribed fee for registration being not more than two hundred rupees.

(3) The Controller of Insurance may refuse to issue a certificate of registration until he is satisfied that the rules of the society comply with the provisions of this Act and that the society complies with the provisions of sections 67, 71, 72, 73 and 73A, but if he is so satisfied he shall register the society and its rules.

(4) The Controller of Insurance may, after giving previous notice in writing in such manner as he thinks fit specifying the grounds for the proposed cancellation, and allowing the society concerned an opportunity of being heard, apply to the Court and obtain sanction for cancellation of the registration made under this section or made under the provisions of the Provident Insurance Societies Act, 1912,-----

(a) if he is satisfied from the returns furnished under the provisions of this Act or as the result of an inquiry made under section 87-----

(i) that the society is insolvent or is likely to become so, or

(ii) that the business of the society is conducted fraudulently or not in accordance with the rules thereof, or that it is in the interests of the policyholders that the society should cease to carry on business,

(b) if the initial deposit or any of the further deposits required by section 73 has not been made, or

(c) if the society, having failed to comply with any requirement or having contravened any provision of this Act, has continued such failure or contravention, for a period of one month after notice of such failure or contravention has been conveyed to the society by the Controller of Insurance;

Provided that the Controller of Insurance may, if he thinks fit, instead of applying for cancellation of the registration under sub-clause (i) of clause (a) of this sub-section make a recommendation to the Court that the contracts of the society should be reduced in such manner and subject to such conditions as he may indicate;

Provided further that the Controller of Insurance may, without previous notice and without application to the Court for sanction,-

(a) cancel the registration of a provident society, which has failed to have its registration renewed, or

(b) cancel, on such terms and conditions as he thinks fit, the registration of any provident society which applies to him for such cancellation if he is satisfied that the society has ceased to carry on insurance business and that all its liabilities in respect of insurance policies are either satisfied or otherwise provided for;, or

(c) cancel the registration of a provident society if he has reason to believe that any claim upon the society arising in Pakistan under any policy of insurance remains unpaid for three months after final judgment in regular course of law.

(5) When a registration is cancelled the provident society 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 it before such cancellation takes effect shall, subject to the provisions of section 88, continue as if the cancellation had not taken place.

(6) Where a registration is cancelled under clause (b) of sub-section (4) or clause (c) of the **second proviso to that** sub-section, or because the society has failed to have its registration renewed, the Controller of Insurance may at his discretion revive the registration if the provident society, within six months from the date on which the cancellation took effect, makes the deposits required by section 73, or satisfies the Controller of Insurance that no claim upon it such as is referred to in the said clause (c) remains unpaid or has had an application under subsection (3) of section 70A accepted, as the case may be, and complies with any directions which may be given to it by the Controller of Insurance.

(7) The Controller of Insurance may, on payment of the prescribed fee which shall not exceed five rupees, issue a duplicate certificate of registration to replace a certificate lost, destroyed or mutilated, or in any other case where he is of opinion that the issue of a duplicate certificate is necessary.

71. The provisions of sections 20, 32, 46 and 53A shall apply to provident societies as they apply to insurers, and in such application references to shareholders of an insurer shall be construed as references to members of a provident society;

Provided that a provident society may charge a fee not exceeding one rupee for supplying a copy of any document referred to in sub-section (2) of section 20.

72. No provident society shall be registered unless it has a paid-up capital sufficient to provide as working capital a net sum of not less than five thousand rupees exclusive of



deposits made under this Act and exclusive in the case of a company of any expenses incurred in connection with the formation of the company.

73.-(1) Every provident society shall, if established before the commencement of this Act within one year from such commencement, or, if established after the commencement of this Act before the society applies for registration under section 70, deposit and keep deposited with the State Bank of Pakistan in one of the offices in Pakistan of the Bank, for and on behalf of the Central Government, cash or approved securities amounting at the market value of the securities on the date of deposit to five thousand rupees, and shall thereafter make in each calendar year a further deposit amounting to not less than one-fifth of the premium income for the preceding calendar year as shown in the revenue account of the society (including admission fees and other fees received by the society) until the total amount so deposited and kept is fifty thousand rupees.

(2) The provisions of sub-sections (8), (9), 6[(9A), (9B)] and (10) of section 7 and of sub-section (1) of section 8 and of section 9 shall apply to the deposits made under this section as they apply to deposits made by an insurer.

74.-(1) Every provident society shall in its rules set forth----

- (a) the name, the object and the location of the registered office of the society ;
- (b) the contingencies or classes of contingency on the happening of which money is to be paid ;
- (c) the conditions to be complied with before, and the payments to be made on, admission to the society ;
- (d) the rates of premium or contribution, and the periods for which or the times at which premiums or contributions are payable ;
- (e) the maximum amount payable to a subscriber or policy-holder ;
- (f) the nature and amounts of the benefits provided for by the society ;
- (g) the circumstances in which a bonus may be paid to a policy-holder ;
- (h) the nature of the evidence required for the proof of the happening of any contingency on which money is to be paid ;
- (i) the circumstances in which policies may be forfeited or renewed or the whole or a part of the premiums paid on a policy may be returned, or a surrender value of a policy may be granted ;
- (j) the penalties for delay in paying or failure to pay premiums or contributions ;

(k) the proportion of the annual income of the society which may be disbursed on and the provisions to be made for meeting the expenses of the management of the society ;

(l) the person or persons who or the authority which shall have power to invest the funds of the society ;

(m) the provisions for appointment of auditors and their remuneration;

(n) the procedure to be adopted in altering the rules of the society;

(o) unless these are provided for in the articles of association of a society which is a company incorporated under the Companies Act, 1913, or under the

(i) the mode of appointment and removal, the qualification and the powers of a director, manager, secretary or other officer of the society ;

(ii) the manner of raising additional capital ; and

(iii) the provisions for the holding of general meetings of the members and policy-holders and for the powers to be exercised and the procedure to be followed thereat ; and

(p) such other matters as may be prescribed.

(2) Where the rules of any provident society registered under the Provident Insurance Societies Act, 1912, fail to comply with the provisions of this section the society shall, before the expiry of twelve months from the commencement of this Act,

75.-(1) No amendment of any rule of a provident society shall be valid until it has been sent to the Controller of Insurance and has been registered by him.

(2) The Controller of Insurance on being satisfied that the proposed amendment is not contrary to the provisions of this Act shall, unless he is of opinion that the amendment unfairly affects the rights of existing members or policy-holders of the

76. Every provident society shall on demand deliver free of cost to any member of the society a copy of the rules of the society and to any person other than a member a copy of such rules on the payment of a sum not exceeding one rupee.

77. Every provident society shall have in Pakistan a principal office (on the outside of which it shall keep displayed its name in a conspicuous position in legible characters) to which all communications and notices may be addressed, and shall give notice to the Controller of Insurance of any change in the location thereof within twenty-eight days of its occurrence.

78. Where any notice, advertisement or other official publication of a provident society contains a statement of the amount of the authorized capital of the society, the publication, shall also contain a statement of the amount of the capital which has been subscribed and the amount paid up.

### **PART III PROVIDENT SOCIETIES**

79. Every provident society shall keep at its principal office in Pakistan---

- (a) such registers in such form as may be prescribed;
- (b) a cash book in which shall be entered separately for each class of contingency separately specified in section 65 all sums received and expended by the society and the matters in respect of which the receipt or expenditure takes place ;
- (c) a ledger ;
- (d) a journal.

80.-(1) Every provident society shall at the expiry of the calendar year prepare a revenue account and balance-sheet in the prescribed form verified in the prescribed manner, together with a report on the general state of the society's **affairs and shall cause the revenue account and balance-sheet to be audited** by an auditor, and the auditor shall so far as may be in the audit of a provident society have the powers of, exercise the functions vested in, and discharge the duties and be subject to the liabilities imposed on, an auditor of companies by section 145 of the Companies Act, 1913.

(2) Every provident society shall at the expiry of the calendar year prepare with respect to that year-

(a) a statement showing separately for each class of contingency separately specified in section 65-

(i) the number of new policies effected, the total amount insured thereby and the total premium income received in respect thereof and the number of existing policies discontinued during the year with the total amount insured thereby, and

(ii) the total amount of claims made and the total amount paid in satisfaction thereof ;

(b) a statement showing details of every insurance effected on, a life other than the life of the person insuring ; and

(c) a statement showing the total amount paid as allowances to agents and canvassers.

(3) Until the expiry of two years from the commencement of this Act this section and section 73 shall apply to provident societies registered before the commencement of this

Act under the Provident Insurance Societies Act, 1912, as if the reference to the calendar year were a reference to either the financial year or the calendar year.

81.-(1) Every provident society shall once in every five years or at such shorter intervals as may be laid down by the rules of the society cause an investigation to be made as at the last day of a calendar year into its financial condition including the valuation of its liabilities and assets by an actuary.

(2) The report of the actuary shall contain an abstract in which shall be stated----

(a) the general principles adopted in the valuation, including the method by which the valuation age of lives was ascertained,

(b) the rate at each age of the mortality and any other factor assumed and the annuity values used in valuation,

(c) the reserve values held against policies effected,

(d) the rate of interest assumed, and

(e) the provision made for expenses,

and shall have appended to it a certificate signed by a principal officer of the society that all material necessary for proper valuation has been placed at the disposal of the actuary and 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) If the actuary finds that the financial condition of the society is such that no surplus exists for distribution as bonus to the policy-holders or as dividend to the shareholders, he shall state in his report whether in his opinion the society is insolvent and, if so, whether it should be wound up or not, and the extent to which in his opinion existing contracts should be modified or existing rates of premium should be adjusted to make good the deficiency in the assets.

82.-(1) The revenue account and balance-sheet with the S auditor's report thereon and the report on the general state of the society's affairs referred to in sub-section (1) of section 80, shall be printed and four copies of these and of the statements referred to, in sub-section (2) of section 80, shall be furnished as returns to the Controller of Insurance within six months from the end of the period to which they relate.

(2) All the material necessary for the proper valuation of the liabilities of the society under the provisions of section 81 shall be placed at the disposal of the actuary within three months from the end of the period to which such material relates, and the report and abstract referred to in section 81 shall be furnished as a return to the Controller of Insurance within a further period of three months.

(3) The provisions of sub-section (2) of section 15 relating to the copies therein referred to shall apply to the returns referred to in sub-section (1) of this section, and the provisions of section 17 shall apply to the accounts and balance-sheet of a provident society being a company incorporated under the Companies Act, 1913, or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby, as they apply to the accounts and balance sheet of an insurer and the Controller of Insurance may exercise, in respect of returns made by a provident society and in respect of an investigation or valuation to which section 81 refers, the same powers as are exercisable by him under section 21 and section 22, respectively, in the case of an insurer.

83.-(1) Every provident society, registered after the commencement of this Act, shall cause every scheme of insurance which it proposes to put into operation, and every provident society registered before the commencement of this Act under the provisions of the Provident Insurance Societies Act, 1912, shall cause any scheme which it proposes to put into operation for the first time after such commencement to be examined by an actuary, and shall not receive any premium or contribution in connection with the scheme until the actuary has certified that the rates, advantages, terms and conditions of the scheme are workable and sound, and such certificate has been forwarded to the Controller of Insurance.

(2) The provisions of sub-section (1) shall apply to any alteration of a scheme already in operation but the Controller of Insurance may, if he is of opinion that the alteration unfairly affects the interests of existing policy-holders, prohibit the alteration, and, if he does so, the society shall not put the altered scheme into operation, unless it first discharges to the satisfaction of the Controller of Insurance all its liabilities to those of the existing policy-holders who dissent from the alteration.

(3) Every provident society registered before the commencement of this Act under the provisions of the Provident Insurance Societies Act, 1912, shall, as soon as may be and in any event before the expiry of six months from the commencement of this Act, submit all schemes of insurance which the society has in operation at the commencement of this Act to examination by an actuary and shall, before the expiration of six months from the commencement of the Insurance (Amendment) Act, 1941, send the report of the actuary, thereon to the Controller of Insurance.

(4) The report of the actuary shall state in respect of each scheme whether 3[the rates, advantages, terms and conditions are workable and sound], and, where no actuarial report such as is referred to in section 81 has been made within the two years preceding the examination, the report shall also state whether the assets of the society are sufficient to meet its liabilities under the existing schemes, and if not, how in the opinion of the actuary the existing contracts should be modified.

(5) If the rates, advantages, terms and conditions of any scheme are not reported by the actuary to be workable and sound, the Controller of Insurance shall give notice to the society prohibiting the scheme, and the society shall not after its receipt of such notice enter into any new contract of insurance under the scheme, but all rights and liabilities in respect of contracts of insurance entered into by the society before receipt of the notice shall, subject to the provisions of sub-section (6), continue as if the notice had not been given.

(6) Where a scheme is prohibited under the provisions of sub-section (5) the society shall, where its assets are sufficient to meet all existing liabilities, set apart out of its assets the sum sufficient in the opinion of the actuary to meet the liabilities incurred under the scheme so prohibited, and, where its assets are not so sufficient, within three months from the date of the prohibition, apply to the Court for a modification of its existing contracts or failing such modification for the winding up of the society.

84. Where a provident society effects policies of insurance in connection with more than one of the classes of contingency separately specified in sub-section (2) of section 65, the receipts and payments in respect of each such class shall be recorded in a separate account in the cash book kept in accordance with section 79.

85.-(1) Every provident society shall, unless it already holds invested in approved securities or securities mentioned or referred to in clauses (c) and (d) of section 20 of the Trusts Act, 1882, not less than fifty per cent. of the total assets of the society, take place and in any case within six months of its taking place, until the total amount so invested amounts to not less than fifty per cent. of the total assets of the society, and shall thereafter keep invested in such securities not less than fifty per cent. of the total assets of the society;

Provided that for the purpose of determining the amount to be invested under this sub-section, any deposit made in cash under section 73 shall be taken into account as if such cash were Government securities amounting at the market value of the securities on the date the deposit was made to the total deposited in cash.

(2) No funds or investments of a provident society except a deposit made under section 73 or under the law of any State or country relating to insurance shall be kept otherwise than in the name of the society or in the name of a public officer approved by the Central Government.

(3) No loan shall be made out of the assets of a provident society to any director, manager, managing agent, auditor, actuary, officer or partner of the society except on the security of a policy of insurance held in the society and within its surrender value and no such loan shall be made to any concern of which a director, manager, managing agent, actuary, officer or partner of the society is a director, manager, managing agent, actuary, **officer or partner;**

Provided that nothing in this sub-section shall apply to loans made by a provident society to a banking company;

Provided further that where any event occurs giving rise to circumstances, the existence of which at the time of the grant of any subsisting loan would have made such grant a contravention of this sub-section, such loan shall, notwithstanding any contract to the contrary, be repaid within three months from the occurrence of such event or from the commencement of the Insurance (Amendment) Act, 1946, whichever is later; and in case of default, the director, manager, auditor, actuary or partner concerned shall, without prejudice to any other penalty which he may incur, cease to hold office in the society on the expiry of the said three months.

(3A) Any loan prohibited under sub-section (3), made before and outstanding at the commencement of the Insurance (Amendment) Act, 1940, shall be repaid before the 1st day of January, 1941, and in case of default the director, manager, managing agent, auditor, actuary, officer or partner who has received the loan or is connected with the concern which has received the loan, as the case may be, shall cease to hold office in or be a partner of the society and shall be ineligible to hold office in or be a partner of the society until the loan is repaid.

(4) Any director, manager, managing agent, auditor, actuary, officer or partner of a society which contravenes the provisions of sub-section (3) who is knowingly a party to the contravention, shall without prejudice to any other penalty which he may incur be jointly and severally liable to the society for the amount of the loan, and such amount, together with interest from the date of the loan at such rate not exceeding twelve per cent. per annum as the Controller of Insurance may fix, shall on application by the Controller of Insurance to any Civil Court of competent jurisdiction be recoverable by execution as if a decree for such amount had been passed by that Court.

(5) The provisions of section 86D of the Companies Act, 1913, shall not apply to a loan granted to a director of a provident society being a company if the loan is once granted on the security of a policy on which the society 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.

86. The books of every provident society shall at all reasonable times be open to inspection by the Controller of Insurance or any person appointed by him in this behalf or by any member or policy-holder of the society who has, on application in this behalf, been permitted by the Controller of Insurance, subject to such conditions, if any, as he may impose, to make such inspection.

87.-(1) The Controller of Insurance shall at least once in two years and may, if he thinks fit, at any time visit personally or depute a suitable person to visit the principal *office* of a provident Society or the principal *office in* Pakistan of a society having its principal place of business or domicile outside Pakistan and inquire into the affairs of the society, or may, after giving notice to the society and giving it an opportunity to be heard, direct such an inquiry to be made by an auditor or actuary appointed by him or by both an

auditor and an actuary appointed simultaneously, or first by an auditor only or an actuary only and afterwards by an actuary or auditor.

(2) For the purposes of any such inquiry the Controller or the auditor or actuary, as the case may be, shall be entitled to examine all books and documents of the society and may demand from the society or any *officer of the society* such explanations as he may require on any matter relating to the affairs of the society.

