

INSURANCE RULES, 1939

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INSURANCE RULES, 1939

INSURANCE RULES, 1939

CHAPTER 1

Preliminary

1. Short title :-

These rules may be called the Insurance Rules, 1939.

2. Definitions :-

In these rules,-

(i) "the Act" means the Insurance Act, 1938 (4 of 1938);

(ii) "the Bank" means the Reserve Bank of India;

[(iii) "Bombay area" means the area comprising the State of Maharashtra, Gujarat and Madhya Pradesh and [the Union Territories of Goa, Daman and Diu, and Dadra and Nagar Haveli];]

(iv) "Calcutta area" means the area comprising the States of Assam, Bihar, Manipur, Meghalaya, Orissa, West Bengal, Sikkim and Tripura and the Tuensang district In the State of Nagaland and Union Territories of Arunachal Pradesh, Mizoram and Andaman and Nicobar Islands;]

(v) "Delhi area" means the area comprising the States of Jammu and Kashmir, Haryana, Himachal Pradesh, Punjab, Rajasthan and Uttar Pradesh and the Union Territories of Delhi and Chandigarh;

(vi) "Madras area" means the area comprising the States of Andhra Pradesh, Karnataka, Kerala, and Tamil Nadu, and the Union Territories of Pondicherry and Lakshadweep; and

(vii) words used but not defined in these rules have the meanings respectively assigned to them in the Act.

CHAPTER 2

Actuaries

3. Qualifications of actuaries :-

Any person signing as actuary under the Act shall be a Fellow of the Institute of Actuaries, London, or a Fellow of the Faculty of Actuaries in Scotland ¹[or a Fellow of Actuarial Society of India]: Provided that where application is made to the Controller of Insurance and it is shown to his satisfaction that the employment of an Associate of such institute of actuaries or of such Faculty of Actuaries ¹ [or of such Actuarial Society] or of any other person having actuarial knowledge for any specified purpose is expedient in order to enable an Insurer or a provident society to carry out any of his or its obligations under the Act, the Controller of Insurance may grant the application and permit such person to sign as actuary for the specified purpose, subject to such conditions and restrictions as the Controller of Insurance thinks fit to impose.

1. Ins. by S.O. 961 (E), dated 24th March. 1992.

4. 4 :-

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CHAPTER 3

Deposits with the Bank

5. Deposits with the Bank :-

(1) Deposits made in pursuance of the Act shall be held by that office of the Bank (hereinafter referred to as the appropriate Indian office) in whose area of administration the principal office in the State of the depositor is situated : Provided that deposits in sterling securities shall be held by the London office of the Bank on behalf of the appropriate Indian office.

(2) Deposits in sterling securities shall be sent by the depositor with a covering letter to the Manager of the London office of the Bank, and shall not be brought on the books of the appropriate Indian office

until the receipt of an intimation in Form I from the London office.

(3) Deposits, other than deposits in sterling securities, shall be sent by the depositor with a covering letter to the manager of the appropriate Indian office of the Bank.

(4) Securities shall be duly transferred to the Bank of the depositor.

(5) Upon receipt of the intimation referred to in sub-rule (2) or of a deposit under sub-rule (3) the appropriate Indian office of the Bank shall send-

(a) a certificate in Form II to the depositor; and

(b) a statement in Form III to the Controller of Insurance : Provided that, if the Bank is not satisfied as to the validity of the title of the depositor to the securities, it may return them to him with the request that they shall first be renewed or that such other measures as may be necessary shall be taken to clear the title.

(6) The market value of sterling securities held by the Bank shall be converted at 1s.6d. to the rupee.

6. Changes in deposits :-

When the form or amount of a deposit is changed by reason of a subsequent deposit, a substitution or a payment under sub-section (9) or sub-section (10) of Section 7 of the Act or a sale or investment under sub-section (9-A) of the said section, the Bank shall, send a fresh certificate and a fresh statement of the nature, and in the manner, described in Cls. (a.) and (b) to sub-rule (5) of rule 5.

7. Maturing of deposits :-

When a security in deposit matures, or when any yield on such security ceases to accrue, the Bank shall not be bound to inform the depositor; but, upon receipt of a requisition from the depositor made in writing and in accordance with the provision of the Act, the Bank shall, within six weeks of such a receipt, collect the discharge value and hold the amount in cash to the credit of the depositor or invest it in securities specified by the depositor.

8. Interest and dividends on deposits :-

(1) No interest shall be paid on cash deposits.

(2) Interest or dividends on sterling securities shall, at the option of the depositor, be either paid In London by the London office of the Bank after deduction of a commission of 5s. on every sum of œ 100 or part thereof, or remitted by the London office of the Bank to the appropriate Indian office of the Bank at the telegraphic transfer rate on India prevailing on the date of realisation of the interest or dividends.

(3) The appropriate Indian office of the Bank shall remit interest or dividends on securities other than sterling securities, and amounts if any, received from the London office of the Bank under sub-rule (2) without delay to the depositor at an office in India to be specified by the depositor,-

(a) if the office so specified is at a place where there is an office of a Bank or a branch of the Imperial Bank of India, by means of a Government draft; and

(b) in other cases, by a Security Deposit Interest Payment Draft on the nearest Government Treasury:

9. Withdrawals, etc. from deposits :-

(1) Withdrawals and payments from deposits and purchases of securities shall not be made save in accordance with the provisions of the Act and on receipt by the Bank of a requisition in writing and in accordance with the provisions of the Act from the depositor, a liquidator acting in accordance with law or a Court of competent jurisdiction, as the case may be.

(2) The Bank shall not be bound, in pursuance of sub-rule (1), to return securities actually deposited, but may substitute therefor new scrip of securities of the same description and amount.

(3) The Bank shall be entitled to charge, for the purchase or sale of securities, any brokerage payable by the Bank in respect of such purchase or sale.

10. Information as regards deposits :-

(1) The Controller of Insurance shall be entitled, free of any fee to inspect or to require from the Bank any information relating to any security deposited with the Bank under the Act.

(2) The Bank shall, if so required, furnish the Controller of Insurance, or any person authorized by him in that behalf in writing with a copy of any entry in any register or book maintained by the Bank relating to any deposit made with the Bank under the Act.

(3) The Bank shall publish as soon as may be after the 1st January in each year in such manner as the Central Government may direct a list in Form IV of deposits made with it under the Act, as at 31st December of the preceding year.

CHAPTER 4

Securities and Investments

10A. Pakistan securities :-

Securities guaranteed fully as regards principal and interest by a Provincial Government in Pakistan or charged on the revenues of any part of that Dominion and debentures or other securities for money issued by or on behalf of the trustees of the Port of Karachi shall be recognized, in the case of insurers Incorporated or domi- ciled in India, as approved securities-

(a) for the purposes of Section 7 , Section 68 or Section 73 , if such securities had been deposited with the Bank in pursuance of the Act before the 15th day of August, 1947, and continue to be so deposited with the Bank since that date, and

(b) for the purposes of Section 27 and Section 27A , if such securities had been acquired by an insurer or a provident society before the 15th day of August, 1947, and continue to be held since that date by the insurer or the provident society.

10B. Assets deemed to be approved investments :-

1 [(1)] For the purposes of sub-section (1) of Section 27 of the Act, the following assets shall be deemed to be assets Invested or kept Invested in approved investments specified in sub-section (1) of Section 27A of the Act-

(a) interest, dividend and rents (outstanding and accrued);

(b) cash in hand and with banks (other than banks in liquidation) in current and collection accounts;

(c) bills receivable:

(d) value of furniture, fittings, machinery, stationery and library but not exceeding Rs. 10,000 or one per cent. of the sum referred to in sub-section (1) of Section 27 of the Act, whichever is greater;

(e) value of motor cars but not exceeding Rs. 20,000 or one-half per cent. of the sum referred to in sub-section (1) of Section 27 of the Act, whichever is greater;

(f) stamps on hand;

(g) amount of income-tax directed by the Income-tax authority, to be refunded;

(h) temporary advances granted to chief, special and insurance agents to the extent permitted under Cl. (b) of sub-section (3) of Section 29 of the Act.

2 [(2)]

(i) For the purposes of sub-section (2) of Section 27B of the Act, the following assets shall be deemed to be assets invested or kept invested in approved Investments specified In sub-section (1) of that section, namely :

(a) interest, dividends and rents (outstanding and accrued):

(b) cash in hand and with banks (other than banks in liquidation) in current and collection accounts;

(c) bills receivable:

(d) amounts due from other insurers in respect of reinsurance recoveries and deposits or reserves with other insurers in respect of treaties for reinsurances as to be accepted.

(ii) In respect of insurance specified in Cl. (c) of sub-section (16) of Section 27B of the Act, three-fourths of the value of the following assets shall also be deemed to be approved investments specified in sub-section (1) of Section 27B of the Act, namely :

(a) motor cars,

(b) stamps on hand,

(c) amounts of income-tax directed by the income-tax authorities to be refunded.]

1. Renumbered by G.S.R. 1275, published in the Gazette of India, Extraordinary, Pt. II, Sec. 3 (1). dated 28th May, 1969 (w.e.f. 1st June. 1969).

2. Ins. by Renumbered by G.S.R. 1275, published in the Gazette of India, Extraordinary, Pt. II, Sec. 3 (1). dated 28th May, 1969 (w.e.f. 1st June. 1969).

10C. Returns of investments and changes in investments :-

(1) The return to be furnished under sub-section (1) of Section 28A of the Act shall show all the investments made out of the controlled fund and subsisting as at the 31st day of December of the preceding year and shall be in Form IV-A: ¹[Provided that in the case of the Life Insurance Corporation of India, the aforesaid return shall show the said investments subsisting as at the last day of the preceding financial year and shall be in Form IV-AAA.]

(2) The return to be furnished under sub-section (2) of Section 28A of the Act shall be in Form IV-B ¹[and in the case of the Life Insurance Corporation of India the said return shall be in Form IV-BBB.]

³ [(3) The return to be furnished under sub-section (1) of Section 28B of the Act, shall show all the investments made out of the assets and subsisting as at the 31 st day of December of the preceding year shall be in Form IV-AA.

(4) The return to be furnished under sub-section (2) of Sec. 28-B of the Act shall be in Form IV-BB.]

1. Ins. by G.S.R. 1373, dated the 13th September, 1976, published in the Gazette of India. Pt. II. Sec. 3 (i). dated 25th September, 1976.

3. Ins. by G.S.R. 1275. published in the Gazette of India. Extraordinary, Pt. II, Sec. 3 (i). dated 28th May, 1969(w.e.f. 1st June, 1969).

10D. Charging assets :-

¹[(1)] An insurer may subject the assets forming his controlled fund. not being securities kept invested In pursuance of sub-section (1) of Section 27 , to a charge in favour of a banking company for the purpose of raising an over-draft, and investing the money so raised: Provided that the assets charged do not exceed in value ten per cent. of the controlled fund and the charge is created for a period not exceeding six months.

² [(2) For the purpose of sub-section (11) of Section 27B the charge created in favour of one or more banking companies in respect of assets offered as

1. Renumbered by Ins. by G.S.R. 1275. published in the Gazette of India. Extraordinary, Pt. II, Sec. 3 (i). dated 28th May, 1969(w.e.f. 1st June, 1969).

2. Ins. by G.S.R. 1275. published in the Gazette of India. Extraordinary, Pt. II, Sec. 3 (i). dated 28th May, 1969(w.e.f. 1st June, 1969).

11. Prospectuses and tables :-

(1) No person shall supply or exhibit any prospectus or table of premium rates to any other person with a view to the issue of a policy of insurance unless such prospectus or table includes,-

(a) a description of the contingency or contingencies to be covered by insurance and the class or classes of lives or property eligible for insurance under the terms of such prospectus or table:

(b) a full statement of the circumstances, if any, in which rebates of the premiums quoted in the prospectus or table shall be allowed on the effecting or renewal of a policy, together with the rates of rebate applicable to each case: and

(c) a copy of Section 41 of the Act but not including the proviso to sub-section (1) thereof.

(2) The provisions of sub-rule (1) shall be deemed to have been complied with if to every such prospectus or table of premium rate supplied or exhibited after the date of commencement of the Act is attached in the form of an addendum a statement containing so much of the matters referred to in sub-ruled) as is not already included in the said prospectuses or tables, but every prospectus and table of premium rates printed after the coming into force of the Act shall have the matters referred to in said clauses incorporated therein.

