

AcN 24229

SERVANTS OF INDIA SOCIETY'S LIBRARY Dhannjayarao Gadgil Library
PUNE 411 004 

FOR INTERNAL CIRCULATION GIFE-PUNE-024229

To be returned on or before the last date stamped below.

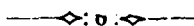
15 APR 1991

X81:70.

4-

24229

CONTENTS.



PART I.

	PAGE.
Submission Report	iv to xiv

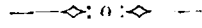
PART II.

Explanatory Notes on the Clauses of the draft Bill	xv to xix
---	-----------

PART III.

Contents	xx to xxvi
The Draft Bill	1 to 56
SCHEDULES.	57 to 77

PERSONNEL OF THE COMMITTEE.



- R. J. DUFF Esqr.,
New India Insurance Co. Ltd. } *Chairman.*
- H. E. JONES Esqr.,
The Oriental Government Security
Life Assurance Co. Ltd.
- PANDIT K. SANTANAM,
The Lakshmi Insurance Co. Ltd.
- K. S. R. IYER, Esqr.,
The Jupiter General Insurance Co. Ltd.
- J. P. DUTIA Esqr.,
The National Insurance Co., Ltd.,
- J. C. SETALVAD Esqr.,
The Vulcan Insurance Co. Ltd.,
K. C. DESAI Esqr.,
The Industrial & Prudential Assu-
rance Co. Ltd. } *Honorary
Secretaries.*

SUBMISSION REPORT.

The Indian Insurance Legislation Committee have the honour to submit their report to which they have appended a draft Bill embodying their recommendations for the repeal of the Indian Life Insurance Companies Act VI of 1912 and its re-enactment making it applicable to all classes of Insurance business with very extensive modifications.

PART I.

1. The Committee were appointed at a Meeting of Indian insurance representatives held in Bombay on the 31st day of May 1936 presided over by Sir Naoroji Saklatwala, Kt., C.I.E., with a view to inquire and report on the necessity and expediency of introducing the requisite legislation with a view to give adequate protection to Indian Policy holders and to Indian Insurance companies incorporated in British India and to draft a suitable Insurance Bill embodying their recommendations on the subject. The names of Insurance companies whose representatives attended the said meeting or who subsequently joined in the scheme are mentioned hereunder :

- | | | |
|--|----|------------------------------|
| (1) The Oriental Life Insurance Company .. | .. | Bombay |
| (2) The New India Insurance Co. | .. | .. |
| (3) The Vulcan Insurance Co. | .. | .. |
| (4) The Bombay Mutual Life Assurance Society .. | .. | .. |
| (5) The Jupiter General Insurance Co. | .. | .. |
| (6) The National Insurance Co. | .. | Calcutta |
| (7) The Hindusthan Co-operative Insurance Society .. | .. | .. |
| (8) The Industrial & Prudential Assurance Co. .. | .. | Bombay |
| (9) The Lakshmi Insurance Co. | .. | Lahore |
| (10) The Bharat Insurance Co. | .. | .. |
| (11) The Indian Mercantile Insurance Co. | .. | Bombay |
| (12) The Western India Life Insurance Co. | .. | Satara |
| (13) The Hindu Mutual Life Assurance Co. | .. | Calcutta |
| (14) The Universal Fire & General Insurance Co. .. | .. | Bombay |
| (15) The Indian Globe Insurance Co. | .. | .. |
| (16) The Andhra Insurance Co. Ltd. | .. | Machalipatam (Madras Presy.) |
| (17) The Zenith Life Assurance Co. Ltd. | .. | Bombay |
| (18) The Asian Assurance Co. Ltd. | .. | .. |
| (19) The East & West Insurance Co. | .. | .. |
| (20) The Bombay Life Assurance Co. Ltd. | .. | .. |

2. The Committee held forty meetings at which they considered the different aspects of Insurance legislation and came to certain conclusions thereon which are embodied in the draft bill which will be found as part III of this Report.

3. It became clear to the Committee that it would be easy for them to express their conclusions on the main points as there was very little divergence of opinion on the subject ; but that the real difficulties would be found in embodying them in the draft bill.

4. In the circumstances, the Committee thought proper to secure the services of Mr. Mangaldas B. Mehta, B.A., LL.B., Solicitor High Court, Bombay and Notary Public, to assist them in embodying their conclusions in the form of a Bill.

5. The draft Bill (printed as part III of this report) contains the Committee's recommendations for the repeal of the Indian Life Insurance Act VI of 1912 and its re-enactment with those amendments which the Committee think necessary.

6. The Committee have thought it convenient to set out in Part II of this Report their comments on the salient features of the draft Bill with particular reference to the modifications and additions in the Law which are embodied therein and to the reasons which have actuated the Committee in suggesting those modifications.

7. The Committee find it necessary, however, to deal separately with certain questions which have been discussed before them but fall outside the purview of Part II of this Report.

8. Prior to the year 1912, there was no statute in force in British India regulating business of Insurance of any kind, the reason being that most of the Insurance business transacted in British India was in the hands of British and Foreign companies. At that time there were about fourteen companies incorporated in British India a majority of which were doing only the business of Life Insurance. As business of Life insurance began to grow, it was felt necessary that legislation of some sort should exist for the protection of Indian policy holders. Accordingly the then Government of India enacted an Act in the year 1912 being the Indian Life Assurance Companies' Act VI of 1912.

9. The ideas of nations in relation to trade and commerce as well as important national services were completely revolutionised after the Great War of 1914—18. India was no exception to this. It wanted to develop, amongst other things, all classes of Insurance business, and five composite companies came into existence soon after the War. Since then a few more composite companies have been formed but the number of such companies at present is not more than fifteen.

10. During the period of the Great War, there was only an addition of four Indian Insurance companies, and in the post war period from the year 1918 to 1924 there was a further addition of five Indian Life Assurance Companies. But from the year 1926 onwards there has been a steady increase of new Life Insurance companies with the result that whereas at the end of 1926 there were 51 Indian Life Assurance Companies with a combined premium income of nearly Rs. 253 lakhs, there were as many as 194 companies in 1934, of which 145 were doing life insurance business with a combined premium income of over Rs. 600 lakhs. No progress of any substantial character was, however, made in the case of other classes of Insurance.

11. The total premium income of twenty-two well known British Insurance Companies for the year 1935 from Fire, Marine and Accident amounted to nearly Rs. 140 crores. The total premium income of American companies from Fire, Marine, Motor, and miscellaneous business amounted to Rs. 375 crores. The premium income derived in India from Fire, Marine and miscellaneous insurance business in the year 1933 according to the Indian Insurance Year Book published in the year 1935 under the authority of the Government was Rs. 250 lakhs. This small amount of business is shared by as many as 150 companies, out of which not more than fifteen are Indian Companies.

Regarding Life Insurance, the income of British Life Insurance Companies for the year 1935 was over Rs. 94 crores in the ordinary branch and Rs. 63 crores in the industrial branch. The total funds of British Insurance Companies at the end of 1935 stood at the colossal figure of Rs. 1472 crores. Similarly, the income from Life Insurance of the American Insurance Companies for the year 1935 came to Rs. 800 crores, and the funds stood at Rs. 7068 crores. In India, the total amount of life Insurance in force at the end of 1933 amounted to over Rs. 193 crores; premium income amounted to Rs. 970 lakhs.

There are 341 companies operating in India, both Indian and foreign, and the Committee are of the opinion that there is no scope for such a large number of companies in India having regard to the comparatively very small volume of business that is available at the present time.

12. In the year 1925 it was felt by both the public and the commercial community that comprehensive legislative measures should be introduced and enacted into Law with a view to control the operations of Companies, Indian as well as Foreign, carrying on insurance business of one or more classes in British India and to protect the interests of the Indian policy-holders.

13. With a view to satisfy strong public opinion in the matter, Sir Charles Innes, the then Commerce Member of the Government of India, introduced a Bill in the Legislative Assembly on 21st May 1926. The said Bill purported to legislate for all classes of insurance business and to insist upon the Companies, carrying on the business of Insurance in British India, depositing for each class of such business certain amounts with the Governor General in Council. The said Bill also purported to insist upon the Insurance Companies submitting to the Government of India detailed information as to the working and nature of Insurance business carried on by them in British India. The said Bill was withdrawn by the Government of India. Some amendments however were introduced in the insurance Act by the Government of India in 1928. But they did not satisfy the public demand.

14. In the same year Mr. Jammadas M. Mehta, then a member of the Legislative Assembly, also made an unsuccessful effort to

introduce a private Bill which was modelled on the lines of the Insurance Act then in force in Canada. The said bill, however, was not introduced in the Assembly and was ultimately dropped.

15. Since the year 1925 strong representations have been, from time to time made to the Government of India by Life and Fire Insurance Associations and Chambers of Commerce for enacting a comprehensive Insurance bill with a view to give adequate protection to Indian Insurance Companies and to Indian Life Policy holders, to check the growth of mushroom Insurance companies and to prevent unhealthy competition of Foreign companies carrying on business of Insurance in British India.

16. As a result of such representations the Government of India in the year 1935 appointed Mr. Sushil Sen, a Solicitor of Calcutta, to inquire into the conditions of Insurance business carried on in British India by Indian as well as Foreign Insurance Companies in all its aspects and to make a report thereon suggesting the lines on which amendments to the existing insurance Law in India should be made. We regret to state we had not the benefit of this Report, as the same had not been made available to the public.

17. It will be pertinent to point out that the existing Law on insurance was largely based on English Law. The conditions, however, prevailing in Great Britain were entirely different from those prevailing in India. The business of Insurance in British India was then and is even now in its infancy. Besides, the majority of the people of India are illiterate and a still larger majority ignorant of the English language in which the Government Blue Books are published, and not in a position to protect themselves. In India, therefore, the Insurance Law in the interests of the Policy holders, should have provisions more stringent than those embodied in English Law. It is also necessary to establish in India a separate Government department of Insurance. The Committee have accordingly provided in the draft Bill for such a department. The Committee do not entirely endorse the opinion held in certain quarters that the best protection of a policy holder will be found in the publicity which will be given to the insuring Company's position as a result of the obligation being imposed upon it to make the statutory returns. The Committee feel that a measure of Government control is much more necessary and is essential in a country like India than in Canada, U.S.A., Japan and other countries. Government supervision in such countries has not interfered with the development and growth of indigenous Insurance business and there is no likelihood in India of the business of sound and stable companies being interfered with by such a supervision.

18. In the course of discussions at the meetings of the Committee, the Committee had before them Insurance Legislative enactments existing in almost all parts of the World and they have freely referred to these enactments. Their recommendations, however,

are largely based on experience gathered from the working of Insurance Companies in India and the existing exigencies of the case.

19. The Committee are convinced that a measure of Government control is necessary over all Companies, whether corporate or incorporate, carrying on the business of Insurance in British India and they have, therefore, recommended a system of licensing which makes it obligatory for every Insurance Company, Indian as well as Foreign, to obtain a license from Government in order to enable it to commence and carry on insurance business in India. The Committee also feel that power should be reserved to the Governor General in Council to refuse the license to any company even though such a Company is prepared to abide by the provisions of this Act. Such a power will be useful in preventing a company of a country which does not permit an Indian Company to do Insurance business in that country from obtaining the license. Such a power may also be exercised against a Company which carries on business in a manner detrimental to the interests of the insuring public as well as other Insurance companies. The Committee are of the opinion that it would not be possible to exercise proper control over companies unless a proper licensing system is introduced.

20. The Committee are also of the opinion that the proposed legislation should make provision for insisting upon deposits being taken from every Company, foreign as well as Indian, in respect of each class of business carried on by it, as at present practically only Indian Life Insurance Companies are required to make a deposit to the maximum of Rs. 2 Lacs, the minimum deposit being only Rs. 25,000. The Committee have, therefore, provided in the draft Bill that substantial deposits should be taken before the license is issued from every company, foreign as well as Indian, carrying on business of any class of Insurance. This provision will in their opinion, prevent mushroom non-Indian as well as Indian Companies from carrying on the business of insurance in India in a manner detrimental to the best interests of India.

21. The Committee have provided in the draft Bill that a non-Indian Company should deposit a larger sum than is required of an Indian Company in respect of each class of Insurance business other than Life. In the opinion of the Committee this differentiation and distinction is necessary in view of the fact that Indian Companies have got their capital in India. It might also give a little protection to indigenous Indian Insurance Companies from the inroads of some foreign Companies. Provision on similar lines is existing in several countries including British Colonies and Indian Companies as well as British Companies carrying on or intending to carry on business of insurance in such countries are required to pay higher deposits in such countries. The Committee are not unaware of the view expressed that such differentiation may invite retaliatory steps in foreign countries against Indian companies. The Committee have carefully examined this position and feel that there is no likelihood of any increase in deposits required from Indian Companies in foreign countries.

22. The Committee are also strongly of the opinion that so far as non-Indian Insurance companies are concerned they should be required to keep in British India sufficient assets by way of reserve to enable them to meet all outstanding risks in respect of each class of insurance business carried on by them in India and a provision in that behalf has been made in the draft bill. Indian companies doing Fire insurance business in the U.S.A. have to maintain such assets. These assets will safeguard the interests of Indian policy holders in the case of War or in the case of a foreign Company being taken into liquidation in the country of its origin for reasons not necessarily connected with the business of underwriting.

23. Provision has also been made in the draft Bill for the registration of Agents and Insurance brokers and prevention of rebating. Rebating is on the increase and unless it is immediately curbed it will undermine the financial position of insurance companies. The registration of brokers is necessary for the purpose.

24. The Committee have carefully considered the question of giving due representation to Policyholders in the management of a proprietary life insurance Company. In the case of Companies carrying on the business of life insurance only, provision has been made in the constitution of most of them whereby policy-holders are entitled to elect every year one or more Directors from amongst themselves. In the case of Companies carrying on the business of life insurance along with other classes of insurance business the question presents insurmountable difficulties. Life insurance is only one of their several other activities such as, Fire, Marine, Motor Vehicles, and Accident insurance. It hardly seems fair that policyholders of life department should alone be entitled to elect some directors from amongst themselves and indirectly to have a voice in the management of all the other departments of the Company. Such an arrangement cannot result in the harmonious working of the Company and is likely to be prejudicial to other departments. The Committee have therefore come to the conclusion that it will neither be advisable nor practicable to make provision by statute for giving representation to the life policyholders in the case of a Composite insurance Company.

It will also be invidious to make a distinction between a Company carrying on the business of life insurance only and a composite insurance company by providing by statute for such a representation. If such a distinction is made in the proposed statute it might result in composite insurance companies suffering serious handicap in their life business. Apart from this the Draft Bill provides adequate safeguards for the protection of life policyholders such as supervision and control of the commissioner of insurance, provision for investment of life funds, maintenance of separate life insurance reserves etc. The committee have therefore not provided for any representation being given to the life policyholders in the management of an Insurance Company whether Composite or otherwise.

25. In the course of the deliberations of the Committee it was suggested that the holders of policies of life insurance should be treated as members of the company whether composite or otherwise and vested with all the rights of ordinary shareholders. The Committee after carefully considering the matter have come to the conclusion that a provision on the lines of the above suggestion if incorporated in the draft Bill would entail serious consequences to the Company and its shareholders. In course of time the life policyholder will acquire a predominant voting strength with the result that on any question affecting the rights of the shareholders they will be able to assert themselves. The original shareholders who were mainly instrumental in the formation of the Company and who for a number of years risked their capital, would have very little voice in the management of its affairs while in some cases they will have the burden of and uncalled liability on the shares held by them. Moreover the agents, sub-agents and brokers employed by the Company will be placed in a position of exerting considerable influence over the holders of policies secured by them and will very likely utilise such an influence against the best interests of the Company thereby hindering stable progress. In the case of composite offices the question presents difficulties similar to those mentioned in the preceding paragraph. In the circumstances the Committee are firmly of opinion that the suggestion besides being unpracticable is harmful to the steady progress of Indian Insurance Companies.

26. The Committee are of the opinion that business on dividing Society lines is prejudicial and harmful to the public as well as to the growth of healthy insurance in India. They, therefore, recommend that business on these lines should be made illegal.

27. The question of Provident Societies was carefully considered by the Committee and they were of the opinion that the Provident Societies also should be brought within the purview of this Act. The present Act relating to Provident Societies should be repealed. They should also be made to have licenses and should be made to deposit suitable amounts and have periodical valuation. The Committee have not included these provisions in the draft Bill. But if the principle is accepted by the Government, a separate Chapter on "Provident Societies" could be easily added to the Bill.

28. The Committee's attention was drawn by some experienced medical officers of Life Insurance Companies to the fact that quite a number of medical graduates were not able to do full justice to the work of medical examination for life insurance companies. The Committee felt that though the matter was very important, it could not be included in the present Bill. The Committee, however, draw the attention of various Universities and the Government to the necessity of including the subject of Medical Life Assurance in the Curricula of Medical Colleges and Medical Schools.

29. The Committee would like to make it quite clear that all the clauses included in the draft Bill are interdependent and go together. If any serious alterations are suggested in the requirements of the draft bill under one heading, it will be necessary to make alterations in other parts of the Bill also. The Committee should not be understood to have separately agreed to any suggestion in any part of the Bill.

30. Before this part is concluded, there is one very important and vital question to which a reference must be made. This Committee is strongly of the opinion that Indian Insurance Companies require effective protection, and provisions should be introduced in the proposed insurance Bill to ensure such protection. The said provisions have not been put in the draft Bill so far but a Chapter under the heading of protection requires to be added.

The problem that faces Indian Insurance Companies is one of uneconomic competition. This is particularly intensified in the general insurance business as a result of which the existing general Indian Insurance Companies are much handicapped. Their total number is not more than fifteen. Against this small number of indigenous companies there are as many as 70 British and 77 Non-British foreign insurance companies in India. It is pertinent to note here that general insurance business is being conducted on what is called Tariff lines. Tariff Associations were formed throughout India by foreign companies to suit their own needs. Rules were framed and the right of agency representations, even to defunct companies, was made possible under these Rules. Similarly companies which have either been absorbed or acquired by larger companies can have agency representations in India. Indian Offices being new comers, had certain disabilities in this matter. These Tariff Rules prohibit opening of Branch Offices in a Presidency. Since Indian Insurance Companies came into existence, insurance rates have been systematically reduced. The result has been that Indian Insurance Companies have to work in their own country under great difficulties due to the severe and unhealthy competition from foreign companies. The Committee feel that the Government department of Insurance must have some control over these Associations. The Committee do not recommend that usually there should be any interference in the affairs of any such Associations but the Indian minority must be protected by the Government under certain conditions.