(3) The results of any such inquiry shall be recorded in writing by the person making the inquiry, and four copies of the record shall be supplied to the Controller of Insurance ; and

when the inquiry is completed, a copy of the record, or of each such record where more than one are made in the course of the same inquiry, shall be sent by the Controller of Insurance to the society concerned and shall be open to inspection by any member or policy-holder of the society.

(4) All expenses of and incidental to any inquiry made by an auditor or actuary under sub-section (1) including any expenses incurred before the date on which the Controller of Insurance receives notice of an appeal under clause (e) of sub-section (1) of section 110 shall be defrayed by the provident society, shall have priority over other debts due from the society, and shall be recoverable as an arrear of land-revenue.

(5) The Controller of Insurance may by notice in writing require the provident society to comply within a time to be specified therein (not being less than fifteen days from the receipt of the notice by the society) with any directions he may issue to remedy defects disclosed by an inquiry under this section.

(6) If the society fails to comply with any directions issued under sub-section (5), the Controller of Insurance may, after giving notice to the society and giving it an opportunity to be heard, apply to the Court for the winding up of the society.

88.-(1) The Court may order the winding up of a provident society being a company incorporated under the Companies Act, 1913, or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby, and the provisions of the Companies Act, 1913, shall, subject to the provisions of this Part, apply accordingly.

(2) In addition to the grounds on which such an order may be based, the Court may order the winding up of a provident society if the Controller of Insurance, who is hereby authorized to do so, applies in this behalf to the Court on any of the following grounds, namely :-----

(a) that the registration of the society has been cancelled under sub-section (4) of section 70 ;



(b) that it appears from the returns furnished under the provisions of this Act or as the result of an inquiry made under section 87 that the society is insolvent ;

(c) that the continuance of the society is prejudicial to the interests of the policy-holders.

(3) A provident society being a company incorporated under the Companies Act, 1913, or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby, may be wound up voluntarily in accordance with the provisions of the Companies Act, 1913, but shall not be so wound up except for the purpose of effecting an amalgamation or reconstruction of the society or on the ground that by reason of its liabilities it cannot continue its business.

(4) A provident society not being a company incorporated under the Companies Act, 1913, or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby, may be wound up voluntarily under this Act if a resolution is passed by the proprietors that the society should be wound up voluntarily for the purpose or on the ground specified in sub-section (3), and the Controller of Insurance may, in any case where he has ordered the cancellation of the registration of a society under sub-section (4) of section 70, order the winding up of the society under this Act.

89. The Court may make an order reducing the amount of the insurance contracts of a provident society upon such terms and subject to such conditions as the Court thinks just-----

(a) if the Controller of Insurance as an alternative to cancelling the registration of a society under subsection (4) of section 70 applies to the Court in this behalf ;

(b) if while a society is in liquidation the Court thinks fit;

(c) if when a society has been proved to be insolvent, the Court thinks fit to do so in place of making an order for the winding up of the society ; or

(d) if the Court is satisfied on an application made in this behalf by the society supported by the report of an actuary, and after giving the policy-holders an opportunity to be heard that it is desirable to do so.

90.-(1) Where a provident society is to be wound up whether under the Companies Act, 1913, or under this Act, the society shall, within seven days from the date of the order of the Court ordering the winding up or the passing of the resolution authorizing- the winding up, as the case may be, give notice thereof to the Controller of Insurance and, except where the winding up is done by an order of the Court, the Controller of Insurance shall appoint the liquidator and shall determine the remuneration to be paid to him;

Provided that if the Controller of Insurance is not satisfied that the assets of the society are sufficient to meet the costs of liquidation including the remuneration of the liquidator, he may decline to make such appointment, and in such a case the society shall itself

appoint a liquidator who shall carry out the liquidation as if the winding up was being done by an order of the Court.

(2) Any liquidator appointed by the Controller of Insurance under sub-section (1)] maybe removed by the Controller of Insurance if satisfied that the duties entrusted to him are not being properly discharged.

91.-(1) A liquidator appointed to wind up a society shall have power-

(a) to institute or defend any legal proceedings on behalf of the society by his name of office ;

(b) to determine the contribution to be made by members of the society respectively to the assets of the society;

(c) to investigate all claims against the society and to decide questions of priority arising between claimants ;

(d) to determine by what persons and in what proportion the costs of the liquidation including the remuneration of the liquidator and any expenses incurred under clause (g) of this sub-section are to be borne ;

(e) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society ;

(f) to summon, and enforce the attendance of, witnesses and to compel the production of documents by the same means and as far as may be in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure, 1908 ; and

(g) with the sanction of the Controller of Insurance, to employ such establishment and to obtain such assistance from an actuary or an auditor as may be necessary for the discharge of his duties.

(2) .The liquidator shall, for settling the list of contributories and realising the amount of contributions, have the same powers as an official liquidator appointed by the Court for the winding up of a company under the Companies Act, 1913.

92.-(1) As soon as a liquidator is appointed to wind up a society he shall take charge of all property movable or immovable of the society and of all its books and documents.

(2) If any proprietor or officer of the society or any other person retains any portion of the assets of the society or fails to **deliver to the liquidator any book or document when so required** by the liquidator he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both, and the Court may order the delivery of the assets or book or document to the liquidator.

(3) The liquidator shall within fifteen days of his appointment send notice by post to all persons who appear to him to be creditors of the society that a meeting of the creditors of the society will be held on a date not being less than twenty-one nor more than twenty-eight days after his appointment, and at a place and hour to be specified in the notice, and shall also advertise notice of the meeting once in the local *official Gazette* and once at least in two newspapers circulating in the Province in which the society is situated.

(4) At the meeting so held the creditors shall determine whether an application shall be made for the appointment of any person as liquidator in the place of or jointly with the liquidator already appointed, or for the appointment of a committee of inspection, and, if they so resolve and an application accordingly is made at any time not later than fourteen days after the date of the meeting by any creditor appointed for the purpose at the meeting, the Controller of Insurance shall appoint a suitable person in place of or jointly with the liquidator already appointed, and determine the remuneration to be paid to him, and if so desired, shall also appoint a committee of inspection.

(5) The committee of inspection shall, subject to any prescribed conditions, have a general power of supervision over the acts of the liquidator and shall have the right to inspect his accounts at all reasonable times.

(6) The liquidator shall, with such assistance from an actuary as may be required, ascertain as soon as practicable the amount of the society's liability to every person appearing by the society's books to be entitled to or interested in any policy issued by the society, and shall give notice of the amount so found to each such person in the prescribed manner and each such person on receiving such notice shall be bound by the value so ascertained.

(7) The liquidator shall make a valuation of the assets of the society and an estimate of the costs of the winding up, and **shall** on the basis of these, settle the **list of contributories**.

(8) The liquidator shall apply to the Controller of Insurance for an order for the return of the deposit made by the society under section 73 and the Controller of Insurance shall on such application order the return of the deposit subject to such terms and conditions as he may think fit.

(9) In administering and distributing the assets of the society the liquidator shall have regard to any directions that may be given by the creditors or contributories at a general meeting or by the Controller of Insurance.

(10) The liquidator shall keep books of account in which he shall record the proceedings at all meetings attended by him, all amounts received or expended by him and any other matter that may be prescribed, and these books may, with the sanction of the Controller of Insurance, be inspected by any creditor or contributory.

(11) If the winding up continues for more than a year, the liquidator shall summon a meeting of the creditors and contributories at the end of the first year and of each succeeding year, and shall lay before them an account of his acts and dealings and of the conduct of the winding up, and that account together with any views expressed thereon by the meeting shall be forwarded by the liquidator to the Controller of Insurance.

(12) So far as is not otherwise provided herein or is not otherwise prescribed under this Act, the liquidator shall so far as practicable follow the procedure to be followed by an official liquidator appointed by the Court for the winding up of a company under the Companies Act, 1913.

(13) The costs of the liquidation including the remuneration of the liquidator and any expenses incurred under clause (g) of sub-section (1) of section 91 shall, if the liquidator decides that they shall be payable out of the assets of the society, be payable in priority to all other claims.

93.-(1) As soon as the affairs of a provident society are fully wound up, the liquidator shall prepare an account of the winding up showing how the winding up has been conducted and the property of the society has been disposed of and shall call a meeting of the members, creditors and contributories for the purpose of laying before it the account and giving any **explanation thereof**.

(2) Notice of the meeting shall be sent to each person individually and shall be advertised in the local official Gazette and in at least two newspapers circulating in the Province in which the society is situated.

(3) Within one week after the meeting the liquidator shall send to the Controller of Insurance a copy of the account and shall report to him the holding of the meeting and its date and shall forward to him a copy of the proceedings of the meeting.

(4) The Controller of Insurance may return the account to the liquidator if it is incomplete or unsatisfactory and may require the liquidator to carry out any further steps necessary to complete the winding up and the liquidator shall comply with such requirement and shall submit a further report to the Controller of Insurance within six months.

(5) If the Controller of Insurance is satisfied that the affairs of the society have been fully wound up he shall register the account of the liquidator who shall forthwith make over to the Controller of Insurance sums, if any, remaining undisposed of, and on the expiry of three months from the registering of the account the Controller of Insurance shall declare the society dissolved and cause the dissolution of the society to be notified in the local official Gazette, and the liquidator shall thereupon be discharged from further responsibility.

(6) If within a period of five years from the date on which any sums have been made over to the [Controller of Insurance] under sub-section (5) an order of a Court of competent

jurisdiction has not been obtained at the instance of any claimant to such sums for their disposal the said sums shall become the property of Government.

94.-(1) The provisions of section 38 and section 39 relating to assignment, transfer and nomination in the case of life insurance policies shall, subject to the provisions of this section, apply to policies of insurance issued by any provident society covering any of the contingencies specified in clause (a) of subsection (2) of section 65.

(2) No nomination shall be valid if the person nominated is not the husband, wife, father, mother, child, grand-child brother, sister, nephew or niece of the holder of the policy.

## **PART IV**

### **MUTUAL INSURANCE COMPANIES AND CO-OPERATIVE LIFE INSURANCE SOCIETIES.**

95.-(1) In this Part-----

(a) " Mutual Insurance Company " means an insurer, being a company incorporated under the Companies Act, 1913, or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby, which has no share capital and of which by its constitution only and all policy-holders are members ; and

(b) " Co-operative Life Insurance Society " means an insurer being a society registered under the Cooperative Societies Act, 1912, or under an Act of a Provincial Legislature governing the registration of co-operative societies which carries on the business of life insurance and which has no share capital on which dividend or bonus is payable and of which by its constitution only original members on whose application, the society is registered and all policyholders are members;

Provided that any Co-operative Life Insurance Society in existence at the commencement of this Act shall be allowed a period of one year to comply with the provisions of this Act.

(2) Notwithstanding anything contained in sub-section (1), other co-operative societies may be admitted as members of a Co-operative Life Insurance Society, without being eligible to any dividend, profit or bonus.

(3) A Provincial Government may, subject to any rules made by the Central Government, empower the Registrar of Co-operative Societies of the Province to register co-operative societies for the insurance of cattle or crops or both under the provisions of the Co-operative Societies Act in force in the Province.

(4) A Provincial Government may make rules not inconsistent with any rules made by the Central Government to govern such societies, and the provisions of this Act, in so far as they are inconsistent with those rules, shall not apply to such societies.

96. The provisions of sections 6 and 7 and of sub-section (2) of section 20, so far as those provisions are inconsistent with the provisions of this Part, shall not apply, and the provisions of this Part shall apply to Mutual Insurance Companies and Cooperative Life Insurance Societies.

97. No Mutual Insurance Company incorporated after the 26th day of January, 1937, and no Co-operative Life Insurance Society registered after that date under the Co-operative Societies Act, 1912, or under an Act of a Provincial Legislature governing the registration of co-operative societies shall be registered under this Act, unless it has as working capital a sum of fifty thousand rupees, exclusive of the deposit to be made before or at the time of application for registration in accordance with sub-section (2) of section 98 of this Act and of the preliminary expenses, if any, incurred in the formation of the company or society.

98.-(1) Every Mutual Insurance Company and every Co-operative Life Insurance Society shall, in respect of the life insurance business carried on by it in Pakistan, deposit and keep deposited with one of the offices in Pakistan of the State Bank of Pakistan, for and on behalf of the Central Government, a sum of two hundred thousand rupees in cash or in approved securities estimated at the market value of the securities on the day of deposit.

(2) The deposit referred to in sub-section (1) may be made in instalments, of which the first shall be a payment, made before or at the time the application for registration under this Act is made, of not less than twenty-five thousand rupees or such sum as with any deposit previously made by the insurer under the provisions of the Indian Life Assurance Companies Act, 1912, brings the amount deposited, up to not less than twenty-five thousand rupees and the subsequent instalments shall be annual instalments made before the expiry of each subsequent calendar year of an amount in cash or in approved securities estimated at the market value of the securities on the day of payment of the instalment, equal to not less than one-third of the premium income in the preceding calendar year as shown in the revenue account.

(3) The provisions of sub-section (7) of section 7 shall apply in respect of a Mutual Insurance Company and a Cooperative Life Insurance Society as if for the words "under the foregoing provisions of this section " the words and figures "under the provisions of section 98 " were substituted.

99. No transferee or assignee of a policy issued by an insurer to whom this Part applies shall become a member of a Mutual Insurance Company or a Co-operative Life Insurance Society merely by reason of any such transfer or assignment.

### **THE INSURANCE ACT, 1938**

#### **ACT NO. IV OF 1938**

[26th February, 1938]

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

## **PART IV**

### **MUTUAL INSURANCE COMPANIES AND CO-OPERATIVE LIFE INSURANCE SOCIETIES.**

100. Notwithstanding the provisions of section 79 and section 131 of the Companies Act, 1913, a Mutual Insurance Company or a Co-operative Life Insurance Society may, instead of sending the notices and the copies of the balance-sheet, revenue account and other documents which they are required to send to the members under those sections, publish such notices or documents once in a newspaper published in the English language and in a newspaper published in the local language circulating in the place where the principal office of the company is situated;

Provided that, where any members of the company are domiciled in a Province other than that in which the principal office of the company is situated, publication of the notice of the meetings shall be made in a newspaper or newspapers published in the principal languages of that Province and circulating therein and any member of the company domiciled in that Province shall be entitled on application to the company to receive from it a copy of the balance-sheet and revenue account.

100. Notwithstanding the provisions of section 79 and section 131 of the Companies Act, 1913, a Mutual Insurance Company or a Co-operative Life Insurance Society may, instead of sending the notices and the copies of the balance-sheet, revenue account and other documents which they are required to send to the members under those sections, publish such notices or documents once in a newspaper published in the English language and in a newspaper published in the local language circulating in the place where the principal office of the company is situated;

Provided that, where any members of the company are domiciled in a Province other than that in which the principal office of the company is situated, publication of the notice of the meetings shall be made in a newspaper or newspapers published in the principal languages of that Province and circulating therein and any member of the company domiciled in that Province shall be entitled on application to the company to receive from it a copy of the balance-sheet and revenue account.

101. Every Mutual Insurance Company and every Cooperative Life Insurance Society shall, on the application of any member made within two years from the date on which any of such document is furnished to the Registrar of Companies under the provisions of section 134 of the Companies Act, 1913, or to the Registrar of Co-operative Societies of the Province in which the Co-operative Life Insurance Society is registered, furnish a copy of the document free of cost to the member within fourteen days of the application.

## **PART V**

### **MISCELLANEOUS**

102.-(1) Except as otherwise provided in this Act, any insurer who makes default in complying with or acts in contravention of any requirement of this Act, and, where the insurer is a company, any director, managing agent, manager or other officer of the company, or where the insurer is a firm, any partner of the firm who is knowingly a party to the default, shall be punishable with fine which may extend to one thousand rupees and, in the case of a continuing default, with an additional fine which may extend to five hundred rupees for every day during which the default continues.

(2) Any provident society as defined in Part III which makes default in complying with or acts in contravention of any of the requirements of this Act and any director, managing agent, manager, secretary or other officer of the society who is knowingly a party to the default or contravention, shall be punishable with fine which may extend to five hundred rupees or in the case of a continuing default or contravention with fine which may extend to two hundred and fifty rupees for every day during which the default or contravention continues.

103.-(1) Any insurer or any person acting on behalf of an insurer, who carries on any class of insurance business in contravention of any of the provisions of section 3, section 7, or section 98, or does any one or more of the acts constituting the business of insurance in relation to any insurance business carried on in contravention of any of the said sections shall be punishable with fine which may extend to two thousand rupees.

(2) Any person knowingly taking out a policy of insurance with any insurer or person guilty of an offence under sub-section (1) shall be punishable with fine which may extend to five hundred rupees;

Provided that nothing in sub-section (1) or sub-section (2)] shall apply to the business of re-insurance between the head office of an insurer in Pakistan and the head office of an insurer not having an office in Pakistan.

(3) Any provident society or any person acting on behalf of a provident society who carries on any class of insurance business in contravention of any of the provisions of section 70, section 73 or section 83 or does any one or more of the acts constituting the business of insurance in relation to any insurance business carried on in contravention of any of the said sections shall be punishable with fine which may extend to one thousand rupees.

