

**INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY
ACT, 1999**

41 of 1999

[29th December, 1999]

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INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY ACT, 1999

41 of 1999

[29th December, 1999]

An Act to provide for the establishment of an Authority to protect the interests of holders of insurance policies to regulate, promote and ensure orderly growth of the insurance industry and for matters connected therewith or incidental thereto and further to amend the Insurance Act, 1938, the Life Insurance Corporation Act, 1956 and the General Insurance Business (Nationalisation) Act, 1972. Be it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:

CHAPTER I

Preliminary

1. Short title, extent and commencement :-

(1) This Act may be called the Insurance Regulatory and Development Authority Act, 1999.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government

may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. Definitions :-

(1) In this Act, unless the context otherwise requires,-

(a) "appointed day" means the date on which the Authority is established under sub-section (1) of Sec. 3;

(b) "Authority" means the Insurance Regulatory and Development Authority established under sub-section (1) of Sec. 3;

(c) "Chairperson" means the Chairperson of the Authority;

(d) "Fund" means the Insurance Regulatory and Development Authority Fund constituted under sub-section (1) of Sec. 16;

(e) "Interim Insurance Regulatory Authority" means the Insurance Regulatory Authority set up by the Central Government through Resolution No. 17 (2)/94-Ins. V. dated the 23rd January, 1996;

(f) "intermediary or insurance intermediary" includes insurance brokers, re-insurance brokers, insurance consultants, surveyors and loss assessors;

(g) "member" means a whole-time or a part-time member of the Authority and includes the Chairperson;

(h) "notification" means a notification published in the Official Gazette;

(i) "prescribed" means prescribed by rules made under this Act;

(j) "regulations" means the regulations made by the Authority.

(2) Words and expressions used and not defined in this Act but defined in the Insurance Act, 1938 (4 of 1938) or the Life Insurance Corporation Act, 1956 (31 of 1956) or the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972) shall have the meanings respectively assigned to them in those Acts.

CHAPTER II

Insurance Regulatory and Development Authority

3. Establishment and incorporation of Authority :-

(1) With effect from such date as the Central Government may, by notification, appoint there shall be established, for the purposes of this Act, an Authority to be called the Insurance Regulatory and Development Authority.

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

(3) The head office of the Authority shall be at such place as the Central Government may decide from time to time.

(4) The Authority may establish offices at other places in India.

4. Composition of Authority :-

The Authority shall consist of the following members, namely:-

(a) a Chairperson;

(b) not more than five whole-time members;

(c) not more than four part-time members, to be appointed by the Central Government from amongst persons of ability, integrity and standing who have knowledge or experience in life insurance, general insurance, actuarial science, finance, economics, law, accountancy, administration or any other discipline which would, in the opinion of the Central Government, be useful to the Authority :

Provided that the Central Government shall, while appointing the Chairperson and the whole-time members ensure that at least one person each is a person having knowledge or experience in life insurance, general insurance or actuarial science, respectively.

5. Tenure of office of Chairperson and other members :-

(1) The Chairperson and every other whole-time member shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment:

Provided that no person shall hold office as such Chairperson after he has attained the age of sixty-five years :

Provided further that no person shall hold office as a whole-time member after he has attained the age of sixty-two years.

(2) A part-time member shall hold office for a term not exceeding five years from the date on which he enters upon his office.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), a member may-

(a) relinquish his office by giving in writing to the Central Government notice of not less than three months; or

(b) be removed from his office in accordance with the provisions of Sec.6.

6. Removal from office :-

(1) The Central Government may remove from office any member who-

(a) is, or at any time has been, adjudged as an insolvent; or

(b) has become physically or mentally incapable of acting as a member; or

(c) has been convicted of any offence which, in the opinion of the Central Government, involves moral turpitude; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member; or

(e) has so abused his position as to render his continuation in office detrimental to the public interest.

(2) No such member shall be removed under Cl. (d) or Cl. (e) of sub-section (1) unless he has been given a reasonable opportunity of being heard in the matter.

7. Salary and allowances of Chairperson and members :-

(1) The salary and allowances payable to, and other terms and conditions of service of, the members other than part-time members shall be such as may be prescribed.

(2) The part-time members shall receive such allowances as may be prescribed.

(3) The salary, allowances and other conditions of service of member shall not be varied to his disadvantage after appointment.

8. Bar on future employment of members :-

The Chairperson and the whole-time members shall not, for a

period of two years from the date on which they cease to hold office as such, except with the previous approval of the Central Government, accept-

(a) any employment either under the Central Government or under any State Government; or

(b) any appointment in any Company in the Insurance sector.

9. Administrative powers of Chairperson :-

The Chairperson shall have the powers of general superintendence and direction in respect of all administrative matters of the Authority.

10. Meetings of Authority :-

(1) The Authority shall meet at such times and places, and shall observe such rules and procedures in regard to transaction of business at its meetings (including quorum at such meetings) as may be determined by regulations.

(2) The Chairperson, or if for any reason he is unable to attend a meeting of the Authority, any other member chosen by the members present from amongst themselves at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority of votes by the members present and voting, and in the event of an equality of votes, the Chairperson, or in his absence, the person presiding shall have a second or casting vote.

(4) The Authority may make regulations for the transaction of business at its meetings.

11. Vacancies, etc., not to invalidate proceedings of Authority :-

No Act or proceeding of the Authority shall be invalid merely by reason of-

(a) any vacancy in, or any defect in the constitution of, the Authority; or

(b) any defect in the appointment of a person acting as a member of the Authority; or

(c) any irregularity in the procedure of the Authority not affecting

the merits of the case.

12. Officers and employees of Authority :-

(1) The Authority may appoint officers and such other employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The terms and other conditions of service of officers and other employees of the Authority appointed under sub-section (1) shall be governed by regulations made under this Act.

CHAPTER III

Transfer of Assets, Liabilities, etc., of Interim Insurance Regulatory Authority

13. Transfer of assets, liabilities, etc., of Interim Insurance Regulatory Authority :-

On the appointed day,-

(a) all the assets and liabilities of the Interim Insurance Regulatory Authority shall stand transferred to, and vested in, the Authority;

Explanation.-The assets of the Interim Insurance Regulatory Authority shall be deemed to include all rights and powers, and all properties, whether movable or immovable, including, in particular, cash balances, deposits and all other interests and rights in, or arising out of, such properties as may be in the possession of the Interim Insurance Regulatory Authority and all books of account and documents relating to the same; and liabilities shall be deemed to include all debts, liabilities and obligations of whatever kind;

(b) without prejudice to the provisions of Cl. (a), all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Interim Insurance Regulatory Authority immediately before that day, for or in connection with the purpose of the said Regulatory Authority, shall be deemed to have been incurred, entered into or engaged to be done by, with or for, the Authority;

(c) all sums of money due to the Interim Insurance Regulatory Authority immediately before that day shall be deemed to be due to the Authority; and

(d) all suits and other legal proceedings instituted or which could have been instituted by or against the Interim Insurance Regulatory Authority immediately before that day may be continued or may be instituted by or against the Authority.

