

REPUBLIC OF CYPRUS - THE INSURANCE COMPANIES REGULATIONS

1984 to 1990

The House of Representatives enacts as follows:

PART I - PRELIMINARY

Short Title

1. This law may be cited as the Insurance Companies Laws of 1984 to 1990.

Interpretation

2.

1) In this Law, unless the context otherwise requires -

“accident insurance business” means the issue of, or the undertaking of liability under, policies of insurance upon the happening of personal accidents, whether fatal or not, disease or sickness, or any class of personal accident, disease, or sickness;

“actuary”, except in the case set out in section 37, means an actuary possessing the prescribed qualifications;

“agent for brokers” means a person acting as an agent for brokers who are authorized by an association of underwriters to place insurance business with members of the association;

“annuities on human life” does not include superannuation allowances and annuities payable out of any fund applicable solely to the relief and maintenance of persons engaged or who have been engaged in any particular profession, trade or employment, or of the dependants of such persons;

“bond investment business” means, subject to the provisions of subsection (3), the business of issuing bonds certificates by which the company, in return for subscription payable at periodical intervals of not more than six months, contracts to pay the bond holder a sum of money at some future date, not being life assurance business, industrial assurance business or sinking fund business;

“broker” means a person or a body of persons, corporate or unincorporated, which is authorized by an association of underwriters to place insurance business with members of the association;

“Central Bank” means the Central Bank of Cyprus established by the Central Bank of Cyprus Law;

“Company” means a company formed and registered under the Companies Law, a company or corporate body constituted outside the Republic and any statutory corporation;

“controller” has the meaning assigned to it by section 9 of this Law;

“the Court” means the court having jurisdiction under section 209 of the Companies Law to wind up a company;

“Director” has the meaning assigned to it by section 9 of this Law;

“employers’ liability insurance business” means the issue of, or the undertaking of liability under, policies insuring employers against liability to pay compensation or damages to workmen in their employment, but does not include any business carried on as incidental to marine, aviation and transit insurance;

“external insurer” means a licensed insurance company whose head office is outside the Republic and includes a licensed insurance company which, though having its head office in the Republic, was constituted outside the Republic;

“financial year”, in relation to an insurance company, means each period of twelve months at the end of which the balance of the accounts of the company is struck, or, if no such balance is struck, means the calendar year;

“fire insurance business” means, subject to the provisions of sub-section (4), the issue of, or the undertaking of liability under, policies of insurance against loss or damage by or incidental to fire;

“general business” means insurance business of a class or classes specified in section 3, not being long term business;

“industrial assurance business” means the business of effecting assurances upon human life, premiums in respect of which are payable, at intervals not exceeding two months in each case, to collectors sent by the insurer to each owner of a policy, to his residence or place of work;

“insolvent” means, in relation to an insurance company at any relevant date, that if proceedings had been taken for the winding up of the company, the Court could, in accordance with the provisions of sections 211 and 212 of the Companies Law, hold, or have held, that the company was at that date unable to pay its debts;

“insurance agent” means any person who, on behalf of an insurance company, initiates insurance business or does any act in relation to the receiving of proposals for insurance, the issue of policies, the collection of premiums or the settlement of claims arising in connection with the carrying on of insurance business;

“insurance company” means a company carrying on insurance business of all or any of the classes specified in sub-section (1) of section 3;

“interest” includes dividends;

“life assurance business” means the issue of, or the undertaking of liability under, policies of assurance upon human life, or the granting of annuities upon human life, but does not include industrial assurance;

“life policy” means any instrument by which the payment of a sum of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, or any instrument evidencing a contract which is subject to payment of premiums for a term dependent on human life;

“local policy” means a policy issued in or outside the Republic upon an application made to an agent for brokers or an insurance agent at any place in the Republic, and includes a life policy issued outside the Republic and made payable in the Republic at the request of the owner which the owner has agreed in writing shall be treated as a local policy for the purposes of this Law, but does not include a life policy made payable outside the Republic at the request of its owner which the owner has agreed in writing shall not be treated as a local policy for the purposes of this Law;

“long term business” means insurance business of all or any of the following classes, namely, life assurance business, industrial assurance business, bond investment business and sinking fund business, and includes, in relation to any insurance company, insurance business carried on by the company as incidental only to any such class of business;

“Managing Director” has the meaning assigned to it by section 9 of the Law;

“marine, aviation and transit insurance business” means the business of effecting and carrying out, otherwise than incidentally to some other class of insurance business, contracts of insurance -

- a) upon vessels or aircraft, or upon the machinery, tackle, furniture, or the equipment of vessels or aircraft; or
- b) upon goods, merchandise or property of any description whatever on board vessels or aircraft; or
- c) upon the freight of, or any other interest in or relating to, vessels or aircraft; or
- d) against damage arising out of or in connection with the use of vessels or aircraft, including third party risks; or
- e) against risks incidental to the construction, repair or docking of vessels, including third party risks; or
- f) against transit risks (whether the transit is by sea, inland water, land or air, or partly one and partly another) including risks incidental to the transit insured from the commencement of the transit to the ultimate destination covered by the insurance, but not including risks the insurance of which is motor vehicle insurance business; or
- g) against any other risks the insurance of which is customarily undertaken in conjunction with or as incidental to any business referred to in the foregoing paragraphs of this definition;

“Minister” means the Minister of Finance of the Republic;

“miscellaneous insurance business” means the business of effecting contracts of insurance which is not principally or wholly related to any of the other classes of insurance business specified in sub-section (1) of section 3;

“motor vehicle insurance business” means the business of effecting contracts of insurance against damage to or arising out of or in connection with the use of, motor vehicles, including third party risks;

“official Gazette” means the official Gazette of the Republic;

“Policy” -

- a) in relation to life assurance business or industrial assurance business, includes an instrument evidencing a contract to pay an annuity upon human life, and
- b) in relation to accident insurance business, motor vehicle insurance business, marine, aviation and transit insurance business or employers' liability insurance business, includes any policy under which there is for the time being an existing liability already accrued, or under which any liability may accrue; and
- c) in relation to bond investment business, includes any bond, certificate, receipt or other instrument evidencing the contract with the company;

“policy holder” means the person who for the time being is the legal holder of the policy for securing the contract with the insurance company or, in relation to bond investment business, means the person who for the time being is the legal holder of the bond, certificate, receipt or other instrument evidencing the contract with the company, and -

- a) in relation to life assurance business or industrial assurance business, includes an annuitant;
- b) in relation to accident insurance business, motor vehicle insurance business or marine, aviation and transit insurance business, includes a person to whom, under any policy, any sum is due or a weekly or other periodic payment is payable;
- c) in relation to employers' liability insurance business includes a person to whom, under any policy, any sum is due or a weekly payment is payable;

“principal officer” means the officer appointed under sub-section (1) of section 30;

“Registrar of Companies” means the Registrar as defined in section 2 of the Companies Law;

“Republic” means the Republic of Cyprus;

“sinking fund business” means the business of effecting contracts of insurance whereby one party to such a contract assumes the obligation to pay, after the expiration of a certain period or during a specified period, a certain sum or sums of money to a specified person in return for the payment or the promise of payment from time to time of a certain sum of money by the other

party to the contract;

“Superintendent” means the Superintendent of Insurance appointed under section 4, and includes the Assistant Superintendent or any other public officer appointed by the Council of Ministers;

“Underwriter” includes any person named in a policy or other contract of insurance as liable to pay or contribute towards the payment of the sum secured by the policy or contract.

- 2) References in sub-section (1) to damage include references to loss of life and personal injury.
- 3) Where, in return for subscriptions payable at periodic intervals of less than six months, a person or body of persons, whether incorporated or not (not being, or being deemed to be, registered under the Trade Unions Law) undertakes, by prospectus or otherwise, to pay to the subscriber at a future date the amount of the subscriptions with interest thereon (with or without a right on the part of the subscriber to the return of his subscriptions in the meantime), that business shall for the purposes of this Law be treated as bond investment business, and the card, book or other document in which receipts of subscription are entered shall be treated as the instrument evidencing the contract, and the subscriber shall be treated as the owner of the policy, subject to such modifications of the provisions of the Third Schedule as may be prescribed for the purpose of adapting to such business as aforesaid the provisions of that Schedule relating to bond investment business.
- 4) A policy shall not be deemed for the purposes of this Law to be a policy of fire insurance by reason only that loss by fire is one of the various risks covered by the policy.
- 5) Where a person who carried on insurance business has, prior to the 17th February, 1969, ceased to issue in the Republic new policies of insurance, the receipt of premiums or the making of payments under or in respect of any policy issued before that date shall not be deemed to constitute the carrying on of insurance business for the purpose of this Law.

Application of this Law

3.

- 1) Subject to the provisions of this section, this Law applies to all insurance companies, whether established within or outside the Republic, which carry on within the Republic insurance business of all or any of the following classes, that is to say -
 - a) life assurance business;
 - b) industrial assurance business;
 - c) bond investment business;
 - d) sinking fund business;
 - e) motor vehicle insurance business;

- f) fire insurance business;
 - g) accident insurance business;
 - h) marine aviation and transit insurance business;
 - i) employers' liability insurance business;
 - j) Miscellaneous insurance business.
- 2) A company formed and registered under the Companies Law, which carries on insurance business of a class specified in sub-section (1) in any part of the world, other than the Republic, shall for the purposes of that sub-section be deemed to be a company carrying on such business within the Republic.
- 3) This Law or any of the provisions thereof do not apply to -
- a) an insurance company having a share capital of at least £10,000, which the Council of Ministers declares by an Order published in the official Gazette of the Republic to be exempt from the application of this Law or any of the provisions thereof, after being satisfied that, having regard to the nature and extent of the business thereof in a particular class or classes of insurance, the application of this Law or any of the provisions thereof is inappropriate or unduly onerous to such company, and the Council of Ministers may by the same or a subsequent Order impose such conditions and restrictions as it may deem expedient;
 - b) an association of individual underwriters approved by the Minister, which the Council of Ministers declares by an Order published in the official Gazette of the Republic to be exempt from the application of this Law or any of the provisions thereof, being an association organised in accordance with the system known as Lloyd's; by such system every underwriting member of a syndicate of the association becomes liable for a separate part of the sum assured by every policy subscribed to by the said syndicate, limited or proportionate to the whole sum thereby assured; the aforesaid shall be valid provided that the provisions set out in the First Schedule to this Law and applicable to such associations are complied with.

PART II - SUPERINTENDENT AND INSURANCE ADVISORY BOARD

Superintendent

4. The Council of Ministers shall appoint a public officer to be the Superintendent of Insurance for all purposes of this Law and may appoint or authorize another public officer to assist the Superintendent.

Establishment and Constitution of Advisory Board, Etc.

5.

- 1) The Minister shall, by notice in the official Gazette appoint an Insurance Advisory Board which shall consist of seven members and comprising of -
 - a) three persons being members of the Public Service;
 - b) Four persons equally representing at the Advisory Board the interests of the employers, the employees and the insurance companies.
- 2) The Advisory Board shall elect one of its members to be Chairman of the Board, and shall determine the procedure for its own meetings and work.
- 3) The members of the Advisory Board shall be appointed for a period of two years, but they may be reappointed after the expiration of their term of office:
 Provided that the Minister may, for a reasonable cause, terminate the appointment of any member of the Advisory Board, and a new member shall then be appointed for the unexpired period of the term of office of the member whose appointment was so terminated.
- 4) The Minister may at any time accept the resignation of any member of the Advisory Board and a new member shall then be appointed for the unexpired period of the term of office of the resigned member.
- 5) On the death of any member of the Advisory Board, a new member shall be appointed for the unexpired term of office of the deceased member.
- 6) Four members of the Advisory board shall constitute a quorum.
- 7) No act or procedure of the Advisory Board shall be deemed void by reason of any vacancy in the number of the members of the Board so long as the number of the active members does not fall below four.

Functions of the Advisory Board

6. The functions of the Advisory Board shall be to advise the Minister -
 - a) generally on the operation of this Law and on any regulations made there under;
 - b) On matters of insurance in general.

PART III - RESTRICTIONS ON CARRYING ON INSURANCE BUSINESS

No Insurance Business to be Carried on Without a Licence

7.

- 1) Subject to the provisions of sub-section (3) of section 3 and of those in the Second Schedule, no insurance business shall be carried on in the Republic -
 - a) of any of the classes specified in sub-section (1) of section 3 except by an insurance company operating under and in accordance with the terms and conditions of a licence for a class of insurance business granted to the company under section 8, subject to the provisions of paragraph (b) of this sub-section;
 - b) of the life assurance class or the industrial assurance class in conjunction with any arrangements the purpose or effect of which is to provide facilities for the participation of the policy holder as beneficiary under a trust, in profits or income arising from the acquisition, management or disposal of securities of any kind or of any other kind of property, except under and in accordance with the terms and conditions of a licence granted by the Superintendent on the approval of the Minister under Regulations on fulfilment of prescribed requisites. The provisions of this Law relating to the grant, amendment or cancellation of a licence shall also apply, mutatis mutandis, to any licence granted under this paragraph:

Provided that nothing herein contained shall avoid or render unenforceable any contract entered into or a policy issued in contravention of this subsection.