104. Whoever, in any return, report, certificate, balance-sheet or other document, required by or for the purposes of any fm of the provisions of this Act, wilfully makes a statement false in any material particular, knowing it to be false, shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to one thousand rupees, or with both.



105.-(1)] Any director, managing agent, `manager or other officer or employee of an insurer who wrongfully obtains w possession of any property of the insurer or having any such p property in his possession wrongfully withholds it or wilfully applies it to purposes other than those expressed or authorized by this Act shall on the complaint of the Controller of Insurance made after giving the insurer not less than fifteen days' notice of his intention, or, on the complaint of the insurer or any member or any policy-holder thereof, be punishable with fine which may extend to one thousand rupees and may be ordered by the Court trying the offence to deliver up or refund within a time to be fixed by the Court any such property improperly obtained or wrongfully withheld or wilfully misapplied and in default to suffer imprisonment for a period not exceeding two years.

(2) This section shall apply in respect of a provident society as defined in Part III as it applies in respect of an insurer.

106.-(1) If, on the application of the Controller or an Administrator appointed under section 52A 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 or not, is in wrongful possession of any money or property of the insurer or having any such money or property in his 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 him 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 him 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 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 subsection (1) or sub-section (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 (i) 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 utilized 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 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 act was committed without his consent or connivance and was not facilitated by any neglect or omission on his part.

(4) Where at any stage of the proceedings against any person under this section (hereinafter referred to as the delinquent), the Court is satisfied by affidavit or otherwise--  
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(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 him or is deemed to belong to him 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 by 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 his 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 powers 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 subsection (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 Companies Act, 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) 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 (hereinafter referred to as the High Court) and any proceedings under

this section pending immediately before the commencement of the Insurance of (Amendment) Ordinance, 1960, 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.

107.-(1) Except where proceedings are instituted by the Controller of Insurance, no proceedings under this Act against an insurer or any director, manager or other officer of an insurer or any person who is liable under sub-section (2) of section 41 shall be instituted by any person unless he has previous thereto obtained the sanction of the Advocate General of the Province where the principal place of business in Pakistan of such insurer is situate to the institution of such proceedings.

(2) This section shall apply in respect of a provident society as defined in Part III as it applies in respect of an insurer.

108. If in 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 relieve him either wholly or partly from his liability on such terms as it may think fit.

109. No Court inferior to that of a Magistrate of the first class shall try any offence under this Act.

110.-(1) An appeal shall lie to the Court having jurisdiction from any of the following orders, namely :-

(a) an order under section 3 refusing to register, or cancelling the registration of, an insurer ;

(b) an order under section 5 directing the insurer to change his name ;

(c) an order under section 42 or 42A cancelling the licence or the certificate issued to an insurance agent or an employer of agents as the case may be, or an order under section 44A refusing to grant a certificate to or cancelling the certificate of an insurance surveyor ;

(d) an order under section 75 refusing to register an amendment of rules ;

(e) an order under section 87 or section 87A;

(f) an order made in the course of the winding up or insolvency of an insurer or a provident society.

(2) The Court having jurisdiction for the purposes of sub-section (1) shall be the principal Court of civil jurisdiction within whose local limits the principal place of business of the insurer concerned is situate.

(3) An appeal shall lie from any order made under subsection (1) to the authority authorized to hear appeals from the decisions of the Court making the same and the decision on such appeal shall be final.

(4) No appeal under this section shall be entertained unless it is made before the expiration of four months from the date on which the order appealed against was communicated to the appellant.

111.-(1) Any process or notice required to be served on an insurer or provident society shall be sufficiently served if addressed to any person registered with the Controller of Insurance as a person authorized to accept notices on behalf of the insurer or provident society and left at, or sent by registered post to, the address of such person as registered with the Controller of Insurance.

(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 or to a provident society notice in writing of his interest, any notice which is by this Act required to be sent to policyholders shall also be sent to such person at the address specified by him in his notice.

112. 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 policyholders whose policies mature for payment by reason of death or otherwise during the inter-valuation period on the recommendation of the investigating actuary made at the last preceding valuation.

113.-(1) A policy of life insurance under which the whole of the benefits become payable either on the occurrence, or at a fixed interval or fixed intervals after the occurrence, of a contingency **which is bound to happen, shall, if all premiums have been** paid for at least three consecutive years in the case of a policy issued by an insurer, or five years in the case of a policy issued by a provident society as defined in Part III, acquire a guaranteed surrender value, to which shall be added the surrender value of any subsisting bonus already attached to the policy, and every such policy issued by an insurer shall

show the guaranteed surrender value of the policy at the close of each year after the second year of its currency or at the close of each period of three years throughout the currency of the policy;

Provided that the requirements of this sub-section as to the addition of the surrender value of the bonus attaching to a policy at surrender shall be deemed to have been complied with where the method of calculation of the guaranteed surrender value of the policy makes provision for the surrender value of the bonus attaching to the policy;

Provided further that the requirements of this sub-section as to the showing of the guaranteed surrender value on a policy shall be deemed to have been complied with where the insurer shows on the policy the guaranteed surrender value of the policy by means of a formula accepted in this behalf by the Controller of Insurance as satisfying the said requirements;

Provided further that the provisions of this sub-section as to the showing of the guaranteed surrender value on a policy shall not take effect until after the expiry of six months from such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

(2) Notwithstanding any contract to the contrary, a policy which has acquired a surrender value shall not lapse by reason of the non-payment of further premiums but shall be kept alive to the extent of the paid-up sum insured, and the paid-up sum insured shall for the purposes of this sub-section include in full all subsisting reversionary bonuses that have already attached to the policy, and shall, where the policy is one on which the maximum number of annual premiums payable is fixed and the premiums are of uniform amount, be before the inclusion of such bonuses not less than the amount bearing to the total sum insured by the policy exclusive of bonuses the same proportion as the total period for which premiums have already been paid bears to the maximum period for which premiums were originally payable.

(3) A policy kept alive to the extent of the paid-up sum insured under sub-section (2) shall not be entitled by virtue of that sub-section to participate in any profits declared distributable after the conversion of the policy into a paid-up policy.

(4) Sub-section (2) and sub-section (3) shall not apply,.

(a) where the paid-up sum insured by a policy, being a policy issued by an insurer, is less than one hundred rupees inclusive of any attached bonus, or takes the form of an annuity of less than twenty-five rupees, or where the paid-up sum insured by a policy, being a policy issued by a provident society as defined in Part III, is less than fifty rupees inclusive of any attached bonus or takes the form of an annuity of less than twenty-five rupees, or

(b) where the parties after the default has occurred in the payment of the premium agree in writing to some other arrangement, or

(c) to policies in which the surrender value is automatically applied under the terms of the contract to maintaining the policy in force after its lapse through non-payment of premium.

114.-(1) The Central Government may, subject to the condition of previous publication by notification in the official Gazette, make rules 7 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-

(a) the qualifications to be possessed by actuaries ;

(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 in Pakistan;

(c) the procedure to be followed by the State Bank of Pakistan in dealing with deposits made in pursuance of this Act, including the receipt of, custody of, withdrawal of, and payment of interest on securities lodged as such deposits, and their inspection and verification by the Controller of Insurance;

(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;

(f) the matters to be prescribed for the purposes of section 48;

(g) the manner in which licences to act as insurance agents may be applied for, issued or cancelled ;

(h) the contingencies other than those specified in clauses (a) to (f) of 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 ;

(j) the form of any account, return or register required by 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) the conditions and the matters which may be Prescribed under sub-sections (5), (6), (10) and (12) of section 92 ;

(m) any other matter which is to be or may be Prescribed.

(3) Every rule made under this section shall be laid as soon as may be after it is made before the Central Legislature, while it is in session, for a total period of one month which may be comprised in one session or in two or more sessions, and if before the expiry of that period, 6[the Legislature makes any modification in the rule or decides that the rule should not be made, the rule shall, thereafter have effect only in such modified form or be of no effect, as the case may be.

**(4) All rules made by a Local Government under the provisions of section 24 of the Provident Insurance Societies Act, v 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.**

115. The Central Government may, on the application or with the consent of an insurer, not being a company, alter the forms contained in the Schedules as respects 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.

115. The Central Government may, on the application or with the consent of an insurer, not being a company, alter the forms contained in the Schedules as respects 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.-(1) The Central Government may, by notification in the *official Gazette*, exempt any insurer constituted, incorporated or domiciled in an to[Acceding State or a non-Acceding State from any of the provisions of this Act which may be specified in the notification either absolutely or subject to such conditions or modifications as may be specified in the notification;

Provided that no such notification shall be issued unless the Central Government is satisfied that insurer constituted, incorporated or domiciled in Pakistan are under the law or practice in such State entitled therein to benefits corresponding to those conferred by the notification or to benefits which in the opinion of the Central Government are at least equivalent thereto.

(2) This section shall apply in respect of provident societies as defined in Part III as it applies in respect of insurers.



117. Nothing in this Act shall affect the liability of an insurer being a company or a provident society as defined in Part III being a company to comply with the provisions of the Companies Act, 1913, in matters not otherwise specifically provided for by this Act.

118. Nothing in this Act shall apply to any Trade Union registered under the Trade Unions Act, 1926, or to any insurance business carried on by the Central or by a Provincial Government, or to any provident fund to which the provisions of the Provident Funds Act, 1925, apply, or, if the Controller of Insurance so orders in any case, and to such extent or subject to such conditions or modifications as he specifies in such order, to-

(a) 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 dependents, or

(b) 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.

119. Any person may on payment of a fee of five rupees inspect the documents filed by an insurer with the Controller of Insurance 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. The market value on the day of deposit of securities deposited in pursuance of any of the provisions of this Act with the State Bank of Pakistan shall be determined by the State Bank of Pakistan whose decision shall be final.

121-123. [Amendment of section 130, Act, IV of 1882. Amendment of Schedule I, Act IX of 1908. Repeals.] Omitted by the Repealing and Amending Ordinance, 1965 (10 of 1965), s. 3 and 2nd Sch.

## **PART II PROVISIONS APPLICABLE TO INSURERS**

2A. 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 Pakistan in respect of business of that class remain unsatisfied or not otherwise provided for.

2B. The provisions of this Act shall not apply to an insurer as defined in paragraph (i) or (iii) of sub-clause (a) of clause (9) of section 2 in relation to any class of his insurance business where such insurer has ceased, before the commencement of this Act, to enter into any new contracts of that class of business.

2C.-(1) No person other than-----

(a) a public company, or

(b) a society registered under the Co-operative Societies Act, 1912 or under any other law for the time being in force in Pakistan relating to co-operative societies, or

(c) a body corporate incorporated under the law of any country outside Pakistan not being of the nature of a private company or a subsidiary of a private company, shall start any insurance business in Pakistan and a person, other than a person specified in clause (a), (b) or (c), who, immediately before the commencement of the Insurance (Amendment) Ordinance, 1958, was carrying on such business in Pakistan shall, after the expiry of one year from such commencement, discontinue such business.

(2) No Mutual Insurance Company which was not registered, before the commencement of the Insurance (**Amendment**) **Ordinance, 1958, for any class of insurance business**, shall be registered for any class of general insurance business and no Mutual Insurance Company which was registered, before such commencement, for any class of insurance business, shall, be registered for any additional class of insurance business unless such company satisfies such conditions as may be prescribed.

*Explanation.*-In this section, 'Mutual Insurance Company' has the meaning assigned to it in Part IV of this Act and includes any company constituted or incorporated outside Pakistan which is of the nature of a Mutual Insurance Company.

3A.-(1) An insurer who has been granted a certificate of registration under section 3 shall have the registration renewed annually for each year .

(2) An application for the renewal of a registration for any year shall be made by the insurer to the Controller of Insurance before the 31st day of December of the preceding year, and shall be accompanied as provided in sub-section (3) by evidence of payment of the prescribed fee which shall not exceed one thousand rupees for each class of insurance business, but may vary according to the volume of business done by the insurer in Pakistan in each class of insurance business to which the registration relates.

(3) The prescribed fee for the renewal of a registration for any year shall be paid into the State Bank of Pakistan], or, where there is no office of that Bank, into the National Bank of Pakistan acting as the agent of that Bank, or into any Government treasury, and the receipt shall be sent along with the application for renewal of the registration.

(4) If an insurer fails to apply for renewal of registration before the date specified in sub-section (2) the Controller of Insurance may, so long as an application to the Court under sub-section (5D) of section 3 has not been made, accept an application for renewal of the registration on receipt from the insurer of the fee payable with the application and such penalty, not exceeding the prescribed fee payable by him as the Controller of Insurance may require;

Provided that an appeal shall lie to the Central Government from an order passed by the Controller of Insurance imposing a penalty on the insurer.

(5) The Controller of Insurance shall, on fulfilment by the insurer of the requirements of this section, renew the registration and grant him a certificate of renewal of registration.

3B. If, when considering an application for registration **under** section 3 or at any other time, it appears to the Controller of Insurance that the rates, advantages, terms and conditions offered or to be offered in connection with, or any class, condition or warranty in, any proposal, policy or other forms of any class or sub-class of insurance business are in any respect not workable or sound or are in any respect unrealistic or un-reasonable in relation to the general experience of the business of that class or sub-class in Pakistan, or any provision in the memorandum and articles of association or the instrument constituting or defining the constitution *of* the insurer is objectionable or that the reinsurance arrangements of the insurer are not adequate, he may, by order in writing and after giving the insurer an opportunity of being heard, issue such directions to the insurer or require the insurer to make within such time as may be specified in the order such modifications, additions, or omissions in the said rates, advantages, terms, conditions, clauses, warranties, memorandum and articles of association, instrument or reinsurance arrangements as he may think necessary;

Provided that no directions under this section shall be issued without the prior approval of the Central Government to an insurer already registered under this Act.

3C.-(1) Every insurer shall declare to the Controller of Insurance the total amount of premiums including agents' balances in respect of. fire, marine and miscellaneous insurance business outstanding on the first day of February, 1958, and shall recover the same within such time as may be allowed and comply with such directions as may be given, by the Controller.

(2) Every insurance agent and every employer of agents shall, within such time as may be allowed to him by the Controller of Insurance, pay to the insurer for whom he has been acting as an insurance agent or employer of agents, all amounts due to the insurer on account of the premiums in respect of general insurance business received by him on behalf of the insurer and outstanding against him as on the first day of February, 1958.

(3) No insurer shall write off any premium in respect of general insurance business which was outstanding on the first day of February, 1958, without the prior approval of the Controller of Insurance.

(4) No insurer shall assume in Pakistan any risk in respect of general insurance business unless and until the premium payable or such part thereof as may be prescribed, has been received by him or has been guaranteed to be paid by such person in such manner and within such time as may be prescribed;

Provided that nothing contained in this sub-section shall apply to the insurance of the properties or interests of the Central or a Provincial Government, if such Government gives an undertaking to pay the premium payable within such time and in such manner as may be prescribed.

(5) Any refund of premium which may become due to the insured on account of the cancellation of a policy of general insurance or alteration in its terms and conditions shall be paid directly to the insured by a crossed or order cheque or by money order and a proper receipt shall be obtained from the insured, ' and such refund shall in no case be credited to the account of the agent.

3D.-(1) No insurer shall reinsure outside Pakistan any insurance business or any part thereof underwritten by him in Pakistan which is in excess of its treaty reinsurance arrangement unless a certificate has been obtained from the Controller to the effect that such excess cannot be placed within Pakistan;

Provided that nothing contained in this sub-section shall be deemed to prohibit reinsurance by the Pakistan Insurance Corporation.

*Explanation I.*-For the purposes of this sub-section a reinsurance arrangement shall not be deemed to be a treaty reinsurance arrangement if such arrangement operates in a casual manner and in determining whether a particular reinsurance arrangement is a treaty reinsurance arrangement or not, the decision of the Controller of Insurance shall be final.

*Explanation II.*-For the purposes of this sub-section a reinsurance arrangement in respect of life insurance business entered into by an insurer domiciled elsewhere than in Pakistan with his head *office shall* be deemed to be treaty reinsurance arrangement to the extent determined by the Controller of Insurance.

(2) Every insurer shall, when so required, furnish to the Controller of Insurance a certified statement giving the salient features of his reinsurance arrangements or any other information about his reinsurance arrangements as may be required by the Controller.

(3) No person shall insure outside Pakistan any risk or any part thereof in respect of any property or interests in Pakistan unless a certificate has been obtained from the Controller to the effect that the risk in question cannot be insured in Pakistan;

Provided that the Controller may grant an exemption to any person from the requirements of this sub-section in respect of such property or interests and for such period as he may deem fit.

12A.-(1) The books and records of every insurer, in the SP case of an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2 in respect of all insurance business transacted by him, and in the case of any other insurer in respect of the insurance business transacted by him in Pakistan, shall be audited annually by an auditor

or auditors to be appointed every year by the Controller of Insurance for making such investigation and submitting such reports as may be prescribed;

**Provided that the auditor or any of the auditors appointed** under this section for any year of account shall not be the auditor or auditors employed by the insurer for an audit under the Companies Act, 1913 or under section 12 of this Act for that year of 1913 account.