12. Proposal Forms :-

¹ [(1) It shall be clearly indicated-

(a) in every proposal form in the case of life insurance; or

(b) in the document, if any, forming the basis of the contract in the case of any other form of insurance, that rebate of premiums shall be allowed only in accordance with the details given in the prospectus or table of premium rates or, as the case may be, the relevant document, and that an offer or acceptance of

any other rebate shall be an offence under Section 41 of the Act.]

(2) The provisions of sub-rule (2) of rule 11 shall apply mutatis mutandis to proposal forms, except that, where an addendum is attached

1. Subs. by G.S.R. 14, published in the Gazette of India. Pt. II, Sec. 3 (i). dated 22nd November, 1975.

CHAPTER 5

Committees of the Insurance Councils

12A. List of insurers :-

The Controller shall cause to be published in the Gazette of India, a list of the members and associate members of the Life Insurance and General Insurance Councils of the Insurance Association of India once every year in the month of January.

12B. Constituencies of Insurers :-

(1) Members of the Insurance Association of India who are insurers carrying on life insurance business and having, a premium income in such business of more than three lakhs of rupees in the preceding year shall elect four individuals as members of the Executive Committee of the Life Insurance Council of the Insurance Association of India In the following manner :

(a) one individual by such members as have their head offices in the Calcutta area;

(b) two individuals by such members as have their head offices in the Bombay area;

(c) one individual by such members as have their head offices in the Delhi and Madras areas, the members in each area alternately electing the individual, the first election being held in the Delhi area.

(2) Members of the Insurance Association of India who are insurers carrying on life insurance business and having a premium income in such business of less than three lakhs of rupees in the preceding year shall elect four individuals as members of the Executive Committee of the Life Insurance Council of the Insurance Association of India in the following manner:

(a) one individual by such members as have their head offices in the Calcutta area;

(b) one individual by such members as have their head offices in the Bombay area;

(c) one individual by such members as have their head offices in the Madras area:

(d) one individual by such members as have their head offices in the Delhi area.

(3) Members of the Insurance Association of India who are insurers carrying on general insurance business shall elect individuals as members of the Executive Committee of the General Insurance Council of the Insurance Association of India in the following manner :

(a) one individual authorized to stand as a candidate by a member having his head office in the Calcutta area and whose premium income in such business in the preceding year exceeding ten lakhs of rupees and elected to the Committee by such members as have their head offices in the Calcutta area:

(b) one individual authorized to stand as a candidate by a member having his head office in the Calcutta area and whose premium income in such business in the preceding year did not exceed ten lakhs of rupees and elected to the Committee by such members as have their head offices in the Calcutta area;

(c) two individuals each of whom is authorized to stand as a candidate by a member having his head office in the Bombay area and whose premium in such business in the preceding year exceeded five lakhs of rupees and elected to the Committee by such members as have their head offices in the Bombay area;

(d) two individuals each of whom is authorized to stand as a candidate by a member having his head office in the Bombay area and whose premium in such business in the preceding year did not exceed five lakhs of rupees and elected to the Committee by such members as have their head offices in the Bombay area;

(e) one individual elected to the Committee by such member, as have their head offices in the Madras area ;

(f) one individual elected to the Committee by such members as have their head offices in the Delhi area.

(4) For the purpose of this rule if any dispute arises as to which area an insurer belongs, or as to the premium income of an insurer, the Controller shall decide the question and his decision shall be final.

Explanation.-In this rule,-

(i) "preceding year" means the calendar year preceding the calendar year in which the election takes place;

(ii) "premium income" means the gross direct premium income of the insurer without taking into account premium income on re-insurances accepted or ceded.

12C. Duties of Dissolved Executive Committees :-

When the Executive Committee of the Life Insurance Council or of the General Insurance Council is dissolved, the outgoing members thereof who continue to hold office until a new Executive Committee is constituted, shall be entitled to discharge the following duties in the meantime-

(a) keep and maintain up-to-date a copy of the list of all members and associate members of the Life Insurance Council or the General Insurance Council, as the case may be;

(b) supervise the work of officers and servants employed by the Committee:

(c) collect the prescribed fees: and

(d) help the Chairman and the Secretary to conduct the necessary elections to the new Executive Committee.

12D. Joint Meetings of Executive Committees :-

(1) When a request is received by the Central Government from-

(a) the Controller of Insurance, or

(b) six individuals who are members of either or both of the Executive Committees of the Life Insurance Council and the General Insurance Council, or

(c) thirty insurers,

(2) It shall be the duty of the Chairman of the two Executive Committees to convene, as soon as may be after the issue of the direction under preceding sub-rule a joint meeting of all the members of the two Executive Committees at such place and at such time and date as the two Chairmen may decide.

(3) At such meeting, one of the two Chairmen shall be elected by the members present to preside and the matter referred to and no other matter shall be considered.

(4) The meeting may be adjourned from time to time to be held not necessarily at the same place, with the consent of the members present for further consideration of the matter or for considering a report from any sub-committee appointed for the purpose by the members present, but minutes of each meeting shall be kept and a copy thereof shall be furnished to the Controller of Insurance immediately after the meeting.

CHAPTER 6

Election of Directors by policy-holders

13. Qualifications of elected directors of insurance companies :-

(1) A person shall be eligible for election as a director of an insurance company under Section 48 of the Act, if he holds one or more policies of life Insurance issued by the company and satisfies the provisions of the said section and both the following requirements, namely :

(a) the policies shall insure either a total sum. Including any bonuses that may have attached to them before the date of election, of not less than Rs. 3,000, where the company has at that date been carrying on life insurance business for not less than five years, or of not less than Rs. 1,000 in other cases, or annuities on human life of a total amount of not less than Rs. 250 per annum without regard to the age of the company, and

(b) where the company has been carrying on life insurance business for more than two years, all the policies held in compliance with Cl. (a) shall have been in force for not less than one, two or three years, according as the company has at the date of election been carrying on life insurance business for not more than five years, for more than five but no more than eight years, or for more than eight years: Provided that the Central Government may, in respect of any insurer after taking into account the maximum sum assured permissible according to constitution or rules and regulations and other conditions, modify the above qualifications by fixing (i) for the sum insured or annuity, an amount lower than the corresponding amount mentioned in Cl. (a.) or Cl. (ii) for the period, a period shorter than the one mentioned in Cl. (b) or both.

(2) If at any date after election as a director, a person ceases to be a person holding one or more policies

of life insurance satisfying the provisions of Section 48 and both the requirements specified in sub-rule (1) he shall forthwith cease to be an elected director of the company.

14. Election of directors under Sec. 48 :-

(1) The election of directors under Section 48 of the Act shall take place at a meeting (to be held at the place where the principal office of the company is situated or, with the prior consent and approval in writing of the Controller of Insurance, at any other place) of the holders of policies of life insurance issued by the company, who are eligible to vote at such election and the first such election shall be held as soon as possible after the said section becomes applicable accept office.

(2) Not less than three months before the meeting is to be held, there shall be inserted in a newspaper published in the English language and in a newspaper published in an Indian language circulating in the place where the principal office of the company is situated and, if there are policy-holders of the company residing in a State other than that in which the principal office is situated, in a newspaper published in the English language and, if the company so desires, in a newspaper published in the principal language of the State, both being papers circulating in that State, a notice stating the number of directors to be elected at, and the time and place of, such meeting, which shall be fixed with a view to affording voters the fullest opportunities for attending, and informing policy-holders how to obtain admission to the meeting according to the manner hereinafter described. Such notice shall also set forth the qualifications which a person must possess in order to be eligible for election as a director, and shall invite applications from eligible persons prepared to accept office : Provided that. where a company prints on its policies the qualifications of elected directors as set forth in rule 13, and issues, at least six months before the election, to all existing policy-holders whose policies do not contain a statement of those qualifications as modified up to date, a notice setting forth such modified qualifications, the notice to be published in newspapers in accordance with this sub-rule need not set forth those qualifications: Provided further that a company may, in respect of one or more States instead of publishing the notice in newspapers, send it by post to every policy-holder residing therein.

(3) The applications from eligible persons prepared to accept office as elected directors of the company shall be sent by registered post to the principal office of the company so as to reach it not less than two months before the date of the meeting. Such applications shall be made in the English language or in a principal language of the State in which the principal office of the company is situated. If the number of such applicants does not exceed the number of directors to be elected, all such applicants shall be deemed to have been elected as directors and it shall not be necessary to hold the meeting of policy-holders as previously announced. The company shall in that event inform the policy-holders forthwith by notice inserted in newspapers as in sub-rule (2), or by notice sent individually by post to those policy-holders who are eligible to vote and who apply for a certificate of admission under sub-rule (4) or by both methods of the names of persons elected as directors and of the cancellation of the meeting.

(3-A) An application sent under sub-rule (3) shall give the applicant's name and address and the numbers of and amounts of the sums insured by the policies by virtue of which he claims to be eligible for election.

(4) Every policy-holder who desires to attend the meeting shall apply to the company for a certificate of admission, such application to reach the company not less than two months before the date of the meeting, and the company on being satisfied that the applicant holds a policy of life insurance issued by the company not less than six months before the date of election shall issue a certificate at least one month before the date of the meeting. Such certificate shall, if applied for by post, be sent only to the address of the policy-holder or if applied for in person be delivered only on production of the relevant policy and shall, in any case. be accompanied by a statement of the names and addresses of the eligible persons prepared to accept office whose applications have been received by the company under sub-rule (3). A certificate of admission shall not be transferable.

(5) No person other than those whose presence is, in the opinion of the chairman necessary for the conduct of the meeting shall be admitted to the meeting unless he produces the certificate of admission granted to him under sub-rule (4).

(6) The meeting shall be presided over by the Chairman for the time being of the Board of Directors of the company, or in his absence by any director nominated by him, or in the absence of any such director by a Chairman elected by the policy-holders present at the meeting.

(7) Votes for the election of directors may be given at the meeting either personally or by proxy and in the manner hereinafter provided in this rule. The instrument appointing a proxy shall be in writing in Form IV-C under the hand of the appointer in favour of a policy-holder, and shall be presented at the principal office of the company not less than one month before the date of the meeting. No policy-holder

shall appoint more than one proxy irrespective of policies he holds.

(8) Every policy-holder present at the meeting shall be given one voting paper on his own behalf irrespective of the number of policies he holds and one voting paper in respect of each proxy, if any, which he holds. The number of votes to be given on each voting paper shall not exceed the number of directors to be elected and not more than one vote shall be given on each voting paper to any one candidate: Provided that a policy-holder may, if he prefers, vote on one voting paper in respect of all the proxies he holds. In that event, the number of votes to be given on the voting paper shall not exceed the number of directors to be elected multiplied by the number of proxies held and the number of votes given to any one candidate on that paper shall not exceed the number of proxies held.

(8-A) If any policy-holder is a lunatic or an idiot, he may vote by his legal representative; and if any policy-holder is a minor he may vote by his legally appointed guardian, or any one of such guardians, if more than one.

(8-B) If a policy has been proposed for, and taken outjointly by, more than one person having insurable interest between them, each such person shall be entitled to vote as a holder of that policy.

(9) The votes shall be counted by the company's auditors if present in that capacity, or failing them by scrutineers appointed by the meeting, and working under the supervision of the Chairman. The result of the ballot shall be announced at the meeting and in the event of an equality of votes the election shall be decided by lot : Provided that if the counting of votes is not likely to be completed by 7 p.m. on the date of the meeting, the Chairman may lock, seal and take charge of the ballot box in the presence of the meeting and postpone the counting of votes by not more than 48 hours. The opening of the ballot box shall be done by the Chairman and the counting shall be carried out by the same persons as are specified in this sub-rule for this purpose within the said 48 hours after reasonable notice of the time and place where the counting is to take place has been given to the candidates but no others except those whose presence is necessary for the purpose of making the counting and the declaration. Each candidate or in his absence his authorized representative shall be allowed to be present to witness the opening and the counting. The result of the ballot shall then be communicated by notice published in newspapers as in sub-rule (2) or individually by post to all policy-holders who were present in person at the election or by both methods.