- 2) If any person contravenes the provisions of sub-section (1) of this section, then -
 - a) in a case where that person is not a body corporate, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand pounds or to imprisonment for a term not exceeding two years, or to both such imprisonment and fine;
 - b) in a case where that person is a body corporate -
 - (i) the body corporate may be wound up by the Court under the Companies Law, on a petition by the Superintendent presented by leave of the Court,
 - (ii) any person who at the time of the contravention was a director, manager, secretary or other senior officer or agent of the body corporate shall be guilty of an offence and shall be liable on conviction to the penalty provided in paragraph (a), unless he proves that the contravention occurred without his knowledge or that he used all due diligence to prevent the occurrence thereof.

- 3) Rules made under section 333 of the Companies Law may regulate the procedure and the practice to be followed in proceedings under sub-paragraph (i) of paragraph (b) of sub-

section (2).

- 4) Subject to the provisions of the Second Schedule, the statutory declaration required by section 104 of the Companies Law to be delivered to the Registrar of Companies before a company to which that section applies commences business shall, in the case of a company (other than a company to which this Law does not apply) registered after the commencement of this Law, the objects whereof include the carrying on of insurance business of a class specified in sub-section (1) of section 3, include a statement that not less than two hundred thousand pounds of the company's share capital has been paid up.

Licensing of Insurers

8.

- 1) An application to be licensed as an insurer in a class of insurance business shall be made to the Superintendent in the prescribed form and shall be accompanied by the prescribed fee and such documents as may from time to time be prescribed.
- 2) If the Superintendent is satisfied in respect of the applicant company that -
 - a) it has a paid up share capital of not less than two hundred thousand pounds;
 - b) the margin of solvency of the company is not such that the company is deemed under section 36 to be unable to pay its debts;
 - c) the class of insurance business for which the application is made will be conducted by the applicant in accordance with sound insurance principles;
 - d) such company is reinsured or has made arrangements for its reinsurance by another insurance or reinsurance company in respect of policies issued or to be issued thereby or that it is justifiable not to be reinsured or to make arrangements for its reinsurance;
 - e) the name of the company is not identical with that of an existing licensee under this section, or of a company which was lawfully carrying on insurance business in the Republic at the commencement of this Law (or so nearly resembles such name as to mislead or cause confusion), unless such licensee or company is being or is about to be wound up or dissolved, or is ceasing or is about to cease to carry on insurance business in the Republic, and consents to the licensing of the applicant under the name in question; and
 - f) It complies with the provisions of section 9; he shall license the applicant as an insurer in that class of insurance business, and shall notify the applicant company accordingly.
- 3)
 - a) Paragraph (a) of sub-section (2) shall not apply up to 5th June, 1985, in respect of a company which was, immediately before the commencement of this sub-section, carrying

on in the Republic the class of insurance business for which the application for a licence is made and whose paid up share capital is below £200,000;

- b) In the exercise of his discretion under sub-section (2) the Superintendent may, on the approval of the Minister, waive, for a period not exceeding six months, the provisions of paragraph (b) of the said sub-section, if he is satisfied from information furnished by the applicant company, that the company is otherwise solvent, and that, in the case of a company whose head office is in another country outside the Republic, that the company has also complied with the insurance laws of the said country, provided that the period of six months shall not apply up to the 5th June, 1985 in respect of a company which is mentioned in paragraph (a) of this sub-section.
- 4) Subject to the provisions of sub-section (3), if the Superintendent is not satisfied as to one or more of the conditions expressed in sub-section (2), he shall notify the applicant in writing of his decision to reject the application, giving his reasons therefore, and shall also notify him of his right of appeal under section 9 or section 14, as the case may be.

Refusal to Grant a Licence in Certain Circumstances

9.

- 1) The Superintendent shall not grant, under section 8, a licence to a company, if any director, controller, manager, or any principal officer of the company provided for in section 30, does not satisfy such standards and requirements as may be prescribed.
- 2) In this section "controller" in relation to a company means -
 - a) a managing director of the company or the body corporate of which it is a subsidiary company;
 - b) a chief executive of the company or the body corporate, being an insurance company, of which it is a subsidiary company;
 - c) a person -
 - (i) in accordance with whose directions or instructions all, or any of, the directors of the company or the body corporate of which it is a subsidiary company are accustomed to act; or
 - (ii) who, either alone or with any associate or associates is entitled to exercise or control the exercise of, one third or more of the voting power at any general meeting of the company or body corporate of which it is a subsidiary company.
- 3) In this section "manager", in relation to a company means a person (other than the chief executive) employed by the company who, under the immediate authority of a director or a chief executive of the company -

- a) exercises managerial functions; or
 - b) Is responsible for maintaining accounts or other records of the company, not being a person whose functions relate exclusively to business conducted from a place of business outside the Republic of Cyprus.
- 4) Subject to subsection (6) below, in this section “chief executive”, in relation to a company or body corporate of which it is a subsidiary company, means a person employed by the company or body corporate who, either alone or jointly with one or more persons, is responsible under the immediate authority of the directors for the conduct of the whole of the insurance business of the said company or body corporate.
- 5) In this section “associate”, in relation to any person, means
- a) the wife or husband or minor son or daughter of the said person;
 - b) any company of which that person is a director;
 - c) any person who is an employee or partner of the said person;
 - d) if the said person is a company -
 - (i) any director of the said company;
 - (ii) any subsidiary company of that company;
 - (iii) any director or employee of any such subsidiary company;
 - (iv) And for the purpose of this subsection “son” includes a stepson and adopted son, “daughter” includes a step-daughter and adopted daughter.
- 6) In relation to a company incorporated outside the Republic of Cyprus -
- a) the reference in paragraph (a) of sub-section (2) above to a managing director of the company includes a reference to a person who is a managing director of that company in respect of so much of its insurance business carried on within the Republic; and
 - b) the reference in paragraph (b) of that sub-section to a chief executive of the company includes a reference to a person employed by the company who, either alone or jointly with one or more other persons is responsible (whether or not under the immediate authority of the directors) for the conduct of the whole of the insurance business carried on by the company within the Republic but, if he is responsible for the conduct of insurance business carried on by it elsewhere, only if there is no other person subordinate to him who is responsible for the conduct of the whole of the insurance business carried on by it within the Republic.
- 7) The foregoing provisions of this section shall have effect in relation to a registered society or unincorporated body as they have effect in relation to a company.

- 8) Any person aggrieved by a decision of the Superintendent to reject an application for a licence may, within 30 days from the Superintendent's notification, appeal to the Minister in writing who, after seeking the advice of the Insurance Advisory Board, may either annul or uphold the Superintendent's decision.

Duration of Licences

10. Every licence granted under section 8 shall, subject to the provisions of this Law, remain in force for a period of one year from the date of issue and shall, subject as aforesaid, be renewable from year to year on payment of the prescribed fee.

Cancellation of Licence Subject to Right of Appeal

11.

- 1) The Superintendent shall notify an insurance company in writing that he proposes to cancel the licence granted to it, giving his reasons for so doing, if at any time -
- a) he is satisfied -
 - (i) that the company would, if it were an applicant for a licence as an insurer, be disqualified under any of the provisions of paragraphs (a), (b), (c) and (e) of sub-section (2), but subject always to the provisions of sub-section (3), of section 8 to be licensed as an insurer in the class of insurance business for which it is licensed; or
 - (ii) that the company has failed to deposit with him any document required to be so deposited in accordance with section 28; or
 - (iii) after examination of any document or accounts submitted to him under the provisions of this Law or of any Regulations made there under, that having regard to its financial record the company is likely to become unable, in terms of section 36, to pay its debts; or
 - (iv) that the company has failed to comply with a provision of this Law or of any insurance law of a country outside the Republic applying to that company, which relates to the maintenance of a life assurance fund or the holding in trust of insurance premiums; or
 - b) the company is convicted of the offence provided by section 66 and an appeal against the conviction is not brought or, if brought, is abandoned or dismissed; or
 - c) a judgment is obtained against the company which is not executed for forty-two days, and an appeal from such judgment is not brought or, if so brought, is abandoned or dismissed; or
 - d) The company ceased to satisfy the requirements of section 9 and of the Regulations made

there under.

- 2) Where notice has been given to a company under sub-section (1) and the company fails to appeal in accordance with section 9 or 14, as the case may be, or having appealed withdraws the appeal, or the result of the appeal is the confirmation of the proposal to cancel the licence, the Superintendent shall cancel the licence, taking into account any variation to the original proposal effected at the appeal proceedings, and he shall notify in writing the company concerned accordingly.
- 3) Notwithstanding the cancellation of its licence under this section, it shall be lawful for the insurance company to continue to receive premiums and to meet its obligations in the ordinary course of insurance business, but not to issue any new policies or to enter into any new contracts as insurers for which a licence under this Law is required.
- 4) Nothing in sub-section (3) shall be deemed to relieve a company from any criminal liability, other than in respect of the non-possession of a licence under this Law, nor from any civil liability.
- 5) Sub-sections (3) and (4) shall also apply to insurance companies whose licence has been cancelled as a result of voluntary withdrawal from the Republic or whose licence was allowed to expire.

Restrictions on New Business and Variation of Contracts

12.

- 1) Subject to the provisions of section 11 of the Law, the Superintendent may, instead of proceeding with the immediate cancellation of a company's licence, impose certain temporary restrictions in its carrying on in the Republic of a specified class of insurance business for a specified period and by which the company shall be required -
 - a) not to conclude any contracts of insurance of a specified description;
 - b) not to vary any contracts of insurance of a specified description, being contracts concluded in the course of carrying on general business and being in force when the requirement is imposed;
 - c) Not to vary, in such a manner as to increase the liabilities of the company, any contracts of insurance of a specified description, being contracts concluded in the course of carrying on long term business and being in force when the requirement is imposed.
- 2) A requirement under sub-section (1) may apply to contracts of insurance whether or not their conclusion falls within a class of insurance business which the company is for the time being authorised to carry on.
- 3) The Superintendent may further require a company to take all such steps as are requisite to

secure that the aggregate of the premiums -

- a) to be received by the company in consideration of the undertaking by it during a specified period of liabilities in the course of carrying on general business or any specified part of such business, or,
- b) to be received by it in a specified period in consideration of the undertaking by the company during that period of liabilities in the course of carrying on long term business or any specified part of such business

Shall not exceed a specified amount.

- 4) A requirement under sub-section (3) may apply either to the aggregate premiums to be received as mentioned in that sub-section or to the aggregate of those premiums after deducting any premiums payable by the company for reinsuring the liabilities in consideration of which the aforementioned premiums are receivable.
- 5) The Superintendent in exercising, with respect to a company, the power conferred upon him by his section shall serve on the company a written notice stating the reasons for considering to exercise such power and shall invite the company to appeal to the Minister, within the period of thirty days of the date of the service of the notice, with respect to the proposed exercise of the power. If the company fails to appeal or having appealed withdraws the appeal, or the result of the appeal is the confirmation of the proposal to impose a restriction, the Superintendent may impose forthwith such restriction.

Summary of Cancellation of Licence

13. The Superintendent may at any time cancel a licence granted under section 8 -

- a) if proceedings for the winding up of the company so licensed have been commenced; or
- b) if he is satisfied that the company so licensed has ceased to carry on insurance business in the Republic; or
- c) if the company so licensed, or its liquidator, trustee or judicial manager, so requests, in respect of such class or classes of insurance business as may be specified in the request.

Procedure for Appeals

14.

- 1) Any person aggrieved by a decision of the Superintendent to reject an application for a licence or, as the case may be, by a proposal to cancel a licence, notified under sub-section (4) of section 8, or sub-section (1) of section 11, May within thirty days of such notification, lodge with the Superintendent a notice of appeal to the Minister.
- 2) A notice of appeal under sub-section (1) shall be in writing and shall specify in detail the

grounds on which it is made.

- 3) The Superintendent shall transmit to the Minister the notice of appeal lodged with him under sub-section (1) together with any relevant documents within fifteen days of the date of the receipt of such notice by him.
- 4) The Minister shall determine such appeal within thirty days and shall transmit his decision to the Superintendent.
- 5) The Superintendent shall, unless the appeal is withdrawn, forthwith convey in writing to the applicant the decision of the Minister, and give effect to such decision.

Display and Custody of Licence

15.

- 1) Every licence granted under this Part shall, during the period of its validity, be prominently displayed by the licensee at his principal place of business in the Republic, in a part thereof to which the public has access; and a copy thereof shall be similarly displayed at each of the branches of the licensee in the Republic.
- 2) On notification to a licensee that his licence has been cancelled as provided in this Part, he shall forthwith surrender his licence and every copy thereof to the Superintendent.
- 3) Every person who without lawful excuse fails to comply with the provisions of this section, or who displays a licence, or any copy thereof, which is not currently valid, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty pounds.

PART IV - DEPOSITS AND INVESTMENT OF ASSETS

Central Bank to Act as Financial Agent, Trustee, Depositary and Banker

16. The Central Bank may, for the purposes of this Law, act as financial agent, trustee, depositary and banker of the insurance companies, on such terms and conditions as may be specified by it.

Deposits to be Made by Insurance Companies

17.