(2) An auditor appointed under this section shall have a right of access to all such books of account, registers, vouchers, correspondence and other documents of the insurer, and shall be entitled to require from the directors and officers of the insurer such information and explanation, as may be necessary for the performance of his functions and duties under this section.

(3) Every report prepared by an auditor or auditors appointed under this section shall be submitted in quadruplicate to the Controller who may take such action thereon in accordance with the provisions of this Act as he deems fit.

(4) An auditor appointed under this section shall be paid by the insurer such fees as may be prescribed and in prescribing such fees regard shall be had to the size of the insurer and the class or classes of business transacted by him.

(5) The fee payable by an insurer under sub-section (4) shall be paid to the auditor within such time as may be specified by the Controller.

17A. *This Act not to apply to preparation of accounts, etc., for periods prior to this Act coming into force. Omitted by the Insurance (Amdt.) Act, 1958 (XXVII of 1958), s. 17.*

27A.-(1) Every insurer transacting general insurance business in Pakistan shall have assets invested in Pakistan exceeding his liabilities by at least a sum of five lakhs of rupees or ten per cent. of the net premium income, whichever is the higher ;

Provided that if any insurer defined in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2 has a paid-up capital of less than five lakhs of rupees or has no paid-up capital, the assets to be invested by him in Pakistan shall exceed his liabilities by the sum of at **least one and a half lakh of rupees for every** class of general insurance business transacted or ten per cent. of his net premium income, whichever is higher.

(2) For the purpose of sub-section (1), the following shall be deemed to be the liability of the insurer, namely :-

(a) the net claims outstanding in respect of general insurance business in Pakistan ;

(b) forty per cent. of the net premium in respect of Fire, Marine and Miscellaneous insurance business written in Pakistan ;

## **INVESTMENT, LOANS AND MANAGEMENT**

32A.-(1) The Central Government may, if it is satisfied that any insurer in the case of an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2 in respect of all insurance business transacted by him and in the case of any other insurer in respect of the insurance business transacted by him in Pakistan is paying any person remuneration, whether by way of commission or otherwise, on a scale disproportionate according to the normal standards prevailing in insurance business to the resources of the insurer, call upon the insurer to comply within six months with such directions as it may think fit to issue in the matter and if compliance with the direction so issued required the modification of any of the terms of the contract entered into by the insurer with such person no compensation shall be payable to such person by the insurer by reason only of such modification or of the resignation of such person if the modified terms are not acceptable to him and no payment by way of renewal commission or otherwise shall be made to such person by the insurer in respect of any payments made after the date of such resignation except at such rates as may be approved by the Central Government in this behalf.

(2) Every insurer shall before the 30th day of June, 1958, and thereafter before the first day of March every year submit to the Controller of Insurance a statement in the prescribed form showing the remuneration paid by way of commission or otherwise to any person in cases where such remuneration exceeds the sum of six thousand rupees in the previous calendar year.

(3) Where an insurer pays any person remuneration exceeding six thousand rupees a year in pursuance of any agreement between him and such person, the Controller may, by notice in writing, require the insurer to submit a certified copy of such agreement and the insurer shall comply with any such requisition within the time specified in the notice.

32B.-(1) Notwithstanding anything to the contrary contained in the Companies Act, 1913, or in the articles of association of the insurer, if a company, or in any contract or agreement, no insurer shall, after the expiry of one year from the commencement of the Insurance (Amendment) Act, 1958, 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 on the total insurance business or on the total business of any class or sub-class of insurance business or on a part of any class or sub-class of general insurance business transacted by the insurer;

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

(i) the payment of commission to an insurance agent or employer of agents in respect of any insurance business procured by or through him ;

(ii) 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 ;

(iii) the employment as an officer of any individual who receives commission in respect of life insurance business procured by him in his capacity as an insurance agent or as an employer of agents ;

(iv) the payment of a share in the profit of general insurance business ;

(v) 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, such bonus, in the case of any employee, not exceeding in amount the equivalent of his salary for a period which, in the opinion of the Central Government, is reasonable having regard to the circumstances of the case.

(2) 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.

### ***COMMISSION AND REBATES AND LICENSING OF AGENTS***

40A.-(1) No person shall pay or contract to pay to an insurance agent, and no insurance agent shall receive or contract to receive by way of commission or remuneration in any form in respect of any policy of life insurance issued in Pakistan by an insurer after the 31st day of March, 1958, and effected through an insurance agent an amount exceeding-

(a) where the policy grants an immediate annuity or a deferred annuity in consideration of a single premium or where only one premium is payable on the policy, two per cent. of that premium ;

(b) where the policy grants a deferred annuity in consideration of more than one premium, seven and a half per cent. of the first year's premium, and two per cent. of each renewal premium, payable on the policy ; and

(c) in any other case, thirty-five per cent. of the first year's premium, ten per cent. of the second year's renewal premium and thereafter five per cent. of each renewal premium, payable on the policy;

Provided that in a case referred to in clause (c), an insurer, during the first ten years of his business, may pay to an insurance agent, and an insurance agent may receive from such an insurer, fifty per cent. of the first year's premium payable on the policy.

(2) No person shall pay or contract to pay to an insurance agent, and no insurance agent shall receive or contract to receive by way of commission or remuneration in any form, in respect of any policy of general insurance issued in Pakistan by an insurer after the commencement of the Insurance (Amendment) Ordinance, 1958, and effected through an insurance agent an amount exceeding-

(a) where the policy relates to fire or miscellaneous insurance, fifteen per cent. of the premium payable on the policy, and

(b) where the policy relates to marine insurance, ten per cent. of the premium payable on the policy;

Provided that a further amount not exceeding five per cent. of the premium payable on the policy may be paid to an insurance agent who procures a yearly business yielding a premium income of not less than thirty thousand rupees and satisfies such other conditions as may be prescribed.

(3) No person shall pay or contract to pay to any employer of agents and no employer of agents shall receive or contract to receive, by way of commission, over-riding commission or any other remuneration in any form, in respect of any policy of general insurance issued by an insurer in Pakistan after the commencement of the Insurance (Amendment) Ordinance, 1958, and effected through an employer of agents, an amount exceeding-

(a) in the case referred to in clause (a) of sub-section (2), fifteen per cent. of the premium payable on the policy, and

(b) in the case referred to in clause (b) of sub-section (2), ten per cent. of the premium payable on the policy, inclusive of any commission payable to any insurance agent in respect of the said policy;

Provided that a further amount not exceeding five per cent. of the premium payable on a policy may be paid to an employer of agents who procures a yearly business yielding a premium income of not less than thirty thousand rupees and satisfies such other conditions as may be prescribed;

Provided further that the Central Government may in such circumstances and to such extent and for such period as may be specified, authorize the payment of commission or remuneration exceeding the limits specified in this sub-section to an employer of agents acting on behalf of an insurer incorporated or domiciled elsewhere than in Pakistan if such employer of agents carries out and has continuously carried out in his own office duties on behalf of the insurer which would otherwise have been performed by the insurer.

(4) No insurer shall pay or contract to pay outside Pakistan to any person any commission in any form in respect of the insurance business transacted by such person in Pakistan and no insurer shall receive or contract to receive outside Pakistan from any person any commission in any form in respect of any business reinsured abroad.

(5) Without prejudice to the provisions of section 102 in respect of a contravention of any of the provisions of the preceding sub-section by an insurer, an insurance agent or em-



ployer of agents who contravenes any of the provisions of subsections (1), (2), (3), or (4) shall be punishable with fine which may extend to one thousand rupees.

(6) An insurer incorporated outside Pakistan who receives or contracts to receive any commission in respect of any business transacted in Pakistan and reinsured abroad shall not be deemed to have contravened the provisions of sub-section (4) if all amounts received by him outside Pakistan in this respect have been fully credited to the Pakistan revenue account.

40B.-(1) No insurer shall, in respect of life insurance business transacted by him in Pakistan, spend as expenses of **life** management in any calendar year an amount in excess of the prescribed limits and in prescribing any such limits regard shall be had to the size and age of the insurer and the provision generally made for expenses of management in the premium rates of insurers:

Provided that the Controller of Insurance may, on an application made to him in this behalf, condone the contravention of this sub-section by an insurer who has, on reasonable grounds, spent as such expenses an amount in excess of such limits.

(2) Every insurer transacting life insurance business in Pakistan shall incorporate in the revenue account-----

(a) a certificate signed by the chairman and two directors and by the principal officer of the insurer, and an auditor's certificate, certifying that all expenses of management in respect of life insurance business transacted by the insurer in Pakistan have been fully debited in the revenue account as expenses ; and

(b) if the insurer is carrying on any other class of insurance business in addition to life insurance business, an auditor's certificate certifying that all charges incurred in respect of his life insurance business and in respect of his business other than life insurance business have been fully debited in the respective revenue accounts.

*Explanation.-In this section "expenses of management" means all charges wherever incurred whether directly or indirectly, and includes :-----*

(i) commission payments of all kinds ;

(ii) a proper share of expenses capitalised ; and

(iii) in the case of an insurer having his principal place of business outside Pakistan, a proper share of head office expenses which shall not exceed such percentage of the total net premiums, that is to say, gross premiums written direct in Pakistan plus reinsurances accepted minus reinsurances ceded during the year in respect of life insurance business transacted by him in Pakistan as may be prescribed, but does not in the case of an insurer having his principal place of business in Pakistan include any share of head office expenses in respect of life insurance business transacted by him outside Pakistan.

40C.-(1) No insurer shall, in respect of any class of general insurance business transacted by him in Pakistan, spend in any calendar year as expenses of management, including commission or remuneration for procuring business, an amount in excess of the prescribed limits and in prescribing any such limits regard shall be had to the size and age of the insurer;

**Provided that the Controller of Insurance may** on an application made to him in this behalf, condone the contravention of this sub-section by an insurer who has, on reasonable grounds, spent as such expenses an amount in excess of such limits.

(2) Every insurer as aforesaid shall incorporate in the revenue account a certificate signed by the chairman, two directors and the principal officer of the insurer, and an auditor's certificate, certifying that all expenses of management wherever incurred, whether directly or indirectly, in respect of the business referred to in this section, have been fully debited in the revenue account as expenses.

*Explanation.-In this section,-----*

(a) "expenses of management" means all charges, wherever incurred whether directly or indirectly including commission payments of all kinds and, in the case of an insurer having his principal place of business outside Pakistan, a proper share of head office expenses which shall not exceed such percentage of the total net premiums, that is to say, gross premiums written direct in Pakistan plus reinsurances accepted *minus* reinsurances ceded during the year as may be prescribed ; and

(b) "insurance business transacted in Pakistan" includes insurance business, wherever effected, relating to any property situate in Pakistan or to any vessel or aircraft registered in Pakistan.

40D.-For the purposes of sections **32A, 40, 40A, 40B** and 40C, "remuneration" shall be deemed to include travelling and entertainment allowances and all other payments or disbursements of any kind or form.

42A.-(1) The Controller of Insurance or an officer authorized by him in this behalf shall, in the prescribed manner and on payment of the prescribed fee, which shall not be more than fifty rupees, issue to any person making an application in the prescribed manner a certificate to act as an employer of agents on behalf of an insurer for the purpose of procuring life insurance business or general insurance business, as the case may be, if-----

(a) in the case of an individual, who does not suffer from any of the disqualifications mentioned in subsection (4) of section 42, or

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

(2) A separate application shall be made and a separate certificate obtained for life insurance business and general insurance business.

(3) For the purposes of sections 40 and 40A of this Act no employer of agents who is certified to act as an employer of agents for life insurance business shall be deemed to be an employer of agents for general insurance **business and no employer of agents** who is certified to act as an employer of agents for general insurance business shall be deemed to be an employer of agents for life insurance business.

(4) A certificate issued under this section shall entitle the holder thereof to act as an employer of agents for any insurer.

(5) A certificate issued under this section shall remain in force for a period of one year only from the date of issue, but shall, on application made in this behalf, be renewed from year to year if-

(i) an application in the prescribed form for renewal of the certificate reaches the issuing authority before the date on which the certificate ceases to remain in force ;

(ii) the applicant has paid the prescribed renewal fee which shall not be more than fifty rupees;

(iii) in the case of an individual, the applicant or in the case of a company or firm, any of its directors or partners does not suffer from any of the disqualifications mentioned in clauses (b), (c) or (d) of sub-section (4) of section 42 ; and

(iv) the applicant has procured or caused to be procured such minimum amounts of insurance business and has complied with such conditions as may be prescribed in this behalf;

Provided that an application for renewal of the certificate which does not reach the issuing authority before the certificate ceases to remain in force shall be entertained if the applicant has submitted an application within twelve months from the date the certificate ceases to remain in force and has paid an additional fee of the prescribed amount not exceeding fifteen rupees by way of penalty.

(6) Where it is found that an employer of agents being an individual is, or being a company or firm contains a director or partner who is, suffering from any of the disqualifications mentioned in sub-section (4) of section 42, without prejudice to any other penalty to which he may be liable, the Controller shall, and where an employer of agents has contravened any of the provisions of this Act or any rule or order made thereunder may, cancel the certificate or certificates issued under this section to such employer of agents.

(7) If a certificate issued under this section is not renewed or is cancelled under sub-section (6), the Controller of Insurance may refuse to grant a fresh certificate to the employer of agents for such period as he deems fit.

(8) The authority which issued any certificate under this section may issue a duplicate certificate to replace a certificate lost, destroyed or mutilated on payment of the prescribed fee, which shall not be more than five rupees.

(9) Any person who acts as an employer of agents without holding a certificate issued under this section to act as such shall be punishable with fine which may extend to five hundred rupees and any insurer who appoints as an employer of agents any person not entitled to act as such or transacts any insurance business in Pakistan through any such person, shall be punishable with fine which may extend to one thousand rupees.

(10) Where the person contravening sub-section (9) 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 any other officer of the company, and every partner of the firm who is knowingly a party to such contravention shall be punishable with fine which may extend to five hundred rupees.

(11) The provisions of sub-sections (9) and (10) shall not take effect until the expiry of six months from the commencement of the Insurance (Amendment) Ordinance, 1958.

**42-B.**-For the purposes of ensuring compliance with the provisions of sections 40, 40A, 40B, 40C, 42, 42A, 44A and 44B the Controller may, by notice,-

(a) require from an insurer, or an employer of agents or an insurance agent, or an insurance surveyor such information certified, if so required by an auditor or an actuary, as he may consider necessary ;

(b) issue such directions to the insurer as he may deem necessary ;

(c) require an insurer or an employer of agents or an insurance agent or an insurance surveyor to submit for his examination at the principal place of business of the insurer in Pakistan, any book of account, register or other document or to supply any statement which may be specified in the notice.

44A.-(1) No person other than an insurance surveyor holding an appropriate certificate under this section shall, after the expiry of six months from the commencement of the Insurance (Amendment) Act, 1958, undertake in Pakistan the surveying, assessment or adjustment of any loss in respect of general insurance business and no insurer shall pay any claim in respect of general insurance business transacted by him in Pakistan unless the loss has been surveyed, assessed or adjusted, as the case may be, by an insurance surveyor holding an appropriate certificate under this section;

**44B.-(1)** If in any case the Controller of Insurance has reason to believe that an insurance surveyor has given a false report or has grossly over-assessed or under-assessed a loss or has made an adjustment of loss in a grossly unjust manner, he may direct the insurer to arrange for another survey of that loss through any other surveyor or surveyors approved by him.

(2) In the event of the second survey made under subsection (1) the surveyor or surveyors shall forward one copy of the report to the Controller who on considering such report and after giving an opportunity to the first surveyor to be heard, may cancel the certificate of the surveyor concerned in accordance with the provisions of sub-section (7) of section 44A.

## **SPECIAL PROVISIONS OF LAW**

47A.-(1) Any dispute arising under a policy of life insurance assuring a sum not exceeding two thousand rupees (exclusive of any profit or bonus not being a guaranteed profit or bonus) issued by an insurer in respect of insurance business transacted by him in Pakistan, between the claimant and the insurer who issued the policy or has otherwise assumed the liabilities in respect thereof, may, at the option of the claimant, be referred to the Controller of Insurance for settlement and the Controller may, after hearing the parties and taking such evidence as he may, in his absolute discretion, consider necessary, settle the dispute.

(2) The decision of the Controller under this section shall be final and shall not be called in question in any Court and shall be deemed to be a decree of a Court which would have been competent to decide the dispute and be executed accordingly.

(3) The Controller shall, in respect of the duties performed by him for the purpose of this section charge and collect such fees whether by way of percentage or otherwise as may be prescribed.

48A. No insurance agent who solicits or procures life insurance business, and no employer of agents who procures life insurance business, shall be eligible to be or remain a director of any insurance company carrying on life insurance business;

49A. No insurer transacting life insurance business shall, notwithstanding anything contained in the Memorandum or Articles of Association or any other document of such insurer, after the commencement of the Insurance (Amendment) Ordinance, **1961**, allocate for the benefit of policy-holders, a sum less than nine-tenths of the surplus arising out of life insurance business.

