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EXTRAORDINARY

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 26th December, 2014/Pausa 5, 1936 (Saka)

THE INSURANCE LAWS (AMENDMENT) ORDINANCE, 2014

No. 8 of 2014

Promulgated by the President in the Sixty-fifth Year of the Republic of India.

WHEREAS the Insurance Laws (Amendment) Bill, 2008 further to amend the Insurance Act, 1938, the General Insurance Business (Nationalisation) Act, 1972 and the Insurance Regulatory and Development Authority Act, 1999 was introduced in the Council of States on the 22nd December, 2008 and was referred to the Department related Parliamentary Standing Committee on Finance for examination and Report;

AND WHEREAS the Parliamentary Standing Committee had submitted its Report on the 13th December, 2011;

AND WHEREAS the said Bill along with the official amendments prepared on the basis of the recommendations of the Standing Committee could not be taken up for consideration and passing in the Council of States;

AND WHEREAS the said Bill was further referred to the Select Committee of the Council of States for examination and Report and the Committee submitted its Report, alongwith the Insurance Laws (Amendment) Bill, 2014 incorporating therein the amendments decided by the Committee, on the 10th December, 2014;

AND WHEREAS the Insurance Laws (Amendment) Bill, 2014, as reported by the Select Committee, could not be taken up for consideration and passing in the Council of States;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give effect to the provisions of the said Bill;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I PRELIMINARY

1. (1) This Ordinance may be called the Insurance Laws (Amendment) Ordinance, 2014. Short title and commencement.
- (2) It shall come into force at once.

CHAPTER II AMENDMENTS TO THE INSURANCE ACT, 1938

- 4 of 1938. * 2. In the Insurance Act, 1938 (hereafter in this Chapter referred to as the Insurance Act), throughout the Act,— Substitution of references to certain expressions by certain other expressions.
- 7 of 1913.
18 of 2013. (a) for the words and figures “the Indian Companies Act, 1913”, wherever they occur, the words and figures “the Companies Act, 2013” shall be substituted;
- 1 of 1956.
18 of 2013. (b) for the words and figures “the Companies Act, 1956”, wherever they occur, the words and figures “the Companies Act, 2013” shall be substituted.
3. In section 2 of the Insurance Act,— Amendment of section 2.
- (i) for clauses (1) and (1A), the following clauses shall be substituted, namely:—
- (1) “actuary” means an actuary as defined in clause (a) of sub-section (1) of section 2 of the Actuaries Act.

35 of 2006.

2006;

41 of 1999.

(1A) “Authority” means the Insurance Regulatory and Development Authority of India established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999;”;

(ii) clause (5A) shall be omitted;

(iii) after clause (6B), the following clause shall be inserted, namely:—

“(6C) “health insurance business” means the effecting of contracts which provide for sickness benefits or medical, surgical or hospital expense benefits, whether in-patient or out-patient travel cover and personal accident cover;”;

(iv) for clause (7A), the following clause shall be substituted, namely:—

“(7A) “Indian insurance company” means any insurer, being a company which is limited by shares, and,—

18 of 2013.

(a) which is formed and registered under the Companies Act, 2013 as a public company or is converted into such a company within one year of the commencement of the Insurance Laws (Amendment) Ordinance, 2014;

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

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

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

(v) clause (8) shall be omitted;

(vi) in clause (8A),—

(I) for sub-clause (b), the following sub-clause shall be substituted, namely:—

“(b) having a minimum paid-up capital of rupees one hundred crores in case of life insurance business, general insurance business and health insurance business;”;

(II) in sub-clause (d), after the words “general insurance business”, the words “or health insurance business” shall be inserted;

(vii) for clause (9), the following clause shall be substituted, namely:—

‘(9) “insurer” means —

(a) an Indian Insurance Company, or

(b) a statutory body established by an Act of Parliament to carry on insurance business, or

(c) an insurance co-operative society, or

(d) a foreign company engaged in re-insurance business through a branch established in India.

Explanation.— For the purposes of this sub-clause, the expression “foreign company” shall mean a company or body established or incorporated under a law of any country outside India and includes Lloyd’s established under the Lloyd’s Act, 1871 (United Kingdom) or any of its Members;”;

(viii) in clause (10), the words and figures “licensed under section 42” shall be omitted;

(ix) in clause (11), in sub-clause (c), for the words “annuities payable out of any fund”, the words “benefit payable out of any fund” shall be substituted;

(x) clauses (12), (13) and (15) shall be omitted;

7 of 1913.
18 of 2013.

(xi) in clause (16), for the words, brackets, figures and letter “clauses (13) and (13A) of section 2 of the Indian Companies Act, 1913”, the words, brackets and figures “clause (68) and clause (72) of section 2 of the Companies Act, 2013” shall be substituted;

(xii) after clause (16), the following clauses shall be inserted, namely:—

41 of 1999.

“(16A) “regulations” means the regulations framed by the Insurance Regulatory and Development Authority of India established under the Insurance Regulatory and Development Authority Act, 1999;

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

15 of 1992.