CHAPTER 4

Duties, Powers and Functions of the Authority

14. Duties, powers and functions of Authority :-

(1) Subject to the provisions of this Act and any other law for the time being in force, the Authority shall have the duty to regulate, promote and ensure orderly growth of the insurance business and re-insurance business.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the powers and functions of the Authority shall include-

(a) issue to the applicant a certificate of registration, renew, modify, withdraw, suspend or cancel such registration;

(b) protection of the interests of the policy holders in matters concerning assigning of policy, nomination by policy holders, insurable interest, settlement of insurance claim, surrender value of policy, and other terms and conditions of contracts of insurance;

(c) specifying requisite qualifications, code of conduct and practical training for intermediary or insurance intermediaries and agents;

(d) specifying the code of conduct for surveyors and loss assessors;

(e) promoting efficiency in the conduct of insurance business;

(f) promoting and regulating professional organisations connected with the insurance and re-insurance business;

(g) levying fees and other charges for carrying out the purposes of this Act;

(h) calling for information from, undertaking inspection of, conducting enquiries and investigations including audit of the insurers, intermediaries, insurance intermediaries and other organisations connected with the insurance business;

(i) control and regulation of the rates, advantages, terms and conditions that may be offered by insurer in respect of general insurance business not so controlled and regulated by the Tariff Advisory Committee under Sec. 64-U of the Insurance Act, 1938(4 of 1938);

(j) specifying the form and manner in which books of account shall be maintained and statement of accounts shall be rendered by

insurers and other insurance intermediaries;

(k) regulating investment of funds by insurance companies;

(l) regulating maintenance of margin of solvency;

(m) adjudication of disputes between insurers and intermediaries or insurance intermediaries;

(n) supervising the functions of the Tariff Advisory Committee;

(o) specifying the percentage of premium income of the insurer to finance schemes for promoting and regulating professional organisations referred to in Cl. (f);

(p) specifying the percentage of life insurance business and general insurance business to be undertaken by the insurer in the rural or social sector, and

(q) exercising such other powers as may be prescribed.

CHAPTER 5

Finance, Accounts and Audit

15. Grants by Central Government :-

The Central Government may, after due appropriation made by the Parliament by law in this behalf, make to the Authority grants of such sums of money as the Government may think fit for being utilised for the purposes of this Act.

16. Constitution of Funds :-

(1) There shall be constituted a fund to be called "The Insurance Regulatory And Development Authority Fund" and there shall be credited thereto-

(a) all Government grants, fees and charges received by the Authority;

(b) all sums received by the Authority from such other source as may be decided upon by the Central Government;

(c) the percentage of prescribed premium income received from the insurer.

(2) The Fund shall be applied for meeting-

(a) the salaries, allowances and other remuneration of the members, officers and other employees of the Authority;

(b) the other expenses of the Authority in connection with the discharge of its functions and for the purposes of this Act.

17. Accounts and audit :-

(1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Authority shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the rights to demand the production of books of accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.

(4) The accounts of the Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit-report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

CHAPTER 6

Miscellaneous

18. Power of Central Government to issue directions :-

(1) Without prejudice to the foregoing provisions of this Act, the Authority shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy other than those relating to technical and administrative matters as the Central Government may give in writing to it from time to time : Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government, whether a question is one of policy or not, shall be final.

19. Power of Central Government to supersede Authority :-

(1) If at any time the Central Government is of the opinion-

(a) that, on account of circumstances beyond the control of the Authority, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or

(b) that the Authority has persistently defaulted in complying with any direction given by the Central Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Authority or the administration of the Authority has suffered; or

(c) that circumstances exist which render it necessary in the public interest so to do, the Central Government may, by notification and for reasons to be specified therein, supersede the Authority for such period, not exceeding six months, as maybe specified in the notification and appoint a person to be the Controller of Insurance under Sec. 2-B of the Insurance Act, 1938 (4 of 1938), if not already done :

Provided that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Authority to make representations against the proposed supersession and shall consider the representations, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority,-

(a) the Chairperson and other members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority shall, until the Authority is re-constituted under sub-section (3), be exercised and discharged by the Controller of Insurance; and

(c) all properties owned or controlled by the Authority shall, until the Authority is re-constituted under sub-section (3), vest in the Central Government.

(3) On or before the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government shall re-constitute the Authority by a fresh appointment of its Chairperson and other members and in such case any person who had vacated his office under Cl. (a) of sub-section (2) shall not be deemed to be disqualified for re-appointment.

(4) The Central Government shall cause a copy of the notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

20. Furnishing of returns, etc., to Central Government :-

(1) The Authority shall furnish to the Central Government at such time and in such form and manner as may be prescribed, or as the Central Government may direct to furnish such returns, statements and other particulars in regard to any proposed or existing programme for the promotion and development of the insurance industry as the Central Government may, from time to time, require.

(2) Without prejudice to the provisions of sub-section (1), the Authority shall, within nine months after the close of each financial year, submit to the Central Government a report giving a true and full account of its activities including the activities for promotion and development of the insurance business during the previous financial year.

(3) Copies of the reports received under sub-section (2) shall be laid, as soon as may be after they are received, before each House of Parliament.

21. Chairperson, members, officers and employees of Authority to be public servants :-

The Chairperson, members, officers and other employees of Authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be the public servants within the meaning of Sec. 21 of the Indian Penal Code (45 of 1860).

22. Protection of action taken in good faith :-

No suit, prosecution or other legal proceedings shall lie against the Central Government or any officer of the Central Government or

any member, officer or other employee of the Authority for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder :

Provided that nothing in this Act shall exempt any person from any suit or other proceedings which might, apart from this Act, be brought against him.

23. Delegation of powers :-

(1) The Authority may, by general or special order in writing, delegate to the Chairperson or any other member or officer of the Authority subject to such conditions, if any, as may be specified in the order such of its powers and functions under this Act as it may deem necessary.

(2) The Authority may, by a general or special order in writing, also form Committees of the members and delegate to them the powers and functions of the Authority as may be specified by the regulations.

24. Power to make rules :-

(1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

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

(a) the salary and allowances payable to, and other conditions of service of the members other than part-time members under sub-section (1) of Sec. 7;

(b) the allowances to be paid to the part-time members under sub-section (2) of Sec. 7;

(c) such other powers that may be exercised by the Authority under Cl.(q) of sub-section (2) of Sec. 14;

(d) the form of annual statement of accounts to be maintained by the Authority under sub-section (1) of Sec. 17;

(e) the form and the manner in which and the time within which returns and statements and particulars are to be furnished to the Central Government under sub-section (1) of Sec. 20;

(f) the matters under sub-section (5) of Sec. 25 on which the

Insurance Advisory Committee shall advise the Authority;

(g) any other matter which is required to be, or may be, prescribed, or in respect of which provision is to be or may be made by rules.

25. Establishment of Insurance Advisory Committee :-

(1) The Authority may, by notification, establish with effect from such date as it may specify in such notification, a Committee to be known as the Insurance Advisory Committee.

(2) The Insurance Advisory Committee shall consist of not more than twenty- five members excluding ex-officio members to represent the interests of commerce, industry, transport, agriculture, consumer fora, surveyors, agents, intermediaries, organisations engaged in safety and loss prevention, research bodies and employees' association in the insurance sector.

(3) The Chairperson and the members of the Authority shall be the ex-officio Chairperson and ex-officio members of the Insurance Advisory Committee.

(4) The objects of the Insurance Advisory Committee shall be to advise the Authority on matters relating to the making of the regulations under Sec. 26.

(5) Without prejudice to the provisions of sub-section (4), the Insurance Advisory Committee may advise the Authority on such other matters as may be prescribed.

26. Power to make regulations :-

(1) The Authority may, in consultation with the Insurance Advisory Committee, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:-

(a) the times and places of meetings of the Authority and the procedure to be followed at such meetings including the quorum necessary for the transaction of business under sub-section (1) of Sec. 10;

(b) the transactions of business at its meetings under sub-section (4) of Sec. 10;

(c) the terms and other conditions of service of officers and other employees of the Authority under sub-section (2) of Sec. 12;

(d) the powers and functions which may be delegated to Committees of the members under sub-section (2) of Sec. 23; and

(e) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be or may be made by regulations.

27. Rules and regulations to be laid before Parliament :-

Every rule, and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

28. Application of other laws not barred :-

The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

29. Power to remove difficulties :-

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty : Provided that no order shall be made under this section after the expiry of two years from the appointed day.

(2) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament.

30. Amendment of Act 4 of 1938 :-

The Insurance Act, 1938 shall be amended in the manner specified in the First Schedule to this Act.

31. Amendment of Act 31 of 1956 :-

The Life Insurance Corporation Act, 1956 shall be amended in the manner specified in the Second Schedule to this Act.

32. Amendment of Act 57 of 1972 :-

The General Insurance Business (Nationalisation) Act, 1972 shall be amended in the manner specified in the Third Schedule to this Act.