*Explanation.*-In this section, "surplus" means the sum shown as surplus in Form I of the Fourth Schedule enhanced by any sum transferred to any reserve other than a reserve for depreciation of investments.

## PART II

### MANAGEMENT BY ADMINISTRATOR

**52A.-(1)** If at any time the Controller has reason to believe that an insurer carrying on insurance business is acting in a manner likely to be prejudicial to the interest of holders of insurance policies, he may, after giving such opportunity to the insurer to be heard as he thinks fit, make a report thereon to the Central Government.

(2) The Central Government, if it is of opinion after considering the report that it is necessary or proper to do so, may appoint an Administrator to manage the affairs of the insurer **under the direction and control of the Controller.**

(3) The Administrator shall receive such remuneration as the Central Government may direct and the Central Government may at any time cancel the appointment and appoint some other person as Administrator.

(4) The management of the business of the insurer shall as on and after the date of appointment of the Administrator vest in such Administrator but except with the leave of the Controller the Administrator shall not issue any further policies.

(5) As on and after the date of appointment of the Administrator any person vested with any such management immediately prior to that date shall be divested of that management.

(6) The Controller may issue such directions to the Administrator as to his powers and duties as he deems desirable in the circumstances of the case, and the Administrator may apply to the Controller at any time for instructions as to the manner in which he shall conduct the management of the business of the insurer or in relation to any matter arising in the course of such management.

**52B.-(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 Controller a report stating which of the following courses is in the circumstances most advantageous to the general interest of the holders of 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 (in case of life insurance business 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 business of the insurer ; or

(d) such other course as he deems advisable.

(2) On the filing of the report with the Controller, the Controller may take such action as he thinks fit for promoting the interest of the holders of insurance policies in general.

(3) Any order passed by the Controller 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, if a company.

52C. (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 the Central Government and the Central Government may pass such order thereon as it thinks fit.

(3) An order made by the Administrator under sub-section (1) shall, subject to any order made by the Central Government 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, 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

(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 opinion 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 Pakistan Penal Code.

(9) The Administrator shall have all the powers of a civil court under the Code of Civil Procedure, 1908, while trying a suit in respect of the following matters, namely :-

(a) summoning, and enforcing the 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 the Pakistan Penal Code.

(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 or the Central Government 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 affecting in any way any such order.



52D. The Administrator may, at any time during the continuance of his appointment with respect to any 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 interests of holders of insurance policies.

**52E.** If at any time, on a report made by the Controller in this behalf, it appears to the Central Government that the purpose of the Order appointing the Administrator has been fulfilled or that for any reason it is undesirable that the order of appointment should remain in force, the Central Government 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 Central Government, again vest in the person in whom it was vested immediately prior to the date of appointment of the Administrator.

52F. Any order or decision of the Central Government made in pursuance of section 52A or section 52E shall be final and shall not be called in question in any court.

52G. 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 punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

52H.-(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 section 52A, section 52B, section 52C or section 52D.

(2) No suit or other legal proceeding shall lie against the Central Government or the Controller for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under section 52A, section 52B or section 52C.

53A. 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.

### **PART III PROVIDENT SOCIETIES**

70A.-(1) Every provident society registered under this Act, or under the Provident Insurance Societies Act, 1912, shall have its registration renewed annually for each period of twelve months after that ending on the 30th day of June, 1942.

(2) An application for the renewal of a registration shall be made by the society to the Controller of Insurance before the 30th day of June preceding the period for which renewal is sought, and shall be accompanied as provided in sub-section (3) by evidence

of payment of the prescribed fee which shall not exceed two hundred rupees but may vary according to the volume of insurance business done by the society.

(3) The prescribed fee for the renewal of a registration for any year shall be paid into the State Bank of Pakistan], or, where there is no office of that Bank, into the Imperial Bank of India acting as the agent of that Bank, or into any Government treasury, and the receipt shall be sent along with the application for renewal of the registration.

(4) If a provident society fails to apply for renewal of registration before the date specified in sub-section (2) the Controller of **Insurance may, so long as he has taken no action under** section 88 to have the society wound up, accept an application for renewal of registration on receipt from the society of the fee payable with the application and such penalty, not exceeding the prescribed fee payable by the society, as he may require.

(5) The Controller of Insurance shall, on being satisfied that the society has fulfilled the requirements of this section, renew the registration and grant it a certificate of renewal of registration.

70B.-(1) Every provident society registered under section 70 before the commencement of the Insurance (Amendment) Act, 1941, shall, before the expiration of three months from the commencement of the Insurance (Amendment) Act, 1941, furnish in to the Controller of Insurance such particulars in addition to those already supplied for the purpose of obtaining registration, as are required by sub-section (2) of section 70 of this Act as of amended by the Insurance (Amendment) Act, 1941.

(2) Every provident society registered under the provisions of the Provident Insurance Societies Act, 1912, shall, before the expiration of three months from the commencement of the Insurance (Amendment) Act, 1941, furnish to the Controller of Insurance so far as it has not already done so the documents and information required by clauses (a) and (b) of sub-section (2) of section 70 to accompany an application by a provident society for registration under that section.

**(3) When any alteration occurs or is made which affects any of the matters which are required under the provisions of sub-section (2) of section 70 to accompany an application by a provident society for registration under that section, or are to be furnished to the Controller of Insurance under this section, the provident society shall furnish forthwith to the Controller of Insurance full particulars duly authenticated of such alteration.**

73A.-(1) A provident society shall not be registered by a name identical with that by which an insurer or another provident society in existence is already registered, or so nearly resembling that name as to be calculated to deceive, except when the provident society in existence is in the course of being dissolved and signifies its consent, or the insurer in existence signifies his consent, to the Controller of Insurance.

(2) If a provident society, through inadvertence or otherwise, is without such consent as aforesaid registered by a name identical with that by which an insurer or another provident society already in existence is registered, or so nearly resembling it as to be calculated to deceive, the first-mentioned society shall if called upon to do so by the Controller of Insurance on the application of the insurer or the second-mentioned society, change its name within a time to be fixed by the Controller of Insurance;

Provided that nothing in this section shall apply to any provident society carrying on business before the commencement of the Insurance (Amendment) Act, 1946.

**87A.-(1)** The insurance business of a provident society may be transferred to any person or transferred to or amalgamated with the insurance business of any other provident society in accordance with a scheme prepared under this section and sanctioned by the Controller of Insurance.

(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 Controller of Insurance to sanction any such scheme, notice 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 therefor, shall at least two months before the application is made, be sent to the Controller of Insurance and certified copies, four in number, of each of the following documents shall be furnished to him, 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 of the provident societies concerned, namely

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

(b) balance-sheets in respect of the insurance business of each of the provident societies concerned in such amalgamation or transfer,

(c) actuarial reports and abstracts in respect of the insurance business of each of the provident societies so concerned,

(d) a report on the proposed amalgamation or transfer, prepared by an independent actuary.

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

and the balance-sheets, reports and abstracts referred to in clauses (b), (c) and (d) shall all be prepared as at the date at which the amalgamation or transfer if sanctioned by the Controller of Insurance is to take effect, which date shall not be more than twelve months before the date on which the application to the Controller of Insurance is made under this section;

Provided that the Controller of Insurance may exempt the provident society or societies concerned from furnishing to him and from keeping open for inspection any one or more of the above documents.

(4) When any application such as is referred to in subsection (3) is made to the Controller of Insurance, he may require, if for special reasons he so directs, notice of the application to be sent to every person resident in Pakistan or an Acceding State or a non-Acceding State who is the holder of a policy of any provident society concerned and may cause a 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 periods as he may direct, and after hearing the societies concerned, such policy-holders as apply to be heard and such other persons as he may deem fit, may sanction the arrangement, if he is satisfied that no sufficient objection to the arrangement has been established and shall make such consequential orders as are necessary to give effect to the arrangement, including orders as to the disposal of any deposit made under section 73;

Provided that-----

(a) no part of the deposit made by any party to the amalgamation or transfer shall be returned except where, after effect is given to the arrangement the whole of the deposit to be made by the provident society carrying on the amalgamated business or the person to whom the business is transferred is completed ;

(b) only so much shall be returned as is no longer required to complete the deposit last mentioned in clause (a) ;

(c) while the deposit last mentioned in clause (a) remains uncompleted, no accession, resulting from the arrangement, to the amount already deposited by the provident society carrying on the amalgamated business or the person to whom the business is transferred shall be appropriated as payment or part payment of any instalment of deposit subsequently due from it or him under section 73.

(5) A copy of the order under sub-section (4) sanctioning or refusing to sanction the arrangement shall be sent to each of the societies concerned and to each of the policy-holders who applied to be heard.

(6) If the scheme involves a reduction of the amount of the insurance and other contracts of the transfer or society or of any or all of the societies concerned in the amalgamation,

the Controller of Insurance may sanction the scheme, reducing the amount of such contracts upon such terms and subject to such conditions as he may think proper, and the reduction of the contracts as sanctioned by the Controller of Insurance shall be valid and binding on all the parties concerned.

90A. Notwithstanding anything to the contrary contained in the Companies Act, 1913, the provisions of sections 91, **92 and 93 shall apply** to any liquidator appointed to wind up a provident society, whether by the Court, the Controller of Insurance or the society itself.

## **PART IV**

### **MUTUAL INSURANCE COMPANIES AND CO-OPERATIVE LIFE INSURANCE SOCIETIES.**

98A. The provisions of section 29 shall apply to Cooperative Life Insurance Societies as they apply to other insurers, so however that in such application the references in the second proviso to sub-section (1) of the said section to the commencement of this Act shall be construed as references to the commencement of the Insurance (Amendment) Act, 1946.

98A. The provisions of section 29 shall apply to Cooperative Life Insurance Societies as they apply to other insurers, so however that in such application the references in the second proviso to sub-section (1) of the said section to the commencement of this Act shall be construed as references to the commencement of the Insurance (Amendment) Act, 1946.

### **MISCELLANEOUS**

**106A.-(1) When** application is made to the Court for the making of any order to which this section applies the Court shall, unless the Controller of Insurance has himself made the application or has been made a party thereto, send a copy of the application together with intimation of the date fixed for the hearing thereof to the Controller of Insurance, and shall give him an opportunity of being heard.

(2) The orders to which this section applies are the following, namely :-----

(a) an order for the attachment in execution of a decree of any deposit made under section 7 or section 98 ;

(b) an order under section 9 or section 59 for the return of any such deposit ;

(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 or a provident society ;

(e) an order under section 58 confirming a scheme for the partial winding up of an insurance company ;

(f) an order under section 89 reducing the amount of the insurance contracts of a provident society.

**110A.** The Controller of Insurance 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 Controller of Insurance may impose, and shall be subject to his control and revision.

**110B.** Every document which is required by this Act or by any rule made thereunder to be signed by the Controller of Insurance or by any person subordinate to him or by any officer authorized by him under sub-section (1) of section 42 or subsection (1) of section 42A or sub-section (4) of section 44A shall be deemed to be properly signed, if it bears a facsimile of the signature of such Controller, person or officer printed, engraved, lithographed or impressed by any other mechanical process approved by the Central Government.

110C.-(1) The Controller may by notice in writing require any insurer to supply him any information relating to his insurance business and the insurer shall comply with such requirement within such period after the receipt of the notice as may be specified therein.

(2) Any information supplied under this section shall be certified by the principal officer of the insurer and if the notice so requires, also by an auditor.

116A. The Central Government shall every year cause to be published, in such manner as it may direct, a summary of the accounts, balance-sheets, 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 Controller of Insurance during the year preceding the year of publication, and may append to such summary any note of the Controller of Insurance or of the Central Government and any correspondence;

Provided that nothing in this section shall require the publication of the statement referred to in sub-section (2) of section 10 or sub-section (4) of section 13 in respect of the first valuation of an insurer or sub-section (2) of section 32A or section 42B or of the returns referred to in sub-section (1) of section 28.

120A. The Central Government shall constitute an Advisory Board to advise the Controller in the performance of his duties under this Act

**120B.** The Controller of Insurance may, if considered necessary, maintain a regional office in East Pakistan and in any other part of Pakistan and may delegate any of his powers and duties under this Act, to any person subordinate to him.

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

## **THE FIRST SCHEDULE**

(See section 11)

### **Regulations and Forms for the preparation of Balance-Sheet**

#### **PART I**

#### **REGULATIONS**

1. The balance-sheet required to be prepared in respect of every class of business carried on by an insurer is, in the form in which it is set out in Part II of this Schedule (Form A), appropriate to a case where the insurer maintains a separate fund in respect of life insurance business.
2. The balance-sheet of life insurance business shall be prepared as a separate document. The balance-sheet of any class of business may be prepared as a separate document instead of being incorporated by the addition of columns and headings in the general balance-sheet, but the totals of each such separate balance-sheet (showing the total assets of the class of business, the balance at the credit of the life insurance fund or other separate fund or account, the amount of shareholders' undivided profits, and outstanding liabilities) must in any case be incorporated in the general balance-sheet.
3. If any combined balance-sheet is for any purpose issued by an insurer, it shall be in accordance with the Form set out in this Schedule, and there shall not be included among the assets shown in any such combined balance-sheet any amount in respect of any holding in or advance to any insurer whose assets and liabilities have been incorporated therein. Every combined balance-sheet must show clearly on the face thereof that it is a combined balance-sheet and must set out fully the name of every insurer whose assets and liabilities have been incorporated therein ; if the assets and liabilities of any person not being an insurer are included in a combined balance-sheet the fact must be stated thereon.
4. Where any guarantee has been given by an insurer (otherwise than in the ordinary course of re-insurance business) in respect of the policies of any other insurer, the balance-sheet of the insurer by whom the guarantee was given must show clearly the name of every insurer whose policies have been so guaranteed and the extent of the guarantee:

Provided that this regulation shall not apply where a combined balance-sheet is issued incorporating the assets and liabilities of the insurer whose policies are guaranteed.

5. Where any part of the assets of an insurer is deposited in any place outside (Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (with effect from the 14th October, 1955), for "the Provinces and the Capital of the Federation" which had been subs. by A. O., 1949, for "British India").[Pakistan] as security for the owners of policies issued in that place, the balance-sheet shall state that part of the assets has been so deposited, and, if any such part forms part of the life insurance fund, shall show the amount thereof and the place where it is deposited. Where any combined balance-sheet is issued by an insurer for any purpose, the information required by this regulation shall be shown in the aggregate in respect of all the insurers whose assets and liabilities have been incorporated in the balance-sheet.

6. There shall be appended to the balance-sheet a statement in Form AA as set out in Part II of this Schedule showing the market value and the book value of the assets (Subs. by A. O. 1949, for "in India".) [in Pakistan].

7. Every balance-sheet shall contain the following certificates, namely-

(a) a certificate signed by the same persons as are required by this Act to sign the balance-sheet explaining how the values as shown in the balance-sheet of the Investments in Stocks and Shares have been arrived at, and how the market value thereof has been ascertained for the purpose of comparison with the values so shown ;

(b) a certificate signed by the same persons as are required by this Act to sign the balance-sheet and signed also, so far as respects the value of any items, shown in the balance-sheet under the heading of "Reversions and Life Interests", by an actuary, certifying that the values of all the assets have been reviewed as at the date of the balance-sheet, and that in their belief the assets set forth in the Balance-sheet are shown in the aggregate at amounts not exceeding their realisable or market value under the several headings "Loans", "Reversions and Life Interests", "Investments", "Agent's Balances", "Outstanding Premiums", "Interest, Dividends and Rents outstanding", "Interest, Dividends and Rents accruing but not due", "Amounts due from other Persons or Bodies carrying on Insurance Business", "Sundry Debtors", "Bills Receivable", "Cash" and the several items specified under "Other Accounts" Provided that if the persons signing the certificate are unable to certify that the assets set forth in the balance-sheet are so shown as aforesaid, a full explanation of the bases upon which the values shown in the balance sheet have been assessed shall be given in the certificate ;

(c) a certificate signed by the same persons as are required by this Act to sign the balance-sheet and by the auditor certifying that no parts of the assets of the life insurance fund has been directly or indirectly applied in contravention of the provisions of this Act relating to the application and investment of life insurance funds ; and



(d) certificates signed by the auditor (which shall be in addition to any other certificate or report which he is required by law to give with respect to the balance-sheet) certifying-

(i) that he has verified the cash balances and the securities relating to the insurer's loans, reversions and life interests, and investments ;

(ii) to what extent, if any, he has verified the investments and transactions relating to any trusts undertaken by the insurer as trustee ; and

(iii) in the case of a combined balance-sheet, that he has audited the balance-sheet and accounts of every insurer whose assets and liabilities are incorporated therein, or that any such balance-sheet and accounts which have not been audited by him have been certified by independent auditors. The said certificate shall contain a reference to such reservations, if any, as may have been made by any auditor upon any report or certificate given by him with respect to the balance-sheet and accounts of any insurer whose assets and liabilities are incorporated in the combined balance-sheet.