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

(xiii) clause (17) shall be omitted.

4. After section 2CA of the Insurance Act, the following section shall be inserted, namely :—

Insertion of new section 2CB.

“2CB. (1) No person shall take out or renew any policy of insurance in respect of any property in India or any ship or other vessel or aircraft registered in India with an insurer whose principal place of business is outside India save with the prior permission of the Authority.

Properties in India not to be insured with foreign insurers except with the permission of Authority.

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

5. Section 2E of the Insurance Act shall be omitted.

Omission of section 2E.

7. In section 3 of the Insurance Act,—

Amendment of section 3.

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

“(2) Every application for registration shall be made in such manner and shall be accompanied by such documents as

may be specified by the regulations.”;

(ii) in sub-section (2A), in clause (d), for the figures, letter and word “5, 31A and 32”, the figures, word and letter “5 and 31A” shall be substituted;

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

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

(iv) sub-section (2D) shall be omitted;

(v) for sub-sections (3), (4), (5) and (5A), the following sub-sections shall be substituted, namely:—

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

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

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

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

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

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

issued thereunder, or

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

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

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

41 of 1999.

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

18 of 2013.

57 of 1972.

42 of 1999.

15 of 2002.

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

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

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

39 of 2002.

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

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

(vi) for sub-section (5C), the following sub-section shall be substituted, namely:—

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

41 of 1999.

7. For section 3A of the Insurance Act, the following section shall be substituted, namely:—

Substitution
of new section
for section
3A.

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

Payment of
annual fee by
insurer.

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

8. For section 4 of the Insurance Act, the following section shall be substituted, namely:—

Substitution
of new section
for section 4.

“4. The insurer shall pay or undertake to pay on any policy of life insurance or a group policy issued, a minimum annuity and other benefits as may be determined by regulations excluding any profit or bonus provided that this shall not prevent an insurer from converting any policy into a paid-up policy of any value or payment of surrender value of any amount.”

Minimum
limits for
annuities and
other benefits
secured by
policies of life
insurance.

9. In section 5 of the Insurance Act,—

Amendment
of section 5.

(i) in sub-section (2), both the provisos shall be omitted;

(ii) sub-section (3) shall be omitted.

10. For section 6 of the Insurance Act, the following section shall be substituted, namely :—

Substitution
of new section
for section 6.

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

Requirement
as to capital.

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

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

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

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

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

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

11. In section 6A of the Insurance Act,—

Amendment
of section 6A.

(i) for sub-section (1), the following sub-section shall be

41 of 1999.

18 of 2013.
15 of 1992.

substituted, namely:—

"(1) No public company limited by shares having its registered office in India, shall carry on life insurance business or general insurance business or health insurance business or re-insurance business, unless it satisfies the following conditions, namely:—

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

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

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

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

47 of 1950.

(ii) in sub-section (2), after the words "paid-up amount of the", the word "equity" shall be inserted;

(iii) for sub-section (4), the following sub-section shall be substituted, namely:—

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

18 of 2013.

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

such declaration;

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

18 of 2013.

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

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

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

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

12 of 2003.

(iv) sub-sections (3), (6), (7), (8), (9) and (10) shall be omitted;

(v) in sub-section (11), the words, brackets and figures "except those of sub-sections (7), (8) and (9)" shall be omitted;

(vi) in sub-section (11), clause (ii) shall be omitted; and

(vii) in the *Explanation*, in sub-clause (c) of clause (ii), the words "managing agent" shall be omitted.

12. Section 6AA of the Insurance Act shall be omitted.

Omission of
section 6AA.

13. In section 6B of the Insurance Act,—

Amendment
of section 6B.

(i) in sub-section (1),—

(a) for the words “life insurance business”, the words “life or general or health insurance or re-insurance business” shall be substituted; and

(b) for the words “Central Government”, the word “Authority” shall be substituted;

(ii) in sub-sections (2) and (3), for the words “High Court”, the words “the Securities Appellate Tribunal” shall be substituted.”.

(iii) sub-section (4) shall be omitted.

14. Sections 6C, 7, 8 and 9 of the Insurance Act shall be omitted.

Omission of
sections 6C, 7,
8 and 9.

15. In section 10 of the Insurance Act,—

Amendment
of section 10.

(i) in sub-section (1), for the words “prescribed in this behalf”, the words “specified by the regulations” shall be substituted;

(ii) in sub-section (2),—

(a) the words, brackets and figures, “after the expiry of six months from the commencement of the Insurance (Amendment) Act, 1946”, shall be omitted;

(b) the words “under the law of the insurer’s country” occurring at the end, shall be omitted.

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

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

regulations made thereunder.”.

16. For section 11 of the Insurance Act, the following section shall be substituted, namely:—

Substitution
of new section
for section 11.

“11. (1) Every insurer, on or after the commencement of the Insurance Laws (Amendment) Ordinance, 2014, in respect of insurance business transacted by him and in respect of his shareholders’ funds, shall, at the expiration of each financial year, prepare with reference to that year, balance-sheet, a profit and loss account, a separate account of receipts and payments, a revenue account in accordance with the regulations as may be specified.