31. The formation of a number of general insurance companies in 1919, i.e., just after the War, backed by influential Boards of Directors and with substantial capital, was not looked upon with much favour by large British and Colonial companies who had a monopoly of general insurance business in India during the War. This feeling was reflected in the attitude taken up by Exchange Banks which were not willing to grant normal working facilities by accepting Indian Insurance companies' policies. This fact was also brought out before the Banking Inquiry Committee.

32. After the War, other foreign companies began to enter the Indian field. A group of Javanese companies came soon after the War. American companies came thereafter. A group of French companies also entered India and thereafter German and Italian companies also followed them into the Indian market. All these later arrivals came into India without any kind of local influence. Their only chance was in offering enhanced commissions. It must be mentioned that so far as some of the well established foreign companies were concerned, they had a tied-up business which these new foreign companies could not disturb. They, therefore, attacked the connections which Indian Insurance Companies were able to form. The natural consequence of this invasion was that valuable brokers and agents of Indian Companies, controlling substantial portfolios of premium, were offered by these companies excessive terms. These companies directly as well as through the newly engaged brokers approached the clients of Indian companies with offers of very high rebates, which compelled the Indian companies to offer competitive terms to brokers to retain their business. This naturally resulted in higher costs of acquisition. The Committee are satisfied that the high acquisition costs which prevail in India today leave in many cases no margin of profit to companies doing Fire and general business. This view is also shared by the Tariff Associations in India whose membership consists of Tariff companies operating in the Bombay territory which include almost all British, Indian and Continental companies.

The Javanese companies after a few years' working retired quietly. The French companies also after a couple of years' working withdrew from India. One leading German Insurance company has similarly retired quite recently. Although these companies have gone out of business in India, there can be no doubt that they have done infinite harm to the insurance business in India in general, and to the Indian Insurance Companies in particular.

33. The Indian Companies can only grow and expand if the Government can give effective protection to them. In the first place non-Indian companies should be prevented from coming to India for quite a number of years. The business available in India is necessarily small and limited. The Committee, therefore, feel that for twenty years at least no new non-Indian Company should be given the license to do Insurance business in India. This provision should be made applicable to Companies doing life as well as general business. There are already a large number of Indian Life companies in existence, sufficient for the needs of Indians. The new requirements under this Bill will necessarily control the number of new Indian companies in near future. The smaller Indian companies which will have to find the amount of increased deposits, should also be allowed to have time to consolidate and progress. This can only be done by withholding the issue of licenses to any new non-Indian companies for a period of at least twenty years.

34. In Japan and Italy it is very difficult, if not impossible, for Indian companies to get admission. The following extracts

from a letter received from Japan with regard to the prospects of an Indian Company entering afresh the Japanese market will show that so far as Japan is concerned it has closed its doors against foreign insurance companies :—

“Coming to the question of insurance legislation in Japan, governing foreign insurance companies, we would remark that the policy of the Government is definitely opposed to the granting of further licenses to insurance companies desiring to open business in the Japanese Empire, and their efforts are being directed towards a reduction in the number of insurance companies, rather than an increase. No new licenses have been issued in recent years, and smaller companies are encouraged and advised to amalgamate with one another or with larger companies. This being the domestic policy of the Government, it is not surprising that no new licenses have been issued during recent years to foreign companies desiring to commence underwriting business in Japan.”

Italy, although it has not officially committed itself, has not given admission to one of the largest Indian Insurance Companies. And yet Italian insurance companies are doing business in India without any let or hindrance.

There are other discriminations exercised by Trade Organisations abroad as the following extracts from the speech of the Chairman of a leading Indian Insurance Company will show :—

“Before closing, I may mention a matter which continues to cause us some concern. This is the discrimination which favours certain classes of Companies to our detriment in the contracts of various Trade Associations in Great Britain. Such contracts contain a provision somewhat on the following lines :—

“Insurance to be effected with approved British and/or Continental and/or American Underwriters or Companies domiciled in and paying losses in England.”

“With many of these Trade Associations no difficulty arises, but some of the contracts still operate against us, and divert a certain amount of business which would otherwise come to us. This is very unsatisfactory, and we shall continue our efforts to overcome the difficulty.”

35. The Committee believe that as regards Indian General Insurance Companies, tangible assistance should be given to them. The conditions in India are entirely different from those in other parts of the world. Effective protection should, therefore, be given to Indian General Companies. This can take many forms, and we suggest the following :—

(i) All insurance controlled by the Government should be placed with Indian Insurance companies.

(ii) The Government should require all Municipalities, Local Boards, Port Trusts, Improvement Trusts and other quasi-Government bodies and institutions receiving Government aid to insure all their properties with Indian Insurance Companies.

(iii) All industries which have received protection from Government in the shape of direct bounty or by Tariff should be required to place their insurance business with Indian Insurance Companies. This suggestion is in harmony with the following view expressed by the Tariff Board in their report in 1932. "Unless the policy of protection results in the development not merely of the industries to which protection is granted, but also of subsidiary industries, it will have failed to achieve its full purpose."

(iv) All foreign insurance companies doing business in India should be asked to effect reinsurances with Indian insurance companies.

(v) An additional stamp duty on policies issued by non-Indian Companies should be imposed.

The Committee also suggest direct protection in the shape of compulsory reinsurance with Indian Companies of a certain percentage of all policies issued by non-Indian companies in India. Such a system of compulsory reinsurances is prevalent in some countries including the Irish Free State.

The Committee are emphatically of the opinion that for the very existence of the Indian General Insurance Companies protection on the lines suggested here, is absolutely necessary. Unless definite provision is made for such protection, in the proposed insurance Bill, there is no likelihood of the development of General Insurance business on National lines.

36. Before concluding this report, the Committee desire to place on record their appreciation of the very valuable services rendered by Mr. K. C. Desai, the Joint Honorary Secretary. It would have been almost impossible for the Committee to complete its work without his untiring assistance.

(Signed) R. J. DUFF (*Chairman*).

H. E. JONES.

K. SANTANAM.

K. S. R. IYER.

JIVANDAS P. DUTIA

J. C. SETALVAD

K. C. DESAI.

} *Hon. Secretaries.*

Bombay, 23rd October 1936.

PART II.

The Committee proceed to comment on certain matters arising in connection with the draft Bill with particular reference to the changes thereby to be effected in the existing legislation on the subject.

(1) Chapter I defines certain expressions and words which frequently occur in the Bill. Under the existing legislation on the subject there are very few definitions. In view of the increased scope and application of the Bill the Committee deemed it necessary to give precise definitions of certain expressions which are commonly used by persons engaged in the business of Insurance. The Committee have found it necessary to define the words "Indian Company" in sub-section (o) of Section 2 of the Bill as distinguished from a "Non-Indian Company" in view of distinct provisions appearing in the Bill affecting Indian and non-Indian Companies.

(2) The Committee have not reserved in the bill power to the Governor General in Council to exempt any Company from all or any of the provisions of the Act. As the provisions of the Bill are far reaching in their consequences, there is every likelihood of a majority of companies trying to secure an extirpation from the Act on frivolous grounds. The Committee therefore felt that if such a power was reserved to the Governor General in Council, the purpose of the bill would be frustrated if exemptions were granted on a large scale. Provident Insurance Societies are not brought within the purview of the Act. The Committee however feel that for the successful working of the act, the existing Provident Insurance Societies Act 1912 requires to be drastically mended.

(3) Chapter II provides for the grant of the licenses. Licensing system is intended to regulate the admission of Companies carrying on or formed to carry on the business of Insurance and to check the growth of mushroom companies. The non-Indian Companies have to renew their licenses every year. The Governor General in Council is vested with the right of refusing to grant or renew the license to any Company with a view to prevent Companies from resorting to unfair competition *inter se* and to protect indigenous Insurance Companies in India. In view of the provisions relating to deposits, the maintainence of assets in India and other matters appearing in the bill the licensing system was found unavoidable. Adequate fee for the grant and renewal of licenses should ensure sufficient income to the new department of insurance. Lloyd's Agents working in India are also required to obtain licenses. This Chapter also provides for certificates to be obtained by Insurance brokers or agents. This will result in checking the abuse of rebating which is prevalent now. There is also a clause restricting companies from paying commissions to any person or persons other than certified brokers.

(4) Chapter III deals with Deposits. The existing Act makes it obligatory for a Life Insurance Company to deposit upto a maximum sum of Rupees Two Lacs. In view however

of the steady progress of Insurance business of all classes in India, the Committee have thought it fit to insist on deposits being taken from Companies doing all classes of business. Moreover non-Indian Life insurance Companies which have deposited £ 20,000/- in England are not required to deposit any amount in India, though a Company incorporated in India and having deposited the amount as required by the Act is still required to deposit £20,000/- in England. This is neither fair to Indian Companies nor to Indian Policy Holders. The Bill therefore provides for deposits from all Companies. In the present circumstances the Initial deposit of Rs. 25,000/- required under the existing Act from Life Assurance Companies is hardly adequate. The Committee have recommended in the bill to require the maximum deposit of Rs. 2,00,000/- from all Companies transacting Life Insurance business. This will have the effect of preventing mushroom companies from being started and established without adequate finances. Experience in the past has shown that some companies with weak finances were not able to meet their obligations including claims under the policies issued by them. The higher deposits required under the Act are intended to protect the interests of the public including the Policy holders. Besides the deposits the Committee have provided in the bill that a license shall not be issued unless the Company has a working capital of Rs. 50,000/-. This is necessary in view of the increased cost of procuring business. The Committee have further provided in the Bill for payment of the deposits by instalments in the case of existing Indian companies which have not paid full deposits. It is only fair to such companies that they should be given time for making enhanced deposits.

(5) Regarding other classes of insurance business, separate deposits are required for each of the following classes of insurance business, viz : (a) Workmen's Compensation, (b) Accident, (c) Motor Vehicles, (d) Fire and (e) Marine Insurance business with a proviso for a maximum deposit of Rs. 5,00,000/- for non-Indian and Rs. 2,50,000/- for Indian Companies. The existing Indian Companies are permitted to make the deposit by instalments. Differentiation in the deposits required from Indian and non-Indian Companies has been made in the bill by the Committee after careful and anxious consideration. Such a discrimination exists in some countries including British Colonies and the circumstances in India require the introduction of the system.

(6) The Committee have carefully considered the question of Lloyds' Agents and persons issuing certificates which cover insurances with Lloyds' also. The Committee feel that they should be made to deposit specified amounts with the Government. The Committee have accordingly provided that for each class of insurance business every Lloyds' Agent and person issuing certificates which cover insurances with Lloyds' should deposit Rs. 2,5000/- with the maximum of Rs. 50,000/- for all classes of insurance business.

(7) The Committee have also provided in the bill that every Indian Company intending to transact the general business should have a minimum capital of Rs. 3,00,000/- if it carries on only one class of business and of Rs. 5,00,000/- if it carries on more than one class of insurance business. To ensure the establishment of companies on sound lines this provision is deemed necessary.

(8) The Committee have in addition to deposits, deemed it necessary to provide in the bill that non Indian Companies should maintain a certain portion of their assets in India. Such Companies doing life Insurance business are required to maintain in India in Trust, assets equivalent to their liabilities to the policy holders in India. A provision has also been made in the Bill for reserving the securities deposited for a particular class of business for the liabilities of that class only.

(9) The documents to be filed with the Department of insurance are mentioned in Chapter IV. On filing these documents the company will be entitled to apply for a license. Due notice of the grant of a license as well as of the closing of business has to be given under this Chapter.

(10) Chapters V and VI deal with Balance Sheets accounts and the Annual returns to the Department. The closing of the business year has been made compulsory on 31st December. For the purposes of comparison it is found necessary that all reports and figures should be given for the same period. It is also provided in the bill that all the returns should be made to the Department within six months of the closing date. The Committee have thought it proper to require non-Indian Companies also to make their annual returns on almost the same lines as Indian Companies. For purposes of the Balance Sheet the Committee feel that the present requirements of law are quite sufficient.

(11) Chapter VII defines the Powers and duties of the Commissioner. This Chapter deals in detail with the work of the Insurance Department which is to be a new department. Powers of supervision and inspection have to be given to the Commissioner. He is to be responsible for the publication of the Blue Book which has to be published on a specified date. Publicity is a great factor in credit institutions like insurance companies. Provision has been made in 54 (b) for the suspension of the license of a Company by the Governor General in Council if it is found that it is unsafe for the public to effect insurance with it.

(12) Chapter VIII deals with "Reinsurance of insolvent Companies". Detailed provisions in this respect were overdue.

(13) Chapter IX deals with investments. The question of state interference in this matter is controversial. Investments of a company are no doubt an internal affair of the company. Insurance Companies however are credit corporations and the future of quite a number of persons depends upon the prudent investment policy

of the companies. The Committee have therefore decided to make statutory provisions for investments. Indian Companies doing business outside India have to make deposits in other Countries according to the law or usage prevailing in those countries. These sums are therefore excluded from the purview of this Chapter. Out of the remaining assets of the Company, one half is required to be invested in securities authorised by Section 20 and 20A of the Indian Trust Act. At present a very large majority of the companies are in the habit of investing the major portion of their assets in such securities. The Committee however felt that the statute should make it obligatory for a company to invest atleast fifty percent of its assets in Trust securities. In case of life insurance companies loans have to be advanced on their policies which investment is not authorised by the Indian Trust Act. Such loans on an average form about 10 per cent. of the total assets of a company. The buildings owned by a Company for its business are also not within the investments authorised by the Trust Act. Taking all these facts into consideration, the Committee felt that it would suffice if only fifty percent of the assets of a Company were compulsorily required to be invested in Trust securities. The Committee have however definitely provided that no loans shall be allowed to any director, managing agent, or officer of a company except on policies within their surrender values.

(14) Chapter X makes provisions for the winding up of companies. The Committee feel that these provisions would be found adequate for all practical purposes.

(15) Chapter XI specially deals with the business of Life Insurance. As the Bill deals with all the branches of insurance; it was found necessary to devote a separate chapter on Life insurance. The subject of Amalgamation and Transfer has been fully dealt with. Provision is made to prevent Companies from paying commission to persons other than certified brokers and that too should be determined in advance. No advances have to be paid to agents. Future estimates on life policies have been prohibited as this system tends to misguide the public. Rebates have been prohibited under penalty. There has been a great complaint against the evil of rebating and the Committee have inserted in the bill careful provisions for checking this evil. Provision has also been made for periodical valuations for which compulsory basis have been laid down. The existing law merely lays down that the basis adopted shall be declared. This bill goes a little further and lays down certain definite basis for valuation. It is further provided that for ascertaining surpluses for the purposes of distribution, no appreciation of securities which are not actually sold shall be taken credit for. This in the opinion of the Committee is a very salutary provision. The Chapter further provides for the transfer of business of companies desirous of closing their business. The Chapter also provides that life insurance accounts of a composite company shall be separately maintained and that the life assurance fund shall not be applied directly or indirectly for any other purpose.

(16) The Committee have also deemed it necessary to make a provision in Chapter XI for assignments of and nominations under life policies and the form and manner of making the same. Payments of claims have been frequently delayed for want of a legal title. The insuring public therefore are given ample facilities to nominate their successors from the beginning without creating an absolute trust for them.

(17) Chapter XII deals with classes of Insurance, other than life. It is provided that if a company does not pay a claim for a number of days after it is settled its license may be cancelled. There are provisions under this Chapter also for checking the evil of rebating. The Committee feel that these provisions will have a salutary effect on the public and the Companies as well as the brokers.

(18) Chapter XIII is devoted to penalties and procedure. Unless penalties are prescribed and enforced there is no likelihood of the requirements of the Act being duly complied with by all concerned.

(19) The last Chapter XIV deals with miscellaneous matters. Power is given to the Governor General in Council to make rules with a view to carry out the purposes of the Act. It is also provided in this Chapter that the Balance sheets and accounts prepared in accordance with the provisions of the Bill and sent to the Registrar of Companies, shall be sufficient compliance with the provisions of Section 134 of the Indian Companies Act. Doubts have arisen whether in the case of a policy of insurance issued by a Non-Indian Company the Law applicable should be the Law of the country in which such a Company is incorporated or the Law of British India. It is therefore expressly provided that any question of Law arising in connection with a policy of insurance whether issued by an Indian or a non-Indian Company, should be decided according to the Law for the time being in force in British India. By this Chapter the business known as the "dividing Society business" is made illegal. It is also provided in this chapter that the period of instituting a suit on a policy of life insurance shall be three years from the date of death. The existing provisions in the limitation Act is not happily worded. The proposed provision would be considered just and equitable.

PART III

TEXT OF THE DRAFT BILL.

CONTENTS.

ARRANGEMENTS OF SECTIONS.

CHAPTER I.

Preliminary.

- Section 1.** Short title, extent and commencement.
Section 2. Definitions.
Section 3. Companies to which Act applies.

CHAPTER II.

Licenses.

- Section 4.** A Granting of licenses
 B Effects of license.
 C License to persons issuing Lloyd's covers etc.
- Section 5.** License to be issued after confirming to certain requirements.
- Section 6.** Name of the Company.
- Section 7.** A Form of License.
 B License of non-Indian Companies to expire on 31st March.
 C License of Indian Company.
 D Validity of License
 E Governor General may refuse license.
 F Licenses to new non-Indian Company not to be issued for twenty years.
 G Reciprocity in case of non-Indian companies.
- Section 8.** Insurance not to be solicited or written without a license.
- Section 9.** License for Life Insurance required to maintain separate funds or assets.
- Section 10.** No commission to be paid except to agents or brokers approved by Commissioner.
- Section 11.** A Certificate how to be obtained.
 B Payment of fees.
 C Commissioner may refuse certificate.
- Section 12.** A Amount of deposits.
 B Payments by instalments by Indian life companies
 C Payments by existing companies other than life.
- Section 13.** Deposits by persons giving Lloyds' covers etc.