8. If the values shown in the balance-sheet in respect of "Holdings in Subsidiary Companies" or "House property (i) (Subs. by A. O., 1949, for "in India".)[in Pakistan] (ii) (Subs. *ibid.*, for "out of India".) [out of Pakistan]" have been increased since the last previous balance-sheet, the certificate required by paragraph (b) of the last foregoing regulation shall state the amount of every increase not solely due to the cost of subsequent additions or, as respects holdings in controlled companies, to increased profits, and shall contain an explanation of the reason therefore.

9. For the purposes of this Schedule the following expressions have the meanings hereby respectively assigned to them, namely:

(a) "combined balance-sheet" includes any combined statement made by an insurer of assets and liabilities in the form of a balance-sheet which includes the assets and liabilities of any other insurer ; and

(b) "market value" means as respects any assets the market value thereof as ascertained from published market quotations, or, if there be no such value, its fair value as between a willing buyer and a willing seller.

## **PART II FORMS**

### **FORM A**

#### **Form of Balance Sheet**

	Life and Annuity Business (1)	Other Classes of Business (2)(Assets and Liabilities, Shareholders' Capital and Reserves, not allocated to any class of business specified in column (1) must be shown in column (2).)	Total		Life and Annuity Business (1)	Other Classes of Business (2)(Assets and Liabilities, Shareholders' Capital and Reserves, not allocated to any class of business specified in column (1) must be shown in column (2).)	Total
	(The letters "Rs. A. P." has been amended by the Repealing and Amending Ordinance, 1965 (10 of 1965),	(The letters "Rs. A. P." has been amended by the Repealing and Amending Ordinance, 1965 (10 of 1965), s. 3 and 2nd	(The letters "Rs. A. P." has been amended by the Repealing and Amending Ordinance, 1965 (10 of 1965),		(The letters "Rs. A. P." has been amended by the Repealing and Amending Ordinance, 1965 (10 of 1965),	(The letters "Rs. A. P." has been amended by the Repealing and Amending Ordinance, 1965 (10 of 1965), s. 3 and 2nd	(The letters "Rs. A. P." has been amended by the Repealing and Amending Ordinance, 1965 (10 of 1965),

	s. 3 and 2nd Sch, to read as above.) [Rs.]	Sch, to read as above.) [Rs.]	s. 3 and 2nd Sch, to read as above.) [Rs.]		s. 3 and 2nd Sch, to read as above.) [Rs.]	Sch, to read as above.) [Rs.]	s. 3 and 2nd Sch, to read as above.) [Rs.]
				Loans : -.			
Shareholders' capital (each class to be stated separately)				On Mortgages of property within (Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (with effect from the 14th October, 1955), for "the Provinces and the Capital of the Federation" which had been subs. by A. O., 1949, for "British India".) [Pakistani] ... ..			
Authorized:							
..... shares of Rs each Rs.				On Mortgages of property outside (Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (with effect from the 14th October,			

				1955), for "the Provinces and the Capital of the Federation" which had been subs. by A. O., 1949, for "British India".)[Pakistan] ... ..			
Subscribed:							
..... shares of Rs each Rs.				On security of municipal and other public rates			
Called up :				On Stocks and Shares			
..... shares of Rs each Rs.				On Insurer's Policies within their surrender value			
Less Unpaid calls Rs.							
Reserve or Contingency Account (a)				On Personal security			
Investment Reserve Account				To Subsidiary Companies (other than Reversionary) (f)			
Profit and Loss Appropriation				Reversions and Life Interests			

Account Balance.							
Balances of Funds and Accounts :				Reversions and Life Interests purchased.			
Life Insurance Fund				Loans on Reversions and Life Interests			
Fire Insurance Business Account				Debentures and Debenture Stocks of Subsidiary Reversionary Companies (f) ... ..			
Marine Insurance Business Account							
(The words "Accident and" omitted by the Insurance (Amdt.) Act, 1940 (20 of 1940), s. 18.). "Miscellaneous Insurance Business Account (The brackets and letter "(m)" were added by				Ordinary Stocks and Shares of Subsidiary Reversionary Companies (f)			

the Insurance (Amdt.) Act, 1941 (13 of 1941), s. 69.)(m)]							
Other accounts, if any (to be specified) (l)				Loans to Subsidiary Reversionary Companies (f) ...			
Pension or Superannuation Accounts (b) ...				Investments			
Debt Stock per cent.				Deposit with (Subs. by the Pakistan (Adaptation of Existing Pakistan Laws) (State Bank of Pakistan) Order, 1948 (G. G. O. 18 of 1948), for "the Reserve Bank of India".)[the State Bank of Pakistan (securities to be specified) ... (Subs. by A. O., 1949, for "Indian Government Securities".)][Pakistan			

				Government securities ...			
Loans and Advances (c)							
Bills payable (c)				Provincial Government Securities			
Estimated Liability in respect of outstanding claims, whether due or intimated (d) ... ..				British, British Colonial and British Dominion Government Securities			
Carried Over				Carried Over			
Brought Forward				Investments :-contd. -			
				Foreign Government Securities ...			
Annuities due and unpaid (d)				(Subs. by A. O., 1949, for "Indian Municipal Securities").[Pakistan Municipal Securities] ..			
Outstanding Dividends ...				British and Colonial Securities ...			
Amounts due to Other Persons or Bodies				Foreign Securities ...			

carrying on Insurance Business (c) ..							
Sundry Creditors (including outstanding and accruing expenses and Taxes) (c) ...				Bonds, Debentures, Stocks and other Securities whereon Interest is guaranteed by the (Subs. <b>ibid., for "Indian Government".</b> ) [Central Government] or a Provincial Government			
Other sums owing by the insurer (particulars to be given) (c)				Bonds, Debentures, Stocks and other Securities whereon Interest is guaranteed by the British or any Colonial Government ... ... ...			
Contingent Liabilities (to be specified) (c) ...				Bonds, Debentures, Stocks and other Securities whereon Interest is guaranteed by any Foreign			



				Government			
Rs. _____				Debentures of any railway (Subs. <b>ibid.</b> , for "in India".)[in Pakistan) ... ... ... ...			
				Debentures of any railway (Subs. <b>ibid.</b> , for "out of India".)[out of Pakistan) ... ..  ..			
				Preference or guaranteed Shares of any railway (Subs. <b>ibid.</b> , for "in India".)[in Pakistan]			
				Preference or guaranteed Shares of any railway (Subs. <b>ibid.</b> , for "out of India".)[out of Pakistan] Railway Ordinary Stocks (i) (Subs. <b>ibid.</b> , for "in India".)[in Pakistan] (ii) (Subs. <b>ibid.</b> , for "out of			

				India").[out of Pakistan] ...			
				Other Debentures and Debenture Stock of Companies incorporated (i) (Subs. <b>ibid.</b> , for "in India").[in Pakistan] (ii) (Subs. <b>ibid.</b> , for "out of India").[out of Pakistan] ...			
				Other guaranteed and Preference Stocks and Shares of Companies incorporated (i) (Subs. <b>ibid.</b> , for "in India").[in Pakistan] (iii) (Subs. <b>ibid.</b> , for "out of India").[out of Pakistan]			
				Other Ordinary Stocks and Shares of Companies incorporated (i) (Subs. <b>ibid.</b> , for "in India").[in Pakistan] (ii) (Subs. <b>ibid.</b> , for "Indian			

				Government". )[out of Pakistan]			
				Holdings in Subsidiary Companies (f) House property (i) (Subs. ibid., for "in India".)[in Pakistan] (ii) (Subs. ibid., for "out of India".)[out of Pakistan] ..			
				Freehold and Leasehold ground rents and rent charges Agent's Balances ...			
				Outstanding Premiums (g) (The brackets and letter "(d)" added by the Insurance (Amdt.) Act, 1941 (13 of 1941) s. 69.)(d)] interest, Dividends and Rents outstanding (d) ...			
				Carried over			
				Interest			

				Dividends and Rents accruing but no due (d) ... ...			
				Amounts due from other Persons or Bodies carrying on insurance Business (h) ... ...			
				Sundry Debtors (i)			
				Bills Receivable			
				Cash :			
				At Bankers on Deposit Account ....			
				At Bankers on Current Account and in hand ...			
				At Call and Short Notice (j) ----			
				Other Accounts (to be specified) (k) ...			

**NOTES**

- (a) The Reserves or Contingency Accounts must be separately stated.
- (b) If the Insurer has not full and unrestricted control of the assets constituting the Pension or Superannuation Accounts, either those accounts and the assets and liabilities relating thereto must be omitted from the balance-sheet or the assets of which the insurer has not such control must be clearly indicated on the face of the balance-sheet.
- (c) If the Insurer has deposited security as cover in respect of any of these items, the amount and nature of the securities so deposited must be clearly indicated on the face of the balance-sheet.
- (d) These items are or have been included in the corresponding items in the Revenue or Profit and Loss Account. Outstanding and accruing interest, dividends and rents must be shown after deduction of income-tax or the income-tax must be provided for amongst the liabilities on the other side of the balance-sheet.
- (e) Such items as amount of liability in respect of bills discounted, uncalled capital of subsidiary companies, uncalled capital of other investments, etc., must either be shown in their several categories under the heading "Contingent Liabilities" or the appropriate items on the assets side must be set out in such detail as will clearly indicate the amount of the uncalled capital.
- (f) As respects life and annuity business full particulars of holdings in and loans to subsidiary companies must be stated, giving the name of each company, the number and description of each class of shares held, the amounts paid up thereon and the value at which the holdings in each company stand in the balance-sheet.
- (g) Either this item must be shown net or the commission must be provided for amongst the liabilities on the other side of the balance-sheet.
- (h) The aggregate amount owing by a subsidiary company or subsidiary companies is to be shown separately from all other assets and the aggregate amount owing to a subsidiary company or subsidiary companies is to be shown separately from all other liabilities.
- (i) Amounts due from directors and officers must be shown separately.
- (j) No amounts must be entered under this heading unless fully secured. If not fully secured, the amounts must be included under the heading "Sundry Debtors".
- (k) Under this heading must be included such items as the following, which must be shown under separate headings suitably described: office furniture, goodwill, preliminary formation and organization expenses, development expenditure account, discount on debentures issued, other expenditure carried forward to be written-off in future years, balance being loss on Profit and Loss Appropriation Accounts, etc. The amounts included in the balance-sheet must not be in excess of cost.

(1) Under the head "Other accounts, if any (to be specified)" on the left hand side, fines realized from the staff and their contribution towards the provident fund, if any, should be shown under separate sub-heads.

(Added by the Insurance (Amdt.) Act, 1941 (13 of 1941), s. 69.)(m) Where the insurer is required to maintain a separate account in respect of any sub-class of miscellaneous insurance business this heading is to be split up accordingly.]

### FORM AA

Classified Summary of the (Subs. by the Insurance (Amdt.) Act, 1939 (11 of 1939), s. 35, for "Indian Assets".)[Assets (Subs. by A. O., 1949, for "in India".) [in Pakistan]] of the----- Company on 19.

Class of Asset.	Book value as per (a) below.	Market value as per (b) below.	Remarks as per (c) below.
	Rs.	Rs.	
(1) (Subs. <b>ibid.</b> , for "Government of India".) [Central Government] Securities ...			
(2) (Subs. <b>ibid.</b> , for "Indian Provincial Government".) [Provincial Government] Securities			
(3) (Subs. <b>ibid.</b> , for "Indian Municipal Port and Improvement Trust".) [Pakistan Municipal Port and Improvement Trust] Securities including Debentures.			
(4) Debentures of (Subs. <b>ibid.</b> , for "Indian Railways".) [Pakistan Railways]...			
(5) Guaranteed and Preference Shares of (Subs. <b>ibid.</b> , for "Indian Railways".) [Pakistan Railways].			
(6) Annuities of (Subs. <b>ibid.</b> , for "Indian Railways".) [Pakistan Railways) ...			
(7) Ordinary Shares of Railways (Subs. by A. O., 1949, for "in India".) [in Pakistan].			
(8) Other Debentures of concerns (Subs. by A. O., 1949, for "in India".) [in Pakistan].			

(9) Other Guaranteed and Preference Shares of concerns (Subs. by A. O., 1949, for "in India".) [in Pakistan].			
(10) Other Ordinary Shares of concerns (Subs. by A. O., 1949, for "in India".) [in Pakistan].			
(11) Loans on the Company's policies effected (Subs. by A. O., 1949, for "in India".) [in Pakistan] and within their surrender value.			
(12) Loans on Mortgage of property (Subs. by A. O., 1949, for "in India".) [in Pakistan].			
(13) Loans on Personal Security to persons domiciled and resident (Subs. by A. O., 1949, for "in India".) [in Pakistan].			
(14) Other loans granted (Subs. by A. O., 1949, for "in India".) [in Pakistan] (particulars to be stated).			
(15) Land and House property (Subs. by A. O., 1949, for "in India".) [in Pakistan].			
(16) Cash on Deposit in banks (Subs. by A. O., 1949, for "in India".) [in Pakistan].			
(17) Cash in Hand and on current account in banks (Subs. by A. O., 1949, for "in India".)[in Pakistan].			
(18) Agents' balances and outstanding premiums.			
(19) Interest, dividends and rents either outstanding or accrued but not due.			
(20) Other assets (Subs. by A. O., 1949, for "in India".) [in Pakistan] (to be specified).			

The statement shall show-

(a) the value for which credit is taken in the balance-sheet for each of the abovementioned classes of assets,

(b) the market value of such of the abovementioned classes of assets as has been ascertained from published quotations after deduction of accrued interest included in market prices in those cases where accrued interest is included elsewhere in the balance-sheet,

(c) how the value of such of the abovementioned classes of assets as has not been ascertained from published quotations has been arrived at, and

(d) the rates of exchange at which the values of the assets, other than in rupee currency, have been converted into rupees.

The market values need not be shown separately where they are not less than the book values and a certificate to that effect is appended to statement.

No amounts on account of any of the following items may be entered in the statement :-

Goodwill.

Preliminary, formation, organization or development expenses.

Commission or discount on shares or debentures issued.

Commuted Commission.

Expenditure carried forward to be written off in future years.

## **THE SECOND SCHEDULE**

(See section 11)

### **Regulations and Forms for the preparation of Profit and Loss Accounts**

#### **PART I**

#### **REGULATION**

1. The items on the income side of the Profit and Loss Account and Profit and Loss Appropriation Account must relate to income whether actually received or not, and the items on the expenditure side must relate to expenditure whether actually paid or not.

2. Deductions from interest, Dividends and Rents to be shown in respect of income-tax must include all amounts in respect of ( ) [Central] income-tax whether or not it has been or is to be deducted at source or paid direct.



3. The Interest, Dividends and Rents less income-tax thereon shown in the Revenue Accounts for any classes of business other than life insurance business, including annuity business may, if the insurer so desires, be included with the corresponding items in the Profit and Loss Account.

## PART II

### FORMS

#### FORM B

#### Form of Profit and Loss Account

Profit and Loss Account of \_\_\_\_\_ for the year ended \_\_\_\_\_ 19\_\_

	(The letters "Rs. A. P." has been amended by the Repealing and Amending Ordinance, 1965 (10 of 1965), s. 3 and 2nd Sch., to read as above.) [Rs.]	(The letters "Rs. A. P." has been amended by the Repealing and Amending Ordinance, 1965 (10 of 1965), s. 3 and 2nd Sch., to read as above.) [Rs.]
(Subs. by A. O., 1949, for "British India".) [Central Taxes on the Insurers Profits (not applicable to any party applicable Fund or Account)]	Interest, Dividends and Rents (not applicable to any particular Fund or Account) ... Rs.	
	Less-Income-tax thereon Rs.	
Expenses of Management(not applicable to any particular Fund or Account)( If any sum has been deducted from this item and entered on the assets side of the balance-sheet, the amount must be shown separately.)	Profit on realisation of Investments (not credited to Reserves or any particular Fund or Account).	
Loss on Realisation of Investments (not charged to Reserves or any particular Fund or Account)	Appreciation of Investments(not credited to Reserves or any particular Fund or Account) .. ....	
Depreciation of Investments (not charged to Reserves or any particular Fund or Account)	Profit transferred from Revenue Accounts (details to be given)	

Loss transferred from Revenue Accounts (details to be given)	Transfer Fees	
Other Expenditure (to be specified)	Other Income (to be specified)	
Balance for the year carried to Appropriation Account	Balance being loss for the year carried to Appropriation Account .... ..	