(10) For the purposes of sub-rule (3) of rule 15, a list shall be prepared of those of the unsuccessful candidates in whose favour any valid votes are cast in descending order of the number of such votes cast for each. If two or more such candidates have an equal number of such votes cast for them, they shall be placed in the list in the alphabetical order of their signatures in their applications under sub-rule (3). For the purposes of this sub-rule, no valid vote shall be deemed to be cast for a candidate if his own vote is the only vote cast for him.

(10-A) No election shall be held at any meeting convened under these rules unless a quorum of policy-holders holding certificates issued under sub-rule (4) is personally present at the time when the meeting proceeds to business. The number of such certificate holders who must personally be present to constitute a quorum shall be five times the number of directors to be elected at that meeting.

(10-B) If within half an hour from the time appointed for the meeting a quorum is not present, the meeting shall stand adjourned to the same day in the next week at the same time and place, and it at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the policy-holders present and holding certificates issued under sub-rule (4) shall be a quorum.

(11) An election held in accordance with this rule shall not be invalid merely by reason of the accidental omission to send any notice or other document to, or the non-receipt of any notice or other document by, any policy-holder, or of any other accidental irregularity or informality in the observance of the provisions of this rule.

15. Period of office of directors and filling of vacancies :-

(1) An election of directors under these rules (other than the first such election) shall be held not later than three years from the date of the last such election: Provided that an election for the holding of which the latest date otherwise permissible under this sub-rule is a date in the year 1943 may be postponed to a date not later than the 31st December, 1944.

(2) At every meeting of policy holders held in pursuance of sub-rule (1), all the directors elected or appointed under these rules shall retire, but any director so retiring shall, if he remains eligible under rule 13, be eligible for re-election.

(3) In the event of casual vacancy arising among the directors elected or appointed under these rules, the vacancy shall be filled by appointing the person highest in the list prepared under sub-rule (10) of rule 14, who remains eligible under rule 13 and is willing to act as a director.

(4) Any person in the said list who is not appointed in his turn under sub-rule (3), either because he has ceased to be eligible under rule 13 or because of his unwillingness to act shall be removed from the list.

(5) In the event of there being no person available for appointment under sub-rule (3), the casual vacancy shall be filled by the remaining directors (if not less than two in number) elected or appointed under these rules by appointing a person eligible under rule 13, or if such directors (or a majority of them) are unable to agree upon a person to be appointed, the appointment shall be decided by lot from amongst the persons eligible under rule 13 who have been considered for the appointment by the said remaining directors.

(6) In the event of there being only one or no such remaining director, the casual vacancy shall be filled by an election in accordance with these rules to be held not later than six months from the date on which the vacancy occurred, unless the company secures from the Central Government within two months from the said date an exemption for that purpose from the provisions of Section 48 of the Act under Cl. (b) of sub-section (3) thereof.

(7) Any person appointed or elected to fill a casual vacancy shall be subject to retirement at the same time as would have been the director in whose place he is appointed or elected.

(8) An election held in pursuance of sub-rule (6) to fill a casual vacancy shall not be reckoned as an election for the purpose of sub-rule (1).

(9) Nothing in the rule shall be deemed to affect the application of Regulations 78 and 79 in Table A of the First Schedule to the Indian Companies Act, 1913 (7 of 1913)¹, to directors elected or appointed otherwise than under these rules.

1. See now the Companies Act, 1956.

16. Licence fee for insurance agents and collection thereof :-

The fee for obtaining or renewing a licence to act as an insurance agent shall Rs. ¹[15] provided that an additional of Rs. ¹ [7] shall be paid if the application for the renewal of the licence does not reach the Controller at least thirty days before the date on which the licence ceases to remain in force.

1. Subs. by G.S.R. 1275. published in the Gazette of India. Extraordinary. Pt. II. Sec. 3 (i), dated 23rd May, 1969.

16A. Issue of licences to insurance agents :-

An applicant who desires to obtain or renew a licence to act as an insurance agent shall proceed as follows:

(a) the applicant shall obtain from the Controller of Insurance a form of application for a licence which shall be,-

(i) in the case of an Individual, Form V, or Form V-A, if he applies for the grant of a licence for the first time or for the renewal of the licence held by him, as the case may be ;

(ii) in the case of a company or firm. Form V-P, or Form V-PA, if It applies for the grant of a licence for the first time or for the renewal of the licence held by it, as the case may be;

(iii) in the case of a co-operative society or a Panchayat, Form V-S, or Form V-SA, if it applies for the grant of a licence for the first time or for the renewal of the licence held by it, as the case may be:

¹[(iv) in the case of a society registered under the Societies Registration Act, 1860 (21 of 1860). Form V-SS or Form V-SSA, if it applies for the grant of a licence for the first time or for the renewal of the licence held by him, as the case may be.]

(b) He shall then send to the Controller of Insurance the completed application form with the fee which shall be paid in the form of stamps to the value of ²[Rs. 15 or Rs. 22], as the case may be, and the stamp shall be affixed to the application in the proper place.

(c) The Controller of Insurance or the officer authorized by him under sub-section (1) of Section 42 of the Act, shall issue a licence after taking all reasonable steps to satisfy himself that the application is in order and that the applicant is not disqualified from holding a licence. No application shall be considered by the Controller of Insurance unless the particulars in Form V-B, Form V-PB, ¹[Form V-SB or Form V-SSB] as the case may be, have been filled in by the applicant. In the case of-

- (i) an individual, the licence shall be in Form V-B;
- (ii) a company or firm, shall be in Form V-PB;
- (iii) a co-operative society or a Panchayat, it shall be in Form V-SB:

¹[(iv) a society registered under the Societies Registration Act, 1860 (21 of 1860), it shall be in Form V-SSBI;

(d) No application for the renewal of licence will be accepted if it reaches the Controller on or after the date on which the licence ceases to be in force : Provided, however, that if an applicant desires that his application should be considered under the proviso to sub-section (3-A) of Section 42 of the Act, he shall forward along with such application a request to that effect, with stamps to the value of ¹ [RS. 75] affixed thereon and a statement of all the facts and particulars which are to be taken into consideration by the Controller for the purpose of examining whether undue hardship would be caused if no renewal of licence is granted : Provided further that the applicant, if required to do so by the Controller, shall furnish documentary proof of any of the particulars or facts mentioned in the statement referred to above.

1. Ins. by G.S.R. 1070. published in the Gazette of India. Pt. II, Sec. 3 (i) dated the 8th June, 1968.

2. Subs. by G.S.R. 1275, published In the Gazette of India. Extraordinary, Pt. II, Sec. 3 (i). dated the 28th May. 1969.

16B. Bona fide insurance agents for the purposes of Sec. 41 :-

The conditions to be satisfied by an insurance agent to establish that he is a _ bona fide insurance agent employed by the insurer for the purposes of the proviso to sub-section (1) of Section 41 of the Act shall be the following, namely-

(a) He must have secured policies on six different lives excluding his own.

(b) He must have been an insurance agent continuously from the time of his soliciting or procuring the first policy on each of such six lives or proposing for the policy on his own life, whichever is earlier, till the time when the policies on those six lives and the policy on his own life have all been issued.

16C. Fee for principal, chief and special agents :-

The fee for ob- taining or renewing a certificate to act as a principal agent or chief agent shall be Rs. 25 and the fee for obtaining or renewing a certificate to act as a special agent shall be Rs. 10 : Provided that an additional fee of Rs. 5 in the case of a principal agent or a chief agent, and Rs. 3 in the case of a special agent, shall be paid, if the application for renewal of the certificate reaches the Controller on or after the date on which the certificate ceases to be in force but within 12 months of the aforesaid date.

16D. Issue of certificates to principal, chief and special agents :-

A person, who desires to obtain or renew a certificate to act as a principal agent, or chief agent or special agent, shall proceed as follows-

(a) He shall obtain from the Controller a form of application for a certificate which form shall be as prescribed in Form V-C or Form V-D. Form V-C shall be used when an applicant applies for a certificate for the first time, or for a fresh certificate, while Form V-D shall be used when an applicant applies for the renewal of certificate already held by him. No application for the renewal of a certificate will be accepted If it reaches the Controller after a period of twelve months from the date on which the certificate ceases to be in force.

(b) He shall then send to the Controller the completed application form with stamps to the value of Rs. 25 or Rs. 30 or Rs. 10 or Rs. 13, as the case may be, affixed thereon in the proper place.

(c) The Controller or the officer authorized by him under sub-sec- tion (1) of Section 42A of the Act shall, after taking all reasonable steps to satisfy himself that the application is in order and that the applicant is not disqualified from holding a certificate, issue a certificate in Form V-E.

16E. Issue of duplicate licences and certificates :-

(a) A person to whom a licence or a certificate has been issued ¹[under Sec. 42 or Sec. 42-A of the Act] shall, if such licence or certificate has been lost, destroyed or mutilated, submit to the Controller an application requesting the issue of a duplicate licence or certificate with a fee of Re. 1 in the case of a licence. and Rs. 2 in the case of a certificate, paid in the form of stamp duly affixed thereon and with a declaration giving full details regarding the issue and loss, destruction or mutilation of the licence or certificate, and the mutilated pieces, if any, shall be returned to the Controller with the said application.

(b) The Controller, after satisfying himself that the original licence or certificate has been lost, destroyed,

or mutilated, issue a duplicate licence In Form V-B or Form V-PB or Form V-SB² [or Form V-SSB] or a certificate in Form V-E, as the case may be. with an endorsement thereon that It is a duplicate.

1. Ins. by G.S.R. 1275, published in the Gazette of India. Extraordinary. Pt. II. Sec. 3 (V. dated the 28th May. 1969.
2. Ins. by G.S.R. 1070. published in the Gazette of India. Pt. II. Sec. 3(i). dated the 8th June, 1968.

16F. Description of stamp :-

Any fee specified In rules 16, 16-A, 16-C, 16-D and 16-E shall be paid in the form of "Government of India Insurance" stamps available from a Government treasury.

16G. Allowance for unused stamps :-

Where an applicant for licence or a certificate has inadvertently used 'Government of India Insurance' stamp of a greater value than is necessary or where no licence or certificate in respect of an application bearing such stamp has been issued, refund may be made of the excess of the necessary fee or of the value of the stamp. as the case may be, on such application.

16H. Cancellation of licences or certificates :-

Where the Control- ler cancels the licence of an insurance agent under sub-section (5) of Section 42 or the certificate of a principal or chief or special agent under sub- section (4) of Section 42A . he shall-

(a) inform all the officers authorized by him under sub-section (1) of Section 42 or Section 42A that the licence or the certificate, as the case may be, has been cancelled:

(b) require the person concerned to return the licence or certificate Issued to him; and

(c) cause the fact of cancellation to be published in the Gazette of India and in such State Gazette or Gazettes as he deems fit.

17. Declaration as to the nature of ownership of shares :-

The declaration to be furnished by a transferee in pursuance of Cl. (b) (i) of sub-section (4) of Section 6A of the Act to a public company limited by shares having its registered office in the States and carrying on¹ [any class of I insurance business shall be in Form V-F.

1. Subs. by G.S.R. 1275. published In theGazette of India. Extraordinary. Pt. II, Sec. 3 (i), dated 28th May. 1969.

17A. Declaration as to beneficial interest in shares :-

The decla- ration to be made in pursuance of sub-section (5) of Section 6A of the Act to a public company limited by shares having Its registered office in the States and carrying on life-insurance business by a person who has any interest In any of its shares standing in the name of another person shall be in Form V-G.

17AA. Form for declaration :-

The declaration to be made in pur- suance of sub-section (5) of Section 6A of the Act to a public company limited by shares having its registered office in India and carrying on general insurance business by a person who has any interest In any of its shares standing In the name of another person shall be in Form V-GG].

17B. Disposal of shares by Administrator-General :-

As soon as the Administrator-General of a State has taken charge of any shares of a public company vesting in him under sub-sections (8) of Section 6A of the Act, he shall furnish full details of the shares to the Controller and he shall try, as soon as may be, to sell the shares, whether as a whole or in part or whether in the open market or by private sale, at a price not lower than the price fixed by the Controller who may vary the price fixed from time to time. The proceeds shall be handed over to such person as in the opinion of the Administrator-General, is by law entitled thereto.