- Section 14.** Market Values.
Section 15. Minimum capital.
Section 16. Working capital.
Section 17. Depreciation of deposited securities.
Section 18. Failure to make good depreciation.
Section 19. A Companies may give additional deposits.
 B Additional deposits how dealt with.
Section 20. Withdrawal of excess amount.
Section 21. A Non-Indian companies to keep assets in India.
 B Governor-General to notify the company if re-
 insurance value exceeds assets.
 C Reinsurance value how determined.
Section 22. A Non-Indian Life company to keep assets in India
 equal to its liability to policy holders.
 B Governor General may withdraw license if defi-
 ciency not made good.
Section 23. A Assets to vest in Trustees.
 B Trust Deed to be approved.
Section 24. Interest on deposits to be paid to companies.
Section 25. A Company ceasing business and refund of deposits.
 B Application for securities.
 C Release of Securities
 D Further Release of Securities.
Section 26. Payment of losses after cancellation of licenses.
Section 27. Substitution of securities.
Section 28. Protection of deposits against attachment etc.
Section 29. Securities with Comptroller remain as securities of
 the policy holders of a particular class.
Section 30. Securities of a particular class to be applied for liabi-
 lities of that class.

CHAPTER IV.

Documents to be filed.

- Section 31.** Filing of documents.
Section 32. Contents of Power of Attorney.
Section 33. A Change of Chief Agent.
 B Declaration in annual statement.
Section 34. Filing of Duplicates.
Section 35. A Service of process.
 B Constructive service.
Section 36. Notice of having obtained a License.
Section 37. A Notice of licensing of business.
 B Release of deposits.
Section 38. A Publication of list of licensed companies.
 B Publication of new companies.

CHAPTER V.

Accounts and Balance Sheet.

- Section 39.** A Accounts and Balance Sheets.
B Audit of Accounts.
- Section 40.** Particulars to be stated in accounts.
- Section 41.** Reserves for unexpired risks.
- Section 42.** A Particulars re: assets to be stated in Balance Sheet.
B Certificate as to value of assets.
C Statement of unpaid liability.
D Statement of debentures and loans.
E Statement of deposits outside India.

CHAPTER VI.

Annual Returns.

- Section 43.** A Submission of returns.
B Statements showing business transacted and assets held in British India.
C Statement of expenses of organisation etc.
D Year to close on 31st December and Statements to be filed within six months.
- Section 44.** A Yearly statement of securities by Indian companies.
B Statement of securities by non-Indian Companies.
C Form of statement.
- Section 45.** A Statement of condition and affairs by non-Indian companies.
B Form when statement submitted.
C Form when no statement submitted.
D To be deposited with Commissioner.
E Forms supplied.
- Section 46.** A Time for depositing general statement.
B To be signed.
- Section 47.** A Valuation of securities in statements deposited by companies.
B Valuation of securities when temporarily unduly depressed.
- Section 48.** A Records and documents to be kept by Chief Agent or principal officer.
B Fewer required in some cases.
C Time upto which annual statements are made.
- Section 49.** A Requirements of Advertisement.
B Details, re: advertisements.
C Details required when funds published.

CHAPTER VII.

Commissioner and his duties.

- Section 50. A Appointment of Commissioner.
B To act under Governor General in Council.
- Section 51. A Duties of Commissioner.
(i) Book for securities.
(ii) Report to the Governor General.
(iii) Record of licenses.
(iv) Visit Head Office.
(v) Annual Report.
B Blue Book.
- Section 52. A Inspection visits to companies.
B Officer of companies to keep books open for inspection.
C Examination under oath.
- Section 53. A Report of visits.
B Special report to the Governor-General in Council.
- Section 54. A Report when assets become insufficient.
B The Governor-General in Council may suspend license of company.
C Effect of suspension.
D Conditional license may provide for reinsurance.
E Failure to reinsure.
F Publication of default in Gazette of India.
- Section 55. Commissioner etc. not to be interested in Insurance Company.

CHAPTER VIII.

Reinsurance of Insolvent Companies.

- Section 56. A Liquidator may reinsure policy holders.
B Partial reinsurance if assets insufficient.
C To be approved by Court.
D Indian Companies Act not to apply.
E Distribution of assets if reinsurance fails.
F Deposits outside of British India.
G Failure to transfer to Liquidator.
H Secured creditors not affected.

CHAPTER IX.

Investments.

- Section 57. A Deposits—to be in securities.
B Deposits—outside British India.
C Investment by Indian Companies

CHAPTER X.

Winding up.

- Section 58. Winding up of Insurance Companies.
 Section 59. Winding up of subsidiary Companies.
 Section 60. Return of Deposits.
 Section 61. Valuation of policies in case of winding up.
 Section 62. Rules of valuation.
 Section 63. Notice of Policy values.
 Section 64. (A) Power of Courts to reduce contracts of life Insurance Companies.
 (B) Application of surplus assets.

CHAPTER XI.

Life Insurance.

- Section 65. Application.
 Section 66. Amalgamation or Transfer.
 Section 67. Statements required before amalgamation.
 Section 68. Sanction of amalgamation by Courts.
 Section 69. Statements required after amalgamation.
 Section 70. Additional commission.
 Section 71. Advances to agents only.
 Section 72. Estimates forbidden.
 Section 73. A Rebates, discrimination etc., forbidden.
 B Rates filed with Commissioner.
 C Exception in cases prior to Act.
 D New Policy may be issued for lapsed policy.
 Section 74. Penalty for rebating etc.
 Section 75. A Periodical Actuarial Report and abstract.
 B Investigation with a view to distribution of profits.
 C Requirements when such investigation is made.
 Section 76. Audit at date of valuation.
 Section 77. Transfer or surrender of policies by Companies wishing to cease business.
 Section 78. A Utilising Trust Funds.
 B List to be placed with Governor General in Council.
 C Notice in the Gazette of India.
 Section 79. A Securities in case of transfer.
 B Tender of policy holders.
 C Refusing Tender.
 Section 80. A Mode of tender.
 B Acceptance must be signified. Neglect may be waived.
 Section 81. Special arrangements.
 Section 82. Action on proof.
 Section 83. A Power to pay money in Court.
 B Discharge.

- Section 84. A Separation of accounts and maintenance of life insurance funds.
B Appropriation of Life Insurance Fund.
- Section 85. A Form of Assignment.
B Attestation and notice.
C Acknowledgement.
D Transferee entitled to benefits.
E Subject to equities.
F Can sue in his own name.
G Payment before notice.
H Transfer of Property Act not applicable.
- Section 86. A Nomination
B How made.
C Change or cancellation.
D Cancelled by assignment.
E Surviving nominee can give discharge.
F Death of nominee
G Payment to assured on maturity.
H Payment to Nominee when assured dies.

CHAPTER XII.

Business other than life Insurance.

- Section 87. Application.
- Section 88. Forfeiting of licenses for failure to make deposits or claims.
- Section 89. Renewal of license under certain conditions.
- Section 90. A Rebating prohibited.
B Commission to certified sub-agents.
- Section 91. Fire for rebating etc.

CHAPTER XIII.

Penalties and Procedure.

- Section 92. Penalties for non-compliance with the Act.
- Section 93. Penalty for falsifying documents.
- Section 94. A Person or company doing business without a license guilty of offence.
B Penalty for direct insurance with companies outside India.
- Section 95. A Cognizance of offences.
B Summary conviction.
C Offence non-cognizable.
D How fine to be applied.

CHAPTER XIV.

Supplemental.

- Section 96. Power to the Governor General to make rules.
- Section 97. Accounts to be sent to the Registrar of Companies.
- Section 98. Law of British India to be applied to every Policy of Insurance.
- Section 99. Dividing Society business illegal.
- Section 100. Limitation.
- Section 101. Life Insurance Companies Act VI of 1912 repealed.

A
B I L L
T O

Consolidate, amend and extend the law relating to
Insurance Companies.

WHEREAS it is expedient to consolidate, amend
and extend the law relating to Insurance Companies ;
5 It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1.—(A) This Act may be called the Indian Insur-
ance Companies Act, 1937.

Short title,
extent and
Commence-
ment.

10 (B). It extends to the whole of British India,
including British Baluchistan and the Santhal Parganas
and the Pargana of Spiti.

(C). It shall come into force on such date as the
Governor General in Council may, by notification in the
15 Gazette of India, appoint.

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

Definitions.

20 (a) “accident insurance business” means the issue,
of, or the undertaking of liability under, poli-
cies of insurance upon the happening of per-
sonal accidents, whether fatal or not, disease,
or sickness, or any class of personal accidents,
disease or sickness ;

“Accident
insurance
business.”

25 (b) “actuary” means an actuary possessing such
qualifications as may be prescribed by rules
made by the Governor General in Council ;

“Actuary”

- “Agent” (c) “agent” means an acknowledged agent or other person who in any manner with the authority of the company aids in transacting the insurance business of the company, and includes an insurance broker ; 5
- “Annual statement” (d) “annual statement”, in the case of Non-Indian companies licensed under this Act, includes both the statement of the Indian business and of the general business of the company required by this Act to be made ; 10
- “Certified.” (e) “certified”, in relation to any copy or translation of a document required to be furnished by or on behalf of an insurance company, means certified by a responsible officer of the company to be a true copy or a correct translation, as the case may be ; 15
- “Chairman.” (f) “chairman” means the person for the time being presiding over the board of directors or other governing body of an insurance company ;
- “Chief agent”. (g) “chief agent” means the chief agent or principal officer of a Non-Indian company in British India, named as such in the power of attorney hereinafter referred to by whatever name he is designated ; 20
- “Chief agency”. (h) “chief agency” means the principal office or place of business of a Non-Indian company in British India ; 25
- “Commissioner”. (i) “Commissioner” means the Commissioner of Insurance ;
- “Company”. (j) “company” means any corporation (other than a Provident Insurance Society registered under the Provident Insurance Societies Act, 1912) incorporated under the law of British India or under the law of any foreign country for the purpose of carrying on the business of insurance ; 30 35
- “Court”. (k) “Court” means the principal Civil Court of original jurisdiction in a district, and includes the High Court in the exercise of its ordinary original civil jurisdiction ; 40
- “Department”. (l) “Department” means the Department of Insurance constituted by this Act ;

- 5 (m) "financial year", in relation to any insurance company, means each period of twelve months at the end of which the balance of the accounts of the company is struck, or, if no such balance is struck, then the calendar year ; "Financial year"
- (n) "fire insurance business" means the issue of, or the undertaking of liability under, policies of insurance against loss by or incidental to fire ; "Fire insurance business".
- 10 (o) "Indian Company" means a company (other than a Provident Insurance Society registered under the Provident Insurance Societies Act of 1912) incorporated by or under the laws of British India or an Indian State as defined by Section 311 of the Government of India Act 1935 for the purpose of carrying on the business of insurance, provided that three-fourths of its paid up capital is held in their own right by British Indian subjects domiciled in India as defined by the said Section 311, and that three-fourths of the members of its governing body are such British Indian subjects as aforesaid ; "Indian Company".
- 15
- 20
- (p) "License" includes certificate of registration ; "License"
- 25 (q) "life insurance business" means the issue of, or the undertaking of liability under, policies of insurance upon human life, or the granting of annuities upon human life ; "Life insurance business".
- (r) "life policy" means any instrument by which the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, or any instrument evidencing a contract which is subject to payment of premiums for a term dependent on human life, and includes any instrument which provides for the payment of an annuity for a term dependent on human life ; "Life policy."
- 30
- 35
- (s) "marine insurance business" means the issue of, or the undertaking of liability under, policies of insurance against loss or damage to any vessel or to goods, wares, merchandise or property of any kind in transit by water and or land ; "Marine insurance business."
- 40

- “Motor vehicle insurance” (t) “motor vehicle insurance” means the issue of, or the undertaking of liability under, policies of insurance against loss or damage to, or arising out of, or in connection with the use of, motor vehicles, including third party risks ; 5
- “Non-Indian Company”. (u) “Non-Indian Company” means a company which is not an Indian company as defined by this Act or a company incorporated under the laws of any foreign country for the purpose of carrying on the business of insurance, 10 and having the faculty or capacity under its Act or other instrument of incorporation to carry on such business throughout British India ;
- “Officer”. (v) “officer” includes the managing agent, managing director, manager, secretary, treasurer, actuary and any other person designated as “officer” by the by-laws of the company ; 15
- “Policy”. (w) “policy” means a policy of insurance or assurance in any class of insurance business, and includes any policy under which there is for the time being an existing liability already accrued, or under which any liability may accrue ; 20
- “Policy holder”. (x) “policy holder” means the person who for the time being is the legal holder of a policy for securing a contract with an insurance company ; 25
- “Prescribed” (y) “prescribed” means prescribed by rules made under this Act ; 30
- “Secretary”. (z) “secretary” means and includes the officer by whom the usual duties of a secretary are performed ;
- “Workmen’s compensation insurance business”. (a1) “workmen’s compensation insurance business” means the issue of, or the undertaking of liability under, policies insuring employers against liability to pay compensation or damages to workmen in their employment. 35
- Companies to which Act. applies. 3.—(A). Save as hereinafter expressly provided, this Act shall apply to all persons or bodies of persons, whether corporate or unincorporate (which persons and bodies of persons are hereafter referred to as companies), 40

The Law relating to Insurance Companies. 5

whether established before or after the commencement of this Act and whether established within or without British India, who carry on insurance business within British India.

5 (B). The provisions of this Act shall apply to every insurance company which is a subsidiary of or amalgamated or allied with any company. Act to apply to Subsidiary Companies.

Exception.—Nothing in this Act shall apply to any Society to which the Provident Insurance Societies Act, 1912, applies or to any Fund which the Governor-General in Council may, by notification in the Gazette of India, exempt from the operation of this Act. Provident Insurance Companies exempted.

CHAPTER II.

Licenses.

To whom
licence
may be
granted.

4.—(A). It shall be competent to the Governor General in Council to grant to any company, (which shall have complied with the requirements of this Act preliminary to the granting of a license), a license authorising the company to carry on its business of insurance, or any specified part thereof, subject to the provisions of this Act and to the terms of the license. 5.

Effect of
licenc.

(B). Any company which may obtain from the Governor General in Council a license or a renewal of a license shall thereupon be entitled to carry on throughout British India the various branches or kinds of insurance which the license may authorise. 10

Lloyds
Association.

(C). It shall moreover be competent to the Governor General in Council notwithstanding anything in this Act to grant a license to any association of individuals formed upon the plan known as Lloyds whereby each associate underwriter becomes liable for a stated, limited or proportionate part of the whole amount insured by a policy, or to any person or firm initiating insurance business or doing any act in British India in reference to the receiving of proposals of insurance, or the issue of policies, cover notes, protection notes, receipts or any document purporting to grant an insurance cover, or the collection of premia on behalf of brokers or underwriters at Lloyds or on behalf of members of Association of individuals formed upon the said Lloyds plan authorising such Association, person or firm to transact insurance other than life insurance in British India and all the provisions and requirements of this Act regulating the business of Licensed Companies shall, so far as applicable, be deemed to be terms and conditions of any license so granted: Provided that the statements required by this Act to be filed in the Department may in the case of such an Association, person or firm be verified in such manner as the Commissioner shall direct and prescribe. 15
20
25
30
35

Deposit for
Licence.

5. The Governor General in Council, as soon as any company applying for a license has deposited the securities hereinafter mentioned, and has otherwise conformed to the requirements of this Act, may, sub-

ject to the provisions hereinafter contained, issue the license.

5 6. Before issuing a license to a company the Commissioner must be satisfied that the name of the company is not that of any other existing company, or any name liable to be confounded therewith or otherwise on public grounds objectionable.

Name of the Company.

10 7. (A). The license shall be in such form or forms for the different classes of companies, as may be from time to time determined by the Governor-General in Council, and shall specify the business to be carried on by the company, and any limitations or conditions which the Governor General in Council may consistently with the provisions of this Act deem proper.

Form of License.

15 20 (B). The license granted to a Non-Indian company shall expire on the thirty-first day of March in each year and may be renewed from year to year, subject, however, to any qualification or limitation which is considered expedient: Provided that such license may be from time to time renewed for any term less than a year.

Duration of License in the Case of a Non-Indian Company.

25 (C). The license granted to an Indian company shall remain in force during its existence unless it is suspended or cancelled under any of the provisions of this Act.

Duration of License in the Case of an Indian Company.

(D). The validity of any license purporting to be issued by the Governor General in Council under this Act shall not be called in question on behalf or at the instance of any person.

Validity.

30 35 40 (E). Notwithstanding anything to the contrary contained in this Act, the Governor-General in Council may, in his discretion, refuse to grant or renew to any company, association, person or firm a license authorising such company, association, person or firm to carry on its business of insurance or any specified part thereof. Such license as aforesaid of any company may be cancelled at any time by the Governor General in Council on the recommendation of the Commissioner, if it appears to him that the Company conducts its business in such a manner as to affect adversely and unfairly the normal growth and progress of Indian Companies.

Governor General in Council may refuse or cancel License.

In what case
License shall
not be issued
to a Non-
Indian
Company.

(F). Notwithstanding anything to the contrary contained in this Act, no license shall be issued by the Governor General in Council for a period of twenty years from the date of the passing of this Act to a Non-Indian company which was not on the first day of October 1936 5 carrying on the class or classes of insurance business for which the license is applied for by such a company. Provided that the Governor General in Council in his absolute discretion from time to time may extend the said period of twenty years. 10

(G). Notwithstanding anything contained to the contrary in this Act, no new or renewal licence shall be issued by the Governor General in Council to a company if in the country where such a Company is established, Indian companies are not admitted and permitted to 15 commence and carry on the business of insurance either under a statute or a matter of policy.

Business not
to be carried
on without
License.

8. It shall not be lawful for any company, person or firm within British India to solicit or accept any risk, or to issue or to deliver any receipt or policy of insur- 20
ance, or to grant, in consideration of any premium or payment, any annuity on a life or lives, or to collect or receive any premium, or to advertise for or carry on any business of insurance, or to prosecute or maintain any 25
suit, action or proceeding, or to file any claim in insolvency relating to such business, unless under a license from the Governor General in Council, granted pursuant to the provisions of this Act.

License may
authorise
classes of
insurance.
Proviso as to
life Insurance
Combined
with other
classes.

9. The license may authorise the transaction of such class or classes of insurance, whether mentioned 30
in this Act or not, as the Governor General in Council may deem proper: Provided, however, that no company shall receive a license for life insurance in combination with any other class of insurance unless it maintains in respect of its business of life insurance 35
separate and distinct funds and securities in the case of an Indian company, and separate and distinct assets in British India in the case of a Non-Indian company, available only for the protection of the holders of its policies of life insurance and not liable for the payment 40
of claims arising from the other class or classes of business which the company transacts.