- 1) Subject to the provisions of this section, every insurance company which is subject to the provisions of this Law shall deposit and shall (while such company so carries on the class of insurance business to which any sum deposited under this section relates) keep deposited with the Central Bank, either in cash or in approved securities estimated at the market value of the securities on the day of deposit, or partly in cash and partly in approved securities so estimated, such one or more of the following sums as is or are applicable to the class or classes of insurance business so carried on by such company, that is to say -
 - a) the sum of thirty thousand pounds in respect of each of the following classes of insurance

- business, that is to say, long term business and motor vehicle insurance business; and
- b) The sum of thirty thousand pounds in respect of any one or more than one class of insurance business, other than long term business and motor vehicle insurance business.
- 2) The deposit referred to in sub-section (1) may be made in two equal instalments, of which the first shall be paid before the application for a licence is made and the second within six months of the date of the licence.
 - 3) No class of insurance business in addition to the class or classes in respect of which an insurance company is already liable to make a deposit under sub-section (1) shall be undertaken by such company, until the deposit to which the company is already liable has been made in full, and the additional deposit required in respect of the additional class of business or so much thereof as under the provisions of sub-section (2) is to be made before the application for a licence has also been made in full.
 - 4) A deposit made in cash shall be held to the credit of the insurance company and shall, except to the extent, if any, to which the cash has been invested in securities under paragraph (b) of sub-section (5), be returned to the company in cash in any case in which under the provisions of this Law a deposit is to be returned; and any interest accruing due and collected on deposits in securities made under sub-section (1) shall be paid to the insurance company subject only to deduction of the prescribed commission.
 - 5) The Central Bank shall, if so requested by the insurance company -
 - a) sell any securities deposited by the company with the Central Bank under sub-section (1) and hold the cash realized by such sale as deposit; or
 - b) invest in approved securities specified by the company the whole or any part of a deposit held by the said Bank in cash or the whole or any part of cash received by the Bank on the sale of or on the maturing of securities deposited by the company, and hold the securities in which investment is so made as deposit, and may charge the prescribed commission on such sale or on such investment.
 - 6) Where sub-section (5) applies -
 - a) if the cash realized by the sale of or on the maturing of the securities (excluding in the former case the interest accrued) falls short of the market value of the securities at the date on which they were deposited the insurance company shall make good the deficiency by a further deposit either in cash or in approved securities estimated at the market value of the securities on the day on which they are deposited, or partly in cash and partly in approved securities so estimated, within a period of two months of the date on which the securities matured or were sold; and
 - b) if the cash realized by the sale of or on the maturing of the securities (excluding in the

former case the interest accrued) exceeds the market value of the securities at the date on which they were deposited, the Minister may, if satisfied that the full amount required to be deposited under sub-section (1) is in deposit, authorize the Central Bank to return the excess.

- 7) If any part of a deposit made under this section is used in the discharge of any liability of the insurance company, the company shall deposit such additional sum in cash or approved securities estimated at the market value of the securities on the day of deposit, or partly in cash and partly in such securities, as will make up the amount so used. The insurer shall be deemed to have failed to comply with the requirements of sub-section (1), unless the deficiency is supplied within a period of two months of the date when the deposit or any part thereof is so used for the discharge of liabilities of the company.
- 8) For the purposes of this section, "approved securities" means such securities in which a trustee may invest, under the Trustee Law, trust funds as the Minister may authorize and includes any other kind of securities authorized by the Minister in this respect.
- 9) The Minister may, for the purposes of deposits under this section, determine the amount and the kind of approved securities or of cash or of both.

Reservation of Deposits

18.

- 1) Any deposit made under section 17 shall be deemed to be part of the assets which every insurance company is required under section 20 to invest in approved investments and shall not be susceptible to any assignment or charge; nor shall it be available for the discharge of any liability of the insurance company other than liabilities arising out of local policies of insurance issued by the company so long as any such liabilities remain undischarged; nor shall it be liable to attachment in execution of any judgment except a judgment obtained by a policy-holder of the company in respect of a debt due upon a local policy which debt the policy-holder has failed to realize in any other way.
- 2) Where a deposit is made in respect of long-term business the deposit made in respect thereof shall not be available for the discharge of any liability of the insurance company other than liabilities arising out of local policies of long-term business issued by the company.

Refund of Deposits

19. Where an insurance company to which this Law applies has ceased to carry on, in the Republic, any class of insurance business in respect of which a deposit has been made under section 17 and its liabilities in the Republic in respect of business of that class have been satisfied or are otherwise provided for, the Minister shall, on the application of the insurance company, authorize the Central Bank to return to the company so much of the deposit as does not relate to the

classes of insurance business, if any, which the company continues to carry on.

Investment of Assets

20.

- 1) Every insurance company to which this Law applies shall, within six months of the expiration of its financial year, invest in approved investments assets equivalent to not less than the sum of -
 - a) the amount of its liabilities to holders of local long-term assurance policies in respect of matured claims, less payments on account in respect of such claims; and
 - b) the amount of its liabilities to holders of local long-term assurance policies in respect of immature policies as determined by an actuary; and
 - c) an amount equal to seventy per centum of the yearly gross premium income, less the premium paid for local reinsurance ceded to companies licensed to carry on insurance business in the Republic, plus the premium for local reinsurance received from such companies, in respect of any insurance business other than long-term assurance and marine, aviation and transit insurance business; in the case of marine, aviation and transit insurance business such amount will be fifty per centum of such premium income.

For the purposes of this section, "approved investments" means such investments in which a trustee may invest, but without the limitation provided by paragraph (e) of section 4 with regard to the place where the immovable property shall be situated, under the Trustee Law, trust funds as the Minister may authorise; it also means any investment in the currency of the Republic, or in deposits with any Bank licensed to carry on banking business in the Republic, or in stocks, securities or shares of any kind authorised by the Minister. Moreover the Minister may allow an insurance company to invest an amount in immovable property, belonging to the company, as determined by him.

The Minister may determine the amount of any kind of approved investments in which the assets of an insurance company shall be invested.

- 2) The provisions of sub-section (1) shall not be applicable to -
 - a) any investment made in any currency other than the currency of the Republic which is in excess of the amount required to meet the liabilities of the insurance company in the Republic, to the extent of such excess; and
 - b) Any insurance business carried on prior to the 17th February, 1969, other than the collection of premiums in respect of such business after that date.
- 3) Where an insurance company has accepted local reinsurance in respect of any policies of long-term business issued by another insurance company and maturing for payment in the

Republic or has ceded local reinsurance to another licensed insurance company in respect of any such policies, the sum referred to in sub-section (1) shall be increased by the amount of the liability involved in such acceptance and decreased by the amount of the liability involved in such cession.

- 4) The investments in which assets are, under sub-section (1), to be invested shall be held by the insurance company free of any encumbrance, charge, mortgage or lien.
- 5) The assets required by this section to be held invested by an insurance company shall, except to the extent of any part thereof which may be authorized to be invested in foreign assets held outside the Republic, be held in the Republic, and all such assets shall be held in trust for the discharge of the liabilities of the nature referred to in sub-section (1) and shall be vested in trustees resident in the Republic and approved by the Minister, and the instrument of trust under this sub-section shall be executed by the insurance company with the approval of the Minister and shall define the manner in which alone the subject matter of the trust shall be dealt with.
- 6) Upon voluntary withdrawal of an insurance company from the Republic, any release of assets held invested under an instrument of trust shall be allowed for the discharge of the liabilities of the company as soon as the company's liabilities in the Republic are reduced to two thirds of the trust fund excluding the amount deposited under Section 17 of the Law.

Statement of Investment of Assets

21.

- 1) Every insurance company to which this Law applies shall every year, within two months of the beginning of the year, submit to the Superintendent a return showing as at the 31st day of December of the preceding year the assets held invested in accordance with section 20 and all other particulars necessary to establish that the requirements of that section have been complied with.
- 2) The Superintendent may at his discretion require any licensed insurance company to which sub-section (1) applies to submit before the 1st day of September in each or any year a return of the nature referred to in sub-section (1) and prepared as at the 30th day of June.
- 3) In the case of an insurance company having its principal place of business outside the Republic, the Superintendent may, on application made by the insurance company, extend the period of two months provided in sub-section (1) and (2) by one month.
- 4) The Superintendent shall be entitled at any time to take such steps as he may consider necessary for the inspection or verification of the assets invested in compliance with section 20 or for the purpose of securing the particulars necessary to establish that the requirements of that section have been complied with. The insurance company shall comply with any

requisition made in this behalf by the Superintendent, and if it fails to do so within two months of the receipt of the requisition the company shall be deemed to have made default in complying with the requirements of this section.

Prohibition of Loans

22. No insurance company shall grant loans or temporary advances either on mortgage of property or on personal security or otherwise, except loans on life policies issued by the company within their surrender value, and housing loans issued in accordance with the directions of the Minister of Finance in respect of approved investments, to any director, managing director, manager, managing agent, actuary, auditor or officer of the company or to any parent, spouse, son, daughter, brother or sister of such persons, or to any other company or firm in which any of such persons holds the position of a director, manager, managing agent, actuary, officer or partner:

Provided that nothing contained in this section shall apply to loans made by an insurance company -

- a) to a bank;
- b) to an officer of the company or to any director, manager, managing agent, actuary, or auditor of the company for any purpose and subject to such terms and conditions as may be prescribed;

And for the purpose of this section "son" includes step-son and adopted son, "daughter" includes a step-daughter and adopted daughter.

Liability of Directors, Etc., for Loss Due to Contraventions of Sections 20 and 22

23. Everyone of the persons herein below, that is to say every director, manager, managing agent, officer or partner who is knowingly a party to a contravention of any of the provisions of section 20 or section 22 by reason of which any loss is sustained by the insurance company or by the policyholders, shall, irrespective of any other penalty to which he may be liable under this Law, be jointly liable to make good the amount of such loss.

PART V - ACCOUNTING AND ADMINISTRATIVE REQUIREMENTS

Separation of Funds Relating to Certain Classes of Business

24.

- 1) Subject to the provisions of this Law, where an insurance company to which this Law applies -
 - a) carries on, together with other business, insurance business of only one of the classes to which this section applies; or
 - b) carries on, with or without other business, insurance business of two or more of the said classes,

the receipts of that class of insurance business, or of each of those classes of insurance business, as the case may be, shall be entered in a separate account and shall be carried to and form a separate insurance fund with an appropriate name:

Provided that nothing in this sub-section shall require investments of any such fund to be kept separate from the investments of any other fund of the same class.

- 2) Subject as aforesaid, a fund of any particular class -
 - a) shall be as absolutely the security of the policy holders of that class as though it belonged to a company carrying on no other business than insurance business of that class;
 - b) shall not be affected by any contracts of the company by which it would not have been affected had the business of the company been confined to that of insurance of that class;
 - c) Shall not be applied, directly or indirectly, for any purpose other than those of the class of insurance business to which the fund is applicable.
- 3) This section applies to insurance business of the following classes, namely, life assurance business, industrial assurance business, bond investment business, sinking fund business and employers' liability insurance business.
- 4) Notwithstanding the foregoing provisions of this section, an insurance company may combine its receipts of life assurance business and sinking fund business in one account, and in that event those classes of insurance business shall be deemed, for the purposes of this section, to be one class of insurance business.
- 5) A company carrying on both long-term and general insurance business shall maintain books of accounts and other records as are necessary for identifying the assets representing the life assurance fund or funds maintained by the company, under sub-section (1) of this section from those assets maintained by the company in respect of all other classes of general insurance business.
- 6) The assets representing the fund or funds maintained by an insurance company in respect of its long-term business shall be applicable only for the purposes of that business whilst all other assets maintained by the company in respect of all other classes of general business shall be applicable for the purposes of such business only.

Annual Accounts and Balance Sheets

25.

- 1) Every insurance company to which this Law applies, shall at the expiration of each financial year, prepare a revenue account, a balance sheet and a profit and loss account or, in the case of a company not trading for profit, an income and expenditure account.

- 2) The contents of the documents referred to in sub-section (1) shall be such as may be prescribed by regulations. Regulations may provide for enabling information required to be given by such documents to be given instead in the form of a note, statement or report annexed to such documents or may provide for the supply of information in addition to that given in the documents in the form of a note, statement or report.
- 3) Regulations may be made providing for the information supplied by such documents as aforesaid or in statements or reports annexed thereto to be given by such persons and for the annexing to the documents of such certificates as may be prescribed.
- 4) If a form is prescribed for any of the documents aforesaid or for any statement or report annexed to any such document or for a certificate to be so annexed, the document, statement, report or certificate shall be prepared in the prescribed form.
- 5) The Superintendent may, with the approval of the Minister on the application or with the consent of an insurance company, modify, in relation to the company, any of the requirements imposed by or by virtue of the foregoing provisions of this section for the purpose of adapting it to the special circumstances of the company.

Periodic Investigation of Certain Companies by Actuary

26.

- 1) Every insurance company to which this Law applies, being a company which carries on long term business -
 - a) shall annually, cause an investigation to be made into its financial condition, including a valuation of its liabilities by an actuary; and
 - b) when such an investigation has been made, or when at any other time any other investigation into the financial condition of the company has been made with a view to the distribution of profits, or any other investigation the results of which are made public has been made, shall cause an abstract of the actuary's report on the investigation to be made in the prescribed form:

Provided that, in the case of a mutual company carrying on life assurance business or industrial assurance business whose profits are allocated to members wholly or mainly by annual abatements of premium, the abstract of the actuary's report shall be made annually.

- 2) Where under sub-section (1) an insurance company caused an abstract to be made of the report of an actuary on his investigation into the financial condition of the company, the company shall also prepare in the prescribed form a statement of its insurance business at the date to which the accounts of the company are made up for the purposes of such investigation:

- 3) Every investigation under paragraph (a) of subsection (1) shall be made upon criteria, principles or methods to be prescribed by regulations and include a valuation of the liabilities in respect of the whole of the company's business in each class of long term business in respect of the company's business in each such class in the Republic:

Provided that where, in pursuance of the provisions of sub-section (4) of section 24 an insurance company combines its receipts of life assurance business and sinking fund business in one account, those classes of insurance business shall be deemed, for the purposes of this sub-section, to be one class of insurance business.