CHAPTER 7

Limitation of Expenses of Management

17C. Statement of the bases of premiums :-

(1) The statement of the bases of premiums under sub-section (1) of Section 40B of the Act shall be In Form V-H.

(2) In respect of premiums currently used by an insurer at the commencement of the Insurance (Amendment) Act, 1950, the statement of the bases of premiums certified by an actuary shall be furnished to the Controller within six months from such commencement.

(3) A statement on the bases of premiums to be newly used after such commencement certified by an

actuary shall be furnished to the Controller before such premiums are offered by the insurer to prospective policy-holders.

17D. Limitation of expenses of management in life-insurance business :-

After the 31st day of December, 1950, no Insurer shall, in respect of the life-insurance business transacted by him in India, spend as expenses of management in any calendar year an amount exceeding the aggregate sum of--

- (i) five per cent. of all premiums received during the year on policies granting an immediate annuity or a deferred annuity in consideration of a single premium, and five per cent. of all premiums received on other single premium policies during the year;
- (ii) ten per cent. of all first year's premiums and four per cent. of all renewal premiums, received during the year on policies granting deferred annuity in consideration of more than one premium;
- (iii) one-twentieth of one per cent. of the average of the total sums assured by policies on which no further premiums are payable (less reinsurances) at the beginning and end of the year;
- (iv) one per cent. of all annuities paid during the year;
- (v) an amount computed on the basis of the percentages for the time being appropriate to the duration, of the Insurer's life-insurance business specified in the following table, namely :

Explanation I.-In this rule, "business in force" means in relation to any expense incurred, the total sum assured, with bonuses, without taking into account re-insurances ceded or accepted, by an insurer in respect of the whole of his life-insurance business on the last working day of the year preceding the calendar year in which the expense is incurred.

Explanation II.-The duration of an insurer's life-insurance business shall be reckoned from the beginning of the calendar year of commencement of the business if the date of commencement is in the first half of the year and from the end of the calendar year of such commencement if the date of commencement is in the second half of the year.

17E. Limitation of expenses of management in general insurance business :-

(1) After the 31st day of December, 1949, no insurer shall, in respect of general insurance business transacted by him in India other than marine insurance business, spend in any calendar year as expenses of management, including commission or remuneration for procuring business an amount exceeding the sum of-

- (i) the amount of commission or other remuneration paid to insurance agents and principal agents in respect of that business transacted in the year but ¹[not exceeding in respect of fire-insurance business 5 per cent. and in respect of miscellaneous insurance business 10 per cent.] of the gross premium income written direct in India in respect of that business in the year; and
- (ii) an amount computed on the basis of percentages appropriate to the various parts of total gross premium income written direct in India during the year :

(2) After the 31st day of December, 1949, no insurer shall, in respect of marine Insurance business transacted by him in India, spend in any calendar year as expenses of management, including commission or remuneration for procuring business an amount exceeding the sum of-

- (i) the amount of commission or other remuneration paid to insurance agents and principal agents in respect of that business transacted in the year but ¹[not exceeding in amount five per cent.] of the gross premium income written direct in India in respect of that business in the year; and
- (ii) an amount computed on the basis of percentages appropriate to the various parts of his total gross premium income written direct in India during the year.

(3) Notwithstanding anything contained in sub-rules (1) and (2), an insurer may, during the first ten years of his general insurance business, spend in any calendar year as expenses of management, including commission or remuneration for procuring business an additional amount, in respect of his general insurance business, not exceeding-

- (i) during the first three years, the interest earned on the paid-up capital in that year:
- (ii) during the second period of three years, an amount equal to 10 per cent. of the gross premium income written direct in India, or to the interest earned on the paid-up capital in that year, whichever is

less;

(iii) during the seventh and eighth years an amount equal to 5 per cent. of the gross premium income written direct in India, or three-fourths of the interest earned on the paid-up capital in that year whichever is less: Provided that nothing in this clause shall apply to regulate the expenses of an insurer in any such year if his gross premium income in that year exceeds twenty-five lakhs of rupees;

(iv) during the ninth and tenth years an amount equal to 3 per cent. of the gross premium income written direct in India, or to half of the interest earned on the paid-up capital in that year whichever is less: Provided that nothing in this clause shall apply to regulate the expenses of an insurer in any such year if his gross premium income in that year exceeds twenty-five lakhs of rupees.

Explanation.- ³ [* * * *]

1. Subs. by G.S.R. 1275, published in the Gazette of India. Extraordinary, Pt. II, Sec. 3 (i). dated 28th May, 1969 (w.e.f. 1st June, 1969).

3. Omitted by S.O. 984, dated 21st March, 1978. published in the Gazette of India. Pt. II, Sec. 3 (ii), dated 8th April, 1978 (w.e.f. 4th August. 1978).

17F. Head Office expenses :-

1 [(1)] The share of the Head Office expenses in the case of an insurer having his principal place of business outside India for the purposes of Section 40-B and Section 40C of the Act shall not be less than-

(i) in respect of life-insurance business 10 per cent. of the first year's premium as shown in the revenue account, and 1 per cent. of the renewal premiums as shown in the revenue account in respect of that business transacted in India during the year; and

(ii) in respect of general insurance business 5 per cent. of the gross premium income written direct in India during the year in respect of that business.

2 [(2)] The share of the Head Office expenses in the case of an insurer having his principal place of business in India for the purposes of sub-clause (i) of Cl. (b) of the explanation to Sec. 40-C of the Act, shall not exceed 5 per cent. of the gross premium income written direct outside India during the year.]

1. Renumbered by G.S.R. 1257. published in the Gazette of India, Extraordinary. Pt. II, Sec. 3 (i), dated 28th May, 1969.

2. Ins. by Renumbered by G.S.R. 1257. published in the Gazette of India, Extraordinary. Pt. II, Sec. 3 (i), dated 28th May, 1969.

17FA. Principal office expenses :-

For the purposes of sub-clause (ii) of Cl. (b) of the Explanation to Section 40C of the Act, the share of the expenses in the case of an insurer having his principal place of business outside India in respect of general-insurance business transacted by him outside India through his office in India shall not exceed 5 per cent. of the gross premium income written direct outside India through his office in India during the year].

17FB. Calculation of proper share of managerial expenses :-

For the purposes of sub-clause (iii) of Cl. (b) of the explanation to Sec. 40-C of the Act the proper share of managerial expenses, that may be excluded in computing the expenses of management in India, shall be computed in the following manner, namely:

(a) in the case of an insurer having his principal place of business in India, the same proportion of the total remuneration received by the Chief Executive Officer of the insurer (by whatever name called) as 15 per cent. of the paid-up capital of the insurer bears to the total gross premium written direct in India by the insurer:

(b) in the case of an insurer having his principal place of business outside India, nil.]

CHAPTER 8

Contravention of Limitation of Expenses and Tariff Regulations

17G. Action against Extravagant Life Insurers :-

(1) If It appears from the report of an actuarial valuation under sub-section (3) of Section 64K of the Act read with the statutory returns relating to accounts that the insurer concerned is insolvent, the Controller may cancel the registration of such insurer and request the Executive Committee of the Life Insurance Council to consider whether in the circumstances of the case it is possible to have the business of the insurer reconstructed or whether some other insurer is willing to take over the business.

(2) When such a request is received, the Executive Committee of the Life Insurance Council shall meet not later than one month of the receipt of such request to consider the matter and within seven days of such meeting shall communicate Its decision to the Controller.

(3) If the Executive Committee is unable to meet within the time specified in sub-rule (2) or Is unable to suggest any practical steps for the reconstruction or transfer, the Controller may, as soon as may be, apply to the Court for the winding up of that insurer.

(4) If the valuation under sub-section (3) of Section 64K does not disclose the insurer to be insolvent, the actuary making the investigation shall append to his report a statement whether an encroachment on the bonus loadings contained in the premium has occurred and whether such en- croachment is due either partly or wholly to heavy expenses incurred by the insurer after giving credit for any profits made In other directions. The Controller may request the Executive Committee of the Life Insurance Council for advice so that such encroachment may neither continue nor

(5) On receipt of the recommendations referred to in sub-rule (3) or sub-rule (4), the Controller may issue such directions to the insurer concerned as he deems fit and if the Insurer complies with such directions, the cancelled registration may be revived wherever possible or where it is not so possible, the insurer may be registered afresh.

(6) If the directions are not complied with, the Controller may apply to the Court for the winding up of the insurer.

17H. Action against Extravagant General Insurers :-

(1) In pursu- ance of sub-section (3) of Section 64M of the Act the Controller may-

(a) cancel the registration of the insurer under the Act, and

(b) request the Executive Committee of the General Insurance Council to consider practical steps for the reconstruction of the insurer concerned or for transferring its business to some other insurer.

(2) When such a request as Is referred to in the preceding sub-rule is received by the Executive Committee of the General Insurance Council, it shall meet not later than one month of the receipt of such request to consider the request and within seven days of such meeting.shall commu- nicate its decision to the Controller.

(3) The Controller may, after considering the recommendations of the Executive Committee in this behalf apply to the Court for the winding up of the insurer concerned if he thinks fit. cancellation took effect, should have applied to such cancellation of the registration. It was urged that as the excess in expenses of management would already have taken place it would not be possible for an insurer to rectify that defect for the past year and, therefore, the provisions for reviving the registration cannot ever apply to an insurer whose registration has been cancelled under Section 64M(3) read with rule 17H. The contention, however, has no force. In many cases of revival of registration covered by sub-section (5- C) of Section 3 It is not possible to undo the past default. The directions to be complied with by the insurer in connection with revival of the registration may be, therefore, for the future. There is no reason why registration of insurer cancelled in pursuance of Section 64M(3) of the Act may not in a suitable case be revived at the direction of the Controller. It appears that rule 17H of the Insurance Rules, 1939, does not confer on the Controller of Insurance the power to cancel the registration of an insurer indepen- dently of Section 3(4)(f) of the Act. The correct interpretation of Cl. (a) of that rule seems to be that the certificate of registration granted to an insurer may be cancelled by the Controller in pursuance of sub-section (3) of Section 64M under the Act, from which it follows that cancellation of the registra- tion of the insurer is to be effected under the provisions relating to cancellation of registration as embodied in the Act.

17I. 17I :-

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1. Omitted by G.S.R. 1275. published in the Gazette of India, Extraordinary. Pt. II. Sec. 3 (i). dated 28th May. 1969.

17J. 17J :-

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1. Omitted by G.S.R. 1275. published in the Gazette of India, Extraordinary. Pt. II. Sec. 3 (i). dated 28th May. 1969.

17K. 17K :-

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1. Omitted by G.S.R. 1275. published in the Gazette of India, Extraordinary. Pt. II. Sec. 3 (i). dated 28th May. 1969.

CHAPTER 9

Provident Societies

18. Transaction of bond Investment business :-

(1) Provident societies which immediately before the commencement of the Act were trans-acting bond investment business may continue to receive premiums or contributions and to make payments in respect of such business but shall not undertake any new business of that class.

(2) For the purpose of sub-rule (1), "bond investment business" means the business of effecting contracts by the issue of bonds, endowment certificates or other documents, whereby in return for one or more premiums paid to the provident society, the payment is insured of a sum or series of sums, at a future date or dates, whether fixed before hand or determined by chance.

19. Rules of Provident Societies :-

(1) Every provident society shall in addition to the matter specified in Cls. (a) to (o) of sub-section (1) of Section 74 of the Act set forth in its rules-

(i) that where a policy is applied for on the life of a person other than the person paying the premiums on such policy, the name of the person paying the premiums and his relationship to the life insured shall be inserted in the policy, the policy shall not be issued till the life insured (or if he be not of age his legal guardian) has given his consent in writing to the insurance being effected, and the amount secured shall not be excessive having regard to the interest of the person paying the premiums in the life insured:

(ii) the disqualifications, if any, due to change of occupation, residence, or other specified cause;

(iii) the terms upon which any policy may be kept in force for a reduced benefit without liability to payment of further premiums;

(iv) a statement to the effect that all policies issued after the commencement of the Act shall have clearly set out therein the matters referred to in Cls. (f), (g), (h), (i) and (j) of sub-section (1) of Section 74 of the Act and those referred to in Cls. (ii) and (iii) above;

(v) the method of voting at the meeting of the managing body and the number constituting a quorum;

(vi) a statement that no dividend shall be declared except as a result of a valuation under sub-section (1) of Section 81 ;

(vii) a statement that no bonus other than an interim bonus shall be declared except as a result of a valuation made in accordance with sub-section (1) of Section 81 , that the rate of such bonus shall not exceed that recommended by the actuary, and that no interim bonus shall be declared at a rate exceeding that approved by an actuary; and

(viii) a statement that the paid-up capital shall not be treated as part of the society's assets for the purpose of showing a divisible surplus at the time of any investigation made under sub-section (1) of Section 81 , and that where assets of the nature of organisation or preliminary expenses exceed the paid-up capital the fund shall be diminished by the amount of such excess for the purpose of ascertaining the financial condition of the society.