10. It shall be a condition of the license issued to any company under this Act whether such condition be expressed in the license or not, and for the breach of which the said license may be cancelled, that no compensation or remuneration by way of commission shall be paid to any person, partnership, associations or corporation for soliciting or obtaining application or proposals for insurance or for collecting premiums from policy holders, unless such person, partnership, association or corporation shall have obtained a certificate as an approved agent or broker from the Commissioner. Provided however that nothing herein contained shall apply to payments of overriding Commission on the premium income or on the amount insured or on the profits of the whole or part of the business of a company, made to a managing agent, managing director, manager, branch manager, organiser, or any other officer holding a similar position, by way of special or additional remuneration.

No commission to be paid except to agents or brokers approved by Commissioner

11. (A). Any such person, partnership, association or corporation shall before acting as such an approved agent or broker as aforesaid, apply for and obtain from the Commissioner a certificate authorising such person, partnership, association or corporation to act as an approved agent or broker.

Certificate how to be obtained.

(B). On any such person, partnership, association or corporation making an application for a certificate, the Commissioner may grant the certificate to any such person, partnership, association or corporation as aforesaid on payment of the prescribed fees for a period of one or more years in accordance with the rules which may from time to time be framed in that behalf by the Governor General in Council.

Payment of prescribed fees.

(C). The Commissioner may in his discretion refuse to grant such a certificate to any person, partnership, association or corporation if he is in his individual judgment satisfied that the granting of such a certificate will be prejudicial to the business of insurance carried on in British India.

Refusal to grant a certificate.

CHAPTER III.

*Deposits.*Amount of
deposit.

12.—(A). Subject to the provisions of this Chapter, every company shall before the issue of such license deposit and keep deposited with the Comptroller of Currency for and on behalf of the Governor General in Council, in respect of any class or classes of insurance business carried on or intended to be carried on by it in British India, securities as specified in the Indian Securities Act, 1920, and in Section 20(B) and (D) of the Indian Trust Act II of 1882 of the market value hereinafter specified in respect of that class or those classes, as the case may be, that is to say :—

- (i) of the market value of two hundred thousand rupees in respect of life insurance business ; 5
- (ii) of the market value of two hundred thousand rupees, if the company is a Non-Indian company, and of the market value of one hundred thousand rupees, if the company is an Indian company, in respect of each of the following classes, namely :— 10
 - (a) workmen's compensation insurance business,
 - (b) accident insurance business,
 - (c) motor vehicle insurance business, 25
 - (d) fire insurance business, or
 - (e) marine insurance business, and
- (iii) of the market value of one hundred thousand rupees in respect of any other class or classes of insurance business ; 30

Provided that a company shall not be liable to deposit securities of a total market value exceeding five hundred thousand rupees, if the company is a Non-Indian company, and two hundred and fifty thousand rupees, if the company is an Indian company, in respect of any of the classes of business referred to in Sub-clauses (i) and (iii). 35

“Notwithstanding the above provisions if a country requires from an Indian-Company deposits and or guarantee whether for a stated amount or based on a percentage of premium income or otherwise of a higher 40

amount than that required under this chapter from a Non-Indian Company then the Company established in such country shall be required to deposit and keep deposited the same higher amount of securities provided
5 however that no company shall be called upon to deposit securities of an amount more than double the amount ordinarily required from a Non-Indian Company under this chapter.

(B). Notwithstanding anything contained to the
10 contrary in sub-Section (A) in the case of an Indian company carrying on the business of life insurance at the commencement of this Act, the Governor General in Council may, on the application of the company, permit the deposit of securities in respect of life insurance
15 business to be made in five instalments of which the first shall be a deposit of securities of the market value of one hundred thousand rupees before the issue of the license and the remainder shall be the deposits of securities of the market value of ten thousand, twenty thousand,
20 thirty thousand and forty thousand rupees respectively made in each case before the close of the calendar year next following that in which the previous deposit fell due for payment. On failure by the company to make a deposit of any of the above instalments on its due date,
25 the Governor General in Council may withdraw the license.

Liberty to
Indian
Companies to
make the
deposit by
instalments.

(C). Notwithstanding anything contained to the
30 contrary in sub-Section (A), in the case of an Indian company carrying on the business of insurance (other than that of life insurance) at the commencement of this Act, the Governor General in Council may, on the application of the company, permit the total deposit of securities in respect of all or any of the classes of insurance business specified in sub-Section (A) (ii) and (iii) hereof
35 to be made by equal annual instalments of fifty thousand rupees each, of which the first shall be made before the issue of the license and the subsequent instalments shall be made in each case before the close of the calendar year next following that in which the previous
40 deposit fell due for payment until the full deposit as required by Sub-Section (A) shall have been completed by the company. On failure by the company to make a deposit in manner aforesaid on its due date, the Governor General in Council may withdraw the license.

Deposits
required from
Lloyds
Associations.

13. Subject to the provisions of this Chapter, any person, firm or association of individuals as are described in Section (4) sub-section (C) of this Act shall before the issue of such license deposit—and keep deposited with the Comptroller of Currency for and on behalf of the Governor General in Council in respect of each of the classes of insurance business specified in Section 12 (A) (ii) and (iii) of this Act carried on or intended to be carried on in British India, securities as specified in the Indian Securities Act, 1920, and in Section 20 (B) and (D) of the Indian Trust Act II of 1882 of the market value of twenty five thousand rupees: Provided, however, that any such person, firm or association shall not be liable to deposit securities of a total market value exceeding fifty thousand rupees in respect of any of the classes of business referred to in this Section.

Valuation.

14. The value of such securities shall be estimated at the market value at the time when they are deposited.

Indian
Company
carrying on
general
insurance
business to
have a
minimum
amount
of Capital.

15. Every Indian company incorporated after the commencement of this Act and carrying on the business of insurance other than Life Insurance shall before the issue of such license satisfy the Commissioner of Insurance on behalf of the Governor General in Council that it has a paid up capital of at least rupees three lacs in case it carries on only one of the classes of insurance business specified in Section 12 (A) (ii) and (iii) of this Act and in any other case of at least rupees five lacs.

Working
Capital
requisite.

16. In addition to the deposit required by Section 12, every Indian company incorporated after the commencement of this Act and exclusively carrying on the life insurance business shall before the issue of such license satisfy the Commissioner of Insurance on behalf of the Governor General in Council that it has in addition to the amount deposited with the Governor General in Council a working capital of atleast fifty thousand rupees to enable it to efficiently carry on the business of life insurance.

Further
Deposit if
value
declines.

17. If the market value of any of the securities which have been deposited under this Chapter falls below that at which they were deposited, the Governor General in Council may require the depositor to make such further deposits as will make the market value of all the securities deposited equal to the amount which is required to be deposited by this Act.

18. On failure to make such further deposits within sixty days after being called upon to do so the Governor General in Council may withdraw the license.

Failure to make.

5 19. (A). Any company licensed under this Act may at any time deposit in the hands of the Governor General in Council any further securities beyond the sum therein required to be deposited.

Further deposit at option of Company.

10 (B). Any such further securities so deposited in the hands of the Governor General in Council shall be held by him and dealt with according to the provisions of this Act in respect to the sum required to be deposited by such company and as if the same had been part of the sum so required to be deposited.

How dealt with.

15 20. If at any time it appears that a company has on deposit with the Governor General in Council a sum in excess of the amount required under the provisions of this Act, the Governor General in Council may, upon being satisfied that the interest of the company's Indian policy-holders will not be prejudiced thereby, and upon 20 the giving of such notice and the exercise of such precautions as may seem expedient, authorise the withdrawal of the amount of such excess or such portion thereof as may be deemed advisable: Provided that such withdrawal may be authorised without the giving 25 of any notice.

Withdrawal of excess.

21. (A). A Non-Indian Company carrying on business of any class or classes of insurance other than life insurance shall hold and maintain assets in British India as hereinafter defined which together with the 30 deposits in the hands of the Governor General in Council shall not be less than the re-insurance value of all its risks outstanding in British India.

Non-Indian Companies to maintain Assets in British India

40 (B). If it appears from the annual statement or from an examination of the affairs and conditions of any company carrying on business of any class or classes of insurance other than life insurance that the re-insurance value of all its risks outstanding in British India exceeds its assets in British India inclusive of the deposit in the hands of the Governor General in Council, the 45 company shall be notified by the Governor General in Council to make good its deficiency and on its failure to make the same good within sixty days after being notified, he may withdraw the license.

Deficiency of Assets of every Company other than life.

Failure to make good.

Definition of
Re-insurance
Value.

(C). For the purpose of this Act, the reinsurance value of all the risks outstanding in British India shall not in any case be less than forty per cent of the amount of the gross premia collected during the year after deducting therefrom the amount paid for re-insurances effected in British India. 5

Assets of a
Non-Indian
Life
Company.

22. (A). A Non-Indian company carrying on business of life insurance shall hold and maintain its assets in British India as hereinafter defined including the deposits in the hands of the Governor General in Council, which shall not be less than its liabilities to policy-holders in British India including outstanding claims and the reserve for existing policies required under this Act or the rules made thereunder to be included in the liabilities in the valuation report after deducting any claim it has against such policies. 10 15

Deficiency of
Assets in the
of Life
Insurance
Company.

(B). Subject to the power and duties hereinafter vested in and imposed upon the Governor-General in Council, in relation to the withdrawal of the company's license or for limiting the time for making good a deficiency of assets if it appears from the annual statements or from an examination as provided for by this Act, of the affairs and condition of any company carrying on the business of life insurance that its liabilities to policy-holders in British India including outstanding claims and the reserve for existing policies as herebefore described after deducting any claims the company has against such policies exceeds its assets in British India including the deposits in the hands of the Governor General in Council, the company shall be called upon by the Governor General in Council to make good the deficiency and on its failure to make the same good within sixty days after being so called upon he may withdraw the license. 20 25 30

Failure to
make good.

Assets in case
of foreign
Company.

23.—(A). In the case of a Non-Indian company licensed under this Act the assets in British India for the purposes of this Chapter shall be taken to consist of all deposits which the company has made with the Governor General in Council under the provisions of this Act and of such assets as have been vested in trust for the sole benefit of holders of policies issued in British India by such a company in two or more persons resident in British India or in a trust company incorporated in British India and approved by the Governor General in Council. 35 40 45

(B). The trust deed shall first be approved by the Commissioner, who shall determine from time to time the value at which such assets shall be accepted for the purpose of this Act, and the trustees may deal with such assets in any manner provided by the deed of trust appointing them, but so that the accepted value of the assets held by them shall not fall below the value required by this Chapter.

Trust deeds and dealing with assets.

24. So long as the conditions of this Act are satisfied by any company and no notice of any final judgment in respect of the company, or order made by the proper Court on behalf for the winding up of the company or the liquidation of its assets is served upon the Governor in Council, the interest upon the securities and the deposits shall be handed over to the company as soon as it falls due.

Handing over interest on Securities.

25. Where a company has ceased to carry on business in British India any class of insurance business in respect of which securities have been deposited under this Act and its liabilities in British India in respect of that class have been satisfied or are otherwise satisfied, the company may give written notice to the Governor General in Council and the Governor General in Council for the release of the securities in respect of business of that class.

Company ceasing business and refund of deposit.

26. The company making application for the release of the securities shall publish in the Gazette of India a notice to the Governor General in Council of the securities in respect of which application is made within a day not less than ten days after the notice and calling upon the Governor General in Council in British India opposing such application with the Commissioner.

Application for securities.

Steps to be taken.

27. The Governor General in Council may, if he is satisfied that the company has made sufficient security for the release of the securities, order the release of the securities.

Order for release of securities.

Further
release.

(D). Thereafter from time to time as such risks lapse, or proof is adduced that they have been satisfied, further amount may be released on the authority aforesaid.

Payment of
losses after
cancellation
of licenses.

26. When a company has ceased to transact business in British India after the notice by this Chapter required has been given, and its license has in consequence been withdrawn, such company may, nevertheless, pay the losses arising upon policies not re-insured or surrendered, as if such license had not been withdrawn. 5

Substitution
of securities.

27. A company may at any time substitute any securities deposited under this Act any other securities authorised by this Act of the same market :

Protection of
deposit
against
attachment
etc.

28. Securities deposited by a company under this Act shall be deemed to be part of the assets of the company and shall not be capable of being assigned, charged, or be liable to any attachment save as provided by this Act.

Securities
with Comptroller of
Currency
remain as
securities of
policy holders
of a particular
class.

29. All securities for the time being deposited with the Comptroller of Currency under this Act of any particular class of insurance business shall be absolutely the security of the policy holders of that class as though it belonged to a company carrying on other business and shall not be liable for the discharge of contracts of the company other than those entered into by the holders of that class in respect of their business until payment in full of the value of the securities has been made and or all liabilities or obligations incurred by the company in respect thereof have been satisfied and discharged.

Securities of
a particular
class to be
applied in
satisfaction
of liabilities
of that class.

30. No part of the securities deposited with the Comptroller of Currency of any particular class of business shall be available for the satisfaction of liabilities or obligations incurred by the company carrying on that class of business unless the same are otherwise sufficiently provided for by the company.

CHAPTER IV.

DOCUMENTS TO BE FILED.

31. Every company shall, before the issue of a license to it, file in the Department
- 5 (a) a copy of the charter, Act of incorporation, or articles of association of the company, certified by the proper officer in charge of the original thereof:—Provided that any such document which would be admitted as evidence in a court of law shall be deemed to be sufficiently verified within the meaning of this clause;
- 10
- (b) a power of attorney from the company to its chief agent or principal officer in British India, under the seal of the company, if it has a seal, and signed by the president and secretary or other proper officers thereof, in presence of a witness, who shall make oath or affirmation as to the due execution thereof; and the official positions in the company held by the officers signing such power of attorney shall be sworn to or affirmed by the officers signing such power of attorney or affirmed by some person cognisant of the facts necessary in that behalf; and
- 15
- 20
- (c) a statement, in such form as is required by the Governor General in Council, of the condition and affairs of such company on the thirty-first day of December next preceding, or upto the usual balancing day of the company, if such day is not more than twelve months before the filing of the statement.
- 25
- 30
32. Such power of attorney shall
- (a) declare at what place in British India the head office, principal office, or chief agency of such company, is or is to be established; and
- 35
- (b) expressly authorises such attorney to receive service of process in all suits and proceedings against such company in any province in British India, in respect of any liabilities incurred by the company therein, and to receive from the Governor-General in Council and the
- 40
- Filing of documents.
- Copy of charter.
- Power of attorney.
- Statement of condition and affairs.

Commissioner all notices which the law requires to be given, or which it is thought advisable to give; and

Contents of
power of
attorney.

(c) declare that service of process for or in respect of such liabilities and receipt of such notice, at such office, principal office, or chief agency, or personally on or by such attorney at the place where such head office, principal office or chief agency is established, shall be legal and binding on the company, to all intents and purposes whatsoever. 5 10

Change of
chief agent.

33.—(A). Whenever any such company changes its chief agent or chief agency in British India, such company shall file a power of attorney as hereinbefore mentioned, containing any such change or changes in such respect, and containing a similar declaration as to service of process and notices as hereinbefore mentioned. 15

Declaration.
in annual
statement.

(B). Every company shall, at the time of making the annual statement hereinafter provided for, declare that no change or amendment has been made in the charter, Act of incorporation or articles of association of the company, and that no change has been made in the chief agency or chief agent, without the Commissioner having been duly notified of such change or amendment. 20 25

Duplicates to
be filed in
office of a
superior
court.

34. Duplicates of all such documents, duly verified as aforesaid, shall be filed in the office of the Registrar of Joint Stock Companies in the province in which the head office or chief agency of the company is situated. 30

Service of
process on
company at
chief agency.

35.—(A). After such power of attorney and duplicate copies are filed as aforesaid, any process in any suit or proceeding against any such company, in respect of any liabilities incurred in any province of British India, may be validly served on the company at its chief agency and such service shall be deemed to be service on the company. 35

Constructive
service.

(B). If such power of attorney becomes invalid or ineffective from any reason whatsoever, or if other service cannot be effected, the court or a judge may order constructive service of any process or proceeding 40

to be made by such publication as is deemed requisite to be made in the premises, for at least one month in at least one newspaper; and such publication shall be deemed to be due service upon the company of such
5 process or proceeding.

36. Every company on first obtaining such license shall forthwith give due notice thereof in the Gazette of India and in at least one newspaper in the city or place where the head office or chief agency is
10 established.

Notice of having obtained a license.

37. (A). When a company ceases to carry on business in British India, or gives notice that it intends to so cease to carry on business, notice thereof shall, for the space of one calendar month, be given by weekly
15 insertions in each of the aforesaid newspapers.

Notice of ceasing of business.

(B). Such giving of such notice shall be a condition precedent to the release of the company's deposit under Chapter III of this Act.

Release of deposits.

38.—(A). The Governor General in Council shall
20 cause to be published quarterly in the Gazette of India a list of the companies licensed under this Act, with the amount of deposits made by each company.

Publication of list of licensed companies.

(B). The Governor General in Council shall cause to be published a notice in the Gazette of India at least
25 once in the case of a new company being licensed in the interval between two such quarterly statements and for the space of four weeks in the case of the license of any company being withdrawn in such an interval.

New companies.

CHAPTER V.

*Account and Balance Sheet.*Accounts and
balance sheet.

39.—(A). Every Indian company shall, at the expiration of each financial year which shall be deemed to be the thirty-first day of December prepare— 5

(i) a revenue account for the year in the form or forms, applicable to the class or classes of insurance business carried on by the company, set forth in the First Schedule or in such form or forms as may be prescribed and are so applicable ; 10

(ii) a profit and loss account in the form set forth in the Second Schedule, in respect of every class of insurance business other than life insurance business ; and 20

(iii) a balance-sheet or balance-sheets in the form set forth in the Third Schedule.

(B). The accounts, balance-sheet and statement shall be audited in the prescribed manner by an auditor who shall possess such qualifications as may be prescribed or shall be approved by the Governor General in Council in that behalf. 25

Particulars
to be stated
in every
account.

40.—(A). The amounts to be shown in every revenue account shall be the net amounts after deduction of all amounts paid and received in respect of re-insurance of the risk of the Indian company. 30

(B). Where credit has been taken in the balance sheet for any sum deducted from the expenses of management relating to any class of business, the sum so deducted shall be shown separately in the revenue account for that class of business. 35

Reserve for
unexpired
risk if less
than forty
per cent to
be shown.