### FORM C

#### Form of Profit and Loan Appropriation Account

Profit and Loss Appropriation Account of     for the year ended     19

	(See foot-note 2, on page 560, supra.)[Rs.]		(See foot-note 2, on page 560, supra.)[Rs.]
Balance being loss brought forward from last year		Balance brought forward from last year Rs.	
Balance being loss for the year brought from Profit and Loss Account (as in Form B) ... ..		Less-Dividends since paid in respect of last year (to be specified and if "free of Tax" to be so stated)( <span style="color: red;">NOTE.-This item may be shown on the other side of the account if preferred.) ...</span> Rs.	
Dividends paid during the year on account of the current year (to be specified and if free of tax to be so stated)			
Transfer to any particular Funds or Accounts (details to be given)		Balance for the year brought from Profit and Loss Account (as in Form B)	
Balance at end of the year as shown in the Balance-Sheet.		Balance being loss at end of the year as shown in the Balance-Sheet	

### THE THIRD SCHEDULE

(See section 11)

## Regulations and Forms for the Preparation of Revenue Accounts

### PART I

#### REGULATIONS

1. Form D is, as set out in Part II of this Schedule, appropriate for life insurance business, but a separate revenue account must be prepared for every class (Ins. by the Insurance (Amdt.) Act, 1941 (13 of 1941), s. 70.) [or account. of business in respect of which the insurer is required to maintain a separate

2. Form F is, as set out in Part II of this Schedule, appropriate for fire insurance (Ins. by the Insurance (Amdt.) Act, 1944 (7 of 1944), s. 4.) [and for marine insurance] business. A separate revenue account in the same form must be prepared for (The words "accident and" omitted by the Insurance (Amdt.) Act, 1940 (20 of 1940), s. 19.) \* \* miscellaneous insurance (Ins. by the Insurance (Amdt.) Act, 1941 (13 of 1941), s. 70.) [exclusive of any sub-class of such business in respect of which the insurer is required to maintain a separate account.] (The words "including workmen's compensation and motor car insurance omitted, *ibid.*) \* \* \* (The words "Form E is, as set out in Part II of this Schedule, appropriate for marine insurance business omitted by Act 7 of 1944 s. 4.) \* \* \*

(Added by the Insurance (Amdt.) Act, 1941 (13 of 1941), s. 70.) [For a sub-class of miscellaneous insurance in respect of which the insurer is required to maintain a separate account, Form D or Form F as set out in Part II of this Schedule may be used with such modifications as the (Subs. by the Insurance (Amdt.) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).) [Controller of Insurance] may authorize.]

3. If any combined revenue account is for any purpose issued by an insurer it must be in accordance with the forms specified in this Schedule and must clearly show on the face thereof that it is a combined revenue account, and must set out fully the name of every insurer required to make separate returns under this Act whose revenue and expenditure have been included therein ; if the revenue and expenditure of any person not being an insurer are included in a combined revenue account, the fact must be stated thereon.

4. The items on the income side of the revenue account must relate to income whether actually received or not, and the items on the expenditure side must relate to expenditure whether actually paid or not.

5. Reinsurance premiums, whether on business ceded or accepted, are to be brought into account gross (i.e., before deducting commissions) under the head of premiums.

6. As respects life insurance business the following statements shall be furnished to the (Subs. by the Insurance (Amdt.) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).) [Controller of Insurance] every year showing details provided for in a Form pertaining thereto :-

(A) A statement in form DD as set forth in Part II of this Schedule.

(B) A statement in form DDD as set forth in Part II of this Schedule.

(C) A statement in form DDDD as set forth in Part II of this Schedule.

(Subs. by the Insurance (Arndt.) Act, 1958 (27 of 1958), s. 51, for the existing Reg. 7.)

[7. In addition to the revenue account information in the prescribed form shall be supplied of the following items relating to every class or sub-class of business in respect of which the insurer is required to maintain a separate account :-

(i) Gross premium written direct in Pakistan, premium received on reinsurances accepted and premium paid on reinsurances ceded both locally and abroad.

(ii) Commission paid on business written direct in Pakistan, commission paid on reinsurances accepted and commission received on reinsurances ceded both locally and abroad.

(iii) Gross claims paid directly by the insurer in Pakistan, claims paid on reinsurances accepted and claims received on reinsurances ceded both locally and abroad.]

8. Any office premises which form part of the assets of a life insurance fund must be treated as an interest earning investment, and accordingly, in the revenue account for life insurance business a fair rent for the premises must be included under the heading "Interest, Dividends and Rents" and in the revenue account for every class of business for which the premises are used proper charges for the use thereof must be included under the heading "Expenses of Management".

9. Where an insurer carries on the business of life insurance in conjunction with any other class of insurance business the expenses of management charged to the life insurance revenue account must not include more than a reasonable proportion of the common expenses and in particular, no such account must be charged with more than a fair sum for the use of any office premises having regard to the income from the various classes of business carried on and to the extent to which the premises are used for the purposes of each class of business.

10. Deductions from Interest, Dividends and Rents in respect of income-tax must include all income-tax charged on such income whether or not it has been or is to be deducted at source or paid direct ; the income-tax to be shown as so deducted in the life insurance, Revenue Account is (Subs. by A. O., 1949, for "British India".) [Central or Acceding State], United Kingdom, Foreign and Dominion income-tax, but the income-tax to be

shown as deducted in Revenue Accounts of any other classes of business is (Subs. by A. O., 1949, for "British Indian income-tax").[Central income-tax] only.

(Regulation 11 added by the Insurance (Amdt.) Act, 1958 (27 of 1958), s. 51.) [11. Every revenue account shall be accompanied by a certificate from the auditors that the insurer has not paid to any person any commission in any form outside Pakistan in respect of the insurance business transacted by him in Pakistan and that the insurer has not received outside Pakistan from any person any commission in any form in respect of any business reinsured abroad or that in the case of an insurer incorporated outside Pakistan, the amounts received by him outside Pakistan in this respect have been fully credited to the Pakistan revenue account.]

## PART II

### FORMS

#### FORM D

(All the horizontal lines appearing in the columns and the letters "Rs." against the entries "Interest, Dividends and Rents "and "Less-Income-tax thereon (d)" omitted, and horizontal lines under which the totals of the columns are to be inserted, added t the foot of each column, by the Insurance (Amdt.) Act, 1941 (13 of 1941), s. 70 (c) (iii).)

#### Farm of Revenue Account applicable to Life Insurance Business

Revenue Account of \_\_\_\_\_ for the year ended 19 \_\_\_\_ in respect of \_\_\_\_\_ Business.

	Business (Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 4 and 3rd Sch., for "within India").[within Pakistan].	Business (Subs. by A. O., 1949, for "out of India").[out of Pakistan]. (a)	Total		Business (Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 4 and 3rd Sch., for "within India").[within Pakistan].	Business (Subs. by A. O., 1949, for "out of India").[out of Pakistan]. (a)	
	Rs.	Rs.	Rs.		Rs.	Rs.	Rs.
Claims under Policies (including provision for claims due or intimated), less Reinsurances				Balance of Fund at the beginning of the year ... Premiums, less Reinsurances			

By death				(i) (Subs. by the Insurance (Amdt.) Act, 1946 (6 of 1946), s. 48, for "First year premiums".)[First year premiums, where, the maximum premium paying period(g) is-			
By maturity				two years ...			
Annuities, less Reinsurances.				three years			
Surrenders (including Surrenders of Bonus), less Reinsurances.				four years ...			
				five years ...			
Bonuses in Cash, less Re-insurances.				six years ...			
				Seven years ...			
Bonuses in Reduction of premiums, less Re-insurances.				eight years			
(The entry "Commission to insurance agents (less that on Re-insurances)" omitted by the Insurance (Amdt.) Act. 1941 (13 of 1941) s. 70.)* *				nine years			
Expenses of Management (b)-				ten years ...			
				eleven years ...			

<p>(Subs. by the Insurance (Arndt.) Act, 1941 (13 of 1941), s. 70, for the entry "1. Allowances and Commission (other than commission to insurance agents)".)[1. (a) Commission to insurance agents (less that on Re-insurances)</p> <p>:</p>				<p>twelve years or over (including throughout life)]</p>		
<p>(b) Allowances and Commission (other than commission included in sub-item (a) preceding)]</p>				<p>(ii) Renewal premiums</p>		
				<p>(iii) Single premiums:</p>		
<p>2. Salaries etc. (other than to agents and those contained in Item No. 1)</p>				<p>Consideration for Annuities granted, less Re-insurances (c) ...</p>		
				<p>Interest, Dividends and Rents</p>		
<p>3. Travelling expenses</p>				<p>Less-Income-tax thereon (d)</p>		
<p>4. Directors' fees</p>				<p>Registration fees</p>		

5. Auditors' fees				Other Income (to be specified) (e)			
(This entry was ins. <i>ibid.</i> ) [6. Medical fees]							
(The original entries numbered 6 to 12 were re-numbered 7 to 13, <i>ibid.</i> ) [7.] Law charges				Loss transferred to Profit and Loss Account ...			
(The original entries numbered 6 to 12 were re-numbered 7 to 13, <i>ibid.</i> ) [8.] Advertisements							
(The original entries numbered 6 to 12 were re-numbered 7 to 13, <i>ibid.</i> ) [9.] Printing and Stationery				Transferred from Appropriation Account ...			
(The original entries numbered 6 to 12 were re-numbered 7 to 13, <i>ibid.</i> ) [10.] Other expenses of management (accounts to be specified)							
(Entry 11 omitted by the Insurance (Amdt.) Act, 1946 (6 of							



1946). s. 48.)* * * *							
(Subs. by A. O., 1949, for "out of India").)[11.] Rents for offices belonging to and occupied by the insurer							
(Re-numbered by the Insurance (Amdt.) Act, 1946 (6 of 1.946), s. 48, as previously re-numbered by the Insurance (Amdt.) Act, 1941 (13 of 1941), s. 70.)[12.] Rents of other offices occupied by the insurer							
Bad Debts ...							
United Kingdom, (Subs. by A. O., 1949, for "British India").)[Central or Acceding State], Dominion and Foreign Taxes.							
Other Expenditure (to							

be specified)							
Profit transferred to Profit and Loss Account ...							
Balance of Fund at the end of the year as shown in the Balance-Sheet							

### NOTES

(a) (The words "In the case of an insurer having his head office in British India" omitted by Act 13 of 1941, s. 70.)\* \* \* These columns apply only to business the premiums in respect of which are (Subs. by the Insurance (Amdt.) Act, 1940 (20 of 1940), s. 19, for "payable outside India") [ordinarily paid (Subs. by A. O., 1949, for "outside India") [outside Pakistan]].

(Added by the Insurance (Amdt.) Act, 1940 (20 of 1940), s. 19.) [If any question arises whether any premiums are ordinarily paid (Subs. by A. O., 1949, for "outside India") [outside Pakistan], the (Subs. by the Insurance (Amdt.) Act, 1950 (32 of 1950), s. 2, for "Superintendent of insurance" (with effect from the 15th May, 1950).) [Controller of Insurance] shall decide the question and his decision shall be final.]

(b) If any sum has been deducted from this item and entered on the assets side of the balance-sheet, the amount so deducted must be shown separately. Under this item the salary paid to the managing agent or managing director shall be shown separately from the total amount paid as salaries to the remaining staff.

(c) All single premiums for annuities, whether immediate or deferred, must be included under this heading.

(d) (Subs. by A.O., 1949, for "British India".) [Central or Acceding State], United Kingdom, Foreign and Dominion income-tax on Interest, Dividends and Rents must be shown under this heading, less any rebates of income-tax recovered from the revenue authorities in respect of expenses of management. The separate heading on the other side of the account is for United Kingdom, (Subs. by A.O., 1949, for "British India".) [Central or Acceding State], Foreign and Dominion taxes, other than those shown under this item.

(e) Under the head "Other Income" fines, if any, realised from the staff must be shown separately. All the amounts received by the insurer directly or indirectly whether from his head office or from any other source (Subs. by A. O., 1949, for "outside India".) [outside

Pakistan] shall also be shown separately in the revenue account except such sums as properly appertain to the capital account.

(f) In the case of an insurer having his principal place of business outside (Subs. by the Central Laws (Statute Reform) Ordinance, s. Capital of the Federation" which had been subs. by A. O., 1949, for "the Provinces and the Capital of the Federation" which had been subs. by A.O., 1949, for "British India".) [Pakistan] the expenses of management for business (Subs. by A. O., 1949, for "out of India".) [out of Pakistan] and total business need not be split up into the several sub-heads, if they are not so split up in his own country.

(Note (g) ins. by the Insurance (Amdt.) Act, 1946 (6 of 1946), s. 48.) [(g) Where the maximum premiums-paying period includes a fraction of a year, such fraction shall be ignored for the purposes of this revenue account.]

### FORM DD

Classified statement of life insurance policies of the Company, for the year ending 19

	New life insurance business in respect of which a premium has been paid in the year				Total life insurance business in force at end of the year		
	Number of Policies	Sums insured and annuities per annum.	Single premiums (including consideration) for immediate (Ins. by the Insurance (Amdt.) Act, 1939 (11 of 1939), s. 36.) [or deferred] annuities and all other premiums paid at the outset where no subsequent premium is payable).	Yearly renewal premium income	Number of Policies	Sums insured with bonuses and annuities per annum.	Premium income for which credit has been taken in the account.
Ordinary policies		Rs.	Rs.	Rs.		Rs.	Rs.

<p>(Subs. by A. O., 1949, for "In India".) [In Pakistan]</p> <p>..</p> <p>.</p> <p>..</p> <p>.</p> <p>(Subs. ibid. for "Out of India".) [Out of Pakistan]</p> <p>..</p> <p>.</p> <p>..</p> <p>.</p> <p>Total</p> <p>..</p> <p>.</p>							
<p>Annuity contracts, etc.</p> <p>(Subs. by A. O., 1949, for "In India".) [In Pakistan]</p> <p>..</p> <p>.</p> <p>..</p> <p>.</p> <p>(Subs. ibid. for "Out of</p>							

<p>India".)  [Out of  Pakistan]  ..  .  ..  .  Total ..</p>							
<p>Group  insuranc  e  policies</p> <p>I</p> <p>(Subs.  by A. O.,  1949, for  "In  India".)  [In  Pakistan]  ..  .  ..  .  (Subs.  ibid. for  "Out of  India".)  [Out of  Pakistan]  ..  .  ..  .  ..</p>							

Total							
..							
.							

The amounts should be stated to the nearest rupees and after deduction of re-insurances.

**(Third Schedule)**

**FORM DDD**

Additions to and deductions from policies of the  
19

Company for the year ending

	Ordinary life insurance policies insuring money to be paid on death or survivorship.			Annuities	
	No.	Sum assured.	Reversionary bonus additions.	No.	Annuity per annum.
		Rs.	Rs.		Rs.
(1) Policies at beginning of year					
(2) New policies issued ...					
(3) Old policies revived ...					
(4) Old policies changed and increased ...					
(5) Bonus additions allotted ...					
Total					

**THE FOURTH SCHEDULE**

(See section 13)

**Regulations for the preparation of Abstracts of Actuaries' Reports and Requirements applicable to such Abstracts**

**PART I**  
**REGULATIONS**

1. Abstracts and Statements must be so arranged that the numbers and letters of the paragraphs correspond with those of the paragraphs of Part II of this Schedule.

2. In showing the proportion which that part of the annual premiums reserved as a provision for future expenses and profits bears to the total of the annual premiums, in accordance with the requirements of (Subs. by Act 11 of 1939, s. 37, for "paragraph 3".) [paragraph 4] of Part II of this Schedule, no credit is to be taken for any adjustments made in order to secure that no policy is treated as an asset.

3.--(1) The average rate of interest yielded in any year by the assets constituting a life insurance fund shall, for the purposes of (Subs. *ibid.*, for "paragraph 4".) [paragraph 5] of Part II of this Schedule, be calculated by dividing the interest of the year by the mean fund of the year ; and for the purposes of any such calculation the interest of the year shall be taken to be the whole of the interest credited to the life insurance fund during the year after deduction of income-tax charged thereon (any refund of incometax in respect of expenses of management made during the year being taken into account), and the mean fund of the year shall be ascertained by adding a sum equal to one-half of the amount of the life insurance fund at the beginning of the year to a sum equal to one-half of that fund at the end of the year, and deductions from the aggregate of those two sums an amount equal to one-half of the interest of the year.

(2) For the purposes of the calculation aforesaid either-

(a) all profits and income arising during the year from sums invested in reversions shall be included in the interest credited to the life insurance fund during the year ; or

(b) such portion of the life insurance fund as is invested in the purchase of reversions, and the profits and income arising therefrom, shall be excluded from the calculation ; but in that case a statement must be added to the information required under the said (Subs. by the Insurance (Amdt.) Act, 1939 (11 of 1939), s. 37, for "paragraph 4".)[paragraph 5], showing in respect of the portion of the fund so excluded as aforesaid, the average rate of annual profit and income for which credit has been taken during the five years last preceding the valuation date, and explaining the manner in which the said average rate has been calculated.

(3) The information given in accordance with the requirements of the said (Subs. by the Insurance (Amdt.) Act, 1939 (11 of 1939), s. 37, for "paragraph 4".) [paragraph 5] shall show clearly by which of the methods hereinbefore in this regulation mentioned the sums invested in reversions and the profits and income arising therefrom have been dealt with.

4. Every abstract prepared in accordance with the requirements of Part II of this Schedule shall be signed by an actuary and shall contain a certificate by him to the effect that he has satisfied himself as to the accuracy of the valuations made for the purposes thereof and of the valuation data

Provided that in the case of an abstract prepared on behalf of (Subs. *ibid.*, for "an insurance company".) [an insurer], if the actuary who signs the abstract is not a permanent officer of (Subs. *ibid.*, for "the company".) [the insurer] the certificate as to the accuracy of the valuation data shall be given and signed by the principal officer of (Subs. *ibid.*, for "the company".) [the insurer] and the actuary shall include in the abstract a statement signed by him showing what precautions he has taken to ensure the accuracy of the data.