- 4) Notwithstanding the foregoing provisions of this section, the Superintendent may in writing require a company which he reasonably suspects is not conducting its long-term business in accordance with sound insurance principles to furnish to him within six months valuations of the liabilities referred to in sub-section (3) and the abstract and statement referred to in sub-sections (1) and (2).
- 5) The Superintendent may, with the approval of the Minister, require a company which carries on long-term business -
 - a) to cause the person who for the time being is its actuary to make an investigation into its financial condition (including a valuation of its liabilities) in respect of that business or any specified part of that business as at a specified date; and
 - b) to cause an abstract of the actuary's report on the investigation to be made; and
 - c) To prepare a statement of its long-term business or of that part thereof as at that date.
- 6) The form and contents of any abstract or statement made under sub-section (5) of this section shall be the same as for an abstract or statement made under sub-sections (1) and (2) of this section.
- 7) Four copies of any abstract or statement made under sub-section (5) of this section shall be deposited with the Superintendent on or before the specified date and one of those copies shall be a copy signed by the persons specified in section 28 and by the company's actuary.

Statement of Business by Insurance Companies

27. Every insurance company to which this Law applies, being a company which carries on insurance business of a class that may be prescribed, shall annually prepare in the form that may be prescribed a statement of business of that class.

Deposit of Accounts Etc., with the Superintendent

28.

1)

- a) Every account, balance sheet, abstract or statement provided by the foregoing provisions of this Part shall be printed or cyclostyled and four copies thereof, one of which shall be signed by the chairman and two directors of the company and by the principal officer of the company and, if the company has a managing director, by the managing director as well, shall be deposited with the Superintendent within six months of the close of the period to which the accounts, balance sheet, abstract or statement relates:

Provided that, if in any case it is made to appear to the Superintendent that the circumstances are such that an extension of the period of six months should be allowed, the Superintendent may extend that period by such period as he thinks fit.

- b) The Superintendent may, in addition to the requirements of paragraph (a) of this sub-section, require that a company to which this Law applies prepare and submit to him for such periods, as may be prescribed, the required or any account, statement or information about specified matters being, if the Superintendent so requires, information verified in a specified manner.

- 2) The Superintendent shall consider the documents deposited with him under sub-section (1), and if any such document appears to him to be inaccurate or incomplete in any respect he shall require the company to correct any such inaccuracy and supply such deficiency, and the company shall fulfil any such requirement made by the Superintendent in this respect.

- 3) There shall be deposited with every revenue account and balance sheet of a company any report on the affairs of the company submitted to the shareholders or policy holders of the company in respect of the financial year to which the account and balance sheet relate.

- 4) Where an insurance company registered under the Companies Law in any year deposits its accounts and balance sheet in accordance with the provisions of this section, then if the company at the same time sends a copy of the accounts and balance sheet to the Registrar of Companies under that Law -

- a) section 121 of the said Law (which requires certain documents to be sent together with the annual return made by a company) shall not apply to that company; and
- b) The copy of the accounts and balance sheet so sent shall be deemed in all respects to have been sent in compliance with the provisions of the said section 121.

- 5) In the case of a mutual company such as is mentioned in the proviso to sub-section (1) of section 26, the company shall deposit, together with the copies of each such abstract

deposited under this section, particulars as to the rates of abatement of premiums applicable to different classes or series of assurances allowed in each year during the period which has elapsed since copies of such an abstract were previously so deposited.

- 6) A printed or cyclostyled copy of the accounts, balance sheet, abstract or statement last deposited under this section shall, on the application of any shareholder or policy holder of the company, be forwarded to him by the company by post or otherwise.
- 7) For the purposes of this section any reference to accounts and balance sheets shall also include the statements or reports referred to in sub-section (2) of section 25 and the certificates referred to in sub-section (3) of the said section.

Audit of Accounts

29. The accounts and balance sheets of every insurance company to which this Law applies shall be audited by such persons and in such manner as may be prescribed; and Regulations made for the purposes of this section may extend to such insurance companies the provisions of the Companies Law relating to audit, subject to such adaptations and modifications as may appear necessary or expedient.

Licensed Insurer's Principal Office and Principal Officer in the Republic

30.
 - 1) Every insurance company licensed under this Law shall maintain in the Republic a principal office and appoint by a decision of its board of directors any person approved in accordance with the provisions of subsection (1) of section 9 to be a principal officer; the said officer shall be the legal representative of the company in the Republic, and shall exercise every power and perform every duty or service prescribed or assigned to him or to the company by this or any other law.
 - 2) Every such company shall, within fifteen days of its being licensed, notify the Superintendent in writing of the situation of its principal office in the Republic, and of the name and postal address of its principal officer in the Republic.
 - 3) Every change in the particulars referred to in sub-sections (1) and (2) shall be notified in writing by the company concerned to the Superintendent within fifteen days of its occurrence.

Notification of Changes in Prescribed Particulars

31. Every insurance company to which this Law applies shall, within six months of the end of its financial year, notify the Superintendent in writing of any change which has occurred during such year in any of the matters which have been prescribed by Regulations made under this Law as being matters concerning which notification under this section is required.

Local Records of External Insurers

32. Every external insurer shall maintain in the Republic -

- a) a record of all local policies issued by him, showing his rights and obligations there under;
- b) a record of all premiums received in respect of all local policies issued by him;
- c) documentary evidence of his assets in the Republic;
- d) Such other records in relation to insurance business carried on by him in the Republic as May for the time being is prescribed.

PART VI - AMALGAMATIONS AND TRANSFERS

Provisions as to Certain Amalgamations and Transfers

33.

1) Subject to the provisions of this section, where -

- a) it is intended to amalgamate two or more insurance companies to which this Law applies, one or more of which is a local insurer, and any of those companies carries on within the Republic long term business or employers' liability insurance business; or
- b) it is intended to transfer a long term business of any class written within the Republic, or employers' liability insurance business written within the Republic, from one insurance company to which this Law applies to another such company,

the directors of any one or more of those companies may apply to the Court, by petition, to sanction the proposed arrangement; and the Court, after hearing the directors and other persons whom it considers entitled to be heard upon the petition, may sanction the arrangement if it is satisfied that no sufficient objection thereto has been established:

Provided the Court shall not sanction the amalgamation of an insurance company carrying on life assurance business or industrial assurance business with another company or the transfer of such insurance company to another company, if it appears to the Court that life policy holders representing one tenth or more of the total amount assured in the company dissent there from.

2) Before any application is made to the Court under this section -

- a) notice of the intention to make the application shall be published in the official Gazette and in two daily local newspapers;
- b) except in the case of a transfer of employers' liability insurance business, a statement of the nature of the amalgamation or transfer, together with an abstract containing the material facts embodied in the agreement relating to the amalgamation or transfer and copies of the actuarial or other reports upon which the agreement is founded, including a report by an independent actuary, shall, unless the Court otherwise directs, be

transmitted to each policy holder of each company, being a life, endowment, sinking fund or bond investment policy holder; and

- c) The agreement relating to the amalgamation or transfer shall be open for inspection by the policy holders and shareholders at the offices of the companies for a period of fifteen days of the day on which the last publication of the notice appeared.
- 3) Subject to the provisions of this Law, no amalgamation or transfer such as is mentioned in sub-section (1) shall take place unless it is sanctioned by the Court in accordance with this section.
- 4) In this section, "local insurer" means an insurance company whose head office is in the Republic.

Statements Relating to Amalgamation or Transfer to be Deposited with Superintendent

34. Where an amalgamation or transfer such as is mentioned in sub-section (1) of section 33 takes place, being an amalgamation or transfer to which that section applies, the combined company or the purchasing company, as the case may be, shall, within ten days of the date of completion of the amalgamation or transfer, deposit with the Superintendent -

- a) certified copies of statements of the assets and liabilities of the companies concerned in the amalgamation or transfer, together with a statement of the nature and terms of the amalgamation or transfer;
- b) a certified copy of the agreement under which the amalgamation or transfer is effected;
- c) certified copies of the actuarial and any other reports upon which that agreement or deed may be founded; and
- d) a declaration under the hand of the chairman and of the principal officer of each company that to the best of their belief every payment made or to be made to any person on account of the amalgamation or transfer is therein fully set out, and that no payment beyond those set out has been made or is to be made either in money, policies, bonds, valuable securities or other property by or with the knowledge of the companies which are parties to the amalgamation or transfer.

Provisions as to Amalgamations of Non-Licensed Company

35. Where it is intended to carry out a scheme under which the whole or part of the long-term business or employers' liability insurance business carried on by an insurance company to which this Law applies ("the transferor company") is to be transferred to another company ("the transferee company") to which this Law does not apply, or vice-versa, the transferor company or the transferee company may apply to the Court, by petition, for an order sanctioning the scheme

and the procedure specified in sections 33 and 34 of this Law shall also apply to such companies, as if both companies were subject to the provisions of this Law.

PART VII - INSOLVENCY AND WINDING UP

Margin of Solvency

36.

- 1) Subject to the provisions of this section, of section 56 and 57 and of the Second Schedule, an insurance company to which this Law applies shall be deemed, for the purposes of this Law and of section 211 of the Companies Law (which authorizes the Court to wind up a company unable to pay its debts), to be unable to pay its debts if it does not possess the margin of solvency specified in sub-section (2):

Provided that, except for the purposes of paragraph (b) of sub-section (2) of section 8, this section shall not apply to an insurance company unless and until a period of two years, or such longer period as the Superintendent may in any case allow, has expired from the date of its commencing to carry on insurance business.

- 2) An insurance company shall be deemed to possess the required margin of solvency if -
 - a) in the case of a company carrying on general business only, the value of its assets exceeds the amount of its liabilities by -
 - (i) one hundred thousand pounds; Or
 - (ii) sixteen per centum of the general premium income of the company in its last preceding financial year,
 whichever is the greater amount;
 - b) in the case of a company carrying on long term business only -
 - (i) its liabilities under un-matured life policies do not exceed the amount of its life assurance fund;
 - (ii) its liabilities under un-matured industrial assurance policies do not exceed the amount of its industrial assurance fund;
 - (iii) its liabilities under un-matured bond investment policies do not exceed the amount of its bond investment fund; and
 - (iv) its liabilities under un-matured sinking fund policies do not exceed the amount of the fund maintained in respect of its sinking fund business;
 - c) in the case of a company carrying on both general business and long term business -
 - (i) in respect of its long term business it has the respective margins of solvency specified

in paragraph (b); and

- (ii) the value of its assets in respect of all classes of insurance business carried on by its exceeds the aggregate of the funds referred to in paragraph (b) and all its liabilities, other than the liabilities referred to in that paragraph, by -

- (1) one hundred thousand pounds; or

- (2) sixteen per centum of the general premium income of the company in its last preceding financial year,

Whichever is the greater amount.

3) For the purposes of this section -

- a) in computing the assets of an insurance company, the loans granted under paragraph (b) of the proviso to section 22 shall not be taken into account;
- b) in computing the amount of the liabilities of an insurance company, all contingent and prospective liabilities shall be taken into account, but not liabilities in respect of share capital;
- c) the general premium income of an insurance company in any year shall be taken to be the net amount, after deduction of any premiums paid by the company for reinsurance, of the premiums received by the company in that year in respect of all insurance business carried on by it (whether or not being insurance business of a class specified in section 3) other than long-term insurance business;
- d) references to a company's life assurance fund, its industrial assurance fund, its bond investment fund and the fund maintained in respect of its sinking fund business relate, respectively, to the funds maintained for those classes of insurance business, pursuant to sub-section (1) of section 24.

4) Regulations which may be made for the purposes of this section may require that, in every balance sheet prepared under section 25 by an insurance company, there shall be included a certificate -

- a) in such form and signed by such person as shall be prescribed by the Regulations; and
- b) containing such a statement with respect to the assets and liabilities of the company may for the time being be prescribed;

And if the company fails to comply with the Regulations so made, the value of its assets shall, in any proceedings that may be taken under this section for the winding up of the company, be deemed, until the contrary is proved, not to exceed the amount of its liabilities by the amount required by sub-section (1).

5) Nothing in this section shall be taken as affecting the manner in which, on a winding up, any

assets or liabilities shall be dealt with, whether by virtue of section 24 or otherwise

- 6) Where, on the application of any insurance company, the Minister is satisfied -
 - a) that it carries on business wholly or mainly for the purpose of insuring a limited class of persons having a financial or other interest in common; and
 - b) that, having regard to the limited nature of its business, the provisions of this section are inappropriate or unduly onerous to the company,

The Minister may by order direct that, subject to such conditions as may be specified in the order, this section shall not apply to the company, or shall apply so as to require that the value of the company's assets shall exceed the amount of its liabilities by another amount, being less than the amount specified in this section.

- 7) Any order made under sub-section (6) may be revoked by the Minister -
 - a) if he ceases to be satisfied of the matter on the ground of which the order was made; or
 - b) If he is satisfied that any condition specified in the order has not been complied with.

Investigation of Company of Doubtful Solvency

37.

- 1) The Superintendent may, by notice in writing served upon an insurance company to which this Law applies, being a company which may be wound up by the Court under the provisions of the Companies Law, -
 - a) require the company to furnish to him within the time specified in the notice such explanations, information, accounts, balance sheets, abstracts and statements as he considers to be necessary for the purpose of determining whether the company is insolvent, or was insolvent at any date (not earlier than the period to which the accounts and balance sheet of the company last deposited under section 28 relate) specified in the notice; and
 - b) require any such explanations, information, accounts, balance sheets, abstracts or statements to be signed by such number of the directors and by such officers of the company, and to be accompanied by such copies of documents, as may be specified in the notice, and to be certified as correct by an auditor approved by the Superintendent, or by an actuary so approved, or by both such an auditor and such an actuary.
- 2) If, after a notice has been served upon an insurance company under sub-section (1), either -
 - a) the company does not, before the expiration of the time limited by the notice, comply with all the requirements of the notice, other than such requirements, if any, as may have been withdrawn by the Superintendent; or

b) the Superintendent, after considering the material furnished pursuant to the said requirements, considers it to be expedient for the purpose aforesaid so to do,

the Superintendent may serve upon the company a notice in writing stating that he proposes to appoint one or more persons to investigate the affairs of the company and to report thereon in such manner as the Superintendent may require and that, unless the company within a period of seven days of the date of the service of the notice upon it gives notice in writing to the Superintendent that it objects to such an appointment being made, the Superintendent shall, after the expiration of that period, make such an appointment.

- 3) If within the said period the company gives notice in writing to the Superintendent that it objects to such an appointment being made, the Superintendent may apply to the Court for leave to make such an appointment, and the Court shall grant leave unless it is satisfied by the company that such an appointment cannot reasonably be required for the purpose aforesaid; and on leave being granted the Superintendent shall make such an appointment.
- 4) Where an appointment is made under this section, the provisions of section 160 of the Companies Law shall apply with respect to appointments made under this section in like manner as they apply to persons appointed under that section.
- 5) The expenses of and incidental to an investigation carried out by a person appointed under this section shall be defrayed by the Superintendent out of the Consolidated Fund of the Republic:

Provided that -

- (i) where the Court grants leave to make an appointment, the Court may, if it thinks fit, direct the company to repay to the Superintendent the whole or any part of the said expenses; and
- (ii) if an order for the winding up of the company by the Court is made at any time within twelve months of the date on which the report of the person so appointed is made to the Superintendent, or, if more than one report is so made, of the date when the first report is so made, the said expenses shall be deemed, for the purposes of the Companies Law, to be expenses properly incurred in the winding up of the company and the amount thereof, after deducting any sum repaid to the Superintendent pursuant to a direction given by the Court under the foregoing paragraph, shall be paid out of the assets of the company *pari passu* with the taxed costs of the petition.

Winding Up

38.

- 1) The Court may order the winding up, in accordance with the Companies Law, of an insurance company to which this Law applies, and the provisions of that Law shall apply accordingly, subject to the modification that the company may be ordered to be wound up on the petition of ten or more policy holders owning policies of an aggregate value of not less than ten thousand pounds:

Provided that such a petition shall not be presented except by leave of the Court, and leave shall not be granted until a prima facie case has been established to the satisfaction of the Court and until security for costs of the petition, of such amount as the Court may think reasonable, has been given.

- 2) The Superintendent may, with the leave of the Court, present a petition for the winding up, in accordance with the Companies Law, of an insurance company to which this Law applies being a company which may be wound up under the provisions of the Companies Law, on the ground –
 - a) that the company is unable to pay its debts within the meaning of sections 211 and 212 of the Companies Law, or
 - b) that, a person having been appointed to investigate the affairs of the company under section 37, any such refusal has taken place as, under sub-section (3) of section 161 of the Companies Law as applied by the said section 37 is, or might be, made the ground of the punishment of an officer or agent of the company.

Subsidiary Companies

39.

- 1) Where the insurance business or any part of the insurance business of an insurance company has been transferred to an insurance company to which this Law applies under an arrangement in pursuance of which the first mentioned company (in this section called “the subsidiary company”) or the creditors thereof has or have claims against the company to which the transfer was made (in this section called “the principal company”), then, if the principal company is being wound up by or under the supervision of the Court, the Court shall, subject to the provisions of this section, order the subsidiary company to be wound up in conjunction with the principal company, and may by the same or any subsequent order appoint the same person to be liquidator for both these two companies, and make provision for such other matters as may seem to the Court necessary, with a view to the two companies being wound up as if they were one company.
- 2) The commencement of the winding up of the principal company shall, save as otherwise

ordered by the Court, be the commencement of the winding up of the subsidiary company.

- 3) In adjusting the rights and liabilities of the members of the several companies between themselves, the Court shall have regard to the articles of association of the companies, and to the agreements entered into between the companies, in the same manner as the Court has regard to the rights and liabilities of different classes of contributories in the case of the winding up of a single company, or as near thereto as circumstances admit.
- 4) Where any company alleged to be subsidiary is not in process of being wound up at the same time as the principal company to which it is subsidiary, the Court shall not direct the subsidiary company to be wound up unless, after hearing all objections that may be urged by or on behalf of the company against its being wound up, the Court is of opinion that the company is subsidiary to the principal company and that the winding up of the company in conjunction with the principal company is just and equitable.
- 5) An application may be made in relation to the winding up of any subsidiary company in conjunction with a principal company by any creditor of, or person interested in, the principal or the subsidiary company.
- 6) Where a company stands in the relation of a principal company to one company, and in the relation of subsidiary company to some other company, or where there are several companies standing in the relation of subsidiary companies to one principal company, the Court may deal with any number of such companies together or in separate groups, as it thinks most expedient, upon the principles laid down in this section.

Supplementary Provisions as to Winding Up

40.

- 1) In any proceedings upon a petition to wind up an insurance company presented by the Superintendent under sub-section (2) of section 38 evidence that the company was insolvent at the close of the period to which the accounts and balance sheet of the company last deposited under section 28 relate, or at any date specified in a notice served under sub-section (1) of section 37 shall be evidence that the company continues to be unable to pay its debts, until the contrary is proved.
- 2) Where an insurance company to which this Law applies is being wound up by the Court, or subject to the supervision of the Court, or voluntarily, the value of a policy of any class or of a liability under such a policy required to be valued in the winding up shall be estimated in the manner applicable to policies and liabilities of that class provided by the Third Schedule.
- 3) The rules in the Third and Fourth Schedules to this Law shall be of the same force, and may be revoked or amended, as if they were rules made in pursuance of section 333 of the Companies Law; and rules may be made under that section for the purpose of better carrying

into effect the provisions of this Law with respect to the winding up of an insurance company.

Reduction of Contracts as Alternative to Winding Up

41. In the case of an insurance company which has been proved to be unable to pay its debts, the Court may, if it thinks fit, reduce the amount of the contracts of the company upon such terms and subject to such conditions as the Court thinks just, in place of making a winding up order.

PART VIII - APPOINTMENT OF MANAGING DIRECTOR, CHIEF EXECUTIVE OR CONTROLLER

Approval of Appointment of Managing Director and Chief Executive of an Insurance Company

42.

- 1) No insurance company to which this Law applies shall appoint a person as managing director or chief executive of the company unless -
 - a) the company has served on the Superintendent a notice in writing stating that it proposes to appoint that person to that position and containing such particulars as may be prescribed; and,
 - b) Either the Superintendent has, before the expiration of the period of three months beginning with the date of service of the notice, notified the company in writing that there is no objection to that person being appointed to that position or, that period has elapsed without the Superintendent having served on the company a written notice of objection.
- 2) A notice served under sub-section (1)(a) above shall contain a statement signed by the person proposed to be appointed that it is served with his knowledge and consent.
- 3) The Superintendent may serve a notice of objection under sub-section (1) above on the ground that it appears to him that the person proposed to be appointed does not satisfy such standards and requirements as may be prescribed for the appointment to the position in question but before serving such a notice the Superintendent shall serve on the company and on the interested person a preliminary notice in writing stating -
 - a) that the Superintendent is considering the service on the company of a notice of objection on that ground and
 - b) that the company and the interested person may, within the period of one month from the date of service of the preliminary notice, make written representations to the Minister through the Superintendent.
- 4) The Superintendent shall transmit to the Minister the written representations lodged with him under subsection 3(b) above together with any relevant documents within fifteen days of the

date of the receipt of such representations by him.

- 5) The Minister shall within thirty days determine such representations and shall transmit his decision to the Superintendent.
- 6) The Superintendent shall, unless the written representations are withdrawn, forthwith convey in writing to the applicant the decision of the Minister, and give effect to such decision.

Approval of Controller of an Insurance Company Where Section 42 Does Not Apply

43.

- 1) No person shall become a controller of an insurance company to which this Law applies, otherwise than by virtue of an appointment in relation to which section 42 above shall apply, unless -
 - a) he has served on the Superintendent a notice in writing stating that he intends to become a controller of that company and containing such particulars as may be prescribed; and
 - b) either the Superintendent has before, the expiration of the period of three months beginning with the date of service of that notice, notified him in writing that there is no objection to his becoming a controller of the company or, that period has elapsed without the Superintendent having served on him a written notice of objection.
- 2) The Superintendent may serve a notice of objection under sub-section (1) above on the ground that it appears to him that the person concerned does not satisfy such standards and requirements as may be prescribed for a person to become controller of the company, but before serving such a notice the Superintendent shall serve on that person a preliminary notice in writing stating -
 - a) that the Superintendent is considering the service on him of a notice of objection on that ground; and
 - b) that that person may, within the period of one month from the date of service of the preliminary notice, make written representations to the Minister through the Superintendent.
- 3) The Superintendent shall not be obliged to disclose to any person any particulars of the ground on which he is considering the service on him of the notice of objection.
- 4) The Superintendent shall thereafter follow the procedure specified in sub-sections (4), (5) and (6) of section 42 above.

Application of Sections 42 and 43 to Principal Officer and Manager of Overseas Companies Operating in the Republic

44.

- 1) Sections 42 and 43 above shall not be applicable to overseas companies, operating in the Republic, incorporated in countries where similar provisions exist in their legislation with regard to the appointment of a person as managing director, or controller but such section shall be applicable with regard to the appointment of the company's principal officer or the company's Manager in the Republic.
- 2) When the principal officer or manager referred to in sub-section (1) is a body whether incorporated or not, the provisions of section 42 shall be applicable in respect of each one of the persons authorised to administer the affairs of such body.

Duty to Notify Change of Director, Controller or Manager

45.

- 1) A person who becomes or ceases to be a controller of an insurance company to which this Law applies shall, before the expiration of seven days beginning with the day next following that on which he does so, notify the insurance company in writing of that fact and of such other matters as may be prescribed; and a person who becomes a director or manager of any such insurance company shall, before the expiration of the period of seven days beginning with the day next following that on which he does so, notify the insurance company in writing of such matters as may be prescribed.
- 2) An insurance company to which this Law applies shall give written notice to the Superintendent of the fact that any person has become or ceased to be a director, controller or manager of the company and of any matter of which any such person is required to notify the company under sub-section (1) above; and that notice shall be given before the expiration of the period of fourteen days beginning with the day next following that on which that fact or matter comes to the company's knowledge.

PART IX - POWERS OF INTERVENTION AND INSPECTION OF COMPANIES BOOKS AND PAPERS

Power to Obtain Information and Require Production of Documents

46.

- 1) The Superintendent may require a company to which this Law applies to furnish him, at specified times or intervals, with information about specified matters being, if he so requires, information verified in a specified manner.

- 2) The Superintendent may -
 - a) require a company to produce, at such reasonable time and place as he may specify, such books or papers as he may specify; or
 - b) Authorise any person, on producing (if required so to do) evidence of his authority, to require a company to produce to him forthwith any books or papers which that person may specify.
- 3) Where by virtue of sub-section (2) above the Superintendent or a person authorised by him has powers to require the production of any books or papers from any company, the Superintendent or that person shall have the like power to require production of those books or papers from any person who appears to him to be in possession of them; but where any person from whom such production is required claims a lien on books or papers produced by him, the production shall be without prejudice to the lien.
- 4) Any power conferred by or by virtue of sub-sections (2) and (3) above shall include power -
 - a) if the books or papers are produced -
 - (i) to take copies of them or extracts from them; and
 - (ii) to require the person who produced them, or any other person who is present or past director, controller or auditor of, or is or was at any time employed by the company in question, to provide an explanation of any of them;
 - b) If the books or papers are not produced, to require the person who was required to produce them to state, to the best of his knowledge and belief, where they are.
- 5) A statement made by a person in compliance with a requirement imposed by virtue of this section may be used in evidence against him.

Entry or Search of Premises

47.

- 1) If a Judge of a District Court is satisfied on information on oath laid down by the Superintendent, or an Officer authorised by him that there are reasonable grounds for suspecting that there are on any premises any books or papers of which production has been required by virtue of section 46 and which have not been produced in compliance with that requirement, he may issue a warrant authorising any constable, together with any other persons named in the warrant, to enter the premises specified in the information (using such force as is reasonably necessary for the purpose) and to search the premises and take possession of any books or papers appearing to be such books or papers as aforesaid or to take any other steps which may appear necessary for preserving them.
- 2) Every warrant issued under this section shall continue in force until the end of the period of

one month of the date on which it is issued.

- 3) Any books or papers of which possession is taken under this section may be retained for a period of three months or, if within that period there are commenced any such criminal proceedings as are mentioned in sub-section (1)(a) or (b) of section 48 until the conclusion of those proceedings.
- 4) A person who obstructs the exercise of a right of entry or search conferred by virtue of a warrant issued under this section, or of a right to take possession of any books or papers, shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding three months, or to a fine not exceeding seven hundred and fifty pounds or to both such imprisonment and fine.

Non-Disclosure of Information

48. No information or document which has been obtained under section 46 or 47 shall, without the previous consent of the company concerned, be published or disclosed, except to a competent authority, unless the publication or disclosure is required -
- a) with a view to the institution of, or otherwise for the purposes of, any criminal proceedings pursuant to, or arising out of, the Companies Law, or this Law, or any criminal proceedings for an offence in connection with the management of the company's affairs or misapplication or wrongful retainer of its property;
 - b) With a view to the institution of, or otherwise for the purposes of, any criminal proceedings pursuant to, or arising out of the Exchange Control Law.

Destruction Mutilation Etc., of Company Documents or Furnishing False Information

49.

- 1) A person, being an officer or an employee of an insurance company to which this Law applies, who destroys, mutilates or falsifies, or is privy to the destruction, mutilation or falsification of a document relating to the property or affairs of the company, or makes or is privy to the making of, a false entry in any such document, shall, unless he proves that he had no intention to conceal the state of affairs of the company or to defeat the Law, be guilty of an offence.
- 2) Such person as aforesaid who fraudulently either parts with, alters or makes an omission in any such document, or who is privy to fraudulent parting with, altering or making of an omission in, any such document, shall be guilty of an offence.
- 3) A person who, being required to provide an explanation or make a statement in relation to the state of affairs of the company, provides or makes a statement which he knows to be false in a material particular or recklessly provides or makes an explanation or statement which is so

false, shall be guilty of an offence.

- 4) A person found guilty of an offence under this section shall be liable on conviction, if an individual, to a fine not exceeding one thousand pounds or to imprisonment for a term not exceeding three years or to both such imprisonment and fine, or, in any other case, to a fine not exceeding two thousand pounds.

Saving for Practising Advocates and Bankers

50.

- 1) Nothing in this Part of this Law contained shall compel the production by a practising advocate of a document containing a privileged communication made by or to him in that capacity or authorise the taking of possession of any such document which is in his possession.
- 2) The Superintendent shall not, under section 46 of this Law, require, or authorise an officer of his to require, the production by a person carrying on the business of banking of a document relating to the affairs of a customer of his unless either it appears to the Superintendent that it is necessary so to do for the purpose of investigating the affairs of the first mentioned person or the customer is a person on whom a requirement has been imposed by virtue of that section.

Acceleration of Information Required Under Accounting Provisions

51. The Superintendent may require any documents, which under section 28 are required to be deposited with him by a company within the period specified in that section, to be deposited with him on or before a specified date before the end of that period, being a date not earlier than three months before the end of that period and not earlier than one month after the date on which the requirement is imposed.

Residual Power to Impose Requirements for the Protection of Policy Holder

52. The Superintendent may require a company to take such action as appears to him to be appropriate for the purpose of protecting policy holders or potential policy holders of the company against the risk that the company may be unable to meet its liabilities or, in the case of long-term business, to fulfil the reasonable expectations of policy holders or potential policy holders.

Grounds on Which the Power is Exercisable

53.

- 1) Any power conferred on the Superintendent by sections 46 to 52 above shall be exercisable in relation to any insurance company to which this Law applies and shall be exercisable on any of the following grounds -

- a) that the Superintendent considers the exercise of the power to be desirable for protecting Cypriot policy holders of the company against the risk that the company may be unable to meet its liabilities or, in the case of a long-term business, to fulfil the reasonable expectations of policy holders or potential policy holders;
 - b) that the company has failed to satisfy an obligation to which it is subject by virtue of this Law;
 - c) that the company has furnished misleading or inaccurate information to him under or for the purposes of this Law;
 - d) that he is not satisfied that adequate arrangements are in force or will be made for the reinsurance of risks against which persons are insured by the company in the course of carrying on business, being risks of a class in the case of which he considers that such arrangements are required;
 - e) That there exists a ground on which he would be prohibited, by section 9 of this Law from issuing a licence with respect to the company if it were applied for.
- 2) Any such power mentioned in sub-section (1) above shall be exercisable in relation to any such company -
- a) if it is carrying on general business, on the ground that the Superintendent is not satisfied that the company is not to be deemed (by virtue of section 36(2)(a) and (c) of this Law) for the purposes of section 211 of the Companies Law to be unable to pay its debts;
 - b) if it is carrying on long-term business, on the ground that the Superintendent is not satisfied that the value of the assets representing the fund or funds maintained in respect of its long-term business exceeds the amount of the liabilities of its long-term business;
- And for the purposes of paragraph (b) above the value of any assets and the amount of any liabilities shall be determined in accordance with any applicable valuation regulations.
- 3) The power conferred on the Superintendent by sub-sections (2) to (4) of section 46 above shall also be exercisable on the ground that he considers the exercise of that power to be desirable in the general interests of persons who are or may become policy holders of insurance companies to which this Law applies, and reference in these sub-sections to the term "company" include references to any body (whether incorporated or not) which appears to the Superintendent to be an insurance company to which this Law applies.
 - 4) The power conferred on the Superintendent by section 52 above shall not be exercisable except in a case in which he considers that the purpose mentioned in that section cannot be appropriately achieved by the exercise of the powers conferred by sections 12 and 46 above or by the exercise of those powers alone.
 - 5) The Superintendent shall, when exercising any powers conferred upon him by sections 46 to

52 above, state the ground on which he is exercising it.

- 6) The grounds specified in sub-sections 1(b) to (e), (2) and (3) above are without prejudice to the ground specified in sub-section 1(a) above.

Notice of Proposed Exercise of Powers on the Ground of Unfitness of Director or Manager

54.

- 1) Before exercising with respect to a company the power conferred upon him by sub-section 1(d) of section 11 of this Law, where the fulfilment of the requirements of section 9 and of the Regulations made there under are in question, the Superintendent shall serve on that person, as well as on the company, a written notice stating -
 - a) that the Superintendent is considering exercising the power conferred on him by the aforesaid section and the ground on which he is considering the exercise of the power, and,
 - b) that the person on whom the notice is served, as well as the company, may within the period of 30 days from the date of the service of the notice lodge with the Superintendent a notice of appeal to the Minister.
- 2) The notice of appeal under sub-section (1) shall be in writing and shall specify in detail the grounds on which it is made.
- 3) The Superintendent shall transmit to the Minister the notice of appeal lodged with him under sub-section (1) together with any relevant documents within fifteen days of the date of the receipt of such notice by him.
- 4) The Minister shall within thirty days determine such appeal and shall transmit his decision to the Superintendent.
- 5) The Superintendent shall, unless the appeal is withdrawn, or the person whose fitness is in question has ceased to be a director, controller or manager of the company, forthwith convey in writing to the applicant the decision of the Minister.

Rescission, Variation and Publication of Requirements

55.

- 1) The Superintendent may rescind a requirement imposed under sections 12 and 46 to 54 of this Law if it appears to him that it is no longer necessary for the requirements to continue in force, and may from time to time vary any such requirement.
- 2) No requirement imposed by virtue of sub-section (1) of section 12 of this Law shall be varied before the expiration of the time specified by the Superintendent except in a manner which

relaxes that requirement.

- 3) A rescission under sub-section (1) above of a requirement imposed under section 12 of this Law may be limited so as to apply only to contracts of a specified description.
- 4) Notice of the imposition of a requirement under the said section 12 and of the rescission or variation of any such requirement shall be published by the Superintendent in the official Gazette and in such other ways as appear to him expedient for notifying the public.

PART X - SPECIAL PROVISIONS AS TO CERTAIN INSURANCE COMPANIES

Overseas Companies

56.

- 1) The following provisions of the Companies Law, that is to say, section 347 and sections 349 to 354 inclusive, if apart from this section they would not so apply, shall apply in relation to an insurance company incorporated or constituted outside the Republic which carries on insurance business within the Republic as they apply in relation to the companies referred to in section 346 of that Law.
- 2) Regulations made under this Law may provide that, in their application to an insurance company constituted in a country outside the Republic, sections 8, 36 and 57 shall have effect subject to such adaptations of the references to paid up share capital as appear to the Minister to be necessary having regard to the law relating to companies in force in that country or the currency of that country.

Guaranteed Companies

57.

- 1) Where, on the application of any insurance company carrying on general business, the Minister is satisfied that it is guaranteed by another insurance company satisfying the requirements for a guarantor set out in sub-section (2), the Minister may by order direct that, subject to such conditions as may be specified in the order, section 36 shall not apply to the first-mentioned insurance company.
- 2) A guarantor shall be required for the purposes of this section to be either -
 - a) a body corporate which has a paid up share capital of not less than two hundred thousand pounds (as required by section 8) and the value of whose assets exceeds the amount of its liabilities by the amount required by section 36; or
 - b) an underwriter to whom this Law does not apply by virtue of sub-section (3) of section 3; or
 - c) an insurance company which, being itself guaranteed by another insurance company, is

the subject of an order under this section;

And for the purposes of this section an insurance company shall be deemed to be guaranteed by another insurance company if, but only if, all its liabilities to policy holders in respect of insurance business of any class specified in section 3 are reinsured with or guaranteed by the other insurance company.

Bond Investment Companies

58. Where an insurance company to which this Law applies carries on bond investment business, the company shall not give the holder of any policy issued after the commencement of this Law any advantage dependent on lot or chance:

Provided that this section shall not be construed as in any way prejudicing any question as to the application of the law relating to lotteries to any transaction, whether in respect of a policy issued before, on, or after the commencement of this Law.

Mutual Associations - Second Schedule

59. As respects the mutual associations mentioned in the Second Schedule the provisions contained in that Schedule shall have effect for adapting the operation of this Law to the special nature of those associations.

Revocation of Orders

60. Any order made under this Part shall be revoked by the Minister -

- a) if he ceases to be satisfied of the matters on the ground of which the order was made; or
- b) If he is satisfied that any condition in the order has not been complied with.

PART XI - MISCELLANEOUS AND SUPPLEMENTAL PROVISIONS

Advertisements, Etc., Referring to Amount of Authorized Capital

61. Where any advertisement, notice or other official publication of an insurance company to which this Law applies contains a statement of the amount of the authorized capital of the company, the publication shall also contain a statement of the amount of the capital which has been subscribed and the amount paid up.

Sums Insured, Etc., to be Stated In Currency of the Republic

62.

- 1) In every local policy the sum insured, the premium and every other sum of money mentioned in the policy shall be stated in the currency of the Republic unless the parties to the policy have, at or subsequent to the time of issue of the policy, expressly otherwise agreed.
- 2) If the parties to a local policy have agreed that the sum insured, the premium and every other

sum of money mentioned in the policy shall be stated in some currency other than the currency of the Republic, that fact and the currency adopted shall be stated in or endorsed on the policy in distinct terms and in printed or typed letters no smaller than, and as legible as, the letters of the other provisions of the policy.

Insurance Agents, Brokers and Agents for Brokers

63. No person shall act in the Republic as an insurance agent, broker or an agent for brokers unless he is registered in accordance with the provisions of section 64.

Registration and Cancellation of Registration of Insurance Agents, Brokers and Agents for Brokers

64.

- 1) An application for registration as an insurance agent, broker or agent for brokers shall be made to the Superintendent in the prescribed form.
- 2) The Superintendent shall not register, and shall cancel the registration of, any person as insurance agent, broker or agent for brokers -
 - a) unless he is satisfied -
 - (i) in the case of an individual or a body corporate or in the case of a society or an unincorporated body, other than a partnership with limited liability, that all persons engaged by such individual, body corporate or unincorporated or society as intermediaries in matters of insurance between any person and any insurer; or
 - (ii) in the case of a partnership with limited liability, that all partners, other than partners with limited liability, as well as those engaged by the partnership as intermediaries in matters of insurance between any person and any insurer,

would be eligible to be registered as if they were insurance agents, brokers or agents for brokers; or
 - b) if -
 - (i) under any law in force in the Republic relating to bankruptcy, a receiving order has been made against the applicant or the registered person, as the case may be, or either of them has been adjudged bankrupt and has not been discharged, or under any relevant law in force in the Republic, he has made a composition or assignment or other arrangement with his creditors which has not been rescinded or set aside; or
 - (ii) the applicant or the registered person has been convicted by any court wheresoever situated of any offence involving dishonesty and an appeal against the conviction has not been brought or, if brought, has been abandoned or dismissed:

Provided that the Superintendent shall have power subject to the approval of the Minister, to waive the provisions of this sub-paragraph if he were otherwise satisfied as to the character and fitness of the applicant or the registered person, and that having regard to the special circumstances of the case and the time which has elapsed and the conduct displayed by him during such time it would be reasonable to waive the aforesaid provisions.

- c) unless he is satisfied that the applicant possesses the required knowledge and experience necessary for the performance of his duties as an insurance agent, broker or agent for brokers as may be prescribed by Regulations made by the Council of Ministers.
- 3) Every Registration Certificate issued under this section shall, during the period of its validity, be prominently displayed by the holder at his principal place of business in the Republic, in a part thereof to which the public has access, and a copy thereof shall be similarly displayed at each of the branches of the insurance agent, broker or agent for brokers in the Republic.
- 4) On notification to an insurance agent, broker or agent for brokers, that his Registration has been cancelled, he shall forthwith surrender his Certificate and every copy thereof to the Superintendent.
- 5) Every person who without lawful excuse fails to comply with the provisions of sub-sections (3) and (4) above or who displays a certificate, or any copy thereof, which is not currently valid, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty pounds.

Accounts to be Kept by Brokers or Agents for Brokers

65. A registered broker or agent for brokers shall -

- a) keep regular and special accounts of all insurance business placed through him or his agency with members of associations of underwriters and other insurers;
- b) prepare and furnish, in the prescribed form, to the Superintendent, within six months of the end of each financial year, a return of all insurance business referred to in paragraph (a); and
- c) invest assets in approved investments as required by the provisions of section 20 in respect of any insurance business placed by or through him with associations of underwriters of insurance companies not licensed to carry on insurance business in the Republic; and the provisions of sections 20 and 21 shall apply and extend to brokers as if they were insurance companies.

Penalty for Falsifying Statements, Etc.

66.

- 1) If a person issues any account, balance sheet, statement or other document under any of the provisions of this Law, which is false in any material respect, that person and every other person who took part in the preparation or issue of the document or who signed it shall be guilty of an offence, unless it is proved that the person accused, if an individual, or all persons who acted on behalf of the accused person, in any other case, had no knowledge of the falsity of the document when it was issued.
- 2) A person guilty of an offence under this section shall be liable, on conviction, if an individual, to a fine not exceeding one thousand pounds or to imprisonment for a term not exceeding three years or to both such imprisonment and fine, or, in any other case, to a fine not exceeding two thousand pounds.

Persons acting on Behalf of Unregistered Insurers

67.

- 1) Any person who causes or induces, or attempts to cause or induce, another to enter into, or make an application to enter into, a contract of insurance with a person who, being required to be licensed under this Law, is not so licensed, and who is not a member of an association of underwriters approved under this Law, shall, subject to the provisions of sub-section (3), be guilty of an offence and shall be liable, on conviction, to a fine not exceeding five hundred pounds.
- 2) A person shall, save as is provided in sub-section (3), be guilty of an offence under sub-section (1) notwithstanding that -
 - a) the insurance is placed by an insurance broker; and
 - b) The contract of insurance is without his knowledge or consent effected with a person who is not a licensed insurer or a member of an approved association of underwriters.
- 3) A person who causes or induces a person to enter into a contract of insurance such as is referred to in sub-section (1) shall not be guilty of an offence under that sub-section if -
 - a) the insurance as a whole is placed by a broker who is authorized by an approved association of underwriters to place insurance business with members of the association; and
 - b) a substantial portion of the risk insured is placed with a licensed insurer or with members of an approved association of underwriters or with a licensed insurer and with a member of an approved association of underwriters; and

- c) The portion of the risk insured which is not placed in accordance with the provisions of paragraph (b) is placed with an insurer who does not solicit business, either directly or indirectly, in the Republic or advertise his business in any newspaper or other publication in the Republic.

Penalty for Non-Compliance with Law

68.

- 1) Subject to the provisions of this section, any insurance company which makes default in complying with any of the requirements of this Law shall, except where a different penalty is prescribed, be liable, on conviction, to a penalty not exceeding two hundred pounds or, in the case of a continuing default, to a penalty not exceeding fifty pounds for every day during which the default continues, and every director, manager, secretary or other officer or agent of the company who is knowingly a party to the default shall be liable to a like penalty.
- 2) Subject to the provisions of this section, if any such default, continues for a period of three months after notice of default by the Superintendent has been communicated to the company (which notice shall be published in one or more daily newspapers as the Superintendent may, upon the application of one or more policy holders or shareholders, direct), the default shall be a ground on which the Court may order the winding up of the company in accordance with the provisions of the Companies Law.
- 3) This section shall not apply as respects a default in complying with a requirement contained in sections 7 and 15, sub-section (4) of section 36, section 37 and the Second Schedule.

Misleading Statements Etc., Inducing a Person to Enter Into a Contract of Insurance

69. Any person who, by any statement, promise or forecast which he knows to be misleading, false or deceptive, or by any dishonest concealment of material facts, or by the reckless making (dishonestly or otherwise) of any statement, promise or forecast which is misleading, false or deceptive, induces or attempts to induce another person to enter into or offer to enter into any contract of insurance with an insurance company shall be guilty of an offence and the person so induced to enter into a contract of insurance with such an insurance company may, at his discretion, either request the annulment of the contract and the payment of all damages in accordance with the provisions of the Civil Wrongs Law or insist on the performance of the contract and demand that he be reinstated to the position where he would have been if the aforesaid statements, promises or forecasts were true:

Provided that the claim of any person induced to enter into a contract of insurance that he has been misled or deceived by a misleading, false or deceptive statement or by a dishonest concealment of material facts or by a reckless making (dishonestly or otherwise) of any statement, promise or forecast shall not be acceptable, if the said person has stated in writing,

before entering into the contract, that he had read, and fully understood all the information relating to the contents thereof prescribed by regulations made under section 78.

Property Situated in the Republic

70.

- 1) It shall be an offence for any person or body of persons whether incorporated or unincorporated to insure directly or indirectly any risk or property, (except Marine, Aviation and Transit insurance business) situated in the Republic, with an insurance company or an Association of underwriters not licensed to transact insurance business in the Republic.
- 2) A person guilty of an offence under sub-section (1) of this section shall be liable on conviction, if an individual, to imprisonment for a term not exceeding one year, or to a fine not exceeding one thousand pounds, or to both such imprisonment and fine, or, in any other case, to a fine not exceeding three thousand pounds.

Offences

71.

- 1) Any person who contravenes or makes default in complying with any of the requirements of this Law shall be guilty of an offence and shall be liable, on conviction, to imprisonment for a term not exceeding two years or to a fine not exceeding one thousand pounds, or to both such imprisonment and fine and in the case of a continuing default, to an additional penalty not exceeding fifty pounds for every day during which the default continues.
- 2) In the case of a contravention or non-compliance by a body corporate or a society or unincorporated body, any person who, at the time of the contravention or non-compliance, was a director, manager, secretary or other officer or agent of the body corporate, or a member of the society or unincorporated body, shall be guilty of an offence and shall be liable, on conviction, to the penalties prescribed in sub-section (1), unless he proves that the contravention or non-compliance occurred without his knowledge or that he used all due diligence to prevent the occurrence thereof.
- 3) This section shall not apply to any case falling within the provisions of section 68 or to any case constituting an offence under any other section of this Law.

Recovery and Application of Penalties

72. Every penalty imposed by this Law shall be recovered and applied in the same manner as penalties imposed by the Companies Law are recoverable and applicable.

Service of Notices

73. Any notice which is by this Law required to be sent to any policy holder shall be addressed and sent to the person to whom notices respecting that policy are usually sent, and any notice so addressed and sent shall be deemed to be notice to the holder of the policy:

Provided that where any person claiming to be interested in a policy has given to the company notice in writing of his interest, any notice which is by this Law required to be sent to policy holders shall also be sent to that person at the address specified by him in his notice.

Documents Deposited with Superintendent

74.

- 1) The Minister may direct that any documents deposited with the Superintendent under this Law, or certified copies thereof, shall be open to inspection, and copies of such documents may be obtained by any person on payment of such fees as the Minister may direct.
- 2) Every document purporting to be certified by the Superintendent to be a copy of a document so deposited shall be deemed to be a copy of that document, and shall be received in evidence as if it were the original document, except to the extent of any variation between it and the original which may be proved.

Motor Insurers' Fund

75.

- 1) For the purposes of the satisfaction of claims arising out of such third party risks as are required to be covered by insurance under the provisions of the Motor Vehicles (Third Party Insurance) Law, but are not covered or are covered by ineffective insurance, and of such other ancillary objects as may be determined by the Minister in consultation with the insurance companies licensed to carry on motor vehicle insurance business, the Minister may, in consultation with the insurance companies licensed to carry on motor vehicle insurance business, take all such steps as appear to him to be necessary or desirable for the establishment of a fund (which shall be called "the Motor Insurers' Fund" and is hereinafter referred to as "the Fund") which shall be administered and controlled by the Insurance Advisory Board and be operated in accordance with Regulations made, in consultation with such insurance companies, by that Board and published in the official Gazette.
- 2) There shall be paid into the Fund by each insurance company licensed to carry on motor vehicle insurance business such annual contributions as may be prescribed by the Insurance Advisory Board and shall be paid out of the Fund such sums as the Board may, subject to any Regulations made as aforesaid, from time to time determine.

Rates of Premiums Regulations

76.

- 1) The Council of Ministers may, on the recommendation of the Minister made after consultation with the Insurance Advisory Board constituted under section 5, by Regulations fix the rates or scales of rates which may be charged by insurance companies by way of premiums in respect of all or any classes of insurance business specified in sub-section (1) of section 3 which are made compulsory by law.
- 2) Whenever and so long as the Regulations made under sub-section (1) of this section are in force in respect of any class of insurance business, no insurance company shall charge for any insurance within such class of insurance business a premium outside the fixed rate or scale rates.

Expenses

77. Subject to the provisions of sub-section (5) of section 37 any expenses incurred by the Minister and by the Superintendent under this Law shall be defrayed out of the Consolidated Fund of the Republic.

Intermediaries in Insurance Transactions

78.

- 1) Regulations may be made for requiring any person who -
 - a) invites another to make an offer or proposal or to take any other step with a view to entering into a contract of insurance with an insurance company; and
 - b) is connected with that company as provided in the Regulations,

To give the prescribed information relating to the contents of the said contract and with respect to the connection of the person proposing the contract with the insurance company to the person to whom the invitation is issued.

- 2) Regulations under this section may make different provisions in relation to different cases or circumstances.
- 3) Any person who contravenes any Regulations made under this section shall be guilty of an offence.

Insurance Advertisements

79.

- 1) Regulations may be made as to the form and contents of insurance advertisements.
- 2) Regulations under this section may make different provisions in relation to insurance advertisements of different classes or descriptions.
- 3) Subject to sub-section (4) below, any person who issues an insurance advertisement which contravenes any regulations made under this section shall be guilty of an offence.
- 4) A person who in the ordinary course of his business issues an advertisement to the order of another person, being an advertisement the issue of which by that other person constitutes an offence under sub-section (3) above, shall not himself be guilty of the offence if he proves that the matters contained in the advertisement were not (wholly or in part) devised or selected by him or by any person under his direction or control.
- 5) In this section "insurance advertisement" means an advertisement inviting persons to enter into or to offer to enter into contracts of insurance, and an advertisement which contains information calculated to lead directly or indirectly to persons entering into or offering to enter into such contracts shall be treated as an advertisement inviting them to do so.
- 6) In this section "advertisement" includes every form of advertising, whether in a publication or by the display of notices or by means of circulars or other documents or by an exhibition of photographs or cinematograph films or by way of sound broadcasting or television, and references to the issue of an advertisement shall be construed accordingly.
- 7) For the purposes of this section an advertisement issued by any person on behalf of or to the order of another person shall be treated as an advertisement issued by that other person; and for the purposes of any proceedings under this section an advertisement inviting persons to enter into or to offer to enter into contracts with a person specified in the advertisement shall be presumed, unless the contrary is proved, to have been issued by that person.

Regulations

80. The Council of Ministers may make Regulations generally for the better carrying out of the purposes of this Law, and in particular, but without prejudice to the generality of the foregoing, for -
- a) any purpose for which Regulations are required to be made under this Law;
 - b) prescribing fees to be paid for anything done under this Law;
 - c) prescribing anything which under this Law may or is required to be prescribed;
 - d) Regulating the procedure for the application for, and the granting of, licences under this

Law.

Regulations to be laid before the House of Representatives.

81. Regulations made under this Law, shall be laid before the House of Representatives. If within thirty days of such laying the House of Representatives does not by resolution amend or annul, in whole or in part, the Regulations so laid before it, they shall then, soon after the expiry of the period hereinbefore mentioned, be published in the official Gazette of the Republic and they shall come into force as from such publication. In the event of their being amended, in whole or in part, by the House of Representatives, such Regulations shall be published in the official Gazette of the Republic as to be amended by the House and they shall come into force as from such publication.

Minister May Classify Insurance Business

82.

- 1) At the request of an insurance company the Minister may, subject to the provisions of sub-section (2) and on such conditions and limitations as the Minister may fix, determine that any insurance business of any particular class which the insurer carries on or intends to carry on shall be treated, for the purposes of this Law, as insurance business of another class.
- 2) The Minister shall not accede to a request referred to in sub-section (1), unless he has satisfied himself that his determination will not be detrimental to the interest of any person and will not defeat the objects and purposes of this Law.

Publication of Grant, Amendment or Cancellation of Licence

83.

- 1) Every grant, amendment or cancellation of a licence under the provisions of this Law shall be published in the official Gazette of the Republic.
- 2) The manner and the contents of the publication shall be prescribed by Regulations.

Consequential Amendments and Repeals - Fifth Schedule

84. The enactments set out in the first column of the Fifth Schedule shall have effect subject to the amendments specified in the second column of the said Schedule opposite each such enactment, being amendments consequential on the provisions of this Law.

Repeals and Savings

85.

- 1) The Insurance Companies Law, 1967 to 1980, is hereby repealed.
- 2) Regulations made under the Laws hereby repealed shall, until amended or revoked by Regulations made under this Law, continue to have effect to the extent where they are not contrary to any provision of this Law.
- 3) Any appointment, authorisation, approval, order or any other act made, given or done by the Council of Ministers or any other authority or person under the Laws repealed by this Law or the Regulations made there under shall be deemed to have been made, given or done under the provisions of this Law.
- 4) Any registration made or licence granted under the Law repealed by this Law or the Regulations made there under shall be deemed to have been made or granted under the provisions of this Law.

Date of Coming into Operation

86. This Law shall come into operation on a day to be fixed by the Council of Ministers by notice to be published in the official Gazette and different dates may be fixed for the coming into operation of different sections of this Law.

FIRST SCHEDULE

Provisions Concerning Certain Approved Associations Of Underwriters (Section 3(3).)

Life Policies

1.

- a) All premiums received by each member of the association shall be held in trust in the country in which the association is constituted in the names of trustees for the payment of the underwriting liabilities attached thereto of each member, and the expenses of his insurance business.
 - b) Premiums received in respect of long term business shall in no case be carried to the same trust fund under this paragraph as premiums received in respect of general business, but the trust deed may provide for carrying the premiums received in respect of all or any classes of long term business and all or any classes of general business either to a common fund or to any number of separate funds.
- 2) The accounts of every member of an association which is constituted in the Republic shall be audited annually by an auditor approved by the Superintendent, and such auditor shall not be an employee, manager or director of such member.
- 3) The auditor of a member of an association constituted in the Republic shall annually certify to the committee or managing body of the association -
- a) that he has obtained adequate information from the books and records of the member;
 - b) that the accounts of the member have been properly prepared in accordance with the books and records of, and with the information given to the auditor by, the member;
 - c) that the balance sheet and profit and loss account give a true and fair view of the member's financial position and of his profit or loss;
 - d) whether, in the opinion of the auditor, the value of the assets available to meet the member's liabilities in respect of insurance business is correctly shown in the accounts, and whether or not that value is sufficient to meet the liabilities calculated -
 - (i) in the case of liabilities in respect of long term business, by an actuary; and
 - (ii) In the case of other liabilities, by the auditor in accordance with such directions as may have been given to him by the Minister.
- 4) Where any liabilities of a member of an association are calculated by an actuary under paragraph 3(d) (i), the actuary shall furnish a certificate of the amount thereof to the

committee or managing body of the association, and to the Superintendent, and shall state in his certificate on what basis the calculation was made; and a copy of his certificate shall be annexed to the auditor's certificate.

- 5) The committee or managing body of every association shall deposit every year with the Superintendent -
 - a) in the case of an association constituted in the Republic, such returns and statements relating to the insurance business carried on by each member of the association as may for the time being be prescribed by Regulations, or as the Superintendent may specify; and
 - b) in the case of an association constituted in any country outside the Republic -
 - (i) a certificate signed by the chairman or principal officer of the association, and by the authority in whom is vested the administration of the law relating to associations of insurance underwriters in that country, that the members of the association have, in respect of the preceding year, fully complied with the provisions of that law; and
 - (ii) A certified copy of such returns relating to insurance business carried on by the members of the association, as are required by that law to be prepared and furnished to that authority.
- 6) The following provisions of this Law, that is to say, sections 7 to 21 inclusive and sections 32, 75 and 76 shall, where applicable, apply in relation to an approved association of underwriters whether constituted in or outside the Republic as they apply in relation to insurance companies.

SECOND SCHEDULE

Adaptation Of Provisions To The Particular Nature Of Mutual Associations (Sections 7, 36, 59).

1.

- 1) Where, on the application of any association of persons, whether incorporated or not, the Minister is satisfied that the association -
 - a) is carrying on or is about to carry on long term business in the Republic; and
 - b) is so constituted that the whole of the divisible surplus or profits thereof must, whenever determined or approved, be apportioned or applied for the benefit of the association's policy holders, or such of them as are entitled in accordance with the terms of the policies or any instruments governing the constitution of the association to participate in the profits of the association,

the Minister may by order direct that the following provisions of this Law, that is to say -

- (i) sub-section (1) of section 7, in so far as it requires a person to be an incorporated company;
 - (ii) sub-section (4) of section 7; and
 - (iii) Paragraph (a) of sub-section (2) of section 8, shall not apply to the association on condition that it carries on no insurance business other than long term business and such other business, if any, as may be specified in the order.
 - 2) Where the above order is made the association concerned shall, before continuing or commencing to carry on long term business in the Republic, deposit with the Central Bank the sum of thirty thousand pounds, and shall keep that sum so deposited while it continues to carry on long term business in the Republic.
 - 3) Where the association is not yet incorporated, the deposit may be made by the subscribers of the memorandum of association of the company, or any of them, and, upon the incorporation of the company, shall be deemed to have been made by, and to be part of the assets of, the company; and the Registrar of Companies shall not issue a certificate of incorporation of the company until the deposit has been made.
 - 4) Where the association intends to carry on insurance business of more than one of the classes specified in sub-section (1) of section 3, a separate sum of thirty thousand pounds shall be deposited under this paragraph in respect of each such class of business.
 - 5) The Central Bank shall not accept a deposit under this paragraph except on the certificate of the Minister.
2. Where, on the application of any association of persons, whether incorporated or not, the Minister is satisfied that the association -
- a) is carrying on or about to carry on fire insurance business; and
 - b) is not carrying on or about to carry on that business except for the purpose of the mutual insurance of its members against damage caused to buildings or other property owned or occupied by them, the Minister may by order direct that the following provisions of the Law, that is to say -
 - (i) sub-section (1) of section 7, in so far as it requires a person to be an incorporated company;
 - (ii) sub-section (4) of section 7;
 - (iii) paragraph (a) of sub-section (2) of section 8; and
 - (iv) section 36,

In so far as they would have applied to the association apart from the order, shall not apply to the association on condition that it carries on no business other than fire insurance business and business incidental thereto.

3. Where, on the application of any association of persons, whether incorporated or not, the Minister is satisfied that the association -

- a) is carrying on or about to carry on either employers' liability insurance business or marine, aviation and transit insurance business; and
- b) is not carrying on or about to carry on that class of business except for the purpose of the mutual insurance of its members against risks incidental to their trade or industry,

the Minister may by order direct that the provisions of this Law (other than the provisions of section 37, sub-section (2) of section 38 and sub-section (1) of section 40 thereof), in so far as they would have applied to the association apart from the order, shall not apply to the association on condition that it carries on no business other than employers' liability insurance business or marine, aviation and transit insurance business, as the case may be, and business incidental thereto.

4. Where an order under this Schedule is issued in respect of a company registered under the Companies Law, being a company which has not commenced business, the statutory declaration required by section 104 of the said Law to be delivered to the Registrar of Companies before the company commences business shall be accompanied by a copy, certified by the Superintendent of the order to the Minister containing the relative Ministerial direction, and that copy shall be deposited with the Registrar of Companies.

5. An order made under this Schedule shall be revoked by the Minister -

- a) on the application of the association to which it applies; or
- b) if the Minister ceases to be satisfied of the matters on the ground of which the order was made; or
- c) If the Minister is satisfied that any condition specified in the order has not been complied with.

- 6.

- 1) Every sum deposited with the Central Bank under paragraph (1) of this Schedule shall, with the authority of the Minister, be invested by the said Bank in approved investments, as the company by whom the sum was deposited may select, and the interest accruing due thereon shall be paid to the company.
- 2) A deposit so made in respect of any class of business in respect of which a separate insurance fund is required to be kept shall be deemed to form part of that fund, all interest accruing due

on any such deposit or the securities in which it is for the time being invested shall be carried by the company to that fund.

7.

- 1) Regulations may be made with respect to: applications for certificates, the payment of deposits and the investment thereof or dealing therewith, the deposit of stocks or other securities in lieu of money, the payment of interest from time to time accruing due on any securities in which deposits are for the time being invested, and the withdrawal and transfer of deposits, but pending the making of such Regulations the provisions of Part IV relating to deposits made by insurance companies under section 17 shall apply, mutatis mutandis, to deposits made under this Schedule.
- 2) The Regulations made under sub-paragraph (1) in respect of the withdrawal of deposits shall include provision for exempting an association from the necessity to make a deposit, or for allowing an association to withdraw a deposit already made, if the Minister is satisfied in manner provided by the Regulations -
 - a) in the case of an association carrying on general business, whether with or without long term business, that the value of the association's assets exceeds the amount of its liabilities by the amount required by section 36; or
 - b) in the case of an association carrying on long term business but not general business -
 - (i) if the association is required to keep a separate fund or funds, that the value of the assets of the fund or each such fund exceeds the amount of the liabilities to which it may be applied and that the excess, or where more than one such fund is kept, the aggregate excess, is not less than one hundred thousand pounds;
 - (ii) If the association is not so required, that the value of the association's assets exceeds the amount of its liabilities by one hundred thousand pounds.
- 3) In computing liabilities for the purposes of sub-paragraph (2) (b), all contingent and prospective liabilities shall be taken into account.

THIRD SCHEDULE

RULES FOR VALUING POLICIES AND LIABILITIES (SECTIONS 2(3), 40).

1.

- 1) The value of a life policy shall be the difference between the present value of the reversion in the sum assured according to the contingency upon which it is payable, including any bonus or addition thereto made before the commencement of the winding up, and the present value of the future annual premiums.
- 2) In calculating such present values interest shall be assumed at such rate, and the rate of

mortality according to such tables, as the Court may direct.

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

Annuities

2. An annuity shall be valued according to the tables used by the company which granted the annuity at the time of granting it, or where those tables cannot be ascertained or adopted to the satisfaction of the Court, according to such rate of interest and tables of mortality as the Court may in each case direct.

Bond Investment and Sinking Fund Policies

3.
 - 1) The value of a bond investment or sinking fund policy shall be the difference between the present value of the sum assured according to the date or dates at which it is payable, including any bonus or addition thereto made before the commencement of the winding up, and the present value of any future premiums or subscriptions.
 - 2) In calculating such present values, interest shall be assumed at such rate as the Court may in each case direct.
 - 3) The premium or subscription to be calculated shall be such premium or subscription as, according to the said rate of interest, is sufficient to provide for the sum assured by the policy, exclusive of any addition thereto for office expenses and other charges.

Fire, Accident, Motor Vehicle, Marine, Aviation and Transit Policies

4. The value of a current fire, accident, motor vehicle, marine, aviation or transit policy shall be such portion of the last premium paid as is proportionate to the unexpired portion of the period in respect of which the premium was paid:

 Provided that this rule shall not apply to a policy of insurance upon goods, merchandise or property on board a vessel or aircraft, or a policy of insurance against transit risks or risks incidental to transit, but any such policy shall be valued in like manner as it would have been valued before this Law was enacted.
5. The present value of a periodic payment under an accident or motor vehicle policy shall, in the case of total permanent incapacity, be such an amount as would, if invested in the purchase of a life annuity approved by the Court, purchase an annuity equal to seventy-five per centum of the annual value of the periodic payment, and, in any other case, shall be such proportion of that amount as may, in the circumstances of the case, be proper.

Employers' Liability Policies

6. The value of a current employers' liability policy shall be such portion of the last premium paid as is proportionate to the unexpired portion of the period in respect of which the premium was paid together with, in the case of a policy under which any weekly payment is payable, the present value of that weekly payment.
7. The present value of a weekly payment under employers' liability policy shall, if the incapacity of the workman in respect of which it is payable is total permanent incapacity, be such an amount as would, if invested in the purchase of an annuity for the workman equal to seventy-five per centum of the annual value of the weekly payment, and in any other case shall be such proportion of that amount as may, in the circumstances of the case, be proper.

FOURTH SCHEDULE

Liquidator's Duties As To Valuation Of Liabilities (Section 40(3).)

Where an insurance company to which this Law applies is being wound up by the Court or subject to the supervision of the Court, the liquidator shall, in respect of all persons appearing by the books of the company to be entitled to or interested in policies granted by the company -

- a) ascertain the value of the liability of the company to each person; and
- b) give notice of that value to such persons in such manner as the Court may direct,

And any person to whom notice is so given shall be bound by the value so ascertained unless he gives notice of his intention to dispute that value in the manner and within a time to be prescribed in each case by the Court.

FIFTH SCHEDULE

(Section 84) – Amendments Enactments

The Companies Law, Cap. 113

- a. In section 121 the following sub-section is added:
 - 4) "This section shall not apply to an insurance company which has complied with the provisions of sub-section (4) of section 28 of the Insurance Companies Law."
- b. Section 369 is amended as follows:
 - i) by inserting in sub-section (1) the words "or an insurance company" immediately after the words "banking company" (line 1);
 - ii) by adding at the end thereof the following sub-sections:
 - 5) "For the purposes of this Law a company which carries on the business of insurance in common with any other business or businesses shall be deemed to be an insurance

company.

- 6) This section shall not apply to any insurance company to which the provisions of the Insurance Companies Law, as to the accounts and balance sheet to be prepared annually and deposited by such a company, apply if the company complies with those provisions."
- c. In Part II of the Sixth Schedule the following words are added after the word "below" (line 3) of the chapter headed "Certified Copies of Accounts":-

"or an insurance company which has complied with the provisions of sub-section (4) of section 28 of the Insurance Companies Law"
- d. Paragraph 24 of Part III of the Eighth Schedule is amended as follows:
 - ii) by adding in sub-paragraph (1), after the words "insurance company" and before the comma in the first line, the words "within the meaning of the Insurance Companies Law, which is subject to, and complies with, the requirements of that Law as respects the preparation and deposit with the Superintendent of Insurance of a balance sheet and profit and loss account";
 - iii) By deleting sub-paragraph (4).
- e. In the Twelfth Schedule the heading is amended by inserting after the word "BANKING" the words "AND INSURANCE".

The Partnership and Business Names Law

- f. Section 391 is repealed.

Section 4 is repealed.

The Motor Vehicles (Third Party Insurance) Law, Cap. 333 and Law 7 of 1960

In sub-section (1) of section 2 the following definition is substituted for the definition of "insurer":

"`Insurer' means an insurance company or any underwriter within the meaning of the Insurance Companies Law, carrying on motor vehicle insurance business,"