41. Every revenue account in which the reserve for unexpired risks is required to be stated shall, if the reserve is less than forty per centum of the premium income of the year, show how such reserve has been determined. 40

Particulars
regarding
assets to be
stated in
balance sheet.

42.—(A). Every balance-sheet shall state how the values placed on each of the investments set forth therein have been determined, and the value of any such investment shall not be in excess of the cost price or the market value, whichever is higher. 45

(B). A certificate shall be appended to the balance-sheet to the effect that the assets are in the aggregate fully of the value stated therein, less any investment depreciation reserve taken into account.

5 (C). If the Indian Company holds any shares to which a liability attaches in respect of any amounts unpaid thereon, the full amount of the liability shall be stated separately in the balance-sheet.

(D). Where debentures have been issued or loans
10 raised which are charged on any of the assets of the Indian company, full particulars of such charge shall be appended to the balance-sheet.

(E). Where any part of the assets of the Indian
15 company is specifically deposited under local laws in various places out of India as security to the holders of life assurance policies there issued, each such place and the amount compulsorily deposited therein shall be stated in the balance-sheet.

CHAPTER VI.

*Annual Returns.*Submission
of returns.

43.—(A). Every account, balance-sheet, statement, and actuarial abstract required by any of the provisions of this Act shall be printed, and four copies thereof, one of which shall be signed by the chairman and two directors of every Indian Company licensed under this Act and by its principal officer and, if the company has a managing director, by the managing director, or, in the case of a firm, by two partners therein, shall be deposited in the Department in the case of accounts, balance-sheets and statement within six months, and in the case of actuarial abstracts within one year, after the close of the period to which the account, balance-sheet, statement or abstract relates: 5
10
15

Proviso.

Provided that the Governor General in Council may in any case extend the period allowed by this Section by such further period as he thinks fit.

Additional
statements
to be filed.

(B). In addition to the revenue account and balance-sheet under the provisions of Chapter V of this Act there shall also be deposited by every Indian company in the Department along with the accounts to be deposited in pursuance of sub-section (A) hereof two separate statements signed by the same persons as are mentioned in the said sub-section, one showing how much of the premium income of the year relates to business of the company transacted in British India and the other showing the assets held by the company in British India. 20
25

(C). Where the balance-sheet includes amongst the assets any sums representing expenses of organisation or extension, or the purchase of business or goodwill, or bad debts, or the adverse balance of the profit and loss or of any revenue accounts, there shall also be filed by every Indian company in the Department along with the accounts to be deposited in pursuance of sub-section (A) hereof a statement of such sums in such form as may be prescribed by the Governor General in Council and signed by the same persons as are mentioned in the said sub-section. 30
35
40

(D). Every company whether Indian or Non-Indian carrying on the business of life insurance shall at the expiration of each financial year which shall be deemed to be the thirty-first day of December prepare
5 a statement giving particulars regarding the business transacted in India during that year in such form as may be prescribed by the Governor General in Council and such statement shall be deposited in the Department within six months after the first day of January in
10 each year.

Statement regrading business in India to be filed.

44.—(A). There shall also be prepared, annually by the chairman, managing director or other director appointed for the purpose by the board of directors and the managing agents or manager of every Indian com-
15 pany licensed under this Act, and deposited in the Department within three months after the first day of January in each year, a statement in such form as may be prescribed by the Governor General in Council, showing in detail all bonds, stocks, debentures and other
20 securities bought and all loans made, except on mortgages and life policies, during the year terminating on the date as of which such statement is made, specifying the amounts, dates of issue and maturity and par value thereof, the rate of interest payable thereon, and the
25 price paid therefor, and in case of loans made, except on mortgages of immoveable properties or life insurance policies, particulars in detail of securities therefor, and showing also in detail all such securities sold or disposed off during the said year, specifying similarly the amounts
30 dates of issue and maturity and par value thereof, the value in account thereof, the rate of interest payable thereon and the price or consideration received therefor.

Yearly statement of securities.

(B). In the case of Non-Indian companies licensed under this Act, a statement shall similarly be pre-
35 pared, in such form as may be prescribed by the Governor General in Council, annually by the trustees in whom assets are vested in trust for the company for the purposes of this Act, and similarly deposited annually in the Department, showing similarly all dealings
40 during the preceding year with the trust assets. The annual statements in this sub-section mentioned shall be signed by one or more of the trustees, and in case a trust corporation is sole trustee or one of the trustees such

Non-Indian Companies.

annual statements may be signed by the manager and secretary or other principal officers of such trust corporation.

Form of statement.

(C). The annual statements mentioned in the two preceding sub-sections, the blank forms for which shall be supplied by the Commissioner, shall be embodied by him by way of appendix or otherwise in the annual report prepared by him for the Governor General in Council. 5

Statement by Non-Indian Companies.

45.—(A). Every Non-Indian company licensed under or subject to the provisions of this Act, shall make annual statements of its condition and affairs, on the thirty-first day of December in each year, and the form and manner of making such statement shall, as to the Indian business of such company, be the same, so far as applicable, as is required of Indian companies under this Chapter and Chapter V of this Act; and, as to its general business, shall be in such form as such company is required by law to furnish to the Government of the country in which its head office is situated. 10 15 20

Form when statement submitted.

(B). Where such company is not required by law to furnish a statement to the Government of the country in which its head office is situate, then such statement, as to its general business, shall be in such form as the company usually submits to its members or shareholders. 25

Form when no statement submitted.

(C). In the event of no such statement being submitted to such members or shareholders, then such statement shall show in concise form the assets and liabilities of the company on the thirty-first day of December in each year, and the income and expenditure of the company for the year ending on such day. 30

To be deposited with Commissioner.

(D). The annual statements mentioned in the last preceding Section, and the statements of Indian business provided for in this Section, shall be deposited in the Department on the first day of January next following the date at which the condition and affairs of the company are thereby shown, or within six months thereafter. 35

Form supplied.

(E). The blank forms of the statements of the Indian business shall be supplied by the Commissioner. 40

46.—(A). The statement of general business provided for in the last preceding Section shall be deposited in the Department within two months after it is required by law to be made to the Government of the country in which the head office of the company whose statement it is, is situate, or within two months after the submission of the same at the annual meeting of the shareholders or members of the company, whichever date first occurs: Provided that no such statement of general business need be so deposited earlier than the first day of June, nor shall it be so deposited later than the thirtieth day of June next following the date at which the condition and affairs of the company are thereby shown.

Time for depositing general statement.

Proviso.

46.—(B). Such statements shall, as to the Indian business, be signed by the company's chief agent or principal officer in British India and also by the secretary, manager, or actuary of the company at its head office; and, as to the general business be signed by the chairman or managing director, and the secretary, or actuary of the company.

To be signed.

47.—(A). In every annual statement required to be filed by Section forty-four and in every statement of Indian business required to be filed by Section forty-five of this Act, the bonds, debentures, stocks and other securities shall be taken into account at the market values applicable to the said securities at the date of the statement or, in the discretion of the Commissioner, at a date not more than sixty days before the date of the statement.

Valuation of securities in statements deposited by companies.

(B). When the said market values are, in the opinion of the Governor General in Council, temporarily unduly depressed, the Governor General in Council may, on the report of the Commissioner, authorise, in the case of bonds and debentures redeemable at a fixed date, the use of values in excess of the said market values not, however, exceeding the market values at which the said bonds and debentures were shown in the next preceding annual statement, or if acquired since the date of the said preceding statement, not exceeding the book values at the date of the date of the statement.

Records and documents to be kept by chief agent or principal officer.

48.—(A). Such company shall keep at the office of the chief agent or principal officer in British India records and documents sufficient to enable the chief agent or principal officer to prepare and furnish the required statement of Indian business, and such that the said statement may be readily verified therefrom. 5

Fewer required in some cases.

(B). In the case of any company having in British India in addition to such chief agent or principal officer, one or more general agents reporting to the head office, and not such chief agent or principal officer, it shall be sufficient for the company to keep on file at the office of the chief agent or principal officer, in addition to the necessary records and documents relating to the business transacted by or through such chief agent or principal officer, annual statements of the business transacted by each such general agent, and such additional records and documents, transmitted through the company's head office as shall, taken together, show the company's entire Indian business. 10 15

Time upto which annual statements are made.

(C). The said annual statements of the business of such general agents shall, when kept on file as aforesaid, be made up to the thirty-first day of December in each year, and blank forms for such statements shall, on application, be furnished by the Commissioner. 20

Advertisement of capital and surplus.

49. (A). Any notice, statement, advertisement or other application of a company licensed under this Act, issued or distributed in British India, which contains a statement of the amount of the subscribed capital of the Company, shall contain also a statement of the amount paid thereon. 25 30

(B). If the said notice, statement, advertisement or publication contains a statement of the amount of capital authorised, it shall also contain a statement of the amount of capital subscribed and of the amount paid thereon; and in any such advertisement the amount of paid up capital shall be printed in type not smaller than that used to show the authorised or subscribed capital. 35

(C). No such notice, statement, advertisement, or publication shall be issued or distributed in British India which includes in or with the funds the subscribed or paid up capital, unless the amount of such subscribed or paid up capital be specifically stated and mentioned as included in the said funds. 40

CHAPTER VII.

Commissioner and his Duties.

50.—(A). The Governor General in Council shall
5 appoint an officer to be called the Commissioner of In-
surance who shall be in charge of the Department of
Insurance.

Appointment
of
Commissioner

(B). The Commissioner shall act under the in-
structions of the Governor General in Council and
shall examine and report to the Governor General in
10 Council from time to time, upon all matters connected
with insurance, as carried on by the several companies
licensed to do business in British India, or required by
this Act to make returns of their affairs.

To act under
Governor
General
in Council

51.—(A). The Commissioner shall keep a record
15 of the several documents required to be filed by each
company, under this Act and shall

Duties of
Commissioner

(i) enter in a book, under the heading of such com-
pany the securities deposited on its account
20 with the Governor-General in Council naming
in detail the several securities, their par value,
their date of maturity, and value at which
they are received as deposit; and such book
shall be left open to public inspection;

Securities.

(ii) in each case, before the issue of any new license,
25 or the renewal of any license, make a report to
the Governor General in Council that the
requirements of the law have been complied
with, and that from the statement of the
affairs of the company it is in a condition to
30 meet its liabilities;

(iii) keep a record of the licenses as they are issued;

Record of
licenses.

(iv) be entitled to visit personally, or cause a duly
35 qualified member of his staff to visit, the head
office of any company in British India every
year, and examine the statements of the con-
dition and affairs of any company, as required
under this Act;

Visit Head
office.

(v) prepare for the Governor General in Council an
40 annual report, showing the full particulars
of each company's business, together with an

Annual
report.

analysis of each branch of insurance, with each company's name, giving items, classified from the statement made by each company.

Blue book.

(B). On receipt of the report referred to in subsection (A) (v) hereof, the Governor General in Council shall cause the same to be published as a blue book on or before the 30th day of September in each year and such a blue book shall be made available to the public on payment of the prescribed charges for the same. 5

Inspection visits to companies.

52.—(A). If the Commissioner, after an examination into the condition and affairs and business of any company licensed to transact business in British India, from the annual or other statements furnished by such company to the Governor General in Council or for any other cause, deems it necessary and expedient to make a further examination into the affairs of such company and so reports to the Governor General in Council, the Governor General in Council may, in his discretion, instruct the Commissioner to visit the chief office in India of such company, thoroughly to inspect and examine into all its affairs, and to make all such further inquiries as are necessary to ascertain its condition and ability to meet its engagements, and whether it has complied with all the provisions of this Act applicable to its transactions. 10
15
20
25

Officers of companies to open books for inspection

(B). The officers or agents of such company shall cause their books to be open for the inspection of the Commissioner, and shall otherwise facilitate such, examination so far as it is in their power.

Examination under oath.

(C). For the purpose of such inquiry, the Commissioner may examine under oath the officers or agents of such company relative to its business. 30

Report of visits.

53.—(A). A report of all companies so visited by the Commissioner shall be entered in a book kept for that purpose, with notes and memoranda showing the condition of each company, after such investigation. 35

Special report to the Governor General in Council.

(B). A special report shall be communicated in writing to the Governor General in Council, stating the Commissioner's opinion as to the standing and financial position of every company so visited, and all other matters desirable to be made known to the Governor General in Council. 40

54.--(A). If it appears to the Commissioner that the assets of any company are insufficient to justify its continuance of business, having regard to the requirements of Sections twelve to twenty-three inclusive of this Act, or that it is unsafe for the public to effect insurance with it, he shall make a special report on the affairs of such company to the Governor General in Council. Before making such a special report the Commissioner may in the case of a company carrying on the business of life insurance, if he deems it necessary, cause a valuation to be made under his supervision. Such valuation shall be made on such basis as to rates of mortality and rate of interest as may be fixed by the Governor General in Council.

Report when assets become insufficient.

(B). If the Governor General in Council, after consideration of the report and after a reasonable time has been given to the company to be heard by him, and upon such further inquiry and investigation as he sees proper to make, agrees with the Commissioner in the opinion so expressed in his report, the Governor General in Council may suspend or cancel the license of such company.

The Governor General in Council may suspend license of Company.

(C). Such company shall, during such suspension or cancellation, be held to be unlicensed and unauthorised to do further business. The Governor General in Council may, however, issue such modified or conditional license as may be necessary for the protection of policy holders, but the issue of such modified or conditional license shall not, in the case of a life insurance company, be deemed to be a renewal of the company's license.

Effect of suspension.

(D). If the Governor General in Council deems it advisable, the said modified or conditional license may require that the company shall during the continuance of such modified or conditional license, arrange for the reinsurance of its policies, in the case of an Indian company, and of its policies in British India in the case of a company other than an Indian company, in some company or companies licensed under this Act, but no agreement for such reinsurance shall be executed until it has been submitted to and approved by the Commissioner.

Conditional license may provide for reinsurance.

Failure
to reinsure.

(E). If upon the expiration of the modified or conditional license mentioned in the last preceding subsection, no agreement satisfactory to the Commissioner has been made for the reinsurance of the company's policies as aforesaid, and if the company's condition is not then such as to warrant the restoration of its license, the company shall be deemed to be insolvent, and the Commissioner may with the sanction of the Governor General in Council institute proceedings for the winding-up of the company. If as a result of such proceedings the Court shall order the winding-up of the company, it shall also order that such winding-up shall be carried on by or under the direction of the Commissioner. 5 10

Publication
of default in
Gazette of
India.

(F). The Commissioner may with the sanction of the Governor General in Council publish in the Gazette of India and in such other manner as he may direct particulars of default made by a company in complying with any of the provisions of this Act, provided that the default is continuing for a period of three months after the date on which the attention of the company has been drawn to the fact and may at the same time notify that this publication is a ground on which any member or policy holder of the company may apply to the Court at the expense of the company for a winding-up order. 15 20 25

Commissioner
etc. not to be
interested in
Insurance
Company.

55. The Commissioner or any officer or clerk under him shall not, directly or indirectly, be interested as a shareholder or agent or broker in any insurance company doing business in British India or licensed under this Act. 30

CHAPTER VIII.

Reinsurance of Insolvent Companies.

56.--(A). Notwithstanding anything contained in the Indian Companies Act VII of 1913, or in this Act, the liquidator of an insolvent insurance company may, without the consent of the policy-holders, arrange for the re-insurance of the contracts of its policy-holders, in the case of an Indian company, and of its policy-holders in British India, in the case of a company other than an Indian company, in some company or companies licensed under this Act to transact insurance in British India, and for the purpose of securing such reinsurance, the entire assets of the company in the case of an Indian company, and the entire assets of the company in British India as defined by Sections 21(A) and 22(A) of this Act, in the case of a company other than an Indian company shall be available, excepting the amount required to pay the claims of preferred creditors specified in the Indian Companies Act VII of 1913, the amount of the costs of liquidation and the amount required to pay claims accrued under the company's policy contracts of which notice has been received by the company prior to the date such reinsurance is effected, all of which payments shall be a first charge upon the said assets of the company; and creditors of the company other than the policy-holders and said preferred creditors. shall be entitled to receive a dividend on their claims only if the said assets are more than sufficient to provide for the payments aforesaid and for the reinsurance in full of the contracts of the said policy-holders.

Liquidator may reinsure policy holder

(B). If the said assets of the company are insufficient to provide for the payments specified in the next preceding sub-section and for the reinsurance of the contracts of the said policy-holders in full, the reinsurance may be effected for such a percentage of the full amount of the contracts as the said assets will secure.

Partial reinsurance if assets insufficient

(C). No contract of reinsurance made in pursuance of this Section shall become effective until approved by the Court by which the winding-up order is made.

Approved by Court.

(D). In the event of the re-insurance provided for by this Section being effected, the court by which the winding-up order is made may in its discretion declare

Indian Companies Act.

that any Section or Sections, or any part or parts of any such Section, of the Indian Companies Act VII of 1913 shall not apply, and on such declaration being made the Section or Sections, or any part or parts of any such Section, so specified, shall cease to apply to any of the parties concerned in the liquidation. 5

Distribution
of assets if
reinsurance
fails.

(E). If the liquidator fails to secure the reinsurance of the contracts of the company's policy-holder's, in full or for a percentage thereof as hereinbefore provided, the said assets shall, subject to the payment of the costs of liquidation and the preferential payments specified in Section two hundred and thirty of the Indian Companies Act VII of 1913 be available to pay the claims of the policy-holders, calculated as at the date of liquidation in the manner provided by the said Act, and creditors of the company other than the policy holders and the said preferred creditors shall be entitled to receive a dividend on their claims only if the said assets are more than sufficient to pay the costs of liquidation, the claims of the said preferred creditors and the claims of the policy holders determined in the manner aforesaid. 10 15 20

Deposits
outside
British
India.

(F). If the company is an Indian company which has deposited with the Government of any state or country outside of British India, or with any trustee or other person in such state or company, any of its funds or securities for the protection of the company's policy-holders in such state or country, the liquidator may, on completing arrangements for the reinsurance herein provided for, request such Government, trustee or other person to transfer to him the said funds and securities, and on such transfer being made, the said funds and securities shall be used for the benefit of all the company's policy-holders in the same way and to the same extent as if they had not been so deposited outside of British India. 25 30 35

Failure to
transfer to
liquidator.