SCHEDULE 1

Amendments to the Insurance Act, 1938

(4 of 1938) 1. In the Act, except in Cl. (5-B) of Sec. 2 and Sec. 2-B, for "Controller" wherever it occurs, substitute "Authority" and such consequential changes as the rules of grammar may require shall also be made; 2. In Secs. 27, 27-A, 27-B, 31, 32-A, 40-A, 48-B, 64-F, 64-G, 64-1, 64-J, 64-L, 64-R, 64-UC, 64-UM, 113 and 115, for "Central Government" wherever they occur, substitute "Authority". 3. In Sec. 2- (a) after Cl. (1), insert the following :- (1-A) "Authority" means the Insurance Regulatory And Development Authority established under sub-section (1) of Sec. 3 of the Insurance Regulatory And Development Authority Act, 1999; (b) for Cl. (5-B), substitute the following :- (5-B) "Controller of Insurance" means the officer appointed by the Central Government under Sec. 2-B to exercise all the powers, discharge the functions and perform the duties of the Authority under this Act or the Life Insurance Corporation Act, 1956 (31 of 1956) or the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972) or the Insurance Regulatory And Development Authority Act, 1999; (c) after Cl. (7), insert the following :- (7-A) "Indian Insurance Company" means any insurer being a company- (a) which is formed and registered under the Companies Act, 1956 (1 of 1956); (b) in which the aggregate holdings of equity shares by a foreign company, either by itself or through its subsidiary companies or its nominees, do not exceed twenty-six per cent paid-up equity capital in such Indian Insurance Company; (c) whose sole purpose is to carry on life insurance business or general insurance business or re-insurance business. Explanation.-For the purposes of this clause, the expression "foreign Company" shall have the meaning assigned to it under Cl. (23-A) of Sec. 2 of the Income-tax Act, 1961 (43 of 1961). (d) in Cl. (4), for "Sec. 114" substitute "this Act". 4. After Sec. 2, insert the following :- "2-A. Interpretation of certain words and expressions.-Words and expressions used and not defined in this Act but defined in the Life Insurance Corporation Act, 1956 (31 of 1956), the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972), and the Insurance Regulatory And Development Authority Act, 1999 shall have the meanings respectively assigned to them in those Acts." 5. In Sec. 2-B, for sub-section (1), substitute the following: "(1) If at any time, the Authority is superseded under sub-section (1) of Sec. 19 of the Insurance Regulatory and Development Authority Act, 1999, the Central Government may, by notification in the Official Gazette, appoint a person to be the Controller of the Insurance till such time the Authority is re-constituted under sub-section (3) of Sec. 19 of that Act." 6. In Sec. 2-C, in sub-section (1), after the second proviso, insert the following :- "Provided also that no insurer other than an Indian Insurance Company shall begin to carry on any class of

insurance business in India under this Act on or after the commencement of the Insurance Regulatory and Development Authority Act, 1999." 7. In Sec. 3,- (a) in sub-section (1), after the first proviso, insert the following:- "Provided further that a person or insurer, as the case may be, carrying on any class of insurance business in India, on or before the commencement of the Insurance Regulatory and Development Authority Act, 1999, for which no registration certificate was necessary prior to such commencement, may continue to do so for a period of three months from such commencement, or, if he had made an application for such registration within the said period of three months, till the disposal of such application : Provided also that any certificate of registration, obtained immediately before the commencement of the Insurance Regulatory and Development Authority Act, 1999, shall be deemed to have been obtained from the Authority in accordance with the provisions of this Act."; (b) in sub-section (2),- (i) in the opening portion, for "Every application for registration shall be accompanied by-", substitute the following:- "Every application for registration shall be made in such manner as may be determined by the regulations made by the Authority and shall be accompanied by-"; (ii) in Cl. (d), for "working capital", substitute "paid-up equity capital or working capital"; (iii) in Cl. (f), in the proviso, omit "and" occurring at the end; (iv) for Cl. (g), substitute the following:- "(g) the receipt showing payment of fee as may be determined by the regulations which shall not exceed fifty thousand rupees for each class of business as may be specified by the regulations made by the Authority; (h) such other documents as may be specified by regulations made by the Authority"; (c) after sub-section (2-A), insert- "(2-AA) The Authority shall give preference to register the applicant and grant him a certificate of registration if such applicant agrees, in the form and manner as may be specified by the regulations made by the Authority, to carry on the life insurance business or general insurance business for providing health cover to individuals or group of individuals.". (d) in sub-section (4),- (i) in Cl. (f), for "of any rule or order made thereunder, or", substitute the following:- "of any rule or any regulation or order made or, any direction issued thereunder, or"; (ii) in Cl. (h), insert "or" at the end; (iii) after Cl. (h), insert the following:- "(i) 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 (j) if the insurer makes a default in complying with, or acts in contravention of, any requirement of the Companies Act, 1956 (1 of 1956), the Life Insurance Corporation Act, 1956 (31 of 1956), or the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972) or the Foreign Exchange Regulation Act, 1973 (46 of 1973)." (e) in sub-section (5-C),- (i) for "Cl. (h)", substitute "Cl. (h) or Cl. (i) or Cl. (j)"; (ii) for "any requirement of this Act or of any rule or order made thereunder, " substitute the following:- "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," (f) after sub-section (5-D), insert the following: "(5-E) The Authority may, by order, suspend or cancel any registration in such manner as may be determined by the regulations made by it: Provided that no order under this sub-section shall be made unless the person concerned has been given a reasonable opportunity of being heard." (g) for sub-section (7), substitute the following:- "(7) The Authority may, on payment of such fee, not exceeding five thousand rupees, as may be determined by the regulations, issue a duplicate certificate of registration to replace a certificate lost, destroyed or mutilated, or in any other case where the Authority is of opinion that the issue of duplicate certificate is necessary,". 8. In Sec. 3-A- (a) in sub-

section (1), for "the 31st day of December, 1941", substitute the following:- "the 31st day of March, after the commencement of the Insurance Regulatory and Development Authority Act, 1999"; (b) in sub-section (2), (i) for "prescribed fee", substitute "fee as determined by regulations made by the Authority". (ii) for Cl. (i), substitute the following:- "(i) exceed one-fourth of one per cent of such premium income or rupees five crores, whichever is less,"; (iii) for Cl. (ii), substitute the following:- "(ii) be less, in any case, than fifty thousand rupees for each class of insurance business:"; (c) in sub-section (3), for "prescribed fee", substitute "fee as determined by regulations made by the Authority". (d) in sub-section (4), for "prescribed fee" substitute "fee as determined by the regulations made by the Authority, and". 9. For Sec. 6, substitute the following :- "6. Requirement as to capital.- No insurer carrying on the business of life insurance, general insurance or re-insurance in India on or after the commencement of the Insurance Regulatory and Development Authority Act, 1999, shall be registered unless he has,- (i) a paid-up equity capital of rupees one hundred crores, in case of a person carrying on the business of life insurance or general insurance; or (ii) a paid-up equity capital of rupees two hundred crores, in case of a person carrying on exclusively the business as a insurer : Provided that in determining the paid-up equity capital specified under Cl. (i) or Cl. (ii), the deposit to be made under Sec. 7 and any preliminary expenses incurred in the formation and registration of the company shall be excluded : Provided further that an insurer carrying on business of life insurance, general insurance or re-insurance in India before the commencement of the Insurance Regulatory and Development Authority Act, 1999 and who is required to be registered under this Act, shall have a paid-up equity capital in accordance with Cl. (i) and Cl. (ii), as the case may be, within six months of the commencement of that Act." 10. In Sec. 6-A,- (a) in sub-section (4), in Cl. (b),- (I) in sub-clause (i), omit "and" occurring at the end; (II) in sub-clause (ii), for "sanction of the Central Government has been obtained to the transfer", substitute "approval of the Authority has been obtained to the transfer", (III) after sub-clause (ii), insert the following :- (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 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 same meanings respectively assigned to them in the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969); (b) in sub-section (11),- (i) for "Explanation 1", substitute "Explanation"; (ii) omit Explanation 2. 11. After Sec. 6-A, insert the following:- "6-AA. Manner of divesting excess share holding by promoter in certain cases.- (1) No promoter shall at any time hold more than twenty six per cent or such other percentage as may be prescribed, of the paid-up equity capital in an Indian Insurance Company : Provided that in a case where an Indian Insurance Company begins the business of life insurance, general insurance or re-insurance in which the promoters hold more than twenty-six per cent of the paid-up equity capital or such other excess percentage as may be prescribed, the promoters shall divest in a phased manner in share capital in excess of the twenty-six per cent of the paid-up equity capital or such excess paid-up equity capital as may be prescribed, after a period of ten years from the date of the commencement of the said business by such Indian Insurance Company or within such period as may be prescribed by the Central Government. Explanation.-For the removal of doubts, it is hereby declared that nothing contained in proviso shall apply to the