(2) All rules made by a Local or Provincial Government under Section 24 of the Provident Insurance Societies Act, 1912, are hereby repealed.

19A. 19A :-

Every provident society shall, commencing from a date not later than the 1st January, 1943, maintain at its principal office in the State the following registers in the forms specified below or as near thereto as possible provided the information to be shown is not reduced thereby in respect of all its transactions subsisting on or after that date, namely,-

(i) A register of members (but not including membership merely by virtue of being policy-holder), proprietors and shareholders.....in Form VI-A.

(ii) A register of directors, manager, secretary and other officers.....in Form VI-B.

(iii) A proposal register.....in Form VI-C:

(iv) A register of policies.....in Form VI-D in respect of all policies issued from a date not later than 1st January, 1943, (Separate registers shall be maintained for each contingency specified in or prescribed under sub-section (1) of Section 65 of the Act in respect of which the society carries on business).

(v) A premium register.....in Form VI-E.

(vi) A lapse register showing the details in respect of each policy which is treated by the society as having lapsed.....in Form VI-F.

(vii) A register of claims not including annuities.....in Form VI-G.

(viii) A register of annuity payments.....in Form VI-H.

(ix) A register of agents.....in Form VIII : Provided that-

(a) any register printed after this rule is made and purporting to contain the information specified in any of the registers prescribed by this rule shall be in the Form prescribed therefor;

(b) if any of the registers required to be kept in accordance with Section 79 of the Act, as it stood before the commencement of the Insurance (Amendment) Act, 1941, is not kept, or if any of the registers so kept is exhausted, the society shall maintain forthwith the corresponding register or registers prescribed by this rule; if no registers are maintained corresponding to the registers prescribed by Cls. (iii), (v) and (vi) of this rule, the society shall, commencing from a date not later than 1st April, 1942, maintain the registers prescribed by these clauses;

(d) it shall not be necessary to show the name of the life insured in addition to the policy-number in the register in Form VI-D, VI-E, VI-F, VI-G or VI-H, the register concerned is prepared by mechanical means.

20. Forms of accounts and statements :-

(1) The revenue account and balance-sheet of a provident society shall be prepared in accordance with Forms VII and VIII, respectively, and in their completion regard shall be had to the notes appended thereto.

(2) If it so desires a provident society may submit a profit and loss account in addition to a revenue account and balance-sheet.

(3) The statements required under Cls. (a) (i) and (b) of sub-section (2) of Section 80 of the Act shall be prepared in accordance with Forms IX and X, respectively.

21. Actuarial reports :-

(1) Whenever an investigation is made into the financial condition of a provident society under Section 81 of the Act the report of the actuary-

(a) shall, so far as practicable, be prepared in accordance with the regulations, and requirements contained in the Fourth Schedule to the Act except that it shall not be necessary to supply a consolidated revenue account in Form G, a statement in Form DDD of additions to and deductions from policies and a statement in Form DDDD of particulars of policies forfeited or lapsed;

(b) shall contain in the appropriate places the information required in Cls. (a) to (e) of sub-section (2) of Section 81 ;

(c) shall state the proportion of the renewal premium income spent in payment of commission and other expenses in each year during the period since the last investigation after allowing as the cost of the new business of the year, 7½ per cent. of single premiums and 90 per cent. of first year's premiums, falling due in the year after deduction of those unpaid under policies allowed to lapse in the year:

(d) shall state whether the actuary has taken steps to prevent the policy reserve values from being less than the minimum surrender values;

(e) shall have appended to it a certificate as prescribed in sub-section (2) of Section 81 : and

(f) shall contain a statement that in no case where a policy has been written off as a lapse does there exist any further liability actual or contingent.

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

22. Signatures on returns furnished by provident societies :-

Every return furnished to the Controller of Insurance under sub-section (2) of Section 82 of the Act shall be signed in accordance with the provisions of sub-section (2) of Section 15 of the Act.

23. Notices under Sec. 92 (6) :-

The notices referred to in sub-section (6) of Section 92 of the Act shall be sent by post to the last known addresses of the persons concerned as recorded in the society's books and certificates of posting shall be obtained therefor : Provided that the liquidator may at his discretion send all or any of the notices by registered post.

23A. Security from liquidator :-

Where a liquidator is appointed by the Controller under the provisions of sub-section (1) of Section 90 of the Act, the Controller may demand from the liquidator such security and in such form as he may determine.

CHAPTER 10

Fees

24. Fees under the Act and the manner of collection :-

(1) The fee for registration under Section 3 of the Act shall be five hundred rupees for each of the following classes of insurance business done or to be done by the insurer, namely:

- (i) life insurance;
- (ii) fire Insurance;
- (iii) marine insurance;
- (iv) miscellaneous insurance:

(1-A) The fee for issue of a duplicate certificate of registration under sub-section (7) of Section 3 shall be ten rupees.

1[(2) The fee for renewal of registration under Section 3A of the Act for each class of insurance business for which the Insurer is registered shall be-

(a) in the case of an insurer not carrying on solely re-insurance, business, one-fourth of one per cent. of the total gross premium written direct in India in that class of insurance business during the year preceding the year in which the application for renewal of registration is required to be made by insurer, (the amount of fee so arrived at, if not an Integral number of rupees, being rounded off to the next lower integral rupee), or five hundred rupees whichever is greater;

(b) in the case of an insurer carrying on solely re-insurance business one-fourth of one per cent. of the total premiums in respect of facultative re-insurances accepted by the Insurer in that class of insurance business during the year preceding the year in which the application for renewal of registration is required to be made (the amount of fees so arrived at. If not an integral number of rupees, being rounded off to the next lower integral rupee) or five hundred rupees whichever is greater).

(3) The fee for registration under Section 70 the Act shall be two hundred rupees.

(3-A) The fee for issue of duplicate certificate of registration under sub-section (7) of Section 70 shall be three rupees.

(4) The fee for renewal of registration under Section 70A of the Act shall be fifty rupees where the total gross premium income including annuity considerations, admission fees and other fees, if any, as shown in the revenue account last furnished under the Act was less than fifty thousand rupees per annum or one hundred rupees in all other cases.

(5) The fee payable for obtaining copies under Section 119 of the Act shall be two rupees for each fullscap page or part of a page of the copy, the copy being prepared with reasonable margin and spacing.

(6) Any fee specified in this rule or payable under sub-section (1) of Section 20 of the Act shall be paid into the Bank or where there is no office of ² ["XXI-Miscellaneous Department-Fees realised under the Insurance Act, 1938], and the receipt shall be sent along with the relevant application.

1. Subs. by G.S.R. 1275, published in the Gazette of India, Extraordinary, Pt. II, Sec. 3 (i). dated 28th May. 1969.

2. Subs. by G.S.R. 1604, dated 22nd November. 1962, published in the Gazette of India, Pt. II. Sec. 3 (i). dated 1st December. 1962.

24A. Fees payable on referring disputed claims to Controller :-

(1) The fee payable at the time of referring to the Controller a dispute relating to the settlement of a claim on a policy of life insurance under sub-section (1) of Section 47A of the Act is rupees ten or one rupee for each hundred rupees or part thereof of the amount of the claim (including any profit or bonus), whichever is greater.

(2) Any fee specified in this rule shall be paid in the form of "Government of India Insurance" stamps available on payment from a Government Treasury and the stamp shall be affixed on the application or letter referring the dispute to the Controller and superscribed with the signature of the claimant.

(3) Where in respect of any fee specified in this rule "Government of India Insurance" stamps of a greater value than is necessary have been inadvertently used or where the application or letter referring a dispute to the Controller bearing such stamps is not entertained by the Controller under Section 47A of the Act for any reason, refund may be made of the excess over the necessary fee, or of the value of the stamps affixed, as the case may be.

24B. Fees payable to the Councils :-

(1) The fees payable by a member or associate member who is an insurer carrying on life-insurance business to the Life Insurance Council in each calendar year shall be fifty rupees for every lakh of rupees or part thereof of his gross direct premium income from life-insurance business in India in the last but one preceding calendar year subject to a maximum of one thousand and two hundred and fifty rupees.

(2) The fees payable by a member or associate member who is an insurer carrying on general insurance business to the General Insurance Council in each calendar year shall be twenty-five rupees for every ten thousand rupees or part thereof of his gross direct premium income in India in general insurance business in the last but one preceding calendar year.

(3) Any fee specified in this rule shall be paid by means of a crossed bank draft on the Simla Branch of the Imperial Bank of India drawn in favour of the Secretary of the Council concerned.

CHAPTER 11 Miscellaneous

25. Additional particulars to be given by actuary :-

An actuary investigating the financial condition of an insurer shall, in addition to the reports, statements and abstracts, required to be furnished under Section 13 or Cl. (c) of sub-section (2) of Section 16 of the Act, furnish statements with regard to the following matters :

(a) whether he has taken steps to prevent the policy reserve values from being less than the minimum surrender values;

(b) the proportion of renewal premium income spent in payment of commission and other expenses in each year during the period since the last investigation after allowing, as the cost of the new business of the year, seven and a half per cent. of single premiums including consideration for annuities granted and seven and a half per cent. for each year of the maximum premiums-paying period, but not exceeding ninety per cent. in all, of first year's premium falling due in the year after deduction of those unpaid under policies allowed to lapse in the year: Provided that in respect of any year or accounting period ending on a date earlier than the 31st day of December, 1946, the allowance out of first year's premiums as the cost of the new business shall be ninety per cent. irrespective of the premium-paying period.

Explanation 1.-Where the maximum premiums-paying period includes a fraction of a year, such fraction shall be ignored.

Explanation 2.-In the case of a whole life policy with premium payable throughout the duration of the policy the maximum premiums-paying period shall be assumed to be twelve years.

25A. 25A :-

The conditions with which a Mutual Insurance Company shall comply for the purposes of sub-section (2) of Section 4 are that such company shall confine its activities to members of any one profession only or to employees under one employer only and that if any question arises whether or not a particular group of persons belongs to any one profession or is employed under any one employer, the Controller of Insurance shall decide the question and his decision shall be final.

26. Form of declaration under Sec. 16 (2) (d) :-

The declaration referred to in Cl. (d) of sub-section (2) of Section 16 of the Act shall be in Form XI and one copy of the declaration shall be signed in the manner described in sub-section (2) of Section 15 of the Act.

27. Returns in respect of dividing insurance business :-

Every insurer, so long as he has policies on the dividing principal remaining in force, shall submit all returns required under the Act or these rules in respect of such business separately from the corresponding returns in respect of other insurance business, and along with the revenue account shall also furnish in respect of such business returns in Forms XII, XIII and XIV, respectively. Four copies shall be submitted of each of these three last-mentioned returns, of which one of each shall be signed in the manner described in sub-section (2) of Section 15 of the Act.

28. 28 :-

The sub-clauses of miscellaneous insurance business in respect of each of which a separate account of receipts and payments is to be kept as required under sub-section (1) of Section 10 of the Act on and after the 1st January, 1943, shall be-

(1) Capital Redemption insurance business.

(2) Continuous Disability insurance business.

(3) Employer's Liability insurance business.

(4) The business of insuring the payment on the happening of each of the contingencies (a) birth, (b) marriage, and (c) failure of issue, each contingency to constitute a separate business unless the contingencies are combined in a single contract, but not being business comprising insurance contracts which are terminable by the insurer at intervals not exceeding twelve months and under which if a claim arises, the insurer's liability to pay benefit ceases within one year from the date on which the claim arose.