5. For the purposes of the Schedule the following expressions have the meanings hereby respectively assigned to them, namely :

"extra premium" means a charge for any risk not provided for in the minimum contract premium ;

"inter-valuation period" means, as respects any valuation, the period to the valuation date of that valuation from the valuation date of the last preceding valuation in connection with which an abstract was prepared under this Act or under the enactments repealed by this Act, or, in a case where no such valuation has been made in respect of the class of business in question, from the date on which the insurer began to carry on that class of business ;

"maturity date" means the fixed date on which any benefit will become payable either absolutely or contingently ;

"net premiums" means as respects any valuation the premiums taken credit for in the valuation ;

"premium term" means the period during which premiums are payable ;

"valuation date" means as respects any valuation the date as at which the valuation is made.

## **PART II**

### **REQUIREMENTS APPLICABLE TO AN ABSTRACT IN RESPECT OF LIFE INSURANCE BUSINESS**

The following tabular statements shall be annexed to every abstract prepared in accordance with the requirements of this Part of this Schedule, namely :-



(a) a Consolidated Revenue Account, in the Form G annexed to this Part of this Schedule, for the inter-valuation period (except that it shall not be necessary to prepare such an account in respect of any class of business so long as the insurer deposits annually with the (Subs. by the Insurance (Amdt.) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).)[Controller of Insurance] an abstract in respect of that class of business) ; and

(b) a Summary and Valuation in the Form H annexed to this Part of this Schedule of the policies included at the valuation date in the class of business to which the abstract relates ; and

(c) a Valuation Balance-Sheet in the Form I annexed to this Part of this Schedule ; and

(d) a statement in Form DDD as set forth in Part II of the Third Schedule of the additions to and deductions from the number of policies and the sums insured thereunder for each class of life insurance (Subs. by the Insurance (Amdt.) Act, 1941 (13 of 1941), s. 71, for "; and".) [for the inter-valuation period (except that it shall not be necessary to prepare such statement in respect of any class of business so long as the insurer deposits annually with the (Subs. by the Insurance (Amdt.) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).) [Controller of Insurance] an abstract in respect of that class of business)] ;

(Cl. (e) omitted, *ibid.*)\* \* \* \* \*

and every such abstract shall show-

1. The valuation date.

2. The general principles and full details of the methods adopted in the valuation of each of the various classes of insurances and annuities shown in the said Form H, including statements on the following points :-

(a) whether the principles were determined by the instruments constituting the company or by its regulations or bye-laws or how otherwise ;

(b) the method by which the net premiums have been arrived at and how the ages at entry, premium terms and maturity dates have been treated for the purpose of the valuation ;

(c) the methods by which the valuation age, period from the valuation date to the maturity date, and the future premium terms, have been treated for the purpose of the valuation ;

(d) the rate of bonus taken into account where by the method of valuation definite provision is made for the maintenance of a specific rate of bonus ;

(e) the method of allowing for-

- (i) the incidence of the premium income ; and
  - (ii) premiums payable otherwise than annually ;
- (f) the methods by which provision has been made for the following matters, namely :-
- (i) the immediate payment of claims ;
  - (ii) future expenses and profits in the case of limited payment and paid-up policies ;
  - (iii) the reserve in respect of lapsed policies, not included in the valuation, but under which a liability exists or may arise ; and whether any reserves have been made for the matters aforesaid ;
- (g) whether under the valuation method adopted any policy would be treated as an asset, and, if so, what steps, if any, have been taken to eliminate such asset ;
- (h) a statement of the manner in which policies on under-average lives and policies subject to premiums which include a charge for climatic, military or other extra risks have been dealt with ; and
- (e) the rates of exchange at which liabilities in respect of policies issued in foreign currencies have been converted into rupees and what provision has been made for possible increase of liability arising from future variations in the rates of exchange.
3. The table of mortality used, and the rate of interest assumed, in the valuation.
  4. The proportion which that part of the annual premiums reserved as a provision for future expenses and profits bears to the total of the annual premiums separately specified in respect of insurances with immediate profits, with deferred profits, with profits, under discounted bonus systems, and without profits.
  5. The average rates of interest yielded by the assets, whether invested or un-invested, constituting the life insurance fund for each of the years covered by the valuation date.
  6. The basis adopted in the distribution of profits as between the insurer and policy-holders, and whether such basis was determined by the instruments constituting the company, or by its regulations or bye-laws, or how otherwise.
  7. The general principles adopted in the distribution of profits among policy holders, including statements on the following points, namely:
    - (a) whether the principles were determined by the instruments constituting the company or by its regulations or bye-laws, or how otherwise ;

(b) the number of years' premiums to be paid, period to elapse and other conditions to be fulfilled before a bonus is allotted ;

(c) whether the bonus is allotted in respect of each year's premium paid, or in respect of each completed calendar year or year of assurance or how otherwise ; and

(d) whether the bonus vests immediately on allocation, or, if not, the conditions of vesting.

8.-(1) The total amount of profits arising during the inter-valuation period, including profits paid away and sums transferred to reserve funds or other accounts during that period, and the amount brought forward from the preceding valuation (to be stated separately) and the allocation of such profits-

(a) to interim bonus paid ;

(b) among policy-holders with immediate participation, giving the number of the policies which participated and the sums assured thereunder (excluding bonuses) ;

(c) among policy-holders with deferred participation, giving the number of the policies which participated and the sums assured thereunder (excluding bonuses) ;

(d) among policy-holders in the discounted bonus class, giving the number of the policies which participated and the sums assured thereunder (excluding bonuses) ;

(e) to the insurer or, in the case of an insurance company, among shareholders or to shareholders' accounts (any such sums passed through the accounts during the inter-valuation period to be separately stated) ;

(f) to every reserve fund or other fund or account (any such sums passed through the accounts during the inter-valuation period to be separately stated) ;

(g) as carried forward unappropriated.

(2) Specimens of bonuses allotted (**Subs. by the Insurance (Amdt.) Act, 1941 (13 of 1941), s. 71, for "as at the valuation date"**).]as a result of this valuation] to policies for one thousand rupees-

(a) for the whole term of life effected at the respective ages of 20, 30 and 40, and having been in force respectively for five years, ten years and upwards at intervals of ten years ; and

(b) for endowment insurances effected at the respective ages of 20, 30 and 40, for endowment terms of fifteen, twenty and thirty years, and having been in force respectively for five years, ten years and upwards at intervals of ten years ;

together with the amounts apportioned under the various manners in which the bonus is receivable.

9. A statement in Form J annexed to this Part of this Schedule of specimen policy reserve values held or required to be held according to the methods adopted in the valuation, and specimen minimum surrender values in respect of whole life insurance policies for Rs. 1,000 with premiums payable throughout life effected at the respective ages of 20, 30, 40 and 50, and immediately on payment of the first, second, third, fourth, **(The word and comma "fifth,"- ins. by the Insurance (Amdt.) Act, 1941 (13 of 1941), s. 71.)**[fifth,] sixth, seventh, eighth, ninth, tenth, fifteenth and twentieth annual premium ; with similar specimen policy reserve values and specimen surrender values in respect of whole life insurance policies subject to premiums payable for 20 years and of endowment insurance policies maturing at age 55.

10. A statement showing how the liability under any disability clause in a policy has been determined in the valuation with full information of the tables of sickness or accident used for the purpose.

**(Subs. ibid., for the original Form G.) [Foam G]**

Consolidated Revenue Account of for years commencing and ending

	Business (Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), section 4 and 3 <sup>rd</sup> Sch., for within India”).[within Pakistan] (a).	Total		Business (Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), section 4 and 3 <sup>rd</sup> Sch., for within India”).[within Pakistan] (a).	Total
	Rs.	Rs.		Rs.	Rs.
Claims under Policies (including provision for claims due or intimated), less Re-insurances			Balance of Life Insurance Fund at the beginning of the period.]		
By death			Premiums, less Re-insurances-		
By maturity			(i) First year		

			premiums.		
Annuities, less Re-insurances -			(ii) Renewal premiums.		
			(iii) Single premiums.		
Surrenders (including surrenders of Bonus), less Re-insurances.			Consideration for Annuities granted, less Re-insurances (c).		
Bonuses in cash, less Re-insurances.					
Bonuses in Reduction of Premiums, less Re-insurances.			Interest, Dividends and Rents Rs.		
Expenses of Management(b) (e)-			Less-Income-tax there- on (d) Rs.		
1. (a) Commission to insurance agents (less that on Re-insurances).			Registration fees Other Income (to" be specified).		
(b) Allowances and Commission (other than commission included in sub-item (a) preceding).			Loss transferred to Profit and Loss Account. Transferred from Appropriation Account.		
2. Salaries, etc. (other than to agents and those contained in sub-item 1(b) preceding) ... ..					

3. Travelling expenses					
4. Directors' fees ...					
5. Auditors' fees ...					
6. Medical fees ...					
7. Law charges ...					
8. Advertisements					
9. Printing and Stationery ...					
10. Other expenses of management (accounts to be specified).					
11. Other payments (accounts to be specified)					
12. Rent for offices belonging to and occu. pied by the insurer.					
13. Rents of other offices occupied by the insurer ... ..					
Bad debts					
United Kingdom, (Subs. by A. O., 1949, for "British India").[Central and Acceding State],					
Dominion and Foreign Taxes					

Other Expenditure (to be specified) ..					
Profit transferred to Profit and Loss Account.					
Balance of Life Insurance					
Fund at end of the period as shown in the Balance-sheet ...					
Rs.			Rs.		

### NOTES

(a) These columns apply to all business except business the premiums in respect of which are ordinarily paid (**Subs. *ibid.*, for "outside India"**.)[outside Pakistan]. If any question arises whether any premiums are ordinarily paid inside or (**Subs. *ibid.*, for "outside India"**.) [outside Pakistan], the (**Subs. by the Insurance (Amdt.) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).**) [Controller of Insurance] shall decide the question and his decision shall be final.

(b) If any sum has been deducted from this item and enteted on assets side of the balance-sheet, the amount so deducted must be shown separately.

(c) All single premiums for annuities, whether immediate or deferred, must be included under this heading.

(d) (**Subs. by A. O., 1949, for "British Indian"**.)[Central and Acceding State], United Kingdom, Foreign and Dominion income-tax on Interest, Dividends and Rents must be shown under this heading, less any rebates of income-tax recovered from the revenue authorities in respect of expenses of management. The separate heading on the other side of the account is for United Kingdom, (**Subs. by A. O., 1949, for "British Indian"**.) [Central and Acceding State], Foreign and Dominion taxes, other than those shown under this item.







<b>Annuities on Lives</b>								
<b>Immediate Annuities</b>								
Deferred Annuities with return of premiums								
Deferred Annuities without return of premiums								
Other classes (to be specified)								
Total Annuities								
Deduct-Re-insurances								
Net Annuities on Lives								
Total of the results (after deduction of Re-insurances)								

### NOTES

1. Items in this Summary are to be stated to the nearest rupee.
2. No policy of insurance upon the lives of a group of persons, whereby sums assured are payable in respect of the several persons included in the group, is to be included in Groups A, B, C, or D of this Form : any such policies must be shown in a separate Group which must be added to the Form.
3. If policies without participation in profits but with a guaranteed rate of bonus are issued, they must be separately specified in Group D of this Form.
4. Policies under which there is a waiver of premiums during disability must be shown as a separate class.
5. Separate forms must be prepared in respect of classes of policies valued by different tables of mortality or at different rates of interest or involving the valuation of net premiums on different bases.
6. In cases where separate valuations of any portion of the business are required under local laws in places outside (**Subs by the Central Laws (Statute Reform) Ordinance, 1960**)



8								
9								
10								
15								
20								

NOTE.-Items in this Form to be stated to the nearest rupee.

(Note added, *ibid.*) [None.-The reserve value is to be based on the rate of office premium payable by an insured who entered at the age shown and who had, by the valuation date, paid the number of annual premiums shown in the first column.].

## THE FIFTH SCHEDULE

(See section 13)

### Regulations for preparing statements of business in force and requirements applicable to such statements

#### PART I

#### REGULATIONS

1. Statements prepared under this Schedule must be prepared, so far as practicable, in tabular form and must be identified by numbers and letters corresponding with those of the paragraphs of Part II of this Schedule.
2. Except with respect to rates of premium or contribution, items in statements prepared under this Schedule are to be shown to the nearest rupee.
3. Extra premium shown in the forms of Summary and Valuation prepared under the Fourth Schedule to this Act must not be included in statements prepared under this Schedule.
4. Every statement prepared under this Schedule shall be signed by the actuary making the investigation in connection with which it is prepared.
5. For the purposes of this Schedule the following expressions have the meanings hereby respectively assigned to them, namely :-

- (a) "annual loading" means the provision made for future expenses and profits ;
- (b) "extra premiums" means a charge for any risk not provided for in the minimum contract premium ;
- (c) "net premiums" means the premiums taken credit for in the valuation in connection with which any statement is prepared ; and
- (d) "valuation date" means as respects any valuation the date as at which the valuation is made.

## **PART II**

### **Requirements for statements applicable to Life Insurance Business**

The statements required to be prepared under this Part of this Schedule are as follows, namely :-

1. Statements, separately prepared in respect of policies with and without participation in profits, showing-

(a) as respects policies for the whole term of life, the rates of office premiums charged, in accordance with the published tables in use, for new policies giving the rates for decennial ages at entry from 20 to 70 inclusive ; and

(b) as respects endowment insurance policies, the rates of office premiums charged, in accordance with the published tables in use, for new policies with original terms of ten, fifteen, twenty, thirty and forty years, giving the rates for decennial ages at entry from 20 to 40 inclusive, but excluding policies under which the age at maturity exceeds 60.

2. Statements, separately prepared in respect of policies with immediate profits, with deferred profits, with profits under discounted bonus systems, and without profits, showing in (**Subs. by the Insurance (Amdt.) Ordinance, 1960 (5 of 1960), s. 11, for quinquennial**).)[annual] groups-

(a) as respect policies for the whole term of life-

(i) the total amount assured (specifying sums assured and reversionary bonuses separately), grouped according to ages attained ;

(ii) the amount per annum, after deducting abatements made by application of bonus, of office premiums payable throughout life, and of the corresponding net premiums, grouped according to ages attained ; and

(iii) the amount per annum, after deducting abatements made by application of bonus, of office premiums payable for a limited number of years, and, either, the corresponding net premiums grouped in accordance with the grouping adopted for the purposes of the valuation, or, the annual loading reserved for the remaining duration of the policies, grouped according to ages attained ;

(b) as respects endowment insurance policies-

(i) the total amount assured (specifying sums assured and reversionary bonuses separately), grouped in accordance with the grouping adopted for the purposes of the valuation ; and

(ii) the amount per annum, after deducting abatements made by application of bonus, of office premiums payable, and of the corresponding net premiums, grouped in accordance with the grouping adopted for the purposes of the valuation

Provided that-

(Cl. (a) omitted by the Insurance (Amdt.) Ordinance. 1960 15 of 1960). s. 11.)\* \*

\* \* \* \* \*

(b) where the office premiums payable under policies for the whole term of life for a limited number of years, or the office premiums payable under endowment insurance policies, or the corresponding net premiums, are grouped for the purposes of the valuation otherwise than according to the number of years' payments remaining to be made, or, where the sums assured under endowment insurance policies are grouped for the purposes of the valuation otherwise than according to the years in which the policies will mature for payment or in which they are assumed to mature if earlier than the true year, then, in any such case the valuation constants and an explanation of the method by which they are calculated must be given for each group, and in the case of the sums assured under endowment insurance policies a statement must also be given of the amount assured maturing for payment in each of the two years following the valuation date.

3. Statements as respects any policies in force under which premiums cease to be payable, whether permanently or temporarily, during disability arising from sickness or accident, showing the total amount of the office premiums payable.

4. Statements as respects immediate annuities on single lives for the whole term of life, separately prepared in respect of annuities on male and female lives, showing in uninquennial age groups the total amount of such annuities

5. Statements as respects deferred annuities, separately prepared in respect of annuities on male and female lives, showing the specimen reserve values for annuities of one hundred rupees which will be produced on maturity on the basis of valuation adopted at ages, in the case of male lives, 60 and 65, and in the case of female lives, 55 and 60 ; the said

statements must show the specimen reserve values which will be produced under the table of annual premiums in use for new policies, and if under any other table of annual premiums in use for any other deferred annuity policies in force smaller reserve values will be produced, the like specimens of these must also be given.

6. Statements as respects any policies of insurance upon the lives of a group of persons, whereby sums assured are payable in respect of the several persons included in the group, showing the total claims paid since the date as at which the last statements were prepared under this Part of this Schedule or, where no such statements have been prepared, since the date on which the insurer began to carry on the class of business to which the statements relate, and the reserve for unexpired risks and outstanding claims.

## **THE SIXTH 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.



