promoters being foreign company, referred to in sub-clause (b) of Cl. (7-A) of Sec. 2. (2) The manner and procedure for divesting the excess share capital under sub-section (1) shall be specified by the regulations made by the Authority." 12. Section 7,- (a) in sub-section (1),- (i) omit "not being an insurer specified in sub-clause (c) of Cl. (9) of Sec.2"; (ii) for Cls. (a) and (b), substitute the following:- "(a) in the case of life insurance business, a sum equivalent to one per cent of his total gross premium written in India in any financial year commencing after the 31st day of March, 2000, not exceeding rupees ten crores; (b) in the case of general insurance business, a sum equivalent to three per cent of his total gross premium written in India, in any financial year commencing after the 31st day of March, 2000, not exceeding rupees ten crores; (c) in the case of re-insurance business, a sum of rupees twenty crores;"; (b) omit sub-sections (1-A), (1-B), (1-C), (1-D) and (1-E). 13. In Sec.11,- (a) in sub-section (1), for "calender year", substitute "financial year"; (b) after sub-section(l), insert the following: "(1-A) Notwithstanding anything contained in sub-section (1), every insurer, on or after the commencement of the Insurance Regulatory and Development Authority Act, 1999, 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, a balance sheet, a profit and loss account, a separate account of receipts and payments, a revenue account in accordance with the regulations made by the Authority. (1-B) Every insurer shall keep separate accounts relating to funds of share holders and policy holders." 14. In Sec. 13,- (a) in sub-section (1),- (i) for "once at least in every three years"; substitute "every year"; (ii) in the first proviso, for "not more than four years", substitute "not later than two years"; (iii) after the second proviso, insert the following:- "Provided also that for an insurer carrying on life insurance business in India immediately before the commencement of the Insurance Regulatory and Development Authority Act, 1999, the last date, as at which the first investigation after such commencement should be caused by an actuary, shall be the 31st day of March, 2001"; (iv) after third proviso, insert the following:- "Provided also 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 the manner specified by regulations made by the Authority."; (b) in sub-section (4), after the proviso, insert the following :- "Provided further that the statement referred to in sub-section (4) shall be appended in the form and in the manner specified by the regulations made by the Authority." 15. After Sec. 27-B,-Insert the following:- "27-C. Prohibition/or investment of funds outside India.-No insurer shall directly or indirectly invest outside India, the funds of the policy holders. 27-D. Manner and conditions of investment.-(1) Without prejudice to anything contained in Sec. 27, 27-A and 27-B, the Authority may, in the interests of the policy holders, specify by the regulations made by the Authority, the time, manner and other conditions of investment of assets to be held by an insurer for the purposes of this Act. (2) The Authority may give specific directions for the time, manner and other conditions subject to which the funds of policy holders shall be invested in the infrastructure and social sector as may be specified by regulations made by the Authority and such regulations shall apply uniformly to all the insurers carrying on the business of life insurance, general insurance, or re-insurance in India on or after the commencement of the Insurance Regulatory and Development Authority Act, 1999. (3) The Authority may, after taking into account the nature of business and to protect the interests of the policy holders, issue to an insurer the directions relating to the time, manner, and other conditions of investment of assets to

be held by him : Provided that no direction under this sub-section shall be issued unless the insurer concerned has been given a reasonable opportunity of being heard. 16. In Sec. 28-A, in sub-section (1), for "31st day of December", substitute "31st day of March,". 17. In Sec. 28-B, in sub-section (1), for "31st day of December,", substitute "31st day of March,". 18. In Sec. 31-B- (a) in sub-section (1), for "Central Government" at both the places where they occur, substitute "Authority"; (b) in sub-section (2), for "a statement in the prescribed form", substitute "a statement, in the form specified by the regulations made by the Authority,"; (c) after sub-section (3), insert the following: "(4) Every direction under this section shall be issued by an order made by the Authority; Provided that no order under this section shall be made unless the person concerned has been given an opportunity of being heard." 19. After Sec. 32-A, insert the following :- "32-B. Insurance business in rural or social sector.-Every insurer shall, after the commencement of the Insurance Regulatory and Development Authority Act, 1999, undertake such percentages of life insurance business and general insurance business in the rural or social sector, as may be specified, in the Official Gazette by the Authority, in this behalf. "32-C. Obligations of insurer in respect of rural or unorganised sector and backward classes.-Every insurer shall, after the commencement of the Insurance Regulatory and Development Authority Act, 1999 discharge the obligations specified under Sec. 32-B to provide life insurance or general insurance policies to the persons residing in the rural sector, workers in the unorganized or informal sector or for economically vulnerable or backward classes of the society and other categories of persons as may be specified by regulations made by the Authority and such insurance policies shall include insurance for crops." 20. For Sec. 33, substitute the following :- 'Investigation 33. Power of investigation and inspection by Authority.-(1) The Authority may, at any time, by order in writing, direct any person (hereafter in this section referred to as "Investigating Authority") specified in the order to investigate the affairs of any insurer and to report to the Authority on any investigation made by such Investigating Authority: Provided that the Investigating Authority may, wherever necessary, employ any auditor or actuary or both for the purpose of assisting him in any investigation under this section. (2) Notwithstanding anything to the contrary contained in Sec. 235 of the Companies Act, 1956 (1 of 1956), the Investigating Authority may, at any time, and shall, on being directed so to do by the Authority, cause an inspection to be made by one or more of his officers of any insurer and his books and account; and the Investigating Authority shall supply to the insurer a copy of this report on such inspection. (3) It shall be the duty of every manager, managing director or other officer of the insurer to produce before the Investigating Authority directed to make the investigation under sub-section (1), or inspection under sub-section (2), all such books of account, registers and other documents in his custody or power and to furnish him with any statement and information relating to the affairs of the insurer as the said Investigating Authority may require of him within such time as the said Investigating Authority may specify. (4) Any Investigating Authority, directed to make an investigation under sub-section (1), or inspection under sub-section (2), may examine on oath, any manager, managing director or other officer of the insurer in relation to his business and may administer oaths accordingly. (5) The Investigating Authority shall, if he has been directed by the Authority to cause an inspection to be made, and may, in any other case, report to the Authority on any inspection made under this section. (6) On receipt of any report under sub-section(1) or sub-section (5), the Authority may, after giving such opportunity to the insurer to make

a representation in connection with the report as, in the opinion of the Authority, seems reasonable, by order in writing,- (a) require the insurer, to take such action in respect of any matter arising out of the report as the Authority may think fit; or (b) cancel the registration of the insurer; or (c) direct any person to apply to the Court for the winding-up of the insurer, if a company, whether the registration of the insurer has been cancelled under Cl. (b) or not (7) The Authority may, after giving reasonable notice to the insurer, publish the report submitted by the Investigating Authority under sub-section (5) or such portion thereof as may appear to it to be necessary. (8) The Authority may by the regulations made by it specify the minimum information to be maintained by insurers in their books, the manner in which such information shall be maintained, the checks and other verifications to be adopted by insurers in that connection and all other matters incidental thereto as are, in its opinion, necessary to enable the Investigating Authority to discharge satisfactorily his functions under this section. Explanation.-For the purposes of this section, the expression "insurer" shall include in the case of an insurer incorporated in India- (a) all its subsidiaries formed for the purpose of carrying on the business of insurance exclusively outside India; and (b) all its branches whether situated in India or outside India. (9) No order made under this section other than an order made under Cl. (b) of sub-section (6) shall be capable of being called in question in any Court. (10) All expenses of, and incidental to, any investigation made under this section shall be defrayed by the insurer, shall have priority over that debts due from the insurer and shall be recoverable as an arrear of land revenue. 21. In Sec. 33-A, omit "Central Government or the". 22. In Sec. 34-H,- (a) in sub-section (1),- (i) for "Controller", substitute, "Chairperson of the Authority"; (ii) for "an Assistant Controller of Insurance", substitute "an officer authorised by the Authority"; (b) in sub-sections (5) and (7), for "Controller" wherever it occurs, substitute "the Chairperson of the Authority". 23. In Sec.35,- (a) in sub-section (1), for "sanctioned by the Controller", substitute "approved by the Authority"; (b) in sub-section (3),- (i) in the first paragraph, for "to sanction any such scheme", substitute "to approve any such scheme"; (ii) in the second paragraph, for "the amalgamation or transfer if sanctioned", substitute "the amalgamation or transfer if approved". 24. In Sec.36,- (a) in sub-section (1), for "may sanction the arrangement", substitute "may approve the arrangement"; (b) in sub-section (2),- (i) for "the insurers concerned in the amalgamation, the Controller may sanction", substitute "the insurers concerned in the amalgamation, the Authority may approve"; (ii) for "contracts as sanctioned by the Controller", substitute "contracts as approved by the Authority". 25. In Sec. 37, in Cl. (c), for "scheme sanctioned", substitute "scheme approved". 26. In Sec. 40-A, in sub-section (3), for the portion beginning with the words "an amount exceeding" and ending with the words "ten per cent of the premium payable on the policy", substitute "an amount not exceeding fifteen per cent of the premium payable on the policy where the policy relates to fire or marine insurance or miscellaneous insurance." 27. Section 42,- (a) for sub-section (1), substitute the following,- "(1) The Authority or an officer authorised by it in this behalf shall, in the manner determined by the regulations made by it and on payment of the fee determined by the regulations, which shall not be more than two hundred and fifty rupees, issue to any person making an application in the manner determined by the regulations, a licence to act as an insurance agent for the purpose of soliciting or procuring insurance business : Provided that,- (i) in the case of an individual, he does not suffer from any of the disqualifications mentioned in sub-section (4); and (ii) in the case of a company or firm, any of its directors or partners does not

suffer from any of the said disqualifications : Provided further that any licence issued immediately before the commencement of the Insurance Regulatory and Development Authority Act, 1999 shall be deemed to have been issued in accordance with the regulations which provide for such licence"; (b) for sub-section (3) substitute the following :- "(3) A licence issued under this section, after the date of the commencement of the Insurance Regulatory and Development Authority Act, 1999, shall remain in force for a period of three years only from the date of issue, but shall, if the applicant, being an individual does not, or being a company or firm any of its directors or partners does not, suffer from any of the disqualifications mentioned in Cls. (b), (c), (d), (e) and (f) of sub-section (4) and the application for renewal of licence reaches the issuing authority at least thirty , days before the date in which the licence ceases to remain in force, be renewed for a period of three years at any one time on payment of the fee determined by the regulations made by the Authority which shall not be more than rupees two hundred and fifty, and additional fee of an amount determined by the regulations not exceeding rupees one hundred by way of penalty, if the application for renewal of the licence does not reach the issuing authority at least thirty days before the date on which the licence ceases to remain in force"; (c) in sub-section (3-A), for the proviso, substitute the following:- "Provided that the Authority may, if satisfied that undue hardship would be caused otherwise, accept any application in contravention of this sub-section on payment by the applicant of a penalty of seven hundred and fifty rupees"; (d) in sub-section (4), after Cl. (d), insert the following:- "(e) that he does not possess the requisite qualifications and practical training for a period not exceeding twelve months, as may be specified by the regulations made by the Authority in this behalf; (f) that he has not passed such examination as may be specified by the regulations made by the Authority in this behalf: Provided that a person who had been issued a licence under sub-section (1) of this section or sub-section (1) of Sec. 64- UM shall not be required to possess the requisite qualifications, practical training and pass such examination as required by Cls. (e) and (f); (g) that he violates the code of conduct as may be specified by the regulations made by the Authority." (e) for sub-section (6), substitute the following:- "(6) The Authority may issue a duplicate licence to replace a licence lost, destroyed or mutilated, on payment of such fee not exceeding rupees fifty as may be determined by the regulations"; (f) in sub-section (7),- (i) for "fifty rupees", substitute "five hundred rupees"; (ii) for "one hundred rupees", substitute "one thousand rupees"; (g) in sub-section (8), for "fifty rupees", substitute "five hundred rupees". 28. After Sec. 42-A, in sub-section (1),- (a) for "Controller or an officer authorised by him", substitute "Authority or an officer authorised by it"; (b) for "an application to him", substitute "an application to it"; 29. After Sec. 42-C, insert the following :- "42-D. Issue of licence to intermediary or insurance intermediary.- (1) The Authority or an officer authorised by it in this behalf shall, in the manner determined by the regulations made by the Authority and on payment of the fees determined by regulations made by the Authority issue, to any person making an application in the manner determined by regulations, and not suffering from any of the disqualifications herein mentioned, a licence to act as an intermediary or an insurance intermediary under this Act: Provided that- (a) in the case of an individual, he does not suffer from any of the disqualifications mentioned in sub-section (4) of Sec. 42, or (b) in the case of a company or firm, any of its directors or partners does not suffer from any of the said disqualifications. (2) A licence issued under this section shall entitle the holder thereof to act as an intermediary or insurance intermediary. (3) A

licence issued under this section, shall remain in force for a period of three years only from the date of issue, but shall, if the applicant, being an individual does not, or being a company or firm any of its directors or partners does not suffer from any of the disqualifications mentioned in Cls. (b), (c), (d), (e) and (f) of sub-section (4) of Sec. 42 and the application for renewal of licence reaches the issuing authority at least thirty days before the date on which the licence ceases to remain in force, be renewed for a period of three years at any one time on payment of the fee, determined by regulations made by the Authority and additional fee for an amount determined by the regulations, not exceeding one hundred rupees by way of penalty, if the application for renewal of the licence does not reach the issuing authority at least thirty days before the date on which the licence ceases to remain in force. (4) No application for the renewal of a licence under this section shall be entertained if the application does not reach the issuing authority before the licence ceases to remain in force : Provided that the Authority may, if satisfied that undue hardship would be caused otherwise, accept any application in contravention of this sub-section on payment by the applicant of a penalty of seven hundred and fifty rupees. (5) The disqualifications above referred to shall be the following- (a) that the person is a minor; (b) that he is found to be of unsound mind by a Court of competent jurisdiction; (c) that he has been found guilty of criminal misappropriation or criminal breach of trust or cheating or forgery or an abetment of or attempt to commit any such offence by a Court of competent jurisdiction: Provided that, where at least five years have elapsed since the completion of the sentence imposed on any person in respect of any such offence, the Authority shall ordinarily declare in respect of such person that his conviction shall cease to operate as a disqualification under this clause; (d) that in the course of any judicial proceedings relating to any policy of insurance of the winding-up of an Insurance Company or in the course of an investigation of the affairs of an insurer it has been found that he had been guilty of or has knowingly participated in or connived at any fraud dishonesty or misrepresentation against an insurer or an insured; (e) that he does not possess the requisite qualifications and practical training for a period not exceeding twelve months, as may be specified by the regulations made by the Authority in this behalf; (f) that he has not passed such examinations as may be specified by the regulations made by the Authority in this behalf; (g) that he violates the code of conduct as may be specified by the regulations made by the Authority. (6) If it be found that an intermediary or an insurance intermediary suffers from any of the foregoing disqualifications, without prejudice to any other penalty to which he may be liable, the Authority shall, and if the intermediary or an insurance intermediary has knowingly contravened any provision of this Act may, cancel the licence issued to the intermediary or an insurance intermediary under this section. (7) The Authority may issue a duplicate licence to replace a licence lost, destroyed or mutilated, on payment of such fee, as may be determined by regulations made by the authority. (8) Any person who acts as an intermediary or an insurance intermediary without holding a licence issued under this section to act as such, shall be punishable with fine, and any insurer or any person, who appoints as an intermediary or an insurance intermediary or any person not licensed to act as such or transacts any insurance business in India through any such person, shall be punishable with fine. (9) Where the person contravening sub-section (8) is a company or a firm, then without prejudice to any other proceedings which may be taken against the company or firm, every director, manager, secretary or other officer of the company, and every partner of the firm who is knowingly a party to such contravention shall be punishable with fine."

30. Section 64-UA, in sub-section (1), in sub-clause (a), for "Controller of Insurance" substitute "Chairperson of the Authority". 31. In Sec. 64-UB- (a) for sub-section (1), substitute the following:- "(1) The Authority may, by notification in the Official Gazette, make regulations to carry out the purposes of this Part"; (b) in sub-section (2), for "rules", substitute "regulations"; (c) in sub-section (3) for "Central Government" at both the places where it occur, substitute "Authority"; (d) in sub-section (5), for "Controller of Insurance", substitute "Chairperson of the Authority". 32. Section 64-UC, in sub-section (1), in the proviso, for "the Controller may, with the previous approval of the Central Government" substitute "the Authority may". 33. Section 64-UD, after sub-section (1), insert the following:- "Provided that the Chairperson of the Authority shall become the Chairman of the Advisory Committee with effect from the commencement of the Insurance Regulatory and Development Authority Act, 1999 and function as such, and any Chairman of the Tariff Committee holding office immediately before such commencement shall cease to be the Chairman."

34. Section 64-UJ, in sub-section (5), for "Central Government" wherever it occurs, substitute "Authority". 35. Section. 64-UM,- (a) in sub-section (1),- (i) in paragraph (B), after "the Insurance (Amendment) Act, 1968", insert "but before the commencement of the Insurance Regulatory and Development Authority Act, 1999"; (ii) after paragraph (B), insert the following:- "(BA) Every person who intends to act as a surveyor or loss assessor after the expiry of a period of one year from the commencement of the Insurance Regulatory and Development Authority Act, 1999, shall make an application to the Authority within such time, in such manner and on payment of such fee as may be determined by the regulations made by the Authority: Provided that any licence issued immediately before the commencement of the Insurance Regulatory and Development Authority Act, 1999 shall be deemed to have been issued in accordance with the regulations providing for such licence"; (iii) in paragraph (C), for "as may be prescribed", substitute "as may be determined by regulations"; (iv) in paragraph (D), in Cl. (i),- (A) for item (a), substitute the following:- "(a) has been in practice as a surveyor or loss assessor on the date of commencement of the Insurance Regulatory and Development Authority Act, 1999, or"; (B) in item (f), for "prescribed" substitute "specified by regulations made by the Authority"; (b) after sub-section (1), insert - "(1-A) Every surveyor and loss assessor shall comply with the code of conduct in respect of their duties, responsibilities and other professional requirements as may be specified by regulations made by the Authority." 36. Section 64-V,- (a) in sub-section (1),- (i) in Cl. (i), after sub-section (g), insert the following:- "(h) such other asset or assets as may be specified by the regulations made in this behalf"; (ii) in Cl. (ii)-(A) in sub-clause (b), in items (i) and (ii), for "40 per cent", substitute "50 per cent"; (B) after sub-clause (f), insert the following:- "(g) such other liability which may be made in this behalf to be included for the purpose of Cl. (ii)"; (b) for sub-section (2), substitute the following:- "(2) Every insurer shall furnish to the Authority with his returns under Sec. 15 or Sec. 16, as the case may be, a statement certified by an auditor approved by the Authority in respect of general insurance business, or an actuary approved by the Authority in respect of life insurance business, as the case may be, of his assets and liabilities assessed in the manner required by this section as on the 31st day of March of the preceding year. (3) Every insurer shall value his assets and liabilities in the manner required by this section and in accordance with the regulations which may be made by the Authority in this behalf." 37. Section 64-VA,- (a) in sub-section (1), for "at all times", substitute "at all times before the commencement of the Insurance Regulatory and Development

Authority Act, 1999"; (b) after sub-section (1), insert the following.- '(1-A) Every insurer shall, at all times, on or after the commencement of the Insurance Regulatory and Development Authority Act, 1999, maintain an excess of the value of his assets over the amount of his liabilities of not less than the amount arrived at as follows (hereinafter referred to in this section referred to as the "required solvency margin"), namely :- (i) in the case of an insurer carrying on life insurance business, the required solvency margin shall be the higher of the following amounts- (a) fifty crores of rupees (one hundred crores of rupees in case of re-insurers); or (b) the aggregate sums of the results arrived at in items (I) and (II) stated below :- (I) the aggregate of the results arrived at by applying the calculation described in item (A) below (Step-I) and the calculation described in item (B) below (Step II): (A) for Step I- (A.1) there shall be taken, a sum equal to a percentage determined by the regulations not exceeding five per cent of the mathematical reserves for direct business and re-insurance acceptances without any deduction for re-insurance cessions. (A.2) the amount of mathematical reserves at the end of the preceding financial year after the deduction of re-insurance cessions shall be expressed as a percentage of the amount of those mathematical reserves before any such deduction; and (A.3) the sum mentioned in item (A.1) above shall be multiplied- (A.3.1) where the percentage arrived at under item (A.2) above is greater than eighty-five per cent (or in the case of a re-insurer carrying on exclusive re-insurance business, fifty per cent.), by that greater percentage; and (A.3.2) in any other case, by eighty-five per cent (or in the case of a re-insurer carrying on exclusive re-insurance business, by fifty per cent.); (B) for Step II- (B.1) there shall be taken, a sum equal to a percentage determined by the regulations made by the Authority not exceeding one per cent of the sum at risk for the policies on which the sum at risk is not a negative figure, and (B.2) the amount of sum at risk at the end of the preceding financial year for policies on which the sum at risk is not a negative figure after the deduction of re-insurance cession shall be expressed as a percentage of the amount of that sum at risk before any such deduction, and (B.3) the sum arrived at under item (B.1) above shall be multiplied- (B.3.1) where the percentage arrived at under item (B.3.2) above is greater than fifty per cent, by that greater percentage; and (B.3.2) in any other case, by fifty per cent, (II) a percentage determined by the regulations made by the Authority of the value of assets determined in accordance with the provisions of Sec.64V; (ii) in the case of an insurer carrying on general insurance business, the required solvency margin, shall be the highest of the following amounts:- (a) fifty crores of rupees (one hundred crores of rupees in case of re-insurer); or (b) a sum equivalent to twenty per cent of net premium income; or (c) a sum equivalent to thirty per cent of net incurred claims, subject to credit for re-insurance in computing net premiums and net incurred claims being actual but a percentage, determined by the regulations not exceeding fifty per cent: Provided that if in respect of any insurer, the Authority is satisfied that either by reason of an unfavourable claim experience or because of sharp increase in the volume of the business, or for any other reason, compliance with the provisions of this sub-section would cause undue hardship to the insurer, the Authority may direct, for such period and subject to such conditions, such solvency margin not being less than the lower of the amount mentioned in sub-clause (i) or sub-clause (ii) above, as the case may be. Explanation.-For the purposes of this sub-section, the expressions- (i) "mathematical reserves" means the provision made by an insurer to cover liabilities (excluding liabilities which have fallen due and liabilities arising from deposit back arrangement in relation to any policy whereby an amount is deposited by re-insurer with the

cedant) arising under or in connection with policies or contracts for life insurance business. Mathematical reserves also include specific provision for adverse deviations of the bases, such as mortality and morbidity rates, interest rates, and expense rates, and any explicit provisions made, in the valuation of liabilities, in accordance with the regulations made by the Authority for this purpose; (ii) "net incurred claims" means the average of the net incurred claims during the specified period of not exceeding three preceding financial years; (iii) "sum at risk" in relation to a life insurance policy, means a sum which is- (a) in any case in which an amount is payable in consequence of death other than a case falling within sub-clause (b) below, the amount payable on death, and (b) in any case in which the benefit under the policy in question consist of the making, in consequence of death, of the payments of annuity, payment of sum by instalments or any other kind of periodic payments, the present value of that benefit, less in either case the mathematical reserves in respect of the relevant policies"; (c) after sub-section (2), insert the following:- "(2-A) If, at any time an insurer does not maintain the required solvency margin in accordance with the provisions of this section, he shall, in accordance with the directions issued by the Authority, submit a financial plan, indicating a plan of action to correct the deficiency to the Authority within a specified period not exceeding three months. (2-B) An insurer who has submitted a plan under sub-section (2-A) to the Authority shall propose modifications to the plan if the Authority considers it inadequate, and shall give effect to any plan accepted by the Authority as adequate. (2-C) An insurer who does not comply with the provisions of sub-section (2-A) shall be deemed to be insolvent and may be wound up by the Court"; (d) after sub-section (6), insert the following:- "(7) Every insurer shall furnish to the Authority his returns under Sec. 15 or Sec. 16, as the case may be, in case of life insurance business a statement certified by an actuary approved by the Authority, and in case of general insurance business a statement certified by an auditor approved by the Authority, of the required solvency margin maintained by the insurer in the manner required by sub-section (1-A)." 38. Section 70, in sub-section (1), for "the Controller, a certificate of registration", substitute "the Authority, before the date of commencement of the Insurance Regulatory and Development Authority Act, 1999, a certificate of registration"; 39. Section 95, in sub-section (1), for "In this Part-", substitute, "In this Part before the date of commencement of the Insurance Regulatory and Development Authority Act, 1999",- 40. Section 101-A,-- (a) in sub-section (1), for "the Central Government", substitute "the Authority with the previous approval of the Central Government"; (b) in sub-section (2), for "the Central Government", substitute "the Authority". 41. Section 101-B- (a) in sub-section (1), for "the Central Government", substitute "the Authority with the previous approval of the Central Government". (b) in sub-section (2), for "prescribed", substitute "determined by the regulations made by the Authority". 42. For Secs. 102 to 105, substitute the following:- "102. Penalty for default in complying with, or act in contravention of, this Act.-If any person who is required under this Act, or rules or regulations made thereunder,- (a) to furnish any document, statement, account, return or report to the Authority, fails to furnish the same; or (b) to comply with the directions, fails to comply with such directions; (c) to maintain solvency margin, fails to maintain such solvency margin; (d) to comply with the directions on the insurance treaties, fails to comply with such directions on the insurance treaties, he shall be liable to a penalty not exceeding five lakh rupees for each such failure and punishable with fine. 103. Penalty for carrying on insurance business in contravention of Secs. 3,7 and 98.-If a person makes a statement, or furnishes any document, statement, account,

return or report which is false and which he either knows or believes to be false or does not believe to be true,- (a) he shall be liable to a penalty not exceeding five lakh rupees for each such failure; and (b) he shall be punishable with imprisonment which may extend to three years or with fine for each such failure. 204. Penalty for false statement in document.-If a person fails to comply with the provisions of Sec. 27 or Sec. 27-A or Sec. 27-B or Sec. 27-C or Sec. 27-D, he shall be liable to a penalty not exceeding five lakh rupees for each such failure. 205. Wrongfully obtaining or withholding property.-If any director, managing director, manager or other officer or employees of an insurer wrongfully obtains possession of any property or wrongfully applies to any purpose of the Act, he shall be liable to a penalty not exceeding two lakh rupees for each such failure. 205-A. Offences by companies.-(1) Where any offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly : Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation.- For the purpose of this section,- (a) "company" means any body corporate, and includes- (i) a firm; and (ii) an association of persons or a body of individuals whether incorporated or not; and (b) "director", in relation to- (i) a firm, means a partner in the firm; (ii) an association of persons or a body of individuals, means any member controlling the affairs thereof. 105-B. Penalty for failure to comply with Sec. 32- B.-If an insurer fails to comply with the provisions of Sec. 32-B, he shall be liable to a penalty not exceeding five lakh rupees of each such failure and shall be punishable with imprisonment which may extend to three years or with fine for each such failure. 105-C. Penalty for failure to comply with Sec. 32- C.-If an insurer fails to comply with the provisions of Sec. 32-C, he shall be liable to a penalty not exceeding twenty-five lakh rupees for each such failure and in the case of subsequent and continuing failure, the registration granted to such insurer under Sec. 3 shall be cancelled by the Authority.". 43. In Secs. 110-A, 110-B, and 110-C for "Controller", wherever it occurs, substitute "Chairperson of the Authority"; 44. Section 110-G, for "Controller" at both the places where it occurs, substitute "Chairperson of the Authority". 45. Section 110-H, in sub-section (1), for "under sections" substitute "under Sec. 27-D" 46. Section 114, in sub-section (2),- (a) after Cl. (a), insert the following:- "(aa) such other percentage of paid-up equity capital in excess of twenty six per cent of the paid-up equity capital and the period within which such excess paid-up equity capital shall be divested under sub-section (1) of Sec.6-AA."; (b) omit Cls.(g) and (II), 47. After Sec. 114, insert the following:- "114-A. Power of Authority to make regulations.-(1) The Authority may, by notification in the Official Gazette, make regulations consistent with this Act and the rules made thereunder, to carry out the purposes of this Act. (2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters,

namely:- (a) the matters, including fee relating to the registration of insurers under Sec. 3; (b) the manner of the suspension or cancellation of registration under sub-section (5-E) of Sec. 3; (c) such fee, not exceeding five thousand rupees, as may be determined by the the regulations for issue of a duplicate certificate of registration under sub-section (7) of Sec. 3; (d) the matters relating to renewal of registration and fee therefor under Sec.3-A; (e) the manner and procedure for divesting excess share capital under sub-section (2) of Sec. 6-AA; (f) the preparation of balance sheet, profit and loss account and a separate account of receipts and payments and revenue account under sub-section (1-A) of Sec. 11; (g) the manner in which an abstract of the report of the actuary to be specified under the fourth proviso to sub-section (1) of Sec. 13; (h) the form and the manner in which the statement referred to in sub-section (4) of Sec. 13 shall be appended; (i) the time, manner and other conditions of investment of assets held by an insurer under sub-sections (1), (1-A) and (2) of Sec. 27-D; (j) the minimum information to be maintained by insurer in their books, the manner in which such information should be maintained, the checks and other verifications to be adopted by insurers in that connection and all other matters incidental thereto under sub-section (8) of Sec. 33; (k) the manner for making an application, the manner and the fee for issue of a licence to act as an insurance agent under sub-section (1) of Sec. 42; (l) the fee and the additional fee to be determined for renewal of licence of insurance agent under sub-section (3) of Sec. 42; (m) the requisite qualifications and practical training to act as an insurance agent under Cl. (e) of sub-section (4) of Sec. 42; (n) the passing of examination to act as an insurance agent under Cl. (f) of sub-section (4) of Sec. 42; (o) the code of conduct under Cl. (g) of sub-section(4) of Sec. 42; (p) the fee not exceeding rupees fifty for issue of duplicate licence under sub-section (6) of Sec. 42; (q) the manner and the fees for issue of a licence to an intermediary or an insurance intermediary under sub-section (1) of Sec. 42-D; (r) the fee and the additional fee to be determined for renewal of licence of intermediaries or insurance intermediaries under sub- section (3) of Sec. 42-D; (s) the requisite qualifications and practical training of intermediaries or insurance intermediaries under Cl. (e) of sub-section (5) of Sec. 42-D; (t) the examination to be passed to act as an intermediary or insurance intermediary under Cl. (f) of sub-section (5) of Sec. 42-D; (u) the code of conduct under Cl. (g) of sub-section (5) of Sec. 42-D; (v) the fee for issue of duplicate licence under sub-section (7) of Sec. 42-D; (w) such matters as specified under sub-section (2) of Sec. 64-UB relating to the Tariff Advisory Committee; (x) the matters relating to licensing of surveyors and loss assessors, their duties, responsibilities and other professional requirements under Sec. 64-UM; (y) such other asset or assets as may be specified under Cl. (h) of sub-section (1) of Sec. 64-V for the purposes of ascertaining sufficiency of assets under Sec. 64-VA; (z) the valuation of assets and liabilities under sub-section (3) of Sec. 64-V; (za) the matters specified under sub-section (1-A) of Sec. 64-VA relating to sufficiency of assets; (zb) the matters relating to re-insurance under Secs. 101-A and 101-B; (zc) the matters relating to redressal of grievances of policy-holders to protect their interest and to regulate, promote and ensure orderly growth of insurance industry; and (zd) any other matter which is to be, or may be, specified by the regulations made by the Authority or in respect of which provision is to be made or may be made by the regulations. (3) Every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and, if before the expiry of the session immediately following the

session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation". 48. In Sec. 116-A, for "Central Government", at both the places where they occur, substitute "Central Government, before the date of commencement of the Insurance Regulatory and Development Authority Act, 1999"-

SCHEDULE 2

Amendments to the Life Insurance Corporation Act, 1956

(31 of 1956) 1. In the Act, for "Controller" wherever it occurs, substitute "Authority". 2. After Sec. 30, insert the following :- "30-A. Exclusive privilege of Corporation to cease.-Notwithstanding anything contained in this Act, the exclusive privilege of carrying on life insurance business in India by the Corporation shall cease on and from the commencement of the Insurance Regulatory and Development Authority Act, 1999 and the Corporation shall, thereafter, carry on life insurance business in India in accordance with the provisions of the Insurance Act, 1938 (4 of 1938)."-

SCHEDULE 3

Amendment to the General Insurance Business (Nationalisation) Act, 1972

(57 of 1972) After Sec. 24, insert the following :- "24-A. Exclusive privilege of Corporation and acquiring companies to cease.- Notwithstanding anything contained in this Act, the exclusive privilege of the Corporation and the acquiring companies of carrying on general insurance business in India shall cease on and from the commencement of the Insurance Regulatory and Development Authority Act, 1999 and the Corporation and the acquiring companies shall, thereafter, carry on general insurance business in India in accordance with the provisions of the Insurance Act, 1938" (4 of 1938).
NOTES ON CLAUSES Clause 2 defines the various expressions occurring in the Bill. Clause 3 provides for the establishment of the Insurance Regulatory Authority by the Central Government as a body corporate. The head office of the Authority shall be at such place as the Central Government may decide from time to time. Clause 4 provides that the Authority shall consist of a Chairperson, not more than five whole-time members and not more than four part-time members, to be appointed by the Central Government. Clause 5 provides that the Chairperson and other whole-time members shall hold office for a term of five years or until the age of 65 years in the case of Chairperson and 62 years in the case of other whole-time members, whichever is earlier, and a part-time members shall hold office for a term not exceeding five years. Clause 6 provides that the Central Government may, after giving a reasonable opportunity of being heard in the matter, remove from the office the Chairperson and members of the Authority in certain circumstances. Clause 7 provides that the salary, allowances and other terms and conditions of service of the Chairperson and whole-time members and allowances to part-time members will be prescribed by the Central Government and that they shall not be varied to their disadvantage, after appointment. Clause 8 provides that the Chairperson and members shall be ineligible for appointment in Central or State Government or any private company in the insurance sector for a period of two years from the date on which they cease to hold office as such. Clause 9 provides that the Chairperson shall have the powers of general superintendence and

directions of all administrative matters of the authority. Clause 10 contains detailed provisions regarding conduct of the meetings of the Authority. Clause 11 provides for certain conditions which will not invalidate the proceedings of the Authority. Clause 12 empowers the Authority to appoint officers and other employees and determine their terms and conditions of service through regulations. Clause 13 provides for transfer of assets, liabilities, etc., of the Interim Insurance Regulatory Authority to the Insurance Regulatory Authority. Clause 14 provides that the Authority shall have the duty to regulate, promote and ensure orderly growth of the insurance business and prescribe its specified powers and functions. Clause 15 provides for grants to the Authority by the Central Government. Clause 16 provides for constitution of the Insurance Regulatory Authority Fund and crediting thereto all Government grants, fees and charges received by the Authority and its appropriation for making payments. Clause 17 provides that the Authority shall maintain its accounts in the form prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India and that the accounts will be audited by Comptroller and Auditor-General of India with the same rights and privileges as in the case of audit of Government accounts. It also provides that the accounts of the Authority as certified by the Comptroller and Auditor-General of India together with the audit report thereon shall be laid before each House of the Parliament every year. Clause 18 provides that the Authority shall be bound by the directions of the Central Government on questions of policy and that the decision of the Central Government, whether a question is one of policy or not, shall be final. Clause 19 provides that the Central Government may, by notification and for reasons specified therein supersede the Authority, for a period not exceeding six months, in certain circumstances and during the period of supersession appoint a person to act as the Controller of Insurance under the Insurance Act, 1938. It also provides for re-constitution of the Authority before the expiry of the period of supersession and that a copy of the notification for supersession and a full report on the action taken shall be laid before each House of Parliament. Clause 20 provides for furnishing of returns, etc. by the Authority to the Central Government. Clause 21 provides that the Chairperson, members, officers and employees of the Authority shall be deemed to be public servants within the meaning of Sec. 21 of the Indian Penal Code. Clause 22 provides for usual provisions relating to the protection of action taken in good faith. Clause 23 provides for delegation of powers of the Authority. Clause 24 confers on the Central Government the power to make rules for carrying out the provisions of the Bill. Clause 25 confers on the authority the power to make regulations consistent with the provisions of the Bill. Clause 26 provides that the rules made by the Central Government and regulations made by the Authority shall be laid before each House of Parliament. Clause 27 provides that the provisions of this Bill shall be in addition to and not in derogation of, the provisions of any other law for the time being in force. Clause 28 seeks to empower the Central Government to remove difficulties which may arise in giving effect to the provisions of the Bill. Clause 29 seeks amendments of certain provisions of the Insurance Act, 1938 in the manner as set out in the First Schedule to the Bill. The amendments to the Insurance Act, 1938 are consequential in nature to empower the Insurance Regulatory Authority to effectively regulate, promote and ensure orderly growth of the insurance industry. The Amendments inter alia provide for the substitution of the word "Controller" by the word "Authority" and substitution of the word "Central Government" by the word "Authority" in certain sections of the Insurance Act, 1938. It also provides for certain definitions including definition of an Indian Insurance Company. The other consequential amendments relate to

empowering the authority in respect of registration of insurers, percentage of equity capital to foreign company, investment provisions, regulation of licence to intermediaries or insurance intermediaries and power of the Authority to make regulations. Clause 30 seeks to amend Sec. 30 of the Life Insurance Corporation Act, 1956, in the manner as set out in the Second Schedule. The amendment provides that the exclusive privilege of the Life Insurance Corporation shall cease so as to enable other Indian Insurance Companies to do life insurance business. Clause 31 seeks to amend Sec. 24 of the General Insurance Business (Nationalisation) Act, 1972 in the manner as set out in the Third Schedule. The amendment provides that the exclusive privilege of the General Insurance Corporation and the four subsidiary companies shall cease so as to enable other Indian Insurance Companies to do non-life insurance business.