(G). If the said Government, trustee or other person does not consent to so transfer the said funds and securities within such time from the date of the liquidator's request therefor as the Court may fix, the policy holders of the company, who, while resident in such state or country, effected insurance with the company shall be deemed to have refused the reinsurance arranged by the liquidator and to have forfeited all 40

right or claim to any share of the assets of the company other than the funds or securities so deposited for their protection outside of British India.

5 (H). Nothing in this Section shall prejudice or affect the priority of any mortgage, lien or charge upon the property of the company.

**Secured
creditors not
affected.**

CHAPTER IX.

Investments.

- Deposits.** 57.—(A). All deposits required to be made by any company under Chapter III of this Act shall be in securities as specified in the Indian Securities Act, 1920, and in Section 20(B) and (D) of the Indian Trust Act II of 1882. **5**
- Deposits outside British India.** (B). Any company may deposit outside of British India such portion of its funds and securities as is necessary for its business in one or more foreign countries according to the law or custom prevailing in such foreign country or countries. **10**
- Investment by Indian Companies.** (C). Every Indian company shall invest a moiety of its capital and surplus funds inclusive of the deposits required to be made by it under Chapter III of this Act but exclusive of the deposits to be made in foreign countries under Section fifty-seven, sub-section (B) in securities authorised by Section 20 and 20A of the Indian Trust Act II of 1882 and may invest the other moiety in such securities as may be authorised by its constitution, provided however, that no such company shall grant loans or temporary advances either on hypothecation of property or on personal security to any director, managing agent or principal officer thereof or to the wife or any child of such director, managing agent or principal officer except in the case of life insurance company on the security of its own policies within their surrender values. **15**
20
25

CHAPTER X.

Winding Up.

58. The Court may order the winding up, in accordance with the Indian Companies Act VII of 1913, of a company, and the provisions of that Act shall apply accordingly, subject, however, to the modification that the company may be ordered to be wound up—

Special provision as to winding up of insurance companies.

(a) on the petition of any member or policy holder at the expense of the company where a notification has been made to this effect by the Commissioner under Section fifty-four, sub-section (F) of this Act ; or

(b) on the petition of ten or more policyholders presented with the leave of the Court, which leave shall not be granted until a *prima facie* case has been established to the satisfaction of the Court, and until security for costs for such amount as the Court may think reasonable has been given ; or

(c) on application made by the Commissioner with the sanction of the Governor General in Council under Section fifty-four, sub-section (E) of this Act specifying grounds on which it appears to him that the company is insolvent.

59. (A). 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 the section referred to as the subsidiary 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 subsidiary 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.

Winding up of subsidiary companies.

(B). 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 subsidiary company.

(C). In adjusting the rights and liabilities of the members of the several companies between 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 contributors in the case of the winding-up of a single company, or as near thereto as circumstances admit.

(D). Where any company alleged to be subsidiary is not in process of being wound-up at the same time as the principal company to which it is alleged to be subsidiary, the Court shall not direct the subsidiary 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 subsidiary to the principal company, and that the winding-up of the company in conjunction with the principal company is just and equitable.

(E). An application may be made in relation to the winding-up of any subsidiary company in conjunction with a principal company by any creditor of, or person interested in, the principal or subsidiary company.

(F). Where a company stands in the relation of a principal company to one insurance company, and in the relation of a subsidiary company to some other insurance company, or where there are several insurance companies standing in the relation of—subsidiary 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.

Return of
deposits.

60. When a company is being wound up, the liquidator or liquidators shall apply to the Court for an order for the return of the securities deposited by the company under this Act, and the Court shall, on such application, order the return of the deposit subject to such terms and conditions as it shall direct.

61. Where a company is being wound up, the value of a policy of any class or of a liability under such a policy requiring to be valued in such winding-up shall be estimated in such manner, applicable to policies and liabilities of that class as may be prescribed by the rules made in that behalf by the Governor General in Council.

Valuation of policies in case of winding up.

62. The rules referred to in Section sixty-one shall be of the same force, and may be repealed, altered, or amended, as if they were rules made in pursuance of Section 246 of the Indian Companies Act VII of 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.

Rules of valuation.

63. Where a company is being wound up, the liquidator, in the case of all persons appearing by the books of the company to be entitled to or interested in policies granted by the company, shall ascertain the value of the liability of the company 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.

Notice of policy values.

64.—A. The Court, in the case of a company carrying on the business of life insurance which has been proved to be insolvent, may, if it thinks fit, in place of making a winding-up Order, reduce the amount of the contracts of life insurance upon such terms and subject to such conditions as it thinks just.

Power of Court to reduce contracts of life insurance companies

(B). In the winding up of a life assurance company in a case where any proportion of the profits of the Company was before the commencement of the winding up allocated to policy-holders, if, when the assets and the liabilities of the Company have been ascertained, there is found to be a surplus of assets over liabilities (hereinafter referred to as prima facie surplus), there shall be added to the liabilities of the Company in respect of its life assurance business an amount equal to such proportion of the prima facie surplus as is equivalent to such proportion of the profits allo-

Application of surplus assets.

38 *The law relating to Insurance Companies.*

cated to shareholders and policyholders during the ten years immediately preceding the commencement of the winding-up, and the assets of the Company shall be deemed to exceed its liabilities only in so far as those assets exceed those liabilities after such addition as 5
aforesaid :

Provided that, 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 10
Company in respect of the life assurance 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.

CHAPTER XI.

Life Insurance.

65. The Chapter applies only to life insurance companies, and to other insurance companies carrying on life and other insurance, in so far only as relates to the life insurance business of such companies.

Application.

66. No life insurance company constituted in British India shall amalgamate with another insurance company, or transfer its life insurance business or any portion thereof to another insurance company, unless the amalgamation or transfer is sanctioned by the Court.

Amalgamation or transfer.

67.—(A). Before an application is made to the Court to sanction the amalgamation of two or more insurance companies of which any one is a life insurance company constituted in British India, or the transfer of any life insurance business of one such insurance company to another insurance company, 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 Governor General in Council and to every holder of a life policy of each company who is resident in British India, and the following documents shall be furnished to the Governor General in Council, and shall during the two months aforesaid be kept open for the inspection of the members and policy-holders at the principal and branch offices or principal agencies of the insurance companies concerned, namely :—

Statements required before amalgamation.

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

(ii) certified copies of statements of the assets and liabilities of the insurance companies concerned in such amalgamation or transfer ; and

(iii) certified copies of the actuarial or other reports, including a report by an independent actuary, on the proposed amalgamation or transfer.

(B). A notice required by sub-section (A) to be sent to a policy holder may be addressed and sent to

the person to whom the notices respecting the policy are usually sent and any notice so addressed and sent shall be deemed to be notice to the holder of the policy.

Sanction of
amalgamation by
Court.

68. When an application is made to the Court to sanction the amalgamation of two or more insurance companies of which any one is a life insurance company constituted in British India, or the transfer of any life insurance business of one such insurance company to another insurance company, the Court 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 or other persons whom it considers entitled to be heard, may sanction the arrangement if it is satisfied that no sufficient objection to the arrangement has been established.

Statements
required
after amal-
gamation

69. Where an amalgamation takes place between any insurance companies or where any insurance business of one insurance company is transferred to another, the insurance company formed by the amalgamation or the purchasing company, as the case may be, shall within one month from the date of the completion of the amalgamation or transfer, furnish to the Governor General in Council :—

- (a) a certified copy of the agreement or deed under which the amalgamation or transfer has been effected ;
- (b) a declaration under the hand of the chairman and the principal officer of each company 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.

Additional
Commissions.

70. No life insurance company licensed under this Act, nor any person, firm or corporation on its behalf, shall, in respect of its Indian business, pay or allow to any agent, broker or other person, firm or corporation for procuring any application for life in-

insurance, for collecting any premium thereon or for any other service performed in connection therewith, any compensation other than that which has been determined in advance.

5 71. No such life insurance company, and no person, firm or corporation on its behalf, shall make any loan or advance without adequate security, to any person firm or corporation soliciting or undertaking to solicit applications for insurance; nevertheless
10 advances may be made to any such person, firm or corporation for travelling expenses or against commission or other compensation to be earned in respect of premiums.

Advances to agents.

15 72. No such life insurance company, and no officer, director or agent thereof, shall issue or circulate, or cause or permit to be issued or circulated in British India any estimate, illustration or statement of the dividends or shares of surplus expected to be received in respect of any policy issued by it.

Estimates forbidden

20 73.—(A). No such life insurance company shall make or permit any distinction or discrimination in favour of individuals between the insured of the same class and equal expectation of life in the amount of premiums charged or in the bonuses payable on the
25 policy, nor shall any agent of any such company assume to make any contract of insurance, or agreement as to such contract, whether in respect of the premium to be paid or otherwise, other than as plainly expressed in the policy issued; nor shall any such company or
30 any officer, agent, solicitor or representative thereof pay, allow or give, or offer to pay, allow or give, directly or indirectly, as inducement to insure, any rebate of premium payable on the policy, or any special favour or advantage in the bonuses or other benefits to acquire
35 thereon, or any inducement whatever intended to be in the nature of a rebate of premium; nor shall any person knowingly receive as such inducement any such rebate of premium or other such special favour, advantage, benefit, consideration or inducement.

Rebates, discrimination etc. forbidden.

40 (B). Each company shall deposit and keep deposited with the Commissioner a copy of its established rates for all plans of insurance which shall have been duly certified by an actuary, such rates in the ordinary branch as distinguishing from the industrial branch,
45 being based upon an insurance of one thousand rupees,

Rates filed with Commissioner.

and shall be applicable to insurance for that amount and pro rata for greater amounts.

Exception in cases prior to Act.

(C). This Section shall not apply to reinsurance contracts or to acts done in pursuance of agreement—made relative to policies issued prior to the passing of this Act. 5

New policy may be issued for lapsed policy.

(D). Nothing in this Section shall prohibit the issue by any company to the holder of a lapsed policy of such company of a new policy providing for special benefits to be granted in lieu of benefits to which the insured may be entitled under the provision of the lapsed policy. 10

Penalty for rebating etc.

74. Each and every person violating the provisions of the last preceding Section shall for a first offence be liable to a penalty of double the amount of the annual premium on the application or policy in respect of which such violation took place, but in no case shall such penalty be less than one hundred rupees, and for a second or subsequent offence such person shall be liable to a penalty of double the amount of such annual premium, but in no case less than two hundred and fifty rupees. 15 20

Actuarial report and abstract.

75. (A). Every Indian life insurance company shall once in every five years, or at such shorter intervals as may be required by the instrument constituting the company or by its regulations or by-laws, cause an investigation to be made into its financial condition by an actuary who is not a regular employee of the company; and shall cause an abstract of the report of such actuary to be made in the form set forth in the fourth Schedule. 25 30

Investigation with a view to distribution of profits.

(B). The provisions of sub-section (A) regarding the making of an abstract shall also apply whenever at any time an investigation into the financial condition of a life insurance company is made with a view to the distribution of profits or to the ascertainment of its exact financial condition. 35

Requirements when such investigation is made.

(C). An investigation into the financial condition of a Life Insurance Company shall be made with a view to the distribution of Profits on the following basis :— 40

- (i) the rate of interest to be assumed in the calculation of the Liabilities of the Company shall be not higher than one half per cent less

5 than the average of the net rates earned on the Life Assurance Fund each year during the last three years of the period since the last preceding Valuation calculated according to the Formula set forth in Clause 8 of the Fourth Schedule ;

10 (ii) the proportion of the annual premium income to be reserved towards meeting expenses shall in the case of non-participating Policies be not less than one per cent of the annual premium income under such Policies higher than the average of the proportions of the total renewal premium income spent in payment of Commission and other expenses in each of the last
15 two years of the period since the last preceding Valuation calculated according to the method set forth in Clause 11 of the Fourth Schedule and in the case of participating policies the proportion of the annual premium income to be reserved for meeting Expenses and towards
20 maintenance of future profits shall be not less than 7% of the annual premium income under such Policies higher than the average of the proportions of the total renewal premium income spent as aforesaid, Provided that this subclause ii shall not come into operation
25 before 31st December 1941.

30 (iii) If any appreciation in the value of the investments pertaining to the Life Assurance Fund of the Company is taken credit for since the date of the last preceding investigation, except profit on the actual realisation of any Investments, it shall be utilised only towards strengthening the Reserves of the Company in respect of its existing Policies and no portion
35 of it shall be treated as profit for distribution or otherwise dealt with.

(D). There shall be appended to every such abstract as aforesaid a certificate to the effect that full
40 and accurate particulars of every life policy under which there is a liability, either actual or contingent have been furnished to the actuary for the purpose of the investigation.

(E). There shall be appended to every such abstract as aforesaid particulars of the life policies in force on the date as at which the investigation is made in the form set forth in the fifth Schedule :—

Provided that, if the investigation is made annually by any company, such particulars need not be appended every year but at least once in five years. 5

(F). This Section shall as far as practicable apply to business of life insurance carried on in India by Non-Indian companies. 10

Audit at date of valuation.

76. Where an investigation into the financial condition of a life insurance company is made as at a date other than the expiration of the company's financial year, the accounts for the period since the expiration of the last financial year and the balance-sheet as at the date at which the investigation is made shall be prepared and audited in the manner provided by or under this Act. 15

Transfer or surrender of policies by companies wishing to cease business.

77. When any company licensed under this Act desires to discontinue business and to have its assets in British India released, and gives written notice to that effect to the Governor General in Council, it may, with the consent of the policyholders procure the transfer of its outstanding policies in British India to some company or companies licensed under this Act in British India, or may obtain the surrender of the policies, as far as practicable. 20 25

Utilizing trust funds.

78 (A). The trustees holding securities for such company may employ any portion of the assets vested in them for the purpose of effecting such transfer or surrender. 30

List to be placed with Governor General in Council.

(B). Such company shall file with the Governor General in Council a list of all British Indian policyholders whose policies have been so transferred or have been surrendered, and also a list of those which have not been transferred or surrendered. 35

Notice in the Gazette of India.

(C). The company shall, at the same time, publish in the Gazette of India a notice that it will apply to the Governor General in Council for the release of its assets and securities on a certain day, not less than three months after the date of the notice, and calling upon its British Indian policyholders opposing such release to file their opposition with the Governor General in Council on or before the day so named. 40

79. (A). After the day so named, upon the application for release being made, if the Governor General in Council is satisfied that such transfer or surrender has been effected, he may direct that a portion of the assets held by the trustees, or securities held by the Governor General in Council, shall be retained, sufficient in amount to cover the full equitable net surrender value of such policies, including bonus additions and accrued profits, as have not been transferred or surrendered, or in respect to which opposition has been filed ; and may order the remaining assets or securities aforesaid to be released and transferred or paid over to the company.

Securities
case of
transfer.

(B). The portion retained shall be tendered in the manner hereinafter described to the aforesaid policy-holders *pro rata*, according to the aforesaid values of their respective policies ; and on the acceptance of the amount so tendered, such policies shall thereby be deemed to be cancelled.

Tender of
policy
holders.

(C). If such tender is refused by any policyholder, the amount so tendered may be paid over to the company, and the policy shall continue in force, and such policy-holder shall not be barred from any recourse he has, either at law or in equity, against the company to compel the fulfilment of its contract under such policy.

Refusing
tender.

80.—(A). The tender referred to in the last preceding Section shall be made in the following manner :

Mode of
tender.

(i) a list and notice in such form as may be prescribed by the Governor General in Council shall be published in the Gazette of India for at least thirty days previously to the day named in such notice ;

List in
Gazette.

(ii) The company shall also cause the said list and notice to be published in such newspapers in British India and for such length of time as the Governor General in Council determines ;

List in
newspapers.

(iii) A notice in such form as may be prescribed by the Governor General in Council shall be sent by mail, postpaid from the Department to each of the policy-holders named in the said list, whose address is known

Notice
mailed.

to the Commissioner; and such notice shall be deposited in some post office in British India at least thirty days previously to the day named therein, which shall be the same day as that named in the list and notice in the form. 5

Acceptance must be signified. Neglect may be waived. (B). Any policy-holder who does not signify in writing to the Commissioner his acceptance of the amount so tendered, on or before the day named in the said notice, shall be deemed to have refused the same; Provided that the Governor General in Council may, at any time prior to the payment over to the company of the amount so refused, allow any policy-holder to signify his acceptance of such amount, and such acceptance, so allowed, shall have the effect as if made on or before the day named in the said notice. 10 15

Special arrangements. 81. Nothing herein contained shall prevent any policy holder from making special arrangements with the company whereby his policy may be continued in force. 20

Action on proof. 82. On proof being given of such arrangement, such policy may be omitted or removed from the list of policies filed with the Governor General in Council as aforesaid, and this Act shall thereafter not apply in respect of such policy. 25

Power to pay money into Court. 83.—(A). Any life insurance company may pay into Court within whose ordinary original civil jurisdiction the head office of the company is situate any moneys payable by them under a life policy in respect of which, in the opinion of the board of directors no sufficient discharge can otherwise be obtained. 30

Discharge. (B). The receipt or certificate of the proper officer shall be a sufficient discharge to the company for the moneys so paid into Court and such moneys shall be dealt with according to the orders of the Court. 35

Separation of accounts and maintenance of life insurance fund. 84.—(A). Save as provided in this Chapter, every company carrying on the business of life insurance shall keep a separate account of all receipts and payments in respect of its business of life insurance carried on by it and the excess of receipts over payments in that class shall form a Life Insurance Fund. 40

(B). The Life Insurance Fund shall be as absolutely the security of the life policy holders as though it belonged to a company carrying on no other business than life insurance business, and (subject to the payment and application of such sums as, having regard to the contracts entered into by the company, to the contracts of policy-holders and to the instruments governing the constitution of the company, are properly payable as dividends, bonus, or otherwise as profits), shall not, so long as the company continues to carry on the business of life insurance be available to meet any liabilities of the company other than those referable to the business of life insurance in respect of which the fund was established, and shall not be directly or indirectly applied or charged for any purposes other than those of life insurance. Any charge in contravention of the provisions of this sub-section shall be void.

Appropriation of Life Insurance Fund.

85.—(A). The transfer or assignment of a policy of life insurance (whether with or without consideration or for the purpose of securing an existing or future debt) may be made either by endorsement on the policy or by a separate instrument in the words or to the following effect :—

Form of assignment.