29. 29 :-

For the purpose of the Act, the business of an insurer shall be deemed to be transacted-

(a) in India, if the insurance business, wherever effected, relates to any property situate in India or to any vessel or aircraft registered in India:

(b) in India or the States, according as the premiums in respect of those transactions are ordinarily paid in India or the States, as the case may be: Provided that if any question arises whether any premiums are ordinarily paid inside or outside the States of India, the Controller shall decide the question and his decision shall be final.

30. Activities of insurers :-

(1) An insurer may do all acts necessary for making investments permissible under the Act for the protection of such investments and for the realisation of such investments and may in that connection take over and administer mortgaged property until a suitable occasion arises for its disposal.

(2) An Insurer carrying on general insurance business may act as the manager in charge of a branch office of another Insurer in respect of general insurance business.

31. Statement of emoluments :-

The statement of emoluments exceeding Rs. 5,000 to be furnished under sub-section (2) of Section 31 shall be in Form XV.

32. Payment where nominee is a minor :-

(1) The holder of a policy of life insurance may, in any case where the nominee is a minor, appoint any person to receive the money secured by the policy in the event of his death during the minority of the nominee, communicate such appointment to the insurer concerned by forwarding the documents relating to such appointment which should be endorsed by the appointee to show his consent thereto.

(2) Any such appointment in order to be effectual shall unless incorporated in the text of the policy itself, be made by an endorsement on the policy.

(3) Any such appointment may at any time before the policy matures for payment be cancelled or changed by an endorsement or further endorsement, as the case may be, and communicated to the Insurer.

33. Summary of balance-sheet and revenue account :-

The summary to be published in pursuance of Section 100 of the Act shall be in Form XVI.

CHAPTER 12

[Re-insurance] Advisory Committee

34. Term of office :-

The term of office of the non-official members of the Advisory Committee constituted under sub-section (1) of Section 101B of the Act (hereafter in this rule and rule 35 to rule 38 referred to as the Committee) shall be two years from the date of their nomination. The official members of the Committee shall hold office during the pleasure of the Central Government. All outgoing members shall be eligible for re-nomina- tion.

35. Resignation and filling of casual vacancies :-

(1) Any member of the Committee may resign his membership of the Committee by notice In writing addressed to the Secretary to the Government of India, Ministry of Finance¹ [Department of Company Affairs and Insurance] to that effect and such resignation shall take effect from the date on which it is accepted by the Central Government.

(2) Casual vacancies in the Committee whether caused by resignation, death or otherwise, shall be filled by nomination by the Central Government and any person, other than an official, so nominated to fill the vacancy shall hold office until the expiry of the term of office of the member in whose place he is nominated.

1. Subs. by G.S.R. 45. dated 18th December. 1965. published in the Gazette of India. Pt. II. Sec. 3 (i). dated 8th January. 1966.

36. Secretary :-

The Central Government may appoint a secretary to the Committee for the purpose of performing such functions as are assigned to him by these rules or as may be assigned to him by the Chairman of the Committee.

37. Procedure for the conduct of business, etc. of the Com- mittee :-

(1) Meetings of the Committee.-Meetings of the Committee may be held at such places and at such times as may be decided by the Chairman of the Committee.

(2) Notice of meeting.-Notice of any meeting of the Committee shall be sent by the Secretary of the Committee to every member at least seven days before the date of the meeting. The notice shall state briefly the business to be transacted at the meeting.

(3) Quorum for the meeting.-Three members shall constitute quorum for a meeting.

(4) Adjournment of a meeting.-If the requisite quorum is not available within half an hour of the appointed time for a meeting, the Chairman or in his absence any person nominated by him under sub-rule (5) may adjourn the meeting to such date and time as he may decide.

(5) Chairman to preside at meeting.-The Chairman shall preside at all meetings of the Committee. If the Chairman is unable to attend, he may nominate a member of the Committee to preside in his absence.

(6) Decision at a meeting.-All matters required to be decided by the Committee shall be decided by the majority of the votes of the members present. The voting shall be by show of hands.

(7) Decision by circulation.-Any matter for consideration of the Com- mittee may at the discretion of the Chairman bedecided by circulation among the members as an alternative to convening a meeting for the purpose: Provided that the decision arrived at shall not be valid unless at least three members express an opinion on that matter.

(8) Minutes.-The minutes of the proceedings of every meeting shall be circulated to the members of the Committee. The minutes shall be con- firmed at the next meeting of the Committee and shall thereafter be recorded in a Minute Book and signed by the Chairman

38. Allowances payable to members of the Advisory Committee :-

(1) Every non-official member shall be entitled for attending meetings of the Committee to travelling and other allowances as under :

(i) Travelling allowance for journeys from the usual place of residence or the place of commencement of the journey to the place of the meeting and the return journey to the place of commencement of the journey or the usual place of residence, whichever is shorter in each case, at the maximum rate for the time being admissible to a Central Government servant of the first grade. Subject to the foregoing, the members shall be entitled to travel either by air-conditioned class or by air.

(ii) Daily allowance at the maximum rate for the time being admissible to Central Government servants of the first grade at the place of the meeting for the days on which the meeting is held and in respect of one day previous to the commencement of the meeting and one day after the meeting if the member

actually arrives on or before and leave on or after the respective days.

(2) The travelling allowances and daily allowances of an official member shall be governed by the rules for the time being applicable to him for journeys performed on official duty.

39. Minimum information to be maintained and the checks and other verifications to be adopted :-

(1) Every Insurer shall maintain at the principal place of business of the Insurer in India the items of Information specified in sub-rules (2) and (3) : Provided that where It Is not convenient or practicable to maintain any item of information in full detail at such principal office It may be maintained at the branches or other offices in such way, however, that each such

(2) The following items of information shall be maintained in respect of each class or sub-class of insurance business, namely :

(i) a record of cover-notes issued specifying the identification number, name of party, dates of commencement and where applicable expiry of risk, type of cover granted or cross-reference to the relevant policy and the amount of premium or other money received : Provided that if duplicate copies of cover-notes are maintained in serial order, the requirement of the provision shall be deemed to have been complied with,-

(ii) a record of policies, which should be serially numbered listing all policies issued, entered in chronological order, stating the number of policy, dates of commencement and expiry of risk, name of the insured, premium received, cross-reference to the relevant Bank Guar- antee or deposit and the nature of risk granted, cross-reference to any cover-note Issued prior to the issue of the policy and cross-reference to any endorsement passed subsequent to the issue of the policy : Provided that a serially filed collection of duplicate copies of policies issued shall be deemed sufficient compliance with the requirement, if they are serially numbered and all the relevant information specified in this clause are entered therein;

(iii) a record of premium showing according to chronological order of receipt of premiums received, date of receipt, the amount, and name of party from whom received and with cross-reference to policy number or to other document showing the occasion for the payment of such premium: Provided that if this information is readily available otherwise from the records, a separate record under this head need not be maintained;

(iv) a record of endorsements mentioning the policy number to which attached, dates of commencement and expiry of the endorse- ment, the type of endorsement and the additional premium charged or refund premium due and cross-reference to the premium register; provided that serially filed duplicate copies of endorsements shall be deemed to comply with this requirement if they are serially numbered and each copy contains information about the policy number of the policy to which it Is attached;

(v) a record of bank guarantees and deposits giving particulars of the party, amount and conditions of guarantee or deposit and cross- reference to the relevant policy or policies : Provided that If this information is readily available otherwise from the records, a separate record under this head need not be maintained:

(vi) a record of claims intimated mentioning name of claimant, giving reference to policy number, date of intimation of claim, interest covered, nature and cause of the loss or damage, provisional estimate of loss, amount at which settled, date of settlement of claim, recoveries from salvage or otherwise and whether surveyed : Provided that two separate records, one relating to claims intimated and the other relating to claims paid, may be maintained if there is adequate cross-referencing of information between them and if the information required under this clause is readily available from them taken together.

(3) The following item of information shall be maintained for the business of the insurer as a whole, namely :

(i) a register of agents, giving in respect of each agent, name, address and particulars of agents' licence held, date of appointment and date of termination of appointment if any : Provided that a collection of cards or folios shall be deemed sufficient compliance with this requirement if they are filed in a systematic order and contain all the information required under this clause;

(ii) a record of agents giving particulars of business procured by each agent, the amount of premium received on such business and the amount of commission paid thereon;

(iii) duplicate copies of appointment letters issued to the agents, field workers and members of the staff and changes therein;

(iv) a record of employees, excluding salaried field workers, showing name, date of appointment, present designation, present salary and cross-reference to appointment letter and date of termination, if any;

(v) a record of field workers showing name, date of appointment, present designation, and present salary, showing the business expected from and written by them with cross-reference to appointment letters and date of termination, if any;

(vi) cash book and disbursement book;

(vii) a record of Investments giving separately for immoveable property, securities and scrips, loans on mortgages and other loans, particulars of all the investments held showing the changes occurring therein from time to time;

(viii) a record of other assets, such as, deposits, amounts due, sundry debtors, furniture and fixtures, stationery, and cash in hand and with banks: Provided that in respect of cash in hand and with banks the requirements of this clause shall be deemed to be complied with if the information about the amount of such cash is readily available from the cash book or other records.

(4) Every insurer shall obtain and maintain a legally valid receipt for every payment made and shall maintain the receipts filed in a systematic manner either chronologically or in some other convenient order.

(5) Every insurer shall, in respect of any payment made to an employee or other person on account of travelling expenses, maintain a record showing full details of the journey performed, purpose of the journey, details of the fares paid and allowances granted.

(6) Every office of an Insurer shall maintain an attendance register of clerical and subordinate staff indicating employees who attend the office each day.

(7) Every office of an insurer issuing any documents used for evidencing of the assumption of risk shall ensure that such documents are serially numbered, shall maintain a record of the serial numbers of the forms of documents issued to each person, and shall maintain a proper check to verify that all the forms of documents issued are properly accounted for.

(8) Every insurer shall retain all the documents relating to claims settled including copies of any survey or loss assessment reports connected therewith:

(i) in respect of every loss or damage on which a claim of less than Rs. 5,000 has been made, for a period of three years ;

(ii) in respect of every loss or damage on which a claim of Rs. 5,000 or more but less than Rs. 20,000 has been made, for a period of five years:

(iii) in respect of every loss or damage on which a claim of Rs. 20,000 or more but less than rupees one lakh has been made, for a period of seven years; and

(iv) in respect of every loss or damage on which a claim of rupees one lakh or more has been made, for a period of twelve years; such period being counted from the date on which the claim is settled.

(9) Every insurer shall maintain a record setting out the names of each insurance company with which he has entered into any permanent facultative re-insurance arrangement, and such record shall show the terms on which re-insurance arrangements have been entered into and the commissions paid or received under each transaction.

(10) Every insurer shall maintain a record setting out particulars of each and every facultative re-insurance ceded or accepted and such record shall show the name of each insurer with whom the transaction has been entered into.

(11) Every insurer shall maintain a record setting out the names of each Insurer with which he has entered into re-insurance treaties from any of his offices in India, and such record shall include all the details of the terms of the treaties.

(12)

(a) Every insurer shall maintain the following accounts in his ledgers, namely:

(i) Re-insurance Accepted Account ;

(ii) Re-insurance Commission Paid Account ;

- (iii) Re-insurance Claims Payable Account ;
- (iv) Re-insurance Claims Paid Account ;
- (v) Re-insurance Ceded Account ;
- (vi) Re-insurance Commission Received Account :
- (vii) Re-insurance Claims Recoverable Account ;
- (viii) Re-insurance Claims Recovered Account ;

(b) An insurer shall be deemed to have complied with the provisions of Cl. (a), if the information required is otherwise readily available from the existing books and accounts of the Insurer.

40. Search and seizure :-

(1) The powers of search and seizure under Section 34H of the Act shall be exercised in accordance with sub-rules (2) to (14).

(2) The Controller may, after recording his reasons for doing so authorise any officer subordinate to him not lower In rank than an Assistant Controller of Insurance (hereinafter in this rule referred to as the authorized officer) for the purposes of Section 34H of the Act : provided that such authorization shall-

(i) be in writing under his signature ;

(ii) bear his seal: and

(iii) authorize the authorized officer to enter and search any building or place specified therein, and to exercise the powers and perform the functions under sub-section (1) of Section 34H of the Act with such assistance of police officers or of the officer of the Central Government, or both, as may be required.

(3) Whenever any building or place authorized to be searched is closed, any person residing in or being in charge of such building or place shall, on demand by the authorized officer and on production of the authority, allow him free ingress thereto and afford all reasonable facilities for a search therein.

(4) If ingress into such building or place cannot be so obtained it shall be lawful for the authorized officer executing the authority, with such assistance of police officers or of officers of the Central Government or of both as may be required, to enter such building or place and search therein and in order to effect an entrance Into such building or place, to break open any outer or inner door or window of any building or place, whether that of the person to be searched or of any other persons, if after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance: Provided that, if any such building or place is an apartment in actual occupancy of a woman, who according to custom does not appear in public, the authorized officer shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing and may then break open the apartment and enter it.

(5) The authorized officer may require any person who is the owner, or has the immediate possession, or control, of any box, locker, safe, almirah or any other receptacle situate in such building or place, or open the same and allow access to inspect or examine its contents, and where the keys thereof are not available or where such person fails to comply with any such requirement, may cause any action to be taken including the breaking open of such box, locker, safe, almirah or other receptacle which the authorized officer may deem necessary for carrying out all or any of the purposes specified in the authority issued under sub-rule (2).

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

(7) Where any person in or about such building or place is reasonably suspected of concealing about his person any book, account or document for which search is being made, such person may also be searched by the authorized officer with such assistance as he may consider necessary. If such person is a woman, the search shall be made by another woman with a strict regard to decency.

(8) Before making a search, the authorized officer about to make it shall call upon two or more respectable inhabitants of the locality In which the building or place to be searched is situate to attend and witness the search and may issue an order in writing to them or any of them so to do.

(9) The search shall be made in the presence of the witnesses aforesaid and a list of all books, accounts

and documents seized In the course of such search and of the places in which they were respectively found shall be prepared by the authorized officer and signed by such witnesses; but no person witnessing a search shall be required to attend as a witness of the search in any proceedings under the Act unless specially summoned.

(10) The occupant of the building or place searched or some person in his behalf shall be permitted to attend during the search and a copy of the list prepared under sub-rule (9) shall be delivered to such occupant or person. A copy shall also be forwarded to the Controller.

(11) When any person is searched under sub-rule (7) a list of all books, accounts and documents taken possession of shall be prepared and a copy thereof shall be delivered to such person. A copy shall also be forwarded to the Controller.

(12) The authorized officer may convey the books, accounts and other documents, if any, seized by him in the course of the search made by him to the office of the Controller or to the office of the authorized officer or to any other office under the jurisdiction of the Controller.

(13) The Controller or the officer in charge of the office mentioned in sub-rule (12), as the case may be, shall take such steps as he may consider necessary for the safe custody of books, accounts and other documents conveyed to him.

(14) The authorization of the Controller referred to in sub-rule (2) shall be In Form No. XVII.

41. Constitution :-
v109

(1) The representatives of insurer on Tariff Advisory Committee shall be elected as follows, namely:-

(a) four members to be elected by insurers registered under the Act in the public sector in such manner that not more than one member shall represent each insurer;

(b) four members to be elected by insurers other than referred to in clause (i), registered under the Act;

(c) one member to be elected by reinsurers registered under the Act;

(d) one member to be elected by organizations exempted under Section 118 of the Act and Provident Societies under Section 65 of the Insurance Act, 1938;

(2) For the purposes of this rule, if any dispute arises, the Central Government shall decide the issue and their decision shall be final";

v109. rule 41 shall be substituted, by the INSURANCE (AMANDMENT) RULES, 2004

42. . :-

1 omitted

1. rule 42 shall be omitted, by the INSURANCE (AMANDMENT) RULES, 2004

43. Election of members :-

1

(1) The election of members shall be held in every fourth calendar year, the first election after the commencement of the Insurance (Amendment) Rules, 2004 being held before the 31st December, 2004.

(2) Every election shall be conducted by the Secretary to the Advisory Committee in accordance with the procedure specified in the regulations made by the Authority";

1. rule 43 shall be substituted, by the INSURANCE (AMANDMENT) RULES, 2004

44. . :-

1 omitted

1. rule 44 shall be omitted, by the INSURANCE (AMANDMENT) RULES, 2004

45. . :-

1 omitted

1. rule 45 shall be omitted, by the INSURANCE (AMANDMENT) RULES, 2004

46. 46 :-

12 omitted

1. Omitted by G.S.R. 960. dated 29th July. 1972, published in the Gazette of India. Pt. II. Sec. 3W. dated 12th August. 1972.

2. rule 46 shall be omitted, by the INSURANCE (AMANDMENT) RULES, 2004

47. . :-

¹ omitted

1. rule 47 shall be omitted, by the INSURANCE (AMANDMENT) RULES, 2004

48. . :-

¹ omitted

1. rule 48 shall be omitted, by the INSURANCE (AMANDMENT) RULES, 2004

49. . :-

¹ omitted

1. rule 49 shall be omitted, by the INSURANCE (AMANDMENT) RULES, 2004

50. . :-

¹ omitted

1. rule 50 shall be omitted, by the INSURANCE (AMANDMENT) RULES, 2004

51. . :-

¹ omitted

1. rule 51 shall be omitted, by the INSURANCE (AMANDMENT) RULES, 2004

51A. . :-

52. . :-

¹ omitted

1. rule 42 shall be omitted, by the INSURANCE (AMANDMENT) RULES, 2004

53. fees payable to the Tariff Advisory Committee :-

The fees payable to the Tariff Advisory Committee under sub-section (1) of Section 64UH in respect of a calendar year shall be paid before the 31 st December of that year and shall be paid by means of a crossed bank draft on any branch of the State Bank of India in Bombay City drawn in favour of the Committee.

53A. Fund of the Tariff Advisory Committee and custody of its moneys :-

(1) The Tariff Advisory Committee shall have its own fund and all receipts of Committee shall be carried thereto and all payments by the Committee shall be made therefrom.

(2) Subject to any regulations that may be made in this behalf, all moneys belonging to the Tariff Advisory Committee which are not im- mediately required by the Committee for any purpose shall be deposited with the State Bank of India.]

53B. Accounts, audit and annual report of the Tariff Advisory Committee :-

(1) The Tariff Advisory Committee shall cause regular ac- counts to be kept of all its money and properties in respect of the affairs of the Committee in such form as may be determined by the Central Govern- ment in consultation with the 2Comptroller and Auditor-General of India].

(2) The annual accounts of the Committee shall be audited by the ¹[Comptroller and Auditor-General of India] or by any person authorized by him in this behalf and any expenditure incurred in connection with such audit shall be payable by the Committee to the ¹[Comptroller and Auditor- General of India].

(3) Any person appointed by ¹[Comptroller and Auditor-General of India] in connection with the audit of the accounts of the Committee shall have the same rights, privileges and authority in connection with such audit as the ¹[Comptroller and Auditor-General of India] has in connection with the audit of Government accounts, and in particular, shall have the right to demand the production of books, accounts, connected vouchers and other necessary documents and papers.

(4) The ⁵ [Comptroller and Auditor-General of India] or any person appointed by him in this behalf-

(a) shall communicate the results of the audit to the Committee which shall submit a copy of the audit report along with its observance to the Central Government: and

(b) shall forward a copy of the report direct to the Central Government.

(5) The Committee shall, as soon as may be, after the end of each calendar year, prepare and submit to

the Central Government a report giving an account of its activities during the previous calendar year.]

1. Subs. by G.S.R. 566. dated 10th June. 1982.

5. Subs. by G.S.R. 566. dated 10th June, 1982.

54. Apportionment of Provident Fund :-

Where on or after the commencement of the Insurance (Amendment) Act, 1968 (62 of 1968), all the employees of the Tariff Committee and the Regional Councils of the General Insurance Council do not become employees of the Tariff Advisory Committee under Section 64UH of the Act, all the moneys and other assets belonging to the provident fund or superannuation fund any other like fund referred to in sub-section (3) of Section 64UF of the Act shall be apportioned between the Tariff Advisory Committee and the trustees of the fund in the following manner, namely:

(i) the moneys and other assets of any provident fund shall be apportioned in the proportion which the total of the amounts lying to the credit of the persons becoming employees of the Tariff Advisory Committee bears to the total of the amounts lying to the credit of the persons who do not become employees of the Tariff Advisory Committee;

(ii) the moneys and other assets of any superannuation fund shall be apportioned in the proportion which the liability of the fund in respect of the persons becoming employees of the Tariff Advisory Committee bears to a similar liability in respect of persons who do not become employees of the Tariff Advisory Committee, such liability to be ascertained on such basis as may be determined by the Tariff Advisory Committee and approved by the Central Government; and

(iii) the moneys and other assets of any other like fund shall be apportioned in accordance with the principles set out in Cl. (i) or Cl. (ii) as the case may be.

Explanation.-For the purposes of this rule the assets of a provident fund, superannuation fund or any other like fund shall be valued at the market rate as on the date of commencement of the Insurance (Amendment) Act, 1968 (62 of 1968).

CHAPTER 13

Licensing of Surveyor and Loss Assessors

55. Licence fee for surveyors or loss assessors and collection thereof :-

(1)The fee for obtaining a licence to act as a surveyor or loss assessor, shall be Rs. 250 and for renewing such licence shall be Rs. 200.

(2) Any fee specified in this rule shall be paid into the Bank or where there is no office of the Bank, into the State Bank of India acting as the

56. Issue of licences to surveyor or loss assessors :-

An applicant who desires to obtain or renew a licence to act as a surveyor or loss assessors shall proceed as follows :

(a) the applicant shall obtain from the Controller of Insurance a form of application for a licence which shall be-

(i) in the case of an individual, whether working as a sole proprietor of a firm or not Form XVIII-AI or XVIII-BI. Form XVIII-AI shall be used when the applicant applies for a licence for the first time or for a fresh licence, while Form XVIII-BI shall be used when the applicant applies for the renewal of the licence already held by him-,

(ii) in the case of a company or firm. Form XVIII- AF, or Form XVIII-BF, Form XVIII-AF shall be used when the applicant applies for a licence for the first time or for a fresh licence, while Form XVIII-BF shall be used when the applicant applies for the renewal of the licence already held by him',

(b) he shall then send to the Controller of Insurance the completed application form along with the receipt showing payment of the fees specified in rule 55:

(c) the Controller of Insurance or the officer authorized by him may, after taking all reasonable steps to satisfy himself that the application is in order, that the applicant fulfils the requirements of Cl. (d) of sub-section (1) of Section 64UM of the Act and that the applicant is not disqualified from holding a licence, issue a licence to him or, as the case may be, renew the licence. The licence shall be In Form XVIII-AAI in the case of an individual and in Form XVIII-AAF in the case of a company or firm. Renewal of licence shall be in Form XVIII-BBI in the case of an individual and in Form XVIII- BBF in the case of a company or firm',

(d) no application for the renewal of a licence shall be entertained if it does not reach the Controller at

least thirty days before the date on which the licence ceases to be in force.

56A. Additional technical qualifications for surveyors and loss assessors :-

The following shall be the technical qualifications for purposes of item (i) of sub-clause (i) of Cl. (d) of sub-section (1) of Sec 64UM of the Act, namely:

- (a) Fellowship or Associateship or Licenciateship held on the 26th October, 1968 or Fellowship or Associateship by examination subse-
- (b) Fellowship or Associateship of the Royal Institute of British Architects, London, and/or a Degree or Diploma in Architecture of a recognized University or Institute secured after attending full time course or by passing examination of such University of Institute.
- (c) Fellowship or Associate membership of the Institute of Char- tered Accountants in England and Wales.
- (d) Fellowship or Associate membership of the Institute of Char- tered Accounts in Scotland.
- (e) Fellowship or Associated membership of the Institute of Char- tered Accountants in Ireland.
- (f) Fellowship or Associate membership of the Institute of Cost and Works Accountants in the United Kingdom.
- (g) A degree or diploma of a recognized Institute of Engineering secured after attending full-time course and by passing the examina- tion of such Institute.
- (h) A certificate of competency as Master of Ship or as First Class Marine Engineer issued by a recognized authority.
- (i) A degree or diploma in Naval Architecture of a recognized University or Institute.
- (j) A Fellow or Associate on the 26th October, 1968, or a Fellow or Associate by examination, of the Chartered Institute of Loss Adjust- ers. London, held after the 26th October, 1968.
- (k) Any technical qualification recognized by the Government of India as equivalent or superior to the qualifications listed in terms (b) and (c) of sub-clause (i) of Cl. (d) of sub-section (1) of Section 64UM of the Act.]

CHAPTER 14

Sufficiency of Assets

57. Manner of bringing up the excess of the value of assets over the amount of the liabilities to the relevant amount :-

(1) In the case of an insurer carrying on general Insurance business at the commencement of the Insurance (Amendment) Act, 1968 (62 of 1968) the excess of the value of his assets over the amount of his liabilities shall be brought up to the "relevant amount" as defined in sub-section (1) of Section 64VA of the Act, in four stages as specified in the following table : Section 64VA of the Act. III \ \ \31-12-1971 Three-fourths of the "relevant amount" arrived at in the manner specified in sub-section (1) of Section 64VA of the Act. IV \ \ \31-12-1972 The "relevant amount" arrived at In the mannerspecified in sub-section (1) of Sec. 64-VA of the Act.

(2) Where in the case of an insurer referred to In sub-rule (1) the Central Government has, under the provisions of the third proviso to sub-section (1) of Section 64VA extended the date of the 31st December, 1972 referred to In the said proviso to a subsequent date, the excess of the value of assets over the amount of the liabilities shall be brought up to the relevant amount in four stages in accordance with sub-rule (1) but the dates mentioned in column (2) of the Table in that sub-rule shall be deemed to have been altered as follows:

- (a) the date against Stage I shall be extended by one-fourth of the interval between the 31st December, 1972 and the extended date;
- (b) the date against Stage II shall be extended by one-half of the interval between the 31st December, 1972 and the extended date;
- (c) the date against Stage III shall be extended by three-fourths of the interval between the 31st December, 1972 and the extended date;
- (d) in Stage IV, the extended date shall be substituted in place of 31st December, 1972 mentioned against that stage: Provided that if any such altered date against Stages I, II or III is not the last day of

a calendar month, it shall be changed to the last day of the immediately preceding calendar month.

58. Advance payment of premiums :-

For the purposes of sub-section (1) of Section 64VB of the Act, a risk in respect of a policy may be assumed before the premium payable in respect thereof is received :

(i) If the entire amount of the premium is guaranteed to be paid by a Banking Company before the end of the calendar month next succeeding to the month in which the risk is assumed. If the premium due is not paid by the insured before that date;

(ii) If an advance deposit is made with the insurer to the credit of the insured sufficient to cover the payment of the entire amount of the premium together with the premium, if any, due from the insured in respect of any other risk already assumed against such deposit, such deposit being agreed to be adjusted towards the premium before the end of the month next succeeding to the month in which the risk is assumed, if the premium due is not paid by the insured before that date.

59. Relaxation :-

In respect of the categories of insurance policies mentioned thereunder the requirements of sub-section (1) of Section 64VB shall stand relaxed to the extent and in the manner mentioned against each category of policy, subject to the conditions mentioned therein :

(a) Policies issued to Government and semi-Government bodies.- The risk may be covered on such policies on the strength of an undertaking by the proposer to pay the premium within 30 days of the date of intimation of the amount of premium or within such further period as the Controller may fix in any particular case.

(b) Policies under ¹[Sickness Insurance, Group Personal Accident Insurance, Medical Benefits Insurance and Hospitalisation Insurance Schemes.]-Premiums on such policies may be accepted in instalment provided that instalments covering a particular period shall be received [within 15 days from] the date of commencement of the period.

²(c) Fidelity Guarantee Insurance.-Fidelity Guarantee Insurance policies covering Government and semi-Government employees may be issued without receipt of premium in advance if the policy is not in renewal of an existing policy and subject to the condition that the premium is paid within thirty days from the date of appointment of the person covered by the policy.

(d) Policies covering risks where exact premium cannot be ascertained without reference to Head Office, Principal Office, etc.-Where the exact premium for a risk cannot be ascertained without reference to Head Office, Principal Office or Controlling Office or the Tariff Advisory Committee or Regional Committee or for any other reason, the risk may be assumed if there is a deposit made by or on behalf of the insured with the insurer at a suitable rate not less than 2.5 per mile but the premium in such cases shall be paid or adjusted within

(e) Declaration Policies.-Risk in respect of such policies may be assumed if at least the premium calculated on 75 per cent. of the sum assured has been received before assumption of the risk.

(f) Policies issued on the basis of adjustable premiums.-Risk in respect of policies issued on the basis of adjustable premiums, such as, workmen's compensation, cash in transit, etc., may be assumed on receipt of provisional premiums based on a fair estimate.

³(g) Annual Insurances connected with aircraft hulls and other aviation risks and connected with marine hulls.-Facilities for delayed payment of premium or the payment of premium by means of Instalments not exceeding four in number may be allowed at the discretion of the insurer on policies covering the following risks, namely :

(i) aircraft hulls,

(ii) marine hulls,

(iii) legal liability to passengers,

(iv) automatic personal accident insurance to passengers,

(v) blanket policies covering liability in excess of basic cover connected with aviation risks,

(vi) war risk insurance of air passengers and aircraft hulls,

(vii) third party, and other liability risks connected with aviation risks and marine hull risks,

(via) SRCC risk connected with aviation risk and marine hull risks: Provided that a clause to that effect is

endorsed on the policy.

(h) Short period covers in respect of insurance connected with aircraft hulls and other aviation risks and marine hulls.-Short period covers may be granted on a hull covered on basis of the following risks namely:

- (i) aircraft hulls,
- (ii) marine hulls,
- (iii) legal liability to passengers,
- (iv) automatic personal accident insurance to passengers,
- (v) blanket policies covering liability in excess of basis cover connected with aviation risks,
- (vi) war risk insurance of air passengers and aircraft hulls,
- (vii) third party and other liability risks connected with aviation risks and marine hull risks,
- (viii) SRCC risks connected with aviation risk and marine hull risks; subject to the condition that the premium or additional premium in respect of risks assumed in a calendar month shall be paid by end of the next calendar month."

(i) Policies issued ⁴[for a period, of more than one year].-In the case of policies issued ⁴[for a period of more than one year], such as Contract Performance Bonds or Guarantees, Contractors' "All Risk" policies, Machinery Erection policies and the like, the premium may be staggered as necessary according to custom, over the period of the cover, provided that the first equated instalment is higher than any other instalment by at least 5 per cent. of the total premiums payable and each instalment is paid in advance. Where the premiums are payable by declarations, they may be paid within fifteen days from the dates of receipt of declarations.

(j) Schedule and consequential loss policies.-In such cases a provisional amount towards the premium shall be collected before the date of inception or renewal of risk on the basis of the previous year's premium.

(k) Marine covers other than hulls.-

(i) In the case of inland shipments and transit risks, risk may be assumed under open policies in respect of seasonal crops, such as, tea, on the payment of a provisional premium based on a fair estimate.

(ii) In the case of exports overseas, risk may be assumed subject to the condition that the premium shall be paid within fifteen days from the date of sailing of the overseas vessel.

(iii) In the case of imports, risk may be assumed subject to the condition that the premium shall be paid within fifteen days of the receipt of declaration in India from the insurer's or insurer's representative overseas: Provided that the relaxations under sub-clauses (ii) and (iii) shall apply to marine cover notes only and not to marine policies.

(l) Policies relating to co-insurances.-The premium shall be deemed to have been duly paid if paid on the full insurance to any one of the co-insurers.

6 [(m) Policies of re-insurance.-

(i) Risk may be assumed without payment of premium in advance on insurances accepted under automatic re-insurance contracts.

(ii) In the case of facultative re-insurances accepted, risk may be assumed without payment of premium in advance if the ceding insurer has given an undertaking to pay his share of the premium, instalment of premium, premium subject to delayed payment or, where a deposit premium or provisional premium was paid on the original policy, the adjusted premium, or, in the case of premiums subject to delayed payment, the delayed premium as the case may be, before the end of the calendar month succeeding the month in which the premium is due under the original policy.]

1. Subs by G.S.R. 1051. dated 19th July, 1971, published in the Gazette of India. Extraordinary. Pt. II, Sec. 3 (i). dated 21st July, 1971.

2. Ins. by Subs by G.S.R. 1051. dated 19th July, 1971, published in the Gazette of India. Extraordinary. Pt. II, Sec. 3 (i). dated 21st July, 1971.

3. Ins. by G.S.R. 1051. dated 19th July, 1971. published in the Gazette of India. Extraordinary. Pt. II, Sec. 3 (i). dated 21st July, 1971.

4. Subs. by G.S.R. 1051. dated 19th July, 1971, published in the Gazette of India. Extraordinary. Pt. II.

Sec. 3 (i) dated 21st July, 1971.

6. Subs. by G.S.R. 1051. dated 19th July, 1971, published in the Gazette of India. Extraordinary. Pt. II.

Sec. 3 (i) dated 21st July, 1971.

CHAPTER 16

Consultative Committee

60. Term of office :-

Any person nominated as a member of the Consultative Committee constituted under sub-section (1) of Section 110G of the Act (hereafter referred to in rule 61 to rule 65 as the Committee) shall hold office for a period not exceeding three years or such further periods not exceeding three years at a time as the Central Government may specify.]

61. Resignation and filling of casual vacancies :-

[(1) Any member of the Committee may resign his membership of the Committee by notice in writing addressed to the Secretary to the Government of India, Ministry of Finance (Department of Revenue and Insurance) to that effect and such resignation shall take effect from the date on which it is accepted by the Central Government, or on the expiry of a period of thirty days from the date of its receipt by the Central Government, whichever is earlier.]

(2) Casual vacancies in the Committee whether caused by resignation, death or otherwise, shall be filled by nomination by the Central Govern- ment.

62. Secretary :-

The Central Government may appoint a Secretary to the Committee for the purpose of performing such functions as are assigned to him by these rules or as may be assigned to him by the Chairman of the Committee.

63. Procedure for the conduct of business of the Committee :-

Procedure for the conduct of business of the Committee shall be as follows, namely:

(1) Meetings of the Committee.-Meetings of the Committee may be held at such places and at such times as may be decided by the Chairman of the Committee.

(2) Notice of meeting.-Notice of any meeting of the Committee shall be sent by the Secretary of the Committee to every member at least seven days before the date of the meeting.

(3) Quorum for the meeting.-Two members in addition the to Chair- man shall constitute quorum for a meeting.

(4) Adjournment of a meeting.-If the requisite quorum is not available within half an hour of the appointed time for a meeting, the Chairman may adjourn the meeting to such date and time as he may decide.

(5) Chairman to preside at meeting.-The Chairman shall preside at all meetings of the Committee.

(6) Record of deliberations.-The results of the deliberations of every meeting shall be recorded in the form of a note explaining, in brief, the matters referred to the Committee and the recommendations thereon of each of the members (other than the Chairman) present. Such record shall be signed by the Chairman and the members present.

(7) Circulation.-Any matter for consideration of the Committee may at the discretion of the Chairman be referred to the members for suggestions by circulation as an alternative to convening a meeting for the purpose.

64. Allowances payable to members of the Consultative Commit- tee :-

(1) Every non-official member shall be entitled for attending meetings of the Committee to travelling and other allowances as under :

(i) travelling allowance for journeys from the usual place of residence or the place of commencement of the journey to the place of the meeting and the return journey to the place of commencement of the journey or the usual place of residence, whichever is shorter in each case, at the maximum rate for the time being admissible to a Central Government servant of the first grade. Subject to the foregoing, the member shall be entitled to travel either by air-conditioned class or by air;

(ii) daily allowance at the maximum rate for the time being admissible to the Central Government servants of the first grade at the place of the meeting for the days on which the meeting is held and in

respect of one day previous to the commencement of the meeting and one day after the meeting if the member actually arrives on or before and leaves on or after the respective days.

(2) The travelling allowances and daily allowances of an official member shall be governed by the rules for the time being applicable to him for journeys performed on official duty.

65. Fees of members :-

A non-official member shall be entitled to a fee for attending meetings of the Committee of Rs. 100 for each day of the meeting.)

SCHEDULE 1
SCHEDULE I

SCHEDULE 2
SCHEDULE II

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| omitted |
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