Accounts and
balance-sheet.

(2) Every insurer shall keep separate accounts relating to funds of shareholders and policy-holders.

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

18 of 2013.

17. For section 12 of the Insurance Act, the following section shall be substituted, namely:—

Substitution
of new section
for section 12.

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

Audit.

18 of 2013.

18 of 2013.

18. In section 13 of the Insurance Act,—

Amendment
of section 13.

(i) for sub-section (1), the following sub-section shall be

substituted, namely:—

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

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

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

41 of 1999.

(ii) for sub-section (4), the following sub-section shall be substituted, namely:—

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

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

(iii) for sub-section (6), the following sub-section shall be substituted, namely:—

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

Provided that, if the Authority is satisfied that the number and amount of the transactions carried out by an insurer in any such sub-class of insurance business is so

small as to render periodic investigation and valuation unnecessary, it may exempt that insurer from the operation of this sub-section in respect of that sub-class of insurance business.”.

19. For section 14 of the Insurance Act, the following section shall be substituted, namely:—

Substitution
of new section
for section 14.

“14(1). Every insurer, in respect of all business transacted by him, shall maintain—

Record of
policies and
claims.

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

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

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

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

20. For section 15 of the Insurance Act, the following section shall be substituted, namely:—

Substitution
of new section
for section 15.

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

Submission of
returns.

(2) Of the four copies so furnished one shall be signed in the case of a company by the chairman and two directors and by the principal officer of the company and, if the company

has a managing director by that managing director and one shall be signed by the auditor who made the audit or the actuary who made the valuation, as the case may be.”

21. Section 16 of the Insurance Act shall be omitted.

Omission of section 16.

22. Sections 17 and 17A of the Insurance Act shall be omitted.

Omission of sections 17 and 17A.

23. In section 20 of the Insurance Act,—

Amendment of section 20.

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Every return furnished to the Authority or certified copy thereof shall be kept by the Authority and shall be open to inspection; and any person may procure a copy of any such return, or of any part thereof, on payment of such fee as may be specified by the regulations.”;

(ii) in sub-section (2), the words and figures “or section 16” shall be omitted;

(iii) in sub-section (3), for the words “one rupee”, the words “such fee as may be specified by the regulations” shall be substituted.

24. In section 21 of the Insurance Act,—

Amendment of section 21.

(i) in clause (d) of sub-section (1), the words and figures “or section 16” shall be omitted;

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

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

Provided that no application under this sub-section shall be entertained unless it is made before the expiration of four months from the date when the Authority made the

order or declined to accept the return.”.

25. In section 22 of the Insurance Act,—

Amendment
of section 22.

(i) in sub-section (1), the words, brackets, letter and figures “or an abstract of a valuation report furnished under clause (c) of sub-section (2) of section 16” shall be omitted;

(ii) in sub-section (2), the words, brackets and figures “or, as the case may be, of sub-section (2) of section 16” shall be omitted.

26. For sections 27, 27A, 27B, 27C and 27D of the Insurance Act, the following sections shall be substituted, namely:—

Substitution
of new
sections for
sections 27,
27A, 27B,
27C and 27D.

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

Investment of
assets.

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

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

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

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

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

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

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

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

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

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

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

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

Provided further that the Authority may, either generally or in any particular case, direct that any investment shall, subject to such conditions as may be imposed, be taken into account, in such manner as may be specified in computing the assets referred to in subsections (1) and (2) and where any direction has been issued under this proviso, copies thereof shall be laid before each house of Parliament as soon as may be after it is issued.

(5) Where an insurer has accepted re-insurance in respect

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

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

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

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

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

Further provisions regarding investments.

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

(i) after such investment, the total amounts of all such

investments of the insurer do not exceed fifteen per cent. of the sum referred to in sub-section (1) of section 27 or fifteen per cent. of the assets referred to in sub-section (2) as the case may be;

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

(3) An insurer shall not out of his controlled fund or assets as referred to in subsection (2) of section 27,—

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

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

more than the percentage specified by the regulations.

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

(5) All assets forming the controlled fund or assets as referred to in sub-section (2), of section 27, not being Government securities or other approved securities in which assets are to be invested or held invested in accordance with this section, shall (except for a part thereof not exceeding one-tenth of the controlled fund or assets as referred to in sub-section (2) thereof in value which may, subject to such conditions and restrictions as may be prescribed, be offered as security for any loan taken for purposes of any investment), be held free of any encumbrance, charge, hypothecation or lien.

(6) If at any time the Authority considers any one or more of the investments of an insurer to be unsuitable or undesirable, the Authority may, after giving the insurer an opportunity of being heard, direct him to realise the investment or investments, and the insurer shall comply with

the direction within such time as may be specified in this behalf by the Authority.

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

Explanation.—In this section “controlled fund” means—

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

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

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

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

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

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

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

27B. (1) All assets of an insurer carrying on general insurance business shall, subject to such conditions, if any, as

Provisions
regarding
investments of