I, A. B. of in consideration of do hereby assign unto C. D., of, his executors, administrators and assigns the within policy of insurance granted etc, (here describe the policy). In Witness etc.

(B). Every such endorsement or instrument, as the case may be, shall be signed by the transferor or his duly authorised agent and attested by at least one witness, and shall be complete and effectual upon the execution of such endorsement or instrument, but the transferee or assignee therein named, his executors, administrators or assigns shall not be entitled to sue for the amount of such policy or the moneys assured or secured thereby until a notice in writing of such transfer or assignment and signed by the transferor or his agent duly authorised in this behalf, or, in case the transferor is dead or is unable or refuses to sign, by the transferee or assignee or his duly authorised agent shall have been given to the company liable under such a policy at its principal place of business.

Attestation and Notice.

Acknowledg-
ment.

(C). Every company to whom notice shall have been duly given of the transfer or assignment of any policy under which it is liable shall upon the request in writing of any person by whom any such notice was given or signed or of his executors or administrators and upon payment in each case of a fee not exceeding rupee one deliver an acknowledgment in writing under the hand of the manager, secretary, treasurer or other principal officer of the company of its receipt of such notice and every such written acknowledgment shall be conclusive evidence as against the company of its having duly received the notice to which such acknowledgment relates. 5 10

Transferee
entitled to
benefits.

(D). Upon such notice as aforesaid being given of every such transfer or assignment, the company will be entitled to recognize the transferee or assignee therein named as the only person entitled to the benefits under the policy. 15

Subject to
equities

(E). The transferee or assignee named in a policy shall be subject to all the liabilities and equities to which the transferor was subject in respect thereof at the date of the transfer or assignment. 20

Can sue in
his own
name.

(F). Any person who becomes entitled by assignment or other derivative title to a policy of life insurance shall be entitled to sue or institute proceedings for the recovery of moneys thereby assured or secured in his own name without obtaining the transferor's consent to such suit or proceedings and without making him a party thereto. 25

Payment
before notice.

(G). The payment *bona fide* made in respect of any policy of life insurance by a company before the date on which such notice shall have been received shall be as valid against the transferee or assignee giving such notice as if this Act had not been passed. 30

Transfer of
Property Act
not
applicable.

(H). The provisions of Chapter VII of the Transfer of Property Act IV of 1882 shall not apply to the transfers or assignments of policies of life insurance wherever this Act is applicable. 35

Nomination.

86. (A). It shall be competent for every holder of a policy of life insurance at the time of effecting the policy or at any time prior to the time when the moneys due thereunder become payable to nominate a person or persons to whom the moneys assured by the policy may be paid on the death of the policy holder. 40

(B). The name of such person or persons shall be designated as such in the body of the policy or by an endorsement thereon and recorded in the register of policies maintained by the company.

How made.

5 (C). The holder of a policy of life insurance shall be at liberty from time to time to change or cancel the nomination of the person or persons to whom the moneys assured by the policy shall be payable by communicating to the company in writing at any time prior
10 to the time when the moneys due thereunder become payable. Every such change or cancellation shall be endorsed on the policy and the company shall be at liberty to charge reasonable fees for registering every such change or cancellation.

Change or Cancellation

15 (D). An assignment or transfer of a policy of life insurance by the holder thereof in the manner provided by this Chapter shall have the effect of cancelling the nomination of the person or persons to whom the moneys assured by the policy are payable.

Cancelled by assignment.

20 (E). If by such nomination as aforesaid the moneys assured by the policy are made payable on death to more than one person, then the survivors or survivor shall alone be the persons or person who shall be entitled to receive from the company payment of
25 the moneys assured thereby and to give a valid and effectual discharge for the same.

Surviving nominee can give discharge.

(F). If by such nomination as aforesaid the moneys assured by the policy are made payable only to one person and if such person dies before the death
30 of the assured, the moneys shall become payable to the policy-holder or his heirs, executors or administrators.

Death of nominee.

(G). Notwithstanding any such nomination as aforesaid if the assured is alive when the moneys due under the policy become payable he shall alone be
35 entitled to receive from the Company such moneys and to give a valid and effective discharge for the same.

Payment to Assured on maturity.

(H). The company shall, unless restrained by an order and injunction of a Court of competent jurisdiction, pay the moneys assured by the policy of life insurance on the death of the assured to the person or persons named in the policy by the assured and the payment to such person or persons shall be valid and effectual as between the company and all persons claiming
40 under the policy.

Payment to nominee when assured dies.

CHAPTER XII.

Business other than life insurance.

Application. 87. This Chapter applies to all classes of insurance business excepting the business of Life insurance, Annuities, Leasehold Redemption and Sinking Fund. 5

Licenses forfeited for failure to make deposit or pay claims. 88. Whenever any company fails to make the deposits under this Act at the time required, or whenever written notice has been served on the Governor General in Council of any undisputed claim, arising from loss insured against in British India, remaining unpaid 10 for the space of sixty days after the amount payable in respect thereof is ascertained by mutual consent or of a disputed claim remaining unpaid after final judgment in regular course of law and tender of a legal valid discharge, the license of such company may be 15 withdrawn by the Governor General in Council.

Renewal under certain conditions 89. Such license may be renewed, and the company may again transact business, if, within sixty days after notice to the Governor General in Council of the failure of the company to pay any undisputed claim or 20 the amount of any final judgment, as provided in the last preceding Section all claims undisputed or decreed by final judgments upon or against the company in British India are paid and satisfied.

Rebating prohibited. 90.—(A). No agent, broker or other person representing or doing business in British India for any company transacting insurance business other than life and licensed under this Act shall, in any way, directly or indirectly, divide, or offer to divide, his commission or other remuneration with, or give or offer to give, 30 any part of his commission or other remuneration or any other matter or thing of value, to any person whose property he may be insuring or seeking to insure, or to any person having or claiming or appearing to have any influence or control as to the placing of such insurance, 35 as an inducement to insure with him or in or with a company employing him or represented by him; nor shall any person knowingly receive as such inducement any such commission, or other remuneration or any rebate of premium or other consideration intended to 40 be wholly or partly in the nature of a rebate of premium.

(B) The provisions of this section shall also apply to the Head and Branch Offices of such Insurance Companies as aforesaid and the direct relations with any person effecting insurance of his own property or for his own protection but nothing herein contained shall prevent such Head and Branch Offices remunerating their bonafide agents, sub-agents, brokers or other representatives nor shall prevent agents from remunerating their bona fide sub-agents, brokers or other representatives Provided also that all such agents, sub-agents, brokers or other representatives are duly certified in accordance with the provisions of this Act.

Commission
to sub agents.

(C). It shall not be lawful for a Company to appoint any person firm or corporation as its agent or representative with the object of directly or indirectly enabling such person firm or corporation to earn commission or other remuneration on the insurance placed with such Company in respect of any property owned by such person firm or corporation provided however that nothing contained in this sub-section shall be deemed to apply to a person firm or corporation who is or has been such agent or representative by appointment, devolution, or transfer before the first day of October 1936.

91. Every person violating the provisions of the last preceding Section shall, for a first offence, be liable to a fine of double the amount of the premium on the application or policy in respect of which such violation took place, but in no case shall such fine be less than one hundred rupees and more than one thousand rupees; and for a second or subsequent offence such person shall be liable to a fine of double the amount of such premium, but in no case less than two hundred and fifty rupees and more than two thousand and five hundred rupees.

Fine for
rebating etc.

CHAPTER XIII.

Penalties and Procedure.

Penalties
for non-
compliance
with Act.

92. Every company which makes default in complying with any of the requirements of this Act, and every director, manager or secretary, or other officer of the company who is knowingly a party to the default shall, if no other penalty for such default is provided in this Act, 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. 5
10

Penalty for
falsifying
documents.

93. If any account, balance-sheet, abstract or other document required by this Act is false in any particular to the knowledge of any person who signs it, such person shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both. 15
20

Person or
company
doing insur-
ance business
without a
license to be
guilty of an
offence.

94.—(A). Any company, person or firm, who, except under a license from the Governor General in Council granted pursuant to the provisions of this Act, within British India, 20

(a) solicits or inspects any risk ; or

(b) issues or delivers any receipt or policy of insurance ; or 25

(c) grants in consideration of any premium or payment any annuity on a life or lives ; or

(d) collects or receives any premiums ; or

(e) advertises for or carries on any business of insurance ; or 30

(f) prosecutes or maintains any suit, action or proceeding, or files any claim in insolvency relating to the business of insurance ;

shall be guilty of an offence and be punishable with fine not exceeding one hundred rupees or with an imprisonment for any term not exceeding six months. 35

(B). No person shall place any insurance business with a Company not licensed under this Act or with any office or Agency of a Company licensed under

this Act but situate outside British India, unless a certificate is obtained from the Commissioner authorising him to place such insurance on the ground that such insurance cannot be effected in British India
5 with any Company licensed under this Act.

Any person making a default in complying with the provisions of this Section, shall be punishable with a fine which shall not be less than twenty-five percent of the premium paid in respect of such insurance nor
10 more than the total amount of such premium.

95.—(A). No court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act. Cognizance of offences.

(B). If any offence, which by this Act is declared
15 to be punishable with fine only, is committed by any person within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Fort Williams, Madras or Bombay, such offence shall be punishable upon summary conviction by any Presidency Magistrate of the place at which such Court is
20 held. Summary Conviction.

(C). Notwithstanding anything in the Code of Criminal Procedure, 1898, every offence against this Act shall, for the purposes of the said Code, be deemed
25 to be non-cognisable. Offence non-Cognisable.

(D). The Court imposing any fine under this Act may direct that the whole or any part thereof be applied in or towards costs of the proceedings, or in or towards rewarding of the person on whose information
30 the fine is recovered. How fine to be applied.

CHAPTER XIV.

SUPPLEMENTAL.

Power to
Governor
General to
make rules.

96.—(A). The Governor General in council may make rules to carry out the purposes of this Act.

(B). In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely :

- (i) The qualifications to be possessed by actuaries and auditors under this Act.
- (ii) The manner in which the accounts of insurance companies shall be audited and the particulars to be stated in the reports of the auditors. 5
- (iii) The form of license required under Section seven of this Act. 15
- (iv) The form of certificate required under Section eleven of this Act.
- (v) The form of trust deed required under Section twenty-three of this Act.
- (vi) The form of notice required under Section twenty-five, sub-section (A) of this Act. 20
- (vii) The form of statement required under Section thirty one, sub-section (c) of this Act.
- (viii) The form of annual statement of the condition and affairs required under Section forty-three sub-section (c) of this Act. 25
- (ix) The form of annual statement of securities required under Section forty-three, sub-section (D) of this Act.
- (x) The forms of annual statements required under Section forty-four, sub-sections (A) and (B) of this Act. 30
- (xi) The form of notice of tender required under Section eighty, sub-section (A) (i) of this Act.
- (xii) The form of notice of tender required under Section eighty, sub-section (A) (ii) of this Act. 35

(xiii) The language and currency in which returns required by this Act shall be furnished and the certification of translations of any such returns.

5 (C). All rules made under this Act shall be published in the Gazette of India, and, on such publication, shall have effect as if enacted under this Act.

97. Where a company, which is registered under the Indian Companies Act VII of 1913, or, the existing
10 company as defined in that Act, in any year furnishes its accounts and balance-sheet in accordance with the provisions of this Act, the company may, at the same time, send to the Registrar of Companies a copy of such
15 accounts and balance-sheet; and where such copy is sent, it shall not be necessary for the company to file balance-sheet with the Registrar of Companies as required by sub-section (1) of Section 134 of that Act, and the copy of the accounts and balance-sheet shall be
20 filed in accordance with that Section.

Accounts to be sent to Registrar of companies.

98. The holder of a policy of insurance issued in British India after the commencement of this Act or the holder of a policy subject matter of which is situated in British India shall notwithstanding anything
25 contained to the contrary in such policy or in any agreement relating thereto be entitled to sue the company in respect of such policy in any Court of competent jurisdiction in British India and any
30 question of law or construction arising upon such a policy shall be decided according to the law for the time being in force in British India.

Law of British India to be applied to every Policy of Insurance.

99.—(A). It shall not be lawful for any company to carry on the business of insurance on the basis of a
dividing society business.

Dividing Society business illegal,

35 (B). For the purpose of sub-section (A), the dividing society means any insurance company which carries on business on the dividing principle, namely, under which the benefit secured by any policy issued by it is not fixed, but depends either wholly or partly, on
40 the results of the division of any portion of the premium income or funds amongst policies which have become due for payment either equally or in proportion to the premiums received under each class in any specified period.

56 *The Law relating to Insurance Companies.*

100. *Limitation.*—Notwithstanding anything to the contrary contained in article 86 of the Indian Limitation Act 1908, the period for instituting a suit on a policy of life insurance shall be three years either from the date of death of the assured or in the case of an endowment policy within three years from the date of its maturity. 5

Existing Act 101.—The Indian Life Assurance Companies Act
repealed. IV of 1932 is hereby repealed.

THE FIRST SCHEDULE.

(SEE SECTION 39)

Revenue Account of the

for the Year ending

(A) Life Assurance Account.

	Rs. a. p.		Rs. a. p.
Amount of Life assurance Fund at the beginning of the year--		Dividends payable on 19 for the year ending 19 (This is only to be stated here by companies not supplying a profit and loss account.)	
<i>Premiums :—</i>		Claims under policies paid and outstanding :—	
1st Years premium		By Death	
<i>Less Reinsurances</i>		By maturity	
Yearly Renewal premiums		Surrenders, including surrenders of bonus additions	
<i>Less Reinsurances</i>		Annuities	
Single premiums		Bonuses in Cash	
Consideration for annuities granted* (See Note.1)		Bonuses in reduction of premiums	
Interest dividends and rents		Expenses of management :—	
<i>Less Income Tax thereon</i>		Commission	
Other receipts (accounts to be specified)		Agents' and canvassers' allowances	
		Salaries etc. (other than to Agents and canvassers)	
		Travelling expenses	
		Directors fees	
		Auditors' Fees	
		Medical fees	
		Rents for offices belonging to and occupied by the Company	
		Rents of other offices occupied by the Company	
		Law charges	
		Advertising	
		Printing and Stationery	
		Other expenses of management (accounts to be specified)	
		Other payments (accounts to be specified)	
		Amount of Life assurance fund at the end of the year, as per Third Schedule	
	Rs.		Rs.

*NOTE 1.—Companies having separate funds for annuities or for different branches of life insurance business to return the particulars of their annuity business or of their business in each branch separately.

The Law relating to Insurance Companies.

(B)—Balance Sheet of the Life Assurance Fund on the 19 to be 58
 completed by companies doing business other than Life Assurance for which they have separate funds.

LIABILITIES.	Rs. a. p.	ASSETS.	Rs. a. p.
Life Assurance Fund		Assets of Life insurance Fund as per separate Balance Sheet (if any)	
Claims admitted or intimated* but not paid		Assets of Annuity Fund as per separate Balance Sheet (if any)	
Other sums owing by the Company* (under this class of business)		Assets of Fund other than those shown in the above mentioned Balance Sheets	
		<i>Investments :—</i>	
		Deposit with the Controller of Currency	
		Indian Government Securities	
		Indian Provincial Government Securities	
		British Government Securities	
		Colonial Government Securities	
		Foreign Government Securities	
		Indian Municipal and Port and Improvement Trusts Securities	
		Indian States Securities	
		Preference and guaranteed stocks and shares	
		Debentures and Debenture Stock	
		Other Securities	
		House and landed property	
		Mortgages	
		Loans to Municipal and other public bodies	
		Loans on stocks and shares	
		Loans on Company's policies within their surrender value	
		Loans on personal security	
		Agents balances	
		Outstanding premium	
		Outstanding interest, dividends and rents	
		Interest accrued but not payable	
		Bills receivable	
		Cash :—	
		On deposit	
		In hand and on current account	
		Other assets (to be specified)	
Rs.		Rs.	

The Law relating to Insurance Companies.

THE SECOND SCHEDULE.

(See Section 39.)

Profit and Loss Account of the

for the year ending

	Rs. a. p.		Rs. a. p.
Balance of previous year's account		Dividends and bonuses to shareholders, payable on 19 for the year ending 19	
Interest, dividends and rents not carried to other accounts		Expenses not charged to to other accounts	
<i>Less</i> Income-tax		Loss sustained (accounts to be specified)	
Profit realised (accounts to be specified)		Other payments (accounts to be specified)	
Other receipts (accounts to be specified)		Balance as per Third Schedule	
		Rs.	
	Rs.		Rs.

The Law relating to Insurance Companies.

(B). FORM APPLICABLE TO WORKMEN'S COMPENSATION INSURANCE BUSINESS.

Revenue Account of the _____ for the year ending _____ in respect of workmen's compensation insurance business transacted in British India.

	Rs. a. p.			Rs. a. p.
Amount of workmen's compensation insurance fund at the beginning of the year :—		Claims under policies :—		
		Lump payments		
		Half-monthly payments		
Total estimated liability in respect of outstanding claims		Commission		
Reserve for unexpired risks		Expenses of management		
Additional reserve (if any)		Other payments		
Premiums		Amount of workmen's compensation insurance fund at the end of the year, as per Third Schedule :—		
Interest, dividends and rents		Total estimated liability in respect of outstanding claims		
<i>Less Income Tax</i>		Reserve for unexpired risks		
Other receipts		Additional reserve (if any)		
Rs.				Rs.

The Law relating to Insurance Companies.

(C). FORM APPLICABLE TO ACCIDENT INSURANCE BUSINESS.

Revenue Account of the _____ for the year ending _____ in respect of accident insurance business.

Amount of accident insurance fund at the beginning of the year :--		Claims under policies : -	
Total estimated liability in respect of outstanding claims		Sums insured	
Reserve for unexpired risks		Periodical allowances	
Additional reserve (if any)		Commission	
Premiums		Expenses of management	
Interest, dividends and rents		Other payments	
Less income-tax		Amount of accident insurance fund at the end of the year as per Third Schedule :--	
Other receipts		Total estimated liability in respect of outstanding claims	
		Reserve for unexpired risks	
		Additional reserve (if any)	
	Rs.		Rs.

The Law relating to Insurance Companies.

(D).

FORM APPLICABLE TO FIRE INSURANCE BUSINESS.

62

Revenue Account of the

for the year ending

in respect of fire Insurance business

	Rs. a. p.		Rs. a. p.
Amount of fire Insurance fund at the beginning of the year :—		Claims under policies	
Liability in respect of outstanding claims..		Contributions for fire brigades	
Reserve for unexpired risks		Commission	
Additional reserve (if any)		Expenses of management	
Premiums.. .. .		Other payment	
Interest, dividends and rents		Amount of fire insurance fund at the end of the year, as per Third Schedule :—	
Less income tax		Liability in respect of outstanding claims	
Others receipts		Reserve for unexpired risks at..... per cent	
		Additional reserve (if any)	
	Rs.		Rs.

The Law relating to Insurance Companies.

(F). Revenue account applicable to annuity business of those companies having a separate annuity fund, the investments of which are kept separate from those of the life assurance fund.

	Rs. a. p.		Rs. a. p.
Amount of annuity fund at the beginning of the year		Annuities	
Consideration for annuities granted		Surrenders	
Interests, dividends and rents.. .. .		Expenses of management :—	
<i>Less</i> income tax thereon		Commission	
Other receipts		Other expenses (to be specified)	
		Other payments (accounts to be specified)	
		Amount of annuity fund at the end of the year as per balance sheet.. .. .	
Rs.		Rs.	

THE THIRD SCHEDULE.
(SEE SECTION 39)

(A) *Balance Sheet of the*

on the

19

LIABILITIES.	Rs. a. p.	ASSETS.	Rs. a. p.
Shareholders' capital (if any)		Assets of Life insurance fund as per separate Balance Sheet (if any)	
Life Insurance Funds		Assets of Annuity Fund as per separate Balance Sheet (if any) ..	
Outstanding liabilities of Life Assurance Fund ..		Assets of Fund other than those shown in the above mentioned Balance Sheets	
 		<i>Investments :—</i>	
Annuity Fund (if any) as per separate Balance Sheet		Deposit with the Controller of Currency	
Outstanding liabilities of Annuity Fund		Indian Government Securities	
Accident Insurance Fund		Indian Provincial Government securities	
Fire Insurance Fund		British Government Securities	
Marine Insurance Fund		Colonial Government Securities	
Other Insurance Funds (if any) to be specified ..		Foreign Government Securities	
 		Indian Municipal and Port and Improvement Trust Securities ..	
General Reserve Fund (if any)		Indian States Securities	
*Reserve for bad and doubtful debts (if any) ..		Preference and guaranteed stocks and shares	
Profit & Loss account		Debentures and Debenture stock	
Investment depreciation reserve		Other Securities	
Outstanding claims (other than life) :—		House and landed property	
(To be separately specified)		Mortgages	
 		Loans to Municipal and other public bodies	
Annuities due and unpaid		Loans on stocks and shares	
Other sums owing by the Company (Accounts to be specified) ..		Loans on Company's policies within their surrender value ..	
		Loans on personal security	
		Agents balances	
		Outstanding premiums	
		Outstanding interest, dividends and rents	
		Interest accrued but not payable	
		Bills receivable	
		Cash :—	
		On deposit	
		In hand and on current account	
		Other assets (to be specified)	
	Rs.		Rs.

The Law relating to Insurance Companies.

*This may be shown as a deduction from specific items on the Assets side.

NOTE 1. The balance sheet must state how the values of the Stock Exchange securities are arrived at, and on the occasions when a statement respecting valuation under the Fourth Schedule is made; (a certificate must be appended, signed by the same persons as signed the balance-sheet, to the effect that in their belief the assets set forth in the balance-sheet are in the aggregate fully of the value stated therein, less any investment reserve fund taken into account.)

NOTE 2. Companies having investments with any uncalled liability shall state separately the full amount hereof.

THE FOURTH SCHEDULE.

(See Section 75.)

STATEMENT respecting the Valuation of the Liabilities under Life Policies of the
to be made and signed by the Actuary.

(The answers should be numbered to accord with the numbers of the corresponding questions).

1. The date up to which the valuation is made.
2. The general principles adopted in the valuation and whether these principles were determined by the instrument constituting the company or by its regulations or bye-laws or how otherwise and whether these principles have the approval of the Actuary.
3. The form in which the particulars of each policy under which there is a liability, either actual or contingent, have been furnished to the Actuary and whether all the information and explanations have been furnished as required by him.
4. The method followed in the valuation of particular classes of assurance and annuities including a statement of the method by which the wages at entry and the ages at valuation have been arrived at.
5. The Table or Tables of Mortality used in the valuation. The rate at each age of the Mortality assumed and of the annuity value used in the valuation in cases where the Tables employed are not published.
6. Whether the Actuary has made any investigation into the Mortality Experience of the Company up to any date subsequent to the close of the previous valuation period and whether the mortality experienced has been on the whole less or greater than that assumed in the valuation.
7. Whether or not any such investigation has been made the ratio of the Actual Deaths to the Deaths Expected on the basis of the Mortality Experience adopted for the last preceding Valuation for each year during the period since such Valuation shall be here shown.
7. The rate or rates of interest assumed in the Valuation.
8. The average rate of interest yielded by the assets whether invested or uninvested in each year during the period since the last valuation, after deduction of income tax at the source calculated according to the following formula :—

21

$$R \frac{\quad}{E+F-I}$$

67
24229

where R=average rate of interest after deduction of income tax at the source yielded by the assets constituting the Life Insurance Fund.

I=amount of interest, dividends and rents less income tax deducted at the source shown in the Life Insurance Revenue Account.

E=amount of Life Insurance Fund at the beginning of the year.

F=amount of Life Insurance Fund at the end of the year.

9. The method by which the net premiums have been arrived at, together with a statement of the manner in which extra premiums have been dealt with.

10. The actual proportion of the annual premium income reserved as a provision for future expenses and profits separately specified in respect of assurances with immediate profits, with deferred profits and without profits and also in respect of all assurances. If the proportion be not uniform for all policies of the same class state how the provision for future expenses and profits has been made.

11. The proportion of the renewal premium income spent in payment of commission and other expenses in each year during the period since the last valuation after allowing as the cost of the New Business of the year $7\frac{1}{2}\%$ of single premiums and 90% of First Year's premium falling due in the year after deduction of those unpaid under Policies allowed to lapse during the year.

12. The adjustments used in the valuation to allow for unequal incidence of the premium income for premiums payable more often than once a year, for early payment of claims and for future expenses and profits in respect of limited payments and paid up policies.

13. Whether all negative values have been eliminated from the valuation and whether steps have been taken to prevent the policy reserve values being not less than the minimum surrender values.

14. Whether the basis of valuation differs in any respect and if so in what respect from the valuation made on the last occasion.

15. The consolidated Revenue account since the last valuation or if no previous valuation has been made since the commencement of the business. (This return to be made in the form annexed. No return under this heading will be required where a statement under this Schedule is deposited annually).

16. The liabilities under life policies at the date of the valuation showing the number of policies, the amount assured, and the amount of premiums payable annually under each class of policy, both with and without participation in profits and also the net

liabilities and assets of the Company with the amount of surplus or deficiency. Except that with reference to the Indian Business of non-Indian Companies it shall not be necessary to show the assets of the Company compared with such liabilities nor the amount of surplus or deficiency. (These returns to be made in the forms annexed.)

17. Specimen policy reserve values held or required to be held according to the methods adopted in the valuation as well as specimen minimum surrender values in respect of whole life assurance policies for Rs. 1,000/- with premiums payable through life, effected at the respective ages of 20, 30, 40 and 50 and immediately on payment of the 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 15th, and 20th annual premium; with similar specimen policy reserve values and specimen minimum surrender values in respect of whole-life assurance policies subject to premiums payable for 20 years and of endowment assurance policies maturing at age 55. (The return to be made in the form annexed).

18. Where the valuation discloses a surplus and the surplus is distributed among the policy holders and shareholders—

(1) the principles upon which such distribution is made, and whether these principles were determined by the instrument constituting the company or by its regulations or bye-laws, or how otherwise and the number of years' premium to be paid before a bonus (a) is allotted, and (b) vests;

(2) the amount of surplus allocated—

- (a) to the policy holders with immediate participation and the number and amount of the policies which participate;
- (b) to the policy-holders with deferred participation, and the number and amount of the policies which participate;
- (c) to the shareholders;
- (d) to reserve funds, or other accounts;

(3) Specimens of the bonuses to be allotted to whole Life Assurance policies for Rs. 1,000/- which have been in force for five years, ten years, and upwards at intervals of five years respectively. If the bonuses vary for different ages at entry, specimens are to be given for ages 20, 30, 40 and 50 respectively. Similar specimen bonuses in respect of Endowment Assurance policies, according to age at entry, original term of Policy and duration, to be stated.

19. If the valuation discloses a financial condition such that in the opinion of the Actuary no payment should be made either of bonus to Policyholders or of dividend to Shareholders he shall along with the statement required by the Fourth Schedule to the Act state whether or not he finds the Company to be solvent. If he finds it to be insolvent,

- (a) he shall state whether he considers that the Company could be made solvent as regards existing contracts by the transfer of its paid up capital to make good the deficiency in the Life Assurance Fund. If so, he shall state what in his opinion is the amount so required and whether or not any alteration should be made in the rates of premium for future entrants.
- (b) If he considers that the company cannot be made solvent as regards existing contracts by the transfer of the whole of the paid up capital to the credit of the Life Insurance Fund, he shall state what proportion of the sum assured the Company would in his opinion be able to meet under such contracts if all paid-up capital were transferred to such fund and (1) if all the premiums thereunder were reduced proportionately with the sum assured and (2) if the premiums were not reduced.

NOTE:—Separate Statements to be furnished throughout in respect of each branch of Life insurance business for which a separate fund is maintained, the basis of the division being stated. Where annuity certain, sinking fund or bond investment business is carried on, a separate statement signed by the actuary shall be furnished, showing the total number of policies valued, the total sums assured, and the total office yearly premiums, and also showing the total net liability in respect of such business and the basis on which such liability is calculated.

(FORM REFERRED TO IN QUESTION NO. 16 IN FOURTH SCHEDULE.)

Valuation Balance Sheet of

as at

19 . . .

Dr.		Rs.	By		Rs.
To net liability under life assurance and annuity transactions (as per summary statement)			By life insurance funds (as per balance sheet under Third Schedule		
To surplus, if any			By deficiency, if any		
		Rs.			Rs.

Notes 1. Where the balance sheet includes amongst the assets thereof any sums representing expenses of organisation or extension, or the purchase of business or good will, or bad debts, or the adverse balance of any revenue or profit and loss account, and the amount of the assets exclusive of such sums and after deducting debts due by the Company other than debentures and loans is less than the amount of the life insurance fund, or as the case may be, of the several insurance funds as shown in that balance sheet, the amount of the life insurance fund shown in the valuation balance sheet shall be reduced by the amount of the deficiency, or, as the case may be, by a sum bearing such proportion to that deficiency as the amount of the life insurance fund shown in the first mentioned balance sheet bears to the aggregate amount of all the insurance fund so shown.

2. Where debentures have been issued or loans raised which are charged on any of the assets of the company in which the life insurance fund is invested there shall be inserted in the valuation, balance sheet a note giving the particulars of the charge and stating that the result shown by the valuation is subject to the liability under the charge.

The Law relating to Insurance Companies.

(FORM REFERRED TO IN QUESTION NO. 16 IN FOURTH SCHEDULE).
Summary and Valuation of the Policies of the as at **19 .**

Description of transactions.	Particulars of the Policies for valuation.					Valuation.				
	Number of policies.	Sums assured.	Bonus additions.	Office yearly premiums.	Net yearly premiums.	Value by the Table, interest percent.				
						Sums assured.	Bonus additions.	Office yearly premiums.	Net yearly premiums	Net liability.
	1	2	3	4	5	6	7	8	9	10
ASSURANCES.										
I.— With immediate participation in profits ..										
For whole term of life										
Other classes (to be specified)										
II. With deferred participation in profits ..										
For whole term of life										
Other classes (to be specified)										
Total assurances with profits										
III. Without participation in profits ..										
For whole term of life										
Other classes (to be specified)										
Total assurances without profits										
Total assurances										
Deduct re-assurances (to be specified according to class in a separate statement)										
Net assurances										
Adjustments, if any (to be separately specified)										
<i>Annuities on Lives.</i>		Amount per annum								
Immediate										
Other classes (to be specified)										
Total of the results										

NOTE 1. Items in this summary to be stated to the nearest rupee.
 NOTE 2. Separate returns and valuation results shall be furnished in respect of classes of policies valued by different tables of mortality, or at different rates of interest.
 NOTE 3. In cases also where separate valuations of any portion of the business are required under local laws in places outside British India, a summary statement shall be furnished in respect of the business so valued in each such place showing the total number of policies, the total sum assured and bonuses, the total office yearly premiums, and the total net liability on the bases as to mortality and interest adopted in each such place, with a statement as to such bases respectively.

(FORM REFERRED TO IN QUESTION NO. 17 IN FOURTH SCHEDULE.)

Specimen Policy Reserve Values and Minimum Surrender Values under A

Policy For Rs. 1,000

Number of premiums paid.	Age at entry 20.		Age at entry 30.		Age at entry 40.		Age at entry 50.	
	Reserve value.	Minimum Surrender value.	Reserve value.	Minimum surrender value.	Reserve value.	Minimum surrender value.	Reserve value.	Minimum surrender value.
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								
15								
20								

NOTE. Items in this form to be stated to the nearest rupee.

THE FIFTH SCHEDULE.

Particulars of Life Policies of theon the19 , to be signed by the Actuary.

(The answers should be numbered to accord with the numbers of the corresponding questions. Statements of re-assurances corresponding to the statements in respect of assurances are to be given throughout).

Separate statements are to be furnished in the replies to all the headings under this Schedule in respect of each section of the business for which a separate Summary and Valuation is given in Fourth Schedule. Answers to questions 2 to 9 to be stated to the nearest rupee.

1. The published table or tables of premiums for assurances for the whole term of life and for endowment assurances which are in use at the date above mentioned.

2. The total amount assured on lives for the whole term of life which are in existence at the date above mentioned, distinguishing the portions assured with immediate profits, with deferred profits, and without profits, stating separately the total reversionary bonuses and specifying the sums assured for each year of life from the youngest to the oldest ages, the basis of division as to immediate and deferred profits being stated.

3. The amount of premiums receivable annually for each year of life, after deducting the abatements made by the application of bonuses in respect of the respective assurances mentioned under Heading No. 2, distinguishing ordinary from extra premiums. A separate statement is to be given of premiums payable for a limited number of years, classified according to the number of years' payments remaining to be made.

4. The total amount assured under endowment assurances, specifying sums assured and office premiums separately in respect of each year in which such assurances will mature for payment. The reversionary bonuses must also be separately specified, and the sums assured with immediate profits, with deferred profits, and without profits separately returned.

5. The total amount assured under classes of assurance business, other than assurances dealt with under questions 2 and 4, distinguishing the sums assured under each class and standing separately the amount assured with immediate profits, with deferred profits, and without profits, and the total amounts of reversionary bonuses.

6. The amount of premiums receivable annually in respect of each such special class of assurances mentioned under Heading No. 5, distinguishing ordinary from extra premiums.

7. The total amount of premiums which has been received from the commencement upon pure endowment policies which are in force at the date above-mentioned.

8. The total amount of immediate annuities on lives, distinguishing the amounts for each year of life and distinguishing male and female lives.

9. The amount of all annuities on lives other than those specified under Heading No. 8, distinguishing the amount of annuities payable under each class, and the amount of premiums annually receivable.

THE SIXTH SCHEDULE.

1.—RULES FOR VALUING POLICIES IN CASE OF WINDING UP.

(A) AS RESPECTS LIFE POLICIES.

Rules for valuing an annuity.

An annuity shall be valued according to the tables used by the Company which granted such annuity at the time of granting the same, and, where such tables cannot be ascertained or adopted to the satisfaction of the Court, then according to such rate of interest and table of mortality as the Court may direct.

Rule for valuing a policy.

The value of the policy is to be the difference between the present value of the reversion in the sum assured according to the contingency upon which it is payable, including any bonus or addition thereto made before the commencement of the winding up, and the present value of the future annual premiums.

In calculating such present values interest is to be assumed at such rate, and the rate of mortality according to such tables, as the Court may direct.

The premium to be calculated is to be such premium as according to the said rate of interest and rate of mortality is sufficient to provide for the risk incurred by the office in issuing the policy, exclusive of any addition thereto for office expenses and other charges.

(B) AS RESPECTS WORKMEN'S COMPENSATION POLICIES.

Rule for valuing a half-monthly payment.

The present value of a half-monthly payment shall be valued according to the tables used by the Company which granted such half-monthly payment at the time of granting the same, and where

such tables cannot be ascertained or adopted to the satisfaction of the Court, then according to such rate of interest and table of mortality as the Court may direct.

Rule for valuing a policy.

The value of a current policy shall be such portion of the last premium paid as is proportionate to the unexpired portion of the period in respect of which the premium was paid, together with, in the case of a policy under which any half monthly payment is payable, the present value of that half monthly payment.

(C) AS RESPECTS ACCIDENT POLICIES.

Rule for valuing a periodical payment.

The present value of a periodical payment shall be valued according to the tables used by the company which granted such weekly payment at the time of granting the same, and where such tables cannot be ascertained or adopted to the satisfaction of the Court, then according to such rate of interest and table of mortality as the Court may direct.

Rule for valuing a policy.

The value of a current policy shall be such portion of the last premium paid as is proportionate to the unexpired portion of the period in respect of which the premium was paid.

(D) AS RESPECTS FIRE AND OTHER POLICIES.

Rule for valuing a policy.

The value of a current policy shall be such portion of the last premium paid as proportionate to the unexpired portion of the period in respect of which the premium was paid.

THE SEVENTH SCHEDULE.

(A) FORM OF STATEMENT OF NEW LIFE INSURANCE BUSINESS.

New life assurances and annuities effected in India by the.....
 during the year ending

Class of policy	Number of policies.	*Sums assured.	*Single premiums.	*Annual premiums.
Whole-life assurance		Rs.	Rs.	Rs.
Endowment assurances				
Other classes (to be specified)				
Total				
Immediate annuities				
Other annuities (to be specified)		*Amount per annum.		

*Exclusive of re-assurances.

A separate statement in the above form shall be furnished in respect of new life assurances and annuities effected out of India.

The Law relating to Insurance Companies.

CHECKED
